

ACTS
of the
LEGISLATURE
of
WEST VIRGINIA

Regular and Extraordinary Sessions, 1933

AND

Extraordinary Session, 1932





NOTE BY THE CLERK OF THE HOUSE OF DELEGATES

This volume contains all the acts of the 1933 regular and extraordinary sessions of the Legislature, including municipal charters. The acts of the two sessions are separated by a blue insert.

The acts of the 1932 extraordinary session are also included in this volume and follow the acts of the 1933 extraordinary session.

List of Members and Officers of the Legislature of West Virginia 1933

SENATE

OFFICERS

President—A. G. MATHEWS, Grantsville

Clerk—CHARLES LIVELY, Weston

Sergeant-at-Arms—C. D. DOTSON, Parkersburg

Doorkeeper—C. W. BELL, Zela

DISTRICT	MEMBERS	POSTOFFICE
First	Geo. C. Beneke (R)	Wheeling
	*James Paul, Jr. (D)	Wellsburg
Second	*John C. Myers (D)	Moundsville
	D. W. Null (D)	Hundred
Third	*Dan B. Fleming (D)	St. Marys
	Howard F. Neale (R)	Parkersburg
Fourth	*Kenna K. Hyre (D)	Ripley
	Chas. O. Weissenburger (R)	Pt. Pleasant
Fifth	*J. T. Garrett (D)	Hurricane
	Harvey C. Taylor (D)	Huntington
Sixth	*C. Frank Millender (D)	Wayne
	M. Z. White (R)	Williamson
	†A. G. Rutherford (R)	Welch
Seventh	*Grover C. Mitchell (D)	Union
	Albert W. Reynolds, Jr. (D)	Princeton
Eighth	Clyde B. Johnson (D)	Charleston
	*Luther R. Jones (D)	Madison
Ninth	A. B. Abbot (D)	Fayetteville
	*Perry N. Wiseman (D)	Summersville
Tenth	A. C. Herold (D)	Sutton
	*A. G. Mathews (D)	Grantsville
Eleventh	Chas. E. Hodges (D)	Morgantown
	*Earl H. Smith (D)	Fairmont
Twelfth	Ray W. Garvin (D)	Clarksburg
	*Louis A. Henderson (D)	West Union
Thirteenth	T. Siddell Brown (D)	Elkins
	*Lee J. Sandridge (D)	Phillippi
Fourteenth	*A. L. Helmick (R)	Thomas
	E. Bunker Reynolds (R)	Keyser
Fifteenth	*J. E. Helsley (D)	Berkeley Springs
	Robert White (D)	Romney

† Seat contested. Served until February 17, when contestee, C. Frank Millender, was seated.

* Holdover Senators, who will serve in the 1935 session.

24—Democrats

6—Republicans

30—Total

Standing Committees of the Senate

ON PRIVILEGES AND ELECTIONS

Messrs. Wiseman (*Chairman*), Hyre, Johnson, Abbot, Garvin, Sandridge, White (of Hampshire), Neale and White (of Mingo).

ON THE JUDICIARY

Messrs. White (of Hampshire) (*Chairman*), Paull, Null, Hyre, Garrett, Reynolds (of Mercer), Jones, Johnson, Wiseman, Herold, Hodges, Henderson, Sandridge, Helsley, Beneke, Reynolds (of Mineral), Neale and Helmick.

ON FINANCE

Messrs. Abbot (*Chairman*), Paull, Null, Fleming, Hyre, Taylor, Reynolds (of Mercer), Mitchell, Wiseman, Herold, Garvin, Brown, White (of Hampshire), Helsley, Hodges, White (of Mingo) Reynolds (of Mineral) and Helmick.

ON EDUCATION

Messrs. Hodges (*Chairman*), Paull, Fleming, Abbot, Garvin, Sandridge, White (of Hampshire), White (of Mingo) and Reynolds (of Mineral).

ON COUNTIES AND MUNICIPAL CORPORATIONS

Messrs. Garvin (*Chairman*), Myers, Garrett, Reynolds (of Mercer), Wiseman, Henderson, White (of Hampshire), White (of Mingo) and Helmick.

ON ROADS AND NAVIGATION

Messrs. Johnson (*Chairman*), Paull, Null, Hyre, Taylor, Reynolds (of Mercer), Wiseman, Herold, Hodges, Henderson, Sandridge, White (of Hampshire), Fleming, Neale, White (of Mingo), Helmick and Weissenburger.

ON BANKS AND CORPORATIONS

Messrs. Wiseman (*Chairman*), Myers, Fleming, Garrett, Jones, Herold, Brown, Beneke and Weissenburger.

ON PUBLIC BUILDINGS AND HUMANE INSTITUTIONS

Messrs. Myers (*Chairman*), Fleming, Taylor, Garrett, Mitchell, Jones, Abbot, Herold, Hodges, Smith, Brown, Helsley, Millender, Beneke and Weissenburger.

ON PENITENTIARY

Messrs. Henderson (*Chairman*), Null, Fleming, Hyre, Mitchell, Garvin, Sandridge, White (of Mingo) and Helmick.

ON RAILROADS

Messrs. Reynolds (of Mercer) (*Chairman*), Null, Garrett, Johnson, Abbot, Garvin, White (of Hampshire), Neale, White (of Mingo) and Helmick.

ON MILITIA

Messrs. Smith (*Chairman*), Myers, Taylor, Mitchell, Jones, Garvin, Brown, Beneke and Weissenburger.

ON FEDERAL RELATIONS

Messrs. Mitchell (*Chairman*), Myers, Taylor, Hodges, Smith, Garvin, Helsley, Beneke and Weissenburger.

ON INSURANCE

Messrs. Herold (*Chairman*), Null, Hyre, Reynolds (of Mercer), Johnson, Garvin, Garrett, Millender and Reynolds (of Mineral).

ON IMMIGRATION AND AGRICULTURE

Messrs. Helsley, (*Chairman*), Fleming, Hyre, Jones, Wiseman, Henderson, Brown, Weissenburger and Reynolds (of Mineral).

ON MINES AND MINING

Messrs. Sandridge (*Chairman*), Null, Reynolds (of Mercer), Mitchell, Jones, Abbot, Garvin, White (of Mingo) and Helmick

ON MEDICINE AND SANITATION

Messrs. Hyre (*Chairman*), Johnson, Wiseman, Smith, Garvin, Brown, White (of Hampshire), Millender and Helmick.

ON LABOR

Messrs. Taylor (*Chairman*), Paull, Fleming, Abbot, Herold, Hodges, Sandridge, Millender and Neale.

ON CLAIMS AND GRIEVANCES

Messrs. Paull (*Chairman*), Myers, Taylor, Garrett, Mitchell, Herold, Smith, Millender and Beneke.

ON FORFEITED, DELINQUENT AND UNAPPROPRIATED LANDS

Messrs. Mitchell (*Chairman*), Hyre, Taylor, Reynolds (of Mercer), Johnson, Abbot, Garvin, Beneke and Reynolds (of Mineral).

ON PUBLIC PRINTING

Messrs. Brown (*Chairman*), Fleming, Wiseman, Herold, Smith, Garvin, Helsley, Beneke and Weissenburger.

ON RULES

Messrs. Mr. President (Mr. Mathews) (*Chairman ex officio*), Henderson, White (of Hampshire), Johnson and White (of Mingo).

ON PUBLIC LIBRARY

Messrs. Fleming (*Chairman*), Paull, Myers, Mitchell, Jones, Smith, Helsley, Millender and Helmick.

TO EXAMINE THE CLERK'S OFFICE

Messrs. Jones (*Chairman*), Myers and Hodges.

ON TEMPERANCE

Messrs. Jones (*Chairman*), Paull, Fleming, Hyre, Mitchell, Hodges, Helsley and Helmick.

ON FORESTRY AND CONSERVATION

Messrs. Garrett (*Chairman*), Mitchell, Jones, Herold, Hodges, Garvin, Brown, Helsley, Reynolds (of Mineral), Helmick and Neale.

ON REDISTRICTING

Messrs. Henderson (*Chairman*), Fleming, Hyre, Reynolds (of Mercer), Wiseman, Sandridge, White (of Hampshire), White (of Mingo) and Reynolds (of Mineral).

JOINT COMMITTEE ON ENROLLED BILLS ON THE PART OF THE SENATE

Messrs. Hyre (*Chairman*), Abbot, Garvin, White (of Hampshire) and White (of Mingo).

House of Delegates

OFFICERS

Speaker—RALPH M. HINER, Franklin

Clerk—JOHN S. HALL, Williamson

Sergeant-at-Arms—W. W. MARTIN, East Rainelle

Doorkeeper—A. M. GILBERT, Martinsburg

COUNTY	MEMBERS	POSTOFFICE
Barbour.....	Herman J. Poling (D).....	Pbllippi
Berkeley.....	W. H. Peery (D).....	Martinsburg
	Tbomas S. Strong (D).....	Inwood
Boone.....	E. E. White (D).....	Madison
Braxton.....	G. C. Belknap (D).....	Gassaway
	James Mc. Dunn (D).....	Canfield
Brooke.....	A. S. Craig (D).....	Follansbee
Cabell.....	John P. Beacom (D).....	Huntington
	G. A. Davls (D).....	Huntington
	Wilbert H. Norton (D).....	Huntington
	Robert S. Starcher (D).....	Huntington
Calhoun.....	C. A. Jarvls (D).....	Grantsville
Clay.....	B. R. Reed (R).....	Clay
Doddridge.....	B. H. Maulsby (R).....	West Union
Fayette.....	H. O. Boley (D).....	Lookout
	R. L. Matthews (D).....	Montgomery
	Mrs. Samuel W. Price (D).....	Scarbro
	C. R. Summerfield (D).....	Fayetteville
Gilmer.....	E. E. Cottrill (D).....	Sand Fork
Grant.....	Arch J. Welton (R).....	Petersburg
Greenbrier.....	R. H. Giles (D).....	Quinwood
	Clifton F. McClintic (D).....	Williamsburg
	H. L. Van Sickler (D).....	Lewisburg
Hampshire.....	George Sloan Arnold (D).....	Romney
Hancock.....	J. N. Finley (D).....	Chester
Hardy.....	J. D. Chipley (D).....	Moorefield
Harrison.....	E. Wayne Coffindaffer (D).....	West Millford
	Byron B. Randolph (D).....	Clarksburg
	Edgar E. Righter (D).....	Shinnston
	Mortimer W. Smith (D).....	Clarksburg
Jackson.....	Robert B. Goodwin (D).....	Ripley
	John H. Noll (D).....	Ravenswood
Jefferson.....	U. S. Martin (D).....	Shepherdstown
Kanawba.....	Carl C. Calvert (D).....	Chelyan
	Julius A. de Gruyter, Jr. (D).....	Charleston
	D. H. Gates (D).....	Charleston
	George D. Moore (D).....	Charleston
	J. Shirley Ross (D).....	Charleston
	James Kay Thomas (D).....	Charleston
Lewis.....	Rush D. Holt (D).....	Weston
Lincoln.....	Watson Adkins (D).....	Hart
Logan.....	John J. Pelter (D).....	Dehue
Marion.....	Fred L. Dorlinger (D).....	Fairmont
	R. L. McCoy (D).....	Fairmont
	W. H. Schimmel (D).....	Fairmont

*Served during extraordinary session. Appointed to succeed R. H. Giles, resigned.

COUNTY	MEMBERS	POSTOFFICE
Marshall.....	Charles A. Newman (D).....	Moundsville
	G. W. Kelley (D).....	Glen Easton
Mason.....	George A. Ralrden (R).....	Leon
	Charles C. Tallman (D).....	Beech Hill
Mercer.....	O. H. Ballard (D).....	Princeton
	A. J. Lubliner (D).....	Bluefield
	F. M. Peters (D).....	Bluefield
	George G. Dixon (D).....	Piedmont
Mineral.....	William B. Hogg (R).....	Williamson
Mingo.....	P. D. Arbogast (D).....	Morgantown
Monongalia.....	Roy Yoke (D).....	Morgantown
	William M. LaFon (D).....	Union
Monroe.....	H. D. Beeler (R).....	Berkeley Springs
Morgan.....	Albert A. Barley (R).....	Welch
	Stewart A. Calhoun (R).....	Keystone
	Mrs. Pearl T. Harman (R).....	Yukon
	M. H. Tabor (R).....	Crumpler
McDowell.....	J. A. Neal (D).....	Fenwick
Nicholas.....	Jack N. Haberstick (D).....	Wheeling
	John Loudon Marsh (D).....	Wheeling
	E. Y. McVey (D).....	Wheeling
	F. J. Morrow (D).....	Wheeling
	R. M. Hiner (D).....	Franklin
Pendleton.....	T. J. Hinkel (D).....	Belmont
Pleasants.....	Frank R. Hill (D).....	Marlinton
Pocahontas.....	Merrill D. Carrico (R).....	Terra Alta
	E. E. Watson (R).....	Albright
Preston.....	J. A. Harmon (D).....	Nitro
Putnam.....	T. E. Bibb (D).....	Beckley
	W. Londa Lilly (D).....	Beckley
Raleigh.....	Dice Harper (D).....	Elkins
	J. Buhl Shahan (D).....	Elkins
Randolph.....	J. R. Marsh (R).....	Mole Hill
Ritchie.....	F. C. Foster (D).....	Spencer
Roane.....	H. D. Wells (D).....	Spencer
	R. C. Haynes (D).....	Hinton
Summers.....	Mrs. F. S. Suddarth (D).....	Grafton
Taylor.....	Hugh Pritt (D).....	Parsons
Tucker.....	Arthur T. Nichols (R).....	Meeker
Tyler.....	Lycurgus Hyre (R).....	Buckhannon
Upshur.....	Rufus Lester (D).....	Fort Gay
	H. T. Tucker (D).....	Huntington
Wayne.....	John R. Dyer (D).....	Webster Springs
Webster.....	John N. Custer (D).....	Hundred
Wetzel.....	L. E. Lantz (D).....	Jacksonburg
	J. L. Smith (D).....	Elizabeth
Wirt.....	Ben H. Butcher (D).....	Parkersburg
Wood.....	Hugh R. Ferrell (D).....	Parkersburg
	J. M. Melrose (D).....	Mineral Wells
	Ottie Carden (D).....	Mutlens

79—Democrats

15—Republicans

94—Total

Standing Committees of the House of Delegates

NOTE: These committees are printed as they were composed at the close of the extraordinary session. A number of changes were made in committees after they were originally appointed. During the regular session R. H. Giles, a delegate from Greenbrier county, served on the following committees: Mines and Mining, Railroads, Labor, Medicine and Sanitation, Insurance, Executive Offices and Library, and Printing and Contingent Expenses.

ELECTIONS AND PRIVILEGES

Messrs. Lubliner (*Chairman*), Arnold, Carden, Cottrill, Doring, Dunn, Finley, Foster, Hill, Kelley, Moore, Neal, Ross, Maulsby, Nichols, Reed and Welton.

JUDICIARY

Messrs. Norton (*Chairman*), Arnold, Belknap, Butcher, Dyer, Haberstick, Hill, LaFon, Lilly, Lubliner, Moore, Newman, Poling, Randolph, Schimmel, Smith (of Wirt), Starcher, Summerfield, Thomas, Van Sickler, Barley, Calhoun, Hogg, Hyre and Welton.

FEDERAL RELATIONS

Messrs. Butcher (*Chairman*), Craig, Davis, Foster, Haynes, Jarvis, LaFon, Lilly, McCoy, McVey, Newman, Noll, Peery, Mrs. Sudarth, Messrs. Tucker, White, Yoke, Mrs. Harman, Messrs. Rairden and Reed.

TAXATION AND FINANCE

Messrs. McClintic (*Chairman*), Beacom, Dixon, Ferrell, Gates, Jarvis, Lantz, Marsh (of Ohio), Matthews, McCoy, Peery, Peters, Righter, Ross, Tallman, Tucker, White, Yoke, Beeler, Rairden, Tabor and Welton.

MILITARY AFFAIRS

Messrs. Doring (*Chairman*), Adkins, Coffindaffer, Custer, Hickel, Kelley, Lester, Marsh (of Ohio), Noll, Smith (of Harrison), Summerfield, Wells, Carrico, Nichols, Reed and Watson.

PROHIBITION AND TEMPERANCE

Messrs. Hickel (*Chairman*), Arbogast, Arnold, Chipley, Dixon, Dunn, Gates, Haynes, McCoy, Melrose, Mrs. Price, Mr. Pritt, Mrs. Suddarth, Mrs. Harman, Messrs. Hyre and Marsh (of Ritchie).

EDUCATION

Messrs. Yoke (*Chairman*), Adkins, Arnold, Bibb, Coffindaffer, Craig, Finley, Foster, Goodwin, Haynes, Hill, Holt, Lester, Pelter, Mrs. Price, Messrs. Ross, Shahan, Starcher, Mrs. Suddarth, Mr. Calhoun, Mrs. Harman, Messrs. Marsh (of Ritchie) and Rairden.

COUNTIES, DISTRICTS AND MUNICIPAL CORPORATIONS

Messrs. White (*Chairman*), Adkins, Ballard, Beacom, Boley, Carden, Calvert, Haynes, Hill, Jarvis, LaFon, Marsh (of Ohio), McCoy, Newman, Peters, Ross, Schimmel, Tallman, Tucker, Barley, Hogg and Hyre.

BANKS AND CORPORATIONS

Messrs. Thomas (*Chairman*), Belknap, Bibb, Cottrill, Doring, Dyer, Dunn, Harper, Jarvis, Lantz, Marsh (of Ohio), McCoy, Moore, Peters, Randolph, Starcher, Summerfield, White, Carrico, Mrs. Harman, Messrs. Hogg and Watson.

ROADS

Messrs. Poling (*Chairman*), Arnold, Bibb, Cottrill, Craig, Davis, Dunn, Finley, Harmon, Haynes, Hickel, Kelley, Lantz, Martin, Noll, Pritt, Schimmel, Smith (of Harrison), Strong, Carrico, Maulsby, Reed and Watson.

FORFEITED AND UNAPPROPRIATED LANDS

Messrs. Dyer (*Chairman*), Adkins, Arnold, Ballard, Belknap, Ferrell, Foster, Gates, Hill, Holt, Lester, Marsh (of Ohio), Martin, McVey, Pelter, Pritt, Ross, Smith (of Harrison), Calhoun and Reed.

CLAIMS AND GRIEVANCES

Messrs. Ross (*Chairman*), Arnold, Doring, Dyer, Finley, Holt, Kelley, LaFon, Matthews, McVey, Noll, Pelter, Poling, Righter, Schimmel, Strong, Tucker, Wells, Barley, Beeler and Marsh (of Ritchie).

HUMANE INSTITUTIONS AND PUBLIC BUILDINGS

Mrs. Price (*Chairman*), Messrs. Arbogast, Arnold, Beacom, Bibb, Coffindaffer, de Gruyter, Doring, Goodwin, Hill, Holt, LaFon, Marsh (of Ohio), Newman, Noll, Mrs. Suddarth, Messrs. Wells, Calhoun, Carrico, Mrs. Harman and Mr. Hyre.

FORESTRY AND CONSERVATION

Messrs. Ballard (*Chairman*), Arnold, Belknap, Carden, Chipley, Custer, Dixon, de Gruyter, Harper, Hickel, Hill, Marsh (of Ohio), McClintic, Neal, Pritt, Righter, Strong, Rairden, Watson and Welton.

ARTS, SCIENCE, AND GENERAL IMPROVEMENT

Messrs. Cottrill (*Chairman*), Adkins, Belknap, Carden, Ferrell, Foster, Haberstick, Harmon, Lester, McVey, Neal, Mrs. Price, Messrs. Ross, Shahan, Starcher, Strong, Mrs. Suddarth, Messrs. Thomas, Barley, Reed and Welton.

PENITENTIARY

Messrs. Haberstick (*Chairman*), Chipley, Cottrill, Custer, de Gruyter, Harper, Haynes, Hill, Jarvis, Kelley, Lilly, Martin, McCoy, Morrow, Pritt, Smith (of Harrison), Smith (of Wirt), White, Hyre, Nichols and Watson.

MINES AND MINING

Messrs. Boley (*Chairman*), Beacom, Bibb, Calvert, Carden, Harper, Holt, McCoy, McVey, Moore, Pelter, Peters, Poling, Smith (of Harrison), Van Sickler, White, Yoke, Carrico, Mrs. Harmon, Messrs. Hogg and Welton.

AGRICULTURE

Messrs. Chipley (*Chairman*), Arnold, Coffindaffer, Cottrill, Dunn, Goodwin, Harper, Hickel, Kelley, Lester, Martin, Melrose, Neal, Pritt, Righter, Smith (of Wirt), Strong, Tallman, Beeler, Maulsby and Nichols.

STATE BOUNDARIES

Messrs. Righter (*Chairman*), Ballard, Craig, Harmon, Haynes, Martin, Melrose, Morrow, Shahan, Strong, Wells, Nichols and Watson.

RAILROADS

Messrs. Hill (*Chairman*), Bibb, Boley, Butcher, Dixon, Dyer, Harper, Kelley, LaFon, Lantz, Marsh (of Ohio), Peters, Ross, Schimmel, Tucker, Van Sickler, Calhoun, Hogg and Welton.

LABOR

Messrs. Holt (*Chairman*), Arbogast, Beacom, Calvert, Davis, Harmon, Lester, Melrose, Moore, Morrow, Mrs. Price, Messrs. Pritt, Randolph, Shahan, Mrs. Suddarth, Messrs. Van Sickler, Calhoun, Mrs. Harman, Messrs. Hogg and Rairden.

MEDICINE AND SANITATION

Messrs. Tallman (*Chairman*), Arbogast, Belknap, Chipley, Cottrill, Dunn, Haynes, LaFon, Lubliner, Marsh (of Ohio), McClintic, Mrs. Price, Mr. Smith (of Harrison), Mrs. Suddarth, Messrs. Thomas, Wells, Barley, Beeler, Tabor and Watson.

GAME AND FISH

Messrs. Marsh (of Ohio) (*Chairman*), Calvert, Chipley, Cottrill, Custer, de Gruyter, Dyer, Finley, Harper, Hill, Lantz, Newman, Peery, Pritt, Righter, Tucker, Beeler, Maulsby, Watson and Welton.

INSURANCE

Messrs. Moore (*Chairman*), Ballard, Craig, de Gruyter, Jarvis, Lantz, Lilly, Marsh (of Ohio), McCoy, Martin, Newman, Pelter, Peery, Randolph, Smith (of Wirt), Tucker, Van Sickler, Carrico, Nichols and Welton.

REDISTRICTING

Messrs. Randolph (*Chairman*), Chipley, Custer, Craig, Dixon, Dyer, Foster, Goodwin, Harper, Hill, LaFon, Lilly, McCoy, Newman, Noll, Peters, Pelter, Smith (of Wirt), Beeler, Hogg and Marsh (of Ritchie).

EXECUTIVE OFFICES AND LIBRARY

Messrs. Davis (*Chairman*), Adkins, Belknap, Carden, Craig, Finley, Foster, Goodwin, Haynes, Hickel, Jarvis, Kelley, Lester, Melrose, Noll, Schimmel, Strong, Van Sickler, Barley, Maulsby and Reed.

PRINTING AND CONTINGENT EXPENSES

Messrs. Dunn (*Chairman*), Arnold, Carden, Cottrill, Finley, Goodwin, Haberstick, Martin, Melrose, Morrow, Neal, Newman, Mrs. Price, Messrs. Shahan, Strong, Wells, Van Sickler, Maulsby, Rairden and Reed.

RULES

Mr. Speaker (*Chairman ex officio*), Messrs. Lubliner, Matthews, Norton, Thomas, Yoke, Tabor and Welton.

ENROLLED BILLS

Messrs. Smith (of Wirt) (*Chairman*), Ballard, Haynes, LaFon and Hyre.

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LEGISLATURE OF WEST VIRGINIA

ACTS OF 1933

REGULAR SESSION

CHAPTER 1

(House Bill No. 553—By Mr. LaFon)

AN ACT to give the governor power and authority to combine, merge, consolidate and/or dispense with any of the departments, boards, bureaus or commissions of this state, or like agencies by whatever name; to limit the activities of the same; to fix and adjust the salary or compensation of any member, assistant or employee of such agencies, and that of appointees to office or position in the state on and after March fourth, one thousand nine hundred thirty-three, on a basis such members, assistants, employees or appointees could earn in competitive employment, and this act to remain in effect for two years from the date the same goes into effect.

[Passed March 11, 1933; in effect from passage. Approved by the Governor.]

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| <p>Sec.</p> <ol style="list-style-type: none">1. Governor empowered to consolidate, dispense with or limit activities of state departments, boards, etc., and to fix salaries of or dismiss employees.2. Appointee after March 4, 1933, not to gain vested right in salary; right reserved to governor to reduce or adjust salary; assent | <p>Sec.</p> <ol style="list-style-type: none">to reduction in salary in certain cases.3. Act as amendment to existing laws and rules and regulations of departments, boards, etc.4. Act in effect for two years; inconsistent acts repealed; provisions of act, as to constitutionally separable and several. |
|--|---|

Be it enacted by the Legislature of West Virginia:

Section 1. That the governor of this state be and he is hereby vested with the authority and power, and it shall be his duty when in his opinion the financial affairs of the state government demand: .

(a) To combine, merge and consolidate any of the departments, boards, bureaus and commissions of this state, or like or similar agency or agencies of the state government by whatever name created or existing by general laws or any rules and regu-

9 lations in pursuance thereof and not provided for by expressed
10 terms in, or existing and functioning under any provision of,
11 the constitution of this state construed to be mandatory in its
12 terms, and direct that the duty or duties imposed upon or given
13 any one or more of such agencies to be performed, be done and
14 performed by another or other of such agencies;

15 (b) To dispense with any one or more of such agencies he may
16 deem useless and unnecessary for any time or period this act may
17 be in effect and to accomplish the object and purpose of this act;

18 (c) To dispense with or limit the activity or activities of any
19 agency aforesaid of this state whether or not such agency be
20 combined, merged and consolidated with any other agency, for
21 any time or period this act may be in effect and to accomplish
22 the object and purpose thereof;

23 (d) To dismiss any or all appointees and employees and dis-
24 pense with the services of any appointee or employee whose serv-
25 ices are unnecessary or become unnecessary by reason of the
26 exercise of the power and authority herein conferred, or other-
27 wise become unnecessary;

28 (e) To fix the salary, compensation or emolument of any mem-
29 ber or assistant or employee of any agency aforesaid whether or
30 not such agency is combined, merged or consolidated with an-
31 other or other agency of the state government, and whether or
32 not the activity or activities of such agency are limited and
33 curtailed, at an amount not in excess of what such member,
34 assistant or employee could earn in competitive employment.

Sec. 2. That any person appointed on or after March fourth,
2 one thousand nine hundred thirty-three, to any office, depart-
3 ment, board, bureau or commission, or any other like agency by
4 whatever name known in this state, whether for a specified term
5 or otherwise, shall not by virtue of such appointment or the
6 acceptance thereof, have or gain any vested right under the
7 constitution of this state or laws in pursuance thereof in any
8 fixed salary, compensation or emolument at the time of the
9 appointment authorized by any such agencies or by general law,
10 and the right is hereby reserved in and to the governor of this
11 state to reduce such salary, compensation or emolument of any
12 such appointee and fix and adjust the same in an amount such
13 appointee could earn in competitive employment: *Provided,*
14 *however,* That the provision herein shall not apply to the salary,

15 compensation or emolument of any such appointee which but
16 for this act is protected by the constitution of this state, unless
17 such appointee voluntarily assent thereto.

Sec. 3. This act shall be construed as an amendment to exist-
2 ing laws and the rules and regulations of any department, board,
3 bureau or commission made in pursuance of the law applicable
4 to such agency.

Sec. 4. This act shall be and remain in effect for a period of
2 two years from the date the same becomes effective, and any
3 acts or parts of acts in conflict with the foregoing act, or any
4 part thereof, are hereby repealed while this act is in effect. The
5 various provisions of this act shall be construed as separable and
6 several, and should any of the provisions or parts thereof be
7 construed or held to be unconstitutional, or for any other reason
8 invalid, the remaining provisions of this act shall not be thereby
9 affected.

CHAPTER 2

(Senate Bill No. 80—By Mr. Hodges, by request)

AN ACT to amend and reenact section three, article one, chapter
sixteen of the code of West Virginia, one thousand nine
hundred thirty-one, relating to the public health council.

[Passed March 11, 1933: in effect ninety days from passage. Became a law without
the approval of the Governor.]

SEC. 3. Public health council, number, qual- fication, appointment and terms; dental member added; organiza-		SEC. tion, meetings and duties; pen- alty for violation of regulations of.
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Be it enacted by the Legislature of West Virginia:

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

Section 3. The public health council shall consist of the com-
2 missioner of health and seven other members, who shall be
3 appointed by the governor, by and with the advice and consent
4 of the senate. The commissioner and six of the members shall
5 be graduates of reputable medical colleges and shall have had
6 at least five years' experience in the practice of medicine. The
7 other member shall be a graduate of a reputable dental college, a

8 member of the West Virginia state dental society and shall have
9 had at least five years' experience in the practice of dentistry,
10 and shall have the recommendation of the West Virginia state
11 dental society. The members in office on the date this act
12 takes effect shall, unless sooner removed, continue to serve
13 until their respective terms expire and until their successors
14 have been appointed and have qualified. On or before the
15 first day of July, one thousand nine hundred thirty-three, and
16 on or before the first day of July of each alternate year there-
17 after, the governor shall appoint three medical members of
18 the public health council, other than the commissioner of
19 health, to serve for terms of four years respectively, commenc-
20 ing on said first day of July. On or before the first day of
21 July, one thousand nine hundred thirty-three, and on or before
22 the first day of July of every fourth year thereafter, the gov-
23 ernor shall appoint the dental member, to serve for a term of
24 four years, commencing on said first day of July, and any
25 member shall be eligible for reappointment.

26 The public health council shall elect one of its members
27 president, whose term of office shall be two years. The com-
28 missioner of health shall be secretary of the council. The public
29 health council shall hold at least two meetings each year, and
30 at such other times as it may prescribe by rule, or upon the
31 request of the commissioner of health. A quorum of the coun-
32 cil shall consist of not fewer than four members. Each member
33 of the council, other than the commissioner, shall receive ten
34 dollars for each day actually spent in attending the sessions
35 of the council or of its committees and in necessary travel, not
36 to exceed sixty days in any one calendar year, and shall be
37 reimbursed for all actual and necessary traveling, incidental
38 and clerical expenses incurred in the discharge of his duties.
39 All authorized compensation and all expenses certified by the
40 council as properly and necessarily incurred in the discharge
41 of its duties shall be paid out of the state treasury, from funds
42 appropriated for that purpose, on the warrant of the state
43 auditor issued on requisitions signed by the president and
44 secretary of the council.

45 It shall be the duty of the public health council to promul-
46 gate rules and regulations; take evidence in appeals; approve
46-a plans and appointments; hold hearings; advise with the com-
47 missioner of health; define the qualifications of local health

48 authorities and directors of divisions and discharge other like
 49 duties. The public health council shall have power, by the
 50 affirmative vote of a majority of its members, to establish and
 51 from time to time amend regulations under the public health
 52 laws, the enforcement of which devolves upon the state com-
 53 missioner of health. Every general regulation adopted by the
 54 public health council shall state the day on which it takes effect,
 55 and a copy thereof, duly signed by the commissioner of health,
 56 shall be filed in the office of the secretary of state, and a copy
 57 thereof shall be sent by the commissioner of health to each
 58 health officer within the state, and shall be published in such
 59 manner as the public health council may determine. Any vio-
 60 lation of the regulations so promulgated, when said regulations
 61 are reasonable and not inconsistent with law, shall be a mis-
 62 demeanor, punishable by a fine of not less than ten dollars nor
 63 more than three hundred dollars, and in the discretion of the
 64 court, by imprisonment in the county jail for not more than
 65 thirty days: *Provided, however,* That the dental member of
 66 the public health council shall have no duties or authority
 67 whatever in connection with the licensing of physicians or the
 68 regulation of the practice of medicine in this state.

CHAPTER 3

(House Bill No. 232—By Mr. Dixon)

AN ACT to amend and reenact section five, article nine, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to the general school fund, directing how it shall be invested, making the state treasurer the custodian of securities purchased as an investment of such funds.

[Passed March 9, 1933; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.

1. The Board of School Fund to be a corporation; organization and

SEC.

record of meetings; investments by and custody of its securities.

Be it enacted by the Legislature of West Virginia:

That section five, article nine, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 5. All such sums as have accrued to this state from 2 the several sources enumerated in the fourth section of the

3 twelfth article of the constitution, not in excess of one million
 4 dollars, shall be set apart as a separate fund to be called "the
 5 school fund" and the governor, state superintendent of free
 6 schools, auditor and treasurer shall be a corporation under the
 7 name of "the board of the school fund" and shall have the
 8 management, control and investment of said fund, as provided
 9 by the fourth section of the twelfth article of the constitution.
 10 Such fund shall be invested in the interest bearing securities of
 11 the United States, or of this state, or of any county, city, town
 12 or village, or school district of this state. The governor shall
 13 be president of the board, and in his absence the board shall
 14 choose one of their number to preside temporarily in his place.
 15 The auditor shall be secretary of the board. The state treasurer
 16 shall be custodian of the securities in which such fund is invested.
 17 A record shall be kept of all proceedings and be signed by
 18 the president and secretary, and a copy thereof, certified by the
 19 secretary of the board, shall be evidence in all cases in which
 20 the original would be. A majority of the board shall constitute
 21 a quorum for the transaction of business.
 22 All acts or parts of acts inconsistent herewith are hereby
 23 repealed.

CHAPTER 4

(Senate Bill No. 27—By Mr. Myers)

AN ACT relating to the manufacture of license plates for motor vehicles licensed for operation in this state and road signs or markers of any description for state roads, and requiring the same to be manufactured at the West Virginia penitentiary under the direction of the state road commission and the state board of control and providing a penalty for noncompliance therewith.

[Passed March 11, 1933; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.	SEC.
1. State road commission authorized to establish plant at state penitentiary for manufacture of automobile license plates and road signs and markers.	manufacture of license plates, etc.; road commission to furnish equipment and material.
2. State board of control to furnish sufficient number of suitable convicts, and a building within penitentiary enclosure for the	3. After act is in effect, unlawful for state road commission to manufacture or obtain license plates, etc., except as provided in act; penalty for noncompliance by road commission.

Be it enacted by the Legislature of West Virginia:

Section 1. For the purpose of obtaining license plates to be

2 used upon motor vehicles licensed for operation in this state
3 and road signs or markers of any description for state roads,
4 the state road commission is hereby authorized and empowered
5 on behalf of the state, to establish and operate a plant for the
6 manufacture of such license plates and road signs or markers
7 at the West Virginia penitentiary, at Moundsville, West Vir-
8 ginia.

Sec. 2. After this act becomes effective it shall be the duty
2 of the state board of control to provide for said purpose a suf-
3 ficient number of suitable convicts, confined in the penitentiary
4 of this state, which it shall furnish to the state road commis-
5 sion for the purpose of manufacturing such license plates for
6 motor vehicles and road signs or markers, and, in addition
7 thereto, the state board of control shall provide a suitable build-
8 ing within the inclosure of the penitentiary, in which such li-
9 cense plates and road signs or markers shall be manufactured
10 and when said convicts have been assigned to the state road
11 commission and the building is ready for the manufacture of
12 such license plates and road signs or markers, it shall be the
13 duty of the state road commission to provide the equipment and
14 materials necessary therefor.

Sec. 3. After this act shall take effect, it shall be unlawful
2 for the state road commission to manufacture such license plates
3 for motor vehicles or such road signs or markers of any descrip-
4 tion at any place other than the penitentiary of West Virginia,
5 and it shall be unlawful for said state road commission to ob-
6 tain such license plates and such road signs or markers other-
7 wise than is herein provided. The provisions of general law
8 relating to the removal and impeachment of the members of
9 said road commission shall have application to them for their
10 failure to comply with this act.

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

* CHAPTER 5

(Com. Sub. for House Bill No. 152—Originating in the Committee on Game and Fish)

AN ACT to amend and reenact sections one, two, four and five of article one; sections one, two, three, four and six of article two; sections seven, eight, nine, ten, eleven, twelve and by the addition thereto of section twelve-(a) of article three; sections three, four, five, six, seven and eleven of article four; sections four, five and six of article five; sections two, four, five and seventeen of article six; sections two, four, eight and eleven of article seven; sections three and ten of article nine, all of chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, and as amended by the acts of the legislature of one thousand nine hundred thirty-one, relating to the game, fish and forestry department and commission; its appointment, terms of office and salary; game protectors, their powers and authority; open seasons on game; sale of game animals and fish; providing for propagating license for game animals and birds; hunting deer and other game animals; hunting wild turkey and other game birds; closed seasons for fish and frogs; length of fish and unlawful devices and methods of fishing; hunting and fishing licenses and fees therefor; issuance of licenses; carrying uncased guns; expenditure of funds; forest fires and financial assistance for owners of forest lands.

[Passed March 11, 1933; in effect ninety days from passage. Became a law without the approval of the Governor.]

ARTICLE I.

SEC.

1. State department of game, fish and forestry to consist of division of game and fish and division of forestry.
2. West Virginia game, fish and forestry commission to consist of four members; appointment and terms.
4. Salary of commissioner and expenses of commissioner and members.
5. Office of commission at capitol; clerical help; chairman of commission.

ARTICLE II.

SEC.

1. Game protectors, district and at large, uniforms, qualifications and method of selection; trappers, appointment and selection; additional protectors.

SEC.

2. Game protectors, oath of office.
3. Game protectors, powers and duties as to warrants, etc.; when may arrest on sight.
4. Game protectors, powers and duties statewide; how licensed to carry fire arms.
6. Game protectors and other enforcement officials, power of search and seizure; duty of judges, justices and mayors to issue warrants of search and seizure.

ARTICLE III.

SEC.

7. Propagation, etc., of game animals, fish, etc., by commission and others holding permits from commission.
8. Power of commission to omit, suspend or change open seasons or change bag limits; publication by commission of orders, yearly hearings in designated cities to determine open seasons; penalty for violation of orders.

*See chapter fifty-five, acts of the extraordinary session of 1933, in this volume.

SEC.

9. Unlawful to transport, kill or possess with intention of transporting, beyond limits of state, certain game animals, fowls or fish; exceptions as to nonresident licensee.
10. Unlawful to purchase, offer to purchase, sell, offer or expose for sale certain game animals, fowls, birds and fish; exceptions; when unlawful to transport same; selling, etc., of each animal, fish or bird, a separate offense; when sale of rabbits prohibited.
11. When unlawful to hire or induce another to hunt or fish.
12. Unlawful for hotels, etc., to serve for pay game animals and fish.
- 12-(a). Provisions for license for propagating game animals and birds in private game refuge; sales under.

ARTICLE IV.

SEC.

3. Deer, open season and bag limit; unlawful to kill, other than bucks with one or both horns branched; unlawful to hunt with dogs or catch or kill with poison, salt lick, snare, etc.; unlawful to hunt at night or while in stream or lake; closed season in five named counties; report to commission of killing; penalties for violations.
4. Rabbit, open season and bag limit; hunting on own land by landowner or tenant.
5. Squirrel, open season and bag limit.
6. Raccoon or skunk, open season.
7. Opossum, open season.
11. Red fox, open season; commission may prohibit killing in any county; killing, except by poison, on own land by landowner or tenant.

ARTICLE V.

SEC.

4. Wild turkey, open season and bag limit; unlawful to hunt at night; report to commission of killing.

SEC.

5. Ruffed grouse, open season and bag limit.
6. Quail, open season and bag limit.

ARTICLE VI.

SEC.

2. Frogs and fish, open season; game fish designated.
4. Fish, lawful lengths.
5. Unlawful to fish with seines, etc.; exceptions; report of sale of seines more than six feet in length to commission; when unlawful to drain ponds, use dynamite, drug, electricity, lime or gun to take fish; when unlawful to gig, snare, etc., fish.
17. Penalties for violations of provisions of article.

ARTICLE VII.

SEC.

2. Hunting and fishing license, district resident, statewide resident and nonresident, fees for and territory covered; license to resident of Ohio, fee and territory covered; courtesy license; twenty-five per cent of license fees to be used for protection and propagation of game and fish.
4. License and badge issued by county clerk, form, display of and list; no fishing license required of resident sixty years old.
8. Unlawful to carry uncased gun in woods in open hunting season; exception as to landowner or tenant.
11. Ten per cent of license revenues used for parks and game and fish refuges.

ARTICLE IX.

SEC.

3. Forest fires, duty and powers of commission, chief forester and forest protectors; penalty for refusal to assist in fighting.
10. Forest lands, financial assistance from owners; sources of expenditures on by commission.

Be it enacted by the Legislature of West Virginia:

That sections one, two, four and five of article one; sections one, two, three, four and six of article two; sections seven, eight, nine, ten, eleven and twelve of article three; all of chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, and as amended by the legislature of one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows: And that section twelve-(a) of article three be added thereto; that sections three, four, five, six, seven and eleven of article four; sections four, five and six of article five; sections two, four, five and seventeen of article six; sections two, four, eight and eleven of article seven and sections three and ten of article nine; all of chap-

ter twenty of the code of West Virginia, one thousand nine hundred thirty-one, and as amended by the acts of the legislature of one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows:

ARTICLE I.

Section 1. A state department of game, fish and forestry shall be maintained for the conservation, protection and propagation of wild animals, wild birds and fowls, fish and frogs, and for the conservation and protection of the forests of the state against injury or destruction by fires, insects, fungus or other diseases and for forest culture. The department shall consist of a division of game and fish and a division of forestry, under the charge of the commission.

Sec. 2. The state department of game, fish and forestry shall be under the control, charge and management of a commission known and designated as "West Virginia game, fish and forestry commission," which shall be composed of four members, one of whom shall be designated as the "commissioner," and the other three to be designated as "members" of the commission, and shall be appointed by the governor by and with the advice and consent of the senate, no two of whom shall be residents of the same congressional district and may for cause, be removed by the governor. The commissioner shall be the chief executive officer of the commission. The commission shall supervise the work of the divisions and shall have charge of the administration and enforcement of all laws which it is the duty of the commission to administer and enforce, and shall direct all inspections and investigations.

The members of the commission in office on the date this act becomes effective may continue to serve until the first day of July, one thousand nine hundred thirty-three.

On or before the first day of July, one thousand nine hundred thirty-three, the governor, by and with the advice and consent of the senate, may appoint four members of said commission, as herein provided for, one of which said members shall be designated as the commissioner, the other three as members of the commission; one of said appointments to be made for the period of one year, one for two years, one for three years, and one for four years. Beginning on the first day of July, one thousand nine hundred thirty-four, and on the first day of July of each year

28 thereafter a member of said commission shall be appointed to
29 serve for a period of three years beginning on said first day of
30 July. Any commissioner shall be eligible for reappointment. A
31 vacancy in the office shall be filled by appointment by the gov-
32 ernor for the unexpired term.

Sec. 4. The member of the commission designated as the
2 commissioner shall receive an annual salary of three thousand
3 four hundred dollars per year, and the three members of the com-
4 mission designated as members shall receive no salary or other
5 compensation for their services, but each of said members shall
6 be allowed and paid their actual necessary expenses in traveling
7 and other personal expenses incurred in the performance of
8 their duties: *Provided*, That the expenses of the three members
9 of the commission designated as such shall not exceed the sum
10 of five hundred dollars each in any one year; the commissioner
11 to be paid his actual and necessary traveling and other expenses.

12 No expense account shall be paid unless a statement of the
13 items thereof, together with the time of expenditure and the
14 person or persons by whom expended, shall be certified by at
15 least two members of the commission to be a true statement of
16 money actually expended at the time designated for traveling
17 and other personal expenses in the performance of duty as such
18 commissioners.

Sec. 5. The commission shall maintain an office at the capitol
2 of the state, furnish the same, secure necessary supplies for the
3 keeping of its records, and the conduct of its business, and may
4 employ, with the right to remove summarily, such number of
5 clerks as are necessary.

6 The member of the commission designated as the commissioner
7 shall serve as chairman of the commission.

ARTICLE II.

Section 1. The commission shall have power and authority to
2 appoint game protectors to be regularly assigned to such
3 districts as the commission may fix and determine, which said
4 game protectors shall be men interested and experienced in the
5 work for which they are selected and shall be immediately under
6 the supervision of the commissioner; also game protectors at
7 large to work in any district of the state under the supervision
8 of the commissioner; also trappers whose duties shall be to
9 trap and kill out vermin from established game refuges and

10 open game territory, except in counties wherein the red fox is
11 protected, who shall work under the supervision and direction of
11-a the commissioner.

12 The commission shall provide proper uniforms for the
13 district game protectors and the game protectors at large
14 herein provided for, the kind, material and style of all uniforms
15 to be prescribed by the commission. All uniforms and all arms,
16 weapons and other property furnished to such protectors shall
17 be and remain the property of the state.

18 The commission shall fix the compensation of the district game
19 protectors, the game protectors at large and the trappers.

20 The game protectors and trappers herein provided for shall
21 be selected and appointed in the following manner: All applica-
22 tions for appointment shall be upon blanks provided by the com-
23 mission and shall contain the certificate of the judge of the
24 circuit court of the county in which the applicant resides and
25 also the sheriff and prosecuting attorney of such county, to the
26 effect that the applicant is a person of good moral character, not
27 of intemperate habits and that he has never been convicted of a
28 felony, nor more than once of a misdemeanor. The applicant
29 shall, before his appointment, be subjected by the commission to
30 an examination touching his qualifications and fitness for the
31 position, the general form and substance of which shall be
32 prescribed by the commission. No person shall be appointed a
33 protector who shall not have passed such an examination in a
34 manner satisfactory to and shall have been recommended by all
35 members of the commission. When there shall be more than one
36 such applicant eligible to appointment as protector or trapper,
37 they shall be selected by the commission by lot from the quali-
38 fied applicants.

39 The commission shall have power and authority in case of
40 emergency to employ temporarily such additional protectors as
41 may be necessary to meet such emergency.

Sec. 2. Before entering upon the discharge of their duties
2 the game protectors shall each take, sign and execute the oath
3 of office prescribed in section five of article four of the constitu-
4 tion of this state. The oath may be administered to the game
5 protectors by any commissioner or any other person authorized
6 by law to administer oaths, and all such written obligations shall
7 be returned to, and filed with the commission.

Sec. 3. The game protectors and all other officers of the state of West Virginia, while engaged in the enforcement of the provisions of this chapter, shall be under the supervision and direction of the commission. The game protectors shall have full power and authority to execute and serve any search warrant, notice or any process of law issued under this chapter or any law enacted relating to game animals, fish, frogs, wild birds and wild fowls, and forests, issued by any justice of the peace or by any court having jurisdiction thereof, in the same manner, with the same power and authority, and to and with the same legal effect, as any constable or sheriff can serve or execute such search warrant, notice or process. They may arrest on sight, without a warrant or other court process, any person or persons detected by them in the violation of any of the provisions of this chapter or of any law of this state relating to game animals, fish, frogs, wild birds and fowls, and forests; and shall, under the supervision and direction of the commission, do all things necessary to properly carry into effect the provisions of this chapter.

Sec. 4. The authorities, powers and duties of the game protector shall be statewide, and after they are appointed as such, each shall have the right to carry a pistol, or other fire arms, by giving bond, with security approved by the commission, in the sum of three thousand five hundred dollars, conditioned as provided in article seven, chapter sixty-one of this code, and no notice or other application, except the presentation of his commission as such game protector, shall be required of him before such license is granted, and no fee shall be charged therefor. Any such license granted shall be valid for one year, or for the duration of his term of office, if less than one year, unless sooner revoked in the manner provided in said article seven.

Sec. 6. The game protectors, including such sheriffs, deputy sheriffs, constables, state police, forest wardens and police officers, while engaged in the enforcement of any of the provisions of this chapter, shall have the power, in manner provided by law, to search and examine any boat, vehicle, automobile, conveyance, express or railroad car, fish box, fish bucket or creel, game bag or game coat, or any other place in which game birds, game animals, fish or frogs could be packed, concealed or conveyed, whenever they have reason to believe that they will thereby secure or discover evidence of the violation of any provision of this chap-

11 ter, and such officers shall have, in manner provided by law,
12 the same right to execute a search warrant as is now conferred
13 upon sheriffs in their respective counties; and every justice of
14 the peace and every circuit, criminal or intermediate court, or
15 the judge thereof in vacation, and every mayor of any city, town
16 or village, upon information made under oath or affirmation
17 that any person has in his possession or under his control any
18 game animals, game birds, fish or frogs out of season or in viola-
19 tion of the provisions of this chapter, shall issue a warrant re-
20 quiring the person suspected to be brought before him for ex-
21 amination, or the said house, building or other place to be
22 searched and the parties found therein to be arrested and
23 brought before him, as aforesaid; and in the same warrant shall
24 require the officer to whom it is directed to seize and hold all
25 game animals, game birds, fish or frogs found therein contrary
26 to law.

ARTICLE III.

Section 7. The state game, fish and forestry commission may
2 hunt, capture and maintain in captivity, at any time, for the
3 purpose of propagation, protection and distribution, any of the
4 game animals, fur-bearing animals, game birds, game fowls, fish
5 or frogs or any of the wild animals, wild birds and wild fowls
6 of this state.

7 The commission may issue permits to any person for similar
8 purposes, when satisfied that such person desires to exercise such
9 privilege exclusively for scientific or propagating purposes. Such
10 permit shall be in writing and shall state the number and kind of
11 animals, birds, fowls; fish or frogs to be taken, the purpose
12 and manner of taking, and the name and place of residence of
13 the person to whom issued, and shall be signed by the commis-
14 sioner. Such permit shall not be transferable and shall expire
15 on the thirty-first day of December following the date of issue.
16 It shall be unlawful to sell or barter any of the animals, birds,
17 fowls, fish or frogs taken under such permit. A fee of one dol-
18 lar shall accompany each application for a permit. The owner
19 of such permit shall furnish the commissioner, upon the de-
20 mand of the latter, with a detailed list of all animals, birds,
21 fowl, fish or frogs captured.

Sec. 8. The commission shall have the power, by a proper
2 order made and entered in its record book, to omit or suspend,

3 for a fixed and definite period, or change the dates of, the open
4 seasons for the catching of fish in any stream or part of a stream
5 in this state. The order shall definitely fix such stream by a
6 proper description and shall state therein the period of such
7 suspension. Before such suspension shall become effective, the
8 commission shall give notice thereof by the publication of such
9 order once a week for two successive weeks in a newspaper
10 of the county, or each county wherein such stream is located.

11 The commission shall have the power by a proper order made
12 and entered in its record book, to limit or suspend for a defi-
13 nite and fixed period, the open season for the killing of any
14 game animals or birds, mentioned in this chapter, in any county
15 of this state. Such order shall state the period of such suspen-
16 sion and name the birds and animals the killing of which is
17 prohibited. Before such suspension shall become effective, the
18 commission shall give notice thereof by the publication of such
19 order, in two newspapers of general circulation throughout the
20 state, at least once a week for two successive weeks before the
21 date of the beginning of such suspension.

22 The commission shall also have the power by a proper order
23 made and entered in its record book, when it is deemed neces-
24 sary to protect game animals, fur-bearing animals, fish and
25 frogs, game birds and fowls, and forests, to modify and change
26 the bag limits on game animals, birds, fish and frogs. Before
27 any such change in the open season or bag limits is made ef-
28 fective, the commission shall give notice thereof by publication
29 of such order, in two newspapers of general circulation through-
30 out the state, at least once a week for two successive weeks, the
31 last publication to be not later than two weeks in advance of
32 the date the change shall become effective.

33 The commission shall have the power, by proper order made
34 and entered in its record book, to fix the open seasons for the
35 hunting of all game animals, game birds and for fish and frogs
36 in the several counties of the state and may, at its discretion,
37 provide for different open seasons in the several counties: *Pro-*
38 *vided*, That the maximum number of days of open season pro-
39 vided for each county shall be uniform throughout the state. The
40 open season for hunting and fishing for the several counties of
41 this state shall be fixed by the commission at a meeting to be held
42 as soon after the first of each year as may be convenient and the

43 open seasons so fixed and determined by the said commission
44 for the said several counties of this state, shall be published in
45 four newspapers of general circulation throughout the state at
46 least once a week for two successive weeks as soon as the same
47 shall have been fixed by the said commission.

48 For the purpose of giving the various sections of the state an
49 opportunity to be heard concerning open seasons for their re-
50 spective areas, the commission shall, and before such seasons
51 are fixed for the various counties of the state, during the month
52 of January of each year hold meetings at Martinsburg, Parkers-
53 burg, Morgantown, Elkins, Charleston and Beckley.

54 When the commission shall have entered any such order and
55 given the notice required herein, then anyone fishing in such
56 stream, or hunting or killing in such county any of the animals
57 or birds the killing of which is prohibited, or fishing or hunting
58 in violation of such changes made in the open season and bag
59 limits, shall be guilty of a misdemeanor and upon conviction
60 thereof shall be punished as provided in section fourteen of this
61 article.

Sec. 9. No person shall at any time transport or kill or have
2 in his possession with the intention of transporting beyond the
3 limits of the state, any elk, deer, quail, pheasant, ruffed grouse,
4 wild turkey, squirrel, wild duck or wild goose, or any part there-
5 of, or any game fish or frogs killed, caught or captured within
6 this state: *Provided, however,* That a nonresident licensee
7 may take with him personally, when leaving the state, any game
8 animals, game birds or fish that he has lawfully taken or killed,
9 not exceeding during the season, the number that any person
10 may lawfully take or kill in any two days.

Sec. 10. It shall be unlawful for any person at any time
2 to purchase or offer to purchase, sell or offer to sell, expose for
3 sale, or have in his possession for the purpose of selling any
4 elk, deer, squirrel, wild turkey, ruffed grouse, quail, woodcock,
5 wild duck, wild goose, wild swan, wild brant, snipe, sandpiper,
6 or any of the song or insectivorous birds of this state; or pur-
7 chase, or offer to purchase, sell or expose for sale, any trout of
8 any species, salmon of any species, pike of any species, pike,
9 perch or wall-eyed pike, bass of any species, excepting rock bass
10 and goggle eyes, perch of any species, pickerel of any species,
11 turtle or any frog, caught or captured within the state, except

12 as provided in section thirteen, article six of this chapter. It
13 shall be unlawful for any person or common carrier, except as
14 provided in said section thirteen, article six of this chapter, to
15 transport, carry or convey, or to receive for such purpose any of
16 the animals, birds, or fowls aforesaid, or any part of the same,
17 or the fish or frogs so caught or killed within the state, knowing
18 or having reason to believe that such animals, birds, fish or frogs
19 had been or were to be sold. The selling or exposing for sale,
20 having in possession for sale, transporting and carrying, con-
21 trary to the provisions of this section, of each and every animal,
22 fish or bird, the sale of which is prohibited in this section, shall
23 constitute and be a separate offense, except this section shall not
24 apply to such game birds, fish or frogs as may be raised by reason
25 of a propagating license as provided for by this act: *Provided*
26 *further*, That the commission may at any time prohibit the sale
27 of rabbits in any county of this state, upon petition of one hun-
28 dred duly licensed persons, residents of such county.

Sec. 11. It shall be unlawful for any person, firm or corpo-
2 ration to employ or hire, or induce or persuade, by the use of
3 money or other things of value, or by any means, any person
4 to hunt, catch or kill, for such other person, firm or corporation,
5 any game animal, game bird or game fowl, or any other bird or
6 fowl for which no bounty has been offered by the commission,
7 or to fish for, catch or kill any fish or frog which is protected
8 under any of the provisions of this chapter, or the sale of which
9 is prohibited by this chapter, except that it shall not be unlaw-
10 ful for any person, firm or corporation to employ or hire any
11 person to hunt, catch or kill for such other person, firm or
12 corporation game animals, game birds, fish or frogs which have
13 been raised and are propagated by such person, firm or cor-
14 poration on their own property, the stock for which has not
15 been furnished by the commission.

Sec. 12. No person shall serve for pay, either directly or
2 indirectly, at any hotel, restaurant, or other licensed eating
3 place in this state, or in any public eating place in this state,
4 any game animal (except rabbit), game bird, or game fowl, or
5 any part thereof, whether caught within or without this state,
6 or any game fish or frog caught within this state: *Provided*,
7 That black bass shall not be served and it shall be unlawful to
8 purchase the same from any source.

Sec. 12-(a). The commission shall have power and authority

2 to issue a license to any person, firm or corporation for the
3 operation of a private game refuge for the purpose of propa-
4 gating game animals or game birds. The said license shall
5 authorize the holder thereof and his or its assistants to breed
6 or raise game of any kind and to sell the same alive or the eggs
7 of game birds at any time, under the regulations hereinafter
8 provided: *Provided, however,* That persons raising game not for
8-a commercial purposes shall be exempt from the provisions of
8-b this section.

9 All licenses issued by virtue of this section shall expire on
10 the first day of January following the date of issue. A license
11 may be renewed from year to year upon paying to the commis-
12 sion the sum of five dollars for each such renewal. The annual
13 license fee for such license shall be five dollars. The provisions
13-a of this section shall not be construed to include any person,
13-b firm or corporation who is engaged in the business of raising
13-c and propagating fur-bearing animals for commercial purposes.

14 The application for such propagating license shall desig-
15 nate the property whereon such refuge is to be established or
16 such game animals or birds are to be propagated, and before
17 such license shall be issued the commission shall determine
18 whether or not such property is properly enclosed for the pur-
19 pose of excluding therefrom any wild game.

20 Before any game of any kind, raised under authority
21 of any propagating license, is shipped out of the state, it must
22 be first offered for sale to the commission for propagating pur-
23 poses and the secretary of the commission shall, within ten days,
24 advise the licensee whether the commission is desirous of pur-
25 chasing the same. If not purchased by the commission it may
26 then be shipped to any other state under such regulations and
27 provisions as may be adopted by the commission.

28 The commission shall make such rules and regulations as they
29 may deem proper for the sale of such game animals or game
30 birds as are raised by any licensee and before any sale of any
31 game animals or game bird is made by any licensee, said sale
32 shall be made in strict conformity and compliance with such
33 rules and regulations as shall be adopted by the commission.

ARTICLE IV.

Section 3. No person shall hunt, capture or kill any deer in
2 this state at any time before the first day of December, one
3 thousand nine hundred thirty, after which it shall be lawful to

4 hunt, capture or kill any buck deer with one or both horns
5 branched, in any county of this state not herein otherwise ex-
6 cepted, and then only during the open season fixed by the com-
7 mission for the hunting of deer in the county in which the same
8 shall be hunted, captured or killed: *Provided*, That the state
9 game, fish and forestry commission may at any time open or
10 close the season against the killing of all deer in manner and
11 form as provided in this chapter: *Provided further*, That the
12 owner of any deer which shall be kept in any park or field suf-
13 ficiently enclosed to reasonably prevent its escape therefrom
14 shall have the right to kill any such deer.

15 No person shall kill more than one deer in any one season
16 of each year; nor shall any person at any time hunt, pursue,
17 shoot or kill any fawn, doe or any other deer than bucks with
18 one or both horns branched, or have the fresh skin or any other
19 part of any doe or fawn or illegally killed buck in his posses-
20 sion. No person shall chase or hunt deer with dogs in this state
21 at any time nor permit his dogs to hunt or chase deer, and it
22 shall be the duty of the game protectors, or any other duly
23 qualified officer, to take any dog known to have hunted or chased
24 deer into his possession and advertise in some newspaper of gen-
25 eral circulation, published in said county, the fact that he has
26 such dog in his possession, the circumstances under which it was
27 taken, which advertisement shall give as accurate a description
28 of said dog as may be, and he shall hold said dog for a period of
29 ten days to give the owner of said dog an opportunity to claim
30 the same, and if no such owner, within said period, appears to
31 claim said dog, said game protector shall kill the same, and in
32 this event the cost of keep and advertising shall be paid by the
33 commission, but in the event any such owner shall, within such
34 period, appear and claim said dog, he may repossess the same
35 on the payment of the costs of advertisement, and the costs of
36 keep, not to exceed fifty cents per day, and in any event the game
37 protector, or other qualified officer so taking such dog into his
38 possession, shall report the facts to the commissioner. Nor shall
39 any person kill any deer that has been chased by dogs. No per-
40 son shall at any time catch, capture or kill any deer by means
41 of any poison, bait, salt lick, natural or artificial, trap or snare,
42 or like device of any kind. No person shall hunt, pursue, catch
43 or kill any deer between nightfall on one day and the daylight of

44 the next day, and no one shall kill or wound any deer, while
45 the said deer is in any stream, lake or pond in this state: *Pro-*
46 *vided further*, That no person shall hunt, capture or kill any
47 deer in the counties of Mingo, Marion, Marshall, Pendleton and
48 Mercer of this state until the first day of December, one thou-
49 sand nine hundred thirty-six, and that on and after said date
50 the provisions of this chapter shall govern the hunting, cap-
51 turing or killing of deer in said counties.

52 Any person killing a deer in this state in any season when
53 it is lawful so to do shall, within twenty days thereafter, inform
54 the commission in writing of such fact and shall also specify
55 in writing the date and place of such killing, the person by whom
56 killed, the person or persons hunting with him at such time,
57 the length and branching of its horns or antlers, and what was
58 done with such deer.

59 Any person violating any provision of the first two para-
60 graphs in this section shall be guilty of a misdemeanor, and,
61 upon conviction thereof, shall be fined not less than one hun-
62 dred nor more than three hundred dollars and confined in the
63 county jail not less than thirty days nor more than sixty days.
64 Any person violating any provision of the third paragraph of
65 this section shall be guilty of a misdemeanor, and upon convic-
66 tion thereof shall be punished as provided in section fifteen of
67 this article.

Sec. 4. No person shall hunt, capture, kill or have in his pos-
2 session in any county of this state, any rabbit or varying hare,
3 commonly known as snowshoe rabbit, except during the open
4 season for such county, as provided for by the commission in
5 the several counties of this state: *Provided*, That it shall be
6 lawful for any person or the children of any person to hunt,
7 catch or kill at any time any rabbit upon his own land or any
8 land of which he may be a tenant. No person shall kill more
9 than six rabbits in any one day nor more than forty in any one
10 season: *Provided*, That this limit shall not apply to persons
11 killing rabbits on their own premises.

Sec. 5. No person shall hunt, capture or kill any gray, black
2 or fox squirrel or have in his possession in any county of this
3 state, any squirrel except during the open season for such
4 county, as provided for by the commission in the several coun-
5 ties of this state. No person shall kill more than five squirrels
6 in any one day, nor more than thirty in any open season.

Sec. 6. No person shall hunt, capture or kill any raccoon or skunk or have in his possession in any county of this state any raccoon or skunk except during the open season for such county, as provided for by the commission in the several counties of this state.

Sec. 7. No person shall hunt, capture or kill any opossum or have in his possession in any county of this state, any opossum except during the open season for such county, as provided for by the commission in the several counties of this state.

Sec. 11. It shall be unlawful for any person to catch, kill or injure, by means of a gun, snare, trap or poison, any red fox, or have in his possession in any county of this state, any red fox except during the open season for such county, as provided for by the commission in the several counties of this state: *Provided*, That the commission may, in its discretion, prohibit the killing of red foxes in any county when it shall deem it proper so to do: *Provided, however*, That it shall be lawful for any person at any time, except by poison, to catch, kill or pursue any red fox upon his own land, or on any lands upon which he may be an actual bona fide tenant or resident, and no person shall blow up a den or burrow of red foxes, in which a red fox has taken refuge in counties of this state wherein the red fox is protected.

ARTICLE V.

Section 4. No person shall hunt, pursue, capture, wound, or kill any wild turkey, or have in his possession in any county of this state any wild turkey, except during the open season provided for such county by the commission; nor shall any person, during the period when it shall be lawful to hunt, pursue, catch and kill wild turkey, engage therein between nightfall of one day and daylight of the next day. No person shall kill more than one wild turkey in any open season. In the month of December of each year it shall be the duty of any person who has killed a wild turkey in this state to report to the commission in writing the killing of said turkey, the date, time and place where killed, and whether or not the same was male or female.

Sec. 5. No person shall hunt, pursue, catch, capture or kill or have in his possession in any county of this state any ruffed grouse except during the open season provided for such county by the commission. No person shall kill more than three ruffed

5 grouse in any one day, nor more than twelve ruffed grouse in
6 any one year.

Sec. 6. No person shall hunt, pursue, catch, capture, kill or
2 have in his possession in any county of this state any quail or
3 Virginia partridge except during the open season provided for
4 such county by the commission. No person shall kill more than
5 eight quail in one day nor more than thirty-five quail in any
6 one open season.

ARTICLE VI.

Section 2. Open seasons for fish and frogs shall be fixed by
2 the commission as provided by section eight, article three of this
3 chapter and no person shall fish, catch, take, kill, destroy in
4 any manner or have in possession any of the fish hereinafter
5 enumerated or frogs in any county of the state except during
6 the open season as set by the commission when such fish or
7 frogs may be lawfully caught: Black bass, green bass, white
8 bass or willow bass, trout, white salmon, landlocked salmon,
9 jack salmon, jack fish or wall-eyed pike, pike, other than wall-
10 eyed pike, or muskalonge, pickerel, perch or frogs.

Sec. 4. It shall be unlawful for any person to catch and keep
2 or not return to the water immediately after catching, any
3 jack salmon, commonly called jack fish, less than twelve inches in
4 length, or any pike or pickerel less than twelve inches in length,
5 or any bass or perch less than ten inches in length or any brook
6 trout less than six inches in length, or any brown or rainbow
7 trout less than eight inches in length. Fish less than the length
8 prescribed herein shall be returned to the water, with as little
9 injury as possible, immediately after being caught. The meas-
10 urement of the fish shall be taken from the end of the nose to
11 the center fork of the tail.

Sec. 5. It shall be unlawful for any person to kill, catch or
2 attempt to kill or catch, any fish in this state, at any time, by
3 means of seines, nets, or traps, or devices of like nature, unless
4 written consent shall have been given by the commission for
5 the use of such seines as hereinafter provided; or by draining
6 water out of any pool, pond or stream, with the intent to take
7 or injure the fish therein, or by the use of dynamite, or any like
8 explosive or other explosive mixture, or any poisonous drug
9 or substance; or by the use of electricity or lime; or by the

10 use of a gun, rifle, pistol or any other like weapon; or by any
11 other means whatsoever except by rod, line and hook or hooks
12 with natural or artificial lures: *Provided*, That any person may
13 employ a seine not more than six feet in length for the pur-
14 pose of securing minnows other than salmon, bass, shad, pike,
15 perch and trout, for use in angling. It shall be unlawful for
16 any person, firm or corporation to sell any seine more than six
17 feet in length without immediately reporting same to the com-
18 mission, giving the name and address of the purchaser: *Provided*
19 *further*, That the commission may at any time catch fish with
20 nets, seines, or otherwise, for the purpose of propagation and
21 protection of the fish of this state. It shall be unlawful for any
22 person at any time to kill or catch game fish by gigging, snaring,
23 spearing, gaffing or grappling except the commission may, upon
24 application by petition signed by two hundred citizens of any
25 county, showing the reason or necessity therefor, permit gigging
26 of non-game fish in any stream, or part of such stream in said
27 county, provided said petitioners are holders of fishing license,
28 except that no person shall gig during April, May and June.

Sec. 17. Any person violating any provision of this article,
2 the punishment for which is not prescribed, shall be guilty of
3 a misdemeanor, and upon conviction thereof, shall, for each
4 offense, be fined not less than ten nor more than one hun-
5 dred dollars, or confined in the county jail not exceeding thirty
6 days, or both fined and imprisoned within the limitations afore-
7 said: *Provided*, That any person convicted of killing fish by
8 dynamite or other explosives, or poisons, shall be guilty of a
9 misdemeanor and upon conviction thereof, shall be fined not
10 less than fifty dollars nor more than two hundred dollars, and
11 confined in the county jail not less than thirty days, nor more
12 than six months.

ARTICLE VII.

Section 2. A district resident hunting and fishing license
2 shall entitle the licensee to hunt and fish in the county in which
3 the licensee is a resident and all counties bordering on the
4 county in which such district resident hunting and fishing
5 license is issued. The fee for such license shall be one dollar,
6 which can only be issued in the county of applicant's residence.
7 A statewide resident hunting and fishing license shall entitle
8 the licensee to hunt and fish in all counties in this state. The

9 fee for such license shall be three dollars, except female residents,
10 which shall be one dollar.

11 A nonresident hunting and fishing license shall entitle the
11-a licensee to hunt and fish in all counties of the state. The fee
11-b for such license shall be fifteen dollars.

12 A nonresident fishing license shall entitle the licensee to fish
13 in all counties of the state. The fee for such license shall be
14 five dollars: *Provided, however,* That a nonresident may be
15 issued a fishing license for one day, for one dollar. Said license
16 shall state exactly the time in hours the said license is good, and
17 said license shall be returned within forty-eight hours after it has
18 expired.

19 A license to residents of the state of Ohio shall entitle the
20 residents of the state of Ohio only to hunt and fish on the Ohio
21 river only, which fee for such license shall be one dollar.

22 The commission is empowered to issue courtesy hunting and
23 fishing license for which there shall be no charge, to members
24 and agents of the United States biological survey and bureau of
25 fisheries and to members of state game, fish and forestry com-
26 missions or conservation commissions of states extending similar
27 courtesies, for the purpose of scientific research: *Provided,*
28 *however,* That such courtesy licenses shall not exceed twenty-
29 five in one year. At least twenty-five per cent of all the moneys
30 derived from the sale of hunting and fishing licenses as provided
31 for in this section shall be utilized for the protection and propa-
32 gation of game and fish.

Sec. 4. The clerk shall issue and deliver to the applicant a
2 license in the form prescribed by the commission, sign the same.
3 affix thereto the seal of the county court of which he is clerk,
4 and number the license according to the serial order in which
5 it was issued. The clerk shall at the time deliver to each hunt-
6 ing licensee a badge furnished by the commission, free of charge,
7 bearing license number in figures and containing the words
8 "resident" or "nonresident fishing," "nonresident hunting"
9 or "Ohio river," as the case may be, and containing the words
10 "local" or "statewide," as the case may be, which badge hunt-
11 ing licensee is required to display on his outer garment in such
12 manner that it is plainly visible at all times while fishing or
13 hunting, and such licensee shall at all times while hunting or
14 fishing have on his person in addition to the badge herein pro-
15 vided for, his license which shall be kept in the badge in the

16 place therein provided for or in some other place upon his per-
17 son. The license hereinbefore provided for for residents in the
18 state of Ohio shall be issued by the county clerks of the several
19 counties of this state which border upon the state of Ohio. The
20 clerk shall keep an accurate list of all licenses issued by him and
21 of all moneys received therefor for each class of license: *Pro-*
22 *vided,* That any resident of this state of the age of sixty years
23 or over, shall be permitted to fish with hook and line in any of
24 the waters of this state without procuring or paying for a license
25 therefor.

Sec. 8. No person shall carry an uncased gun in any of the
2 woods of this state except during the open hunting season for
3 game animals and game birds within any county of said state,
4 except that this shall not prohibit the owner of any land, his
5 child or children, tenants or lessees from carrying a gun on his
6 or their premises.

Sec. 11. The commission shall set aside each year ten per
2 cent of the total revenue obtainable from all classes of hunting
3 and fishing licenses for the purpose of purchasing lands upon
4 which to establish forest parks, game and fish refuges as here-
5 inafter provided.

ARTICLE IX.

Section 3. The commission shall have authority and power to
2 protect the forests against injury or destruction by fire, and it
3 shall be the duty of the commission, the chief forester and for-
4 est protectors, upon receiving notice of any such forest fire, to
5 employ all the necessary means to confine or extinguish the
6 same. For this purpose authority is given to destroy fences,
7 plow lands, or, in case of extreme emergency, to set backfires.
8 The chief forester and forest protectors may, under the general
9 supervision of the commission, in case of emergency, summon
10 or employ persons to assist in fighting fires, who shall be paid
11 at the rate of not to exceed one dollar per day for the actual
12 time so employed in fighting such fires. Any person who shall
13 fail or refuse to assist in the fighting of such fires shall, unless
14 such failure is due to physical inability, be guilty of a mis-
15 demeanor, and, upon conviction, be fined not less than ten nor
16 more than twenty dollars for each offense.

Sec. 10. The commission may cooperate with the owners of
2 forest lands and receive financial assistance from them for the

3 purposes aforesaid and do any and all things necessary therefor,
 4 including the establishment and maintenance of patrol and
 5 lookout stations: *Provided*, That the commission shall expend
 6 for forestry purposes only such moneys as shall be appropriated
 7 therefor by the state, and such moneys as may be contributed
 8 therefor by the private owners, and such moneys as may be re-
 9 covered from persons giving origin to forest fires, and such
 10 moneys as may be received from the federal government by ap-
 11 propriation under the Weeks and the Clarke-McNary laws, or
 12 otherwise, and in addition for the aforementioned purposes,
 13 shall provide twenty-five per cent of the funds derived annually
 14 from the sale of game and fish licenses.

CHAPTER 6

(House Bill No. 336—By Mr. Hill)

AN ACT to amend and reenact article eleven, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, creating the state water commission, defining its powers and duties, providing for necessary stenographic, clerical and other assistance, procedure by the commission and enforcement of its orders and the review thereof by the courts, and providing for research procedure by the said commission.

[Passed March 11, 1933; in effect ninety days from passage. Became a law without the approval of the Governor.]

- | SEC. | SEC. |
|---|---|
| 1. Definitions of terms used in act; state water commission created. | 6. Finding of facts after hearing and order to cease pollution; procedure for enforcement of order; modification or revocation by commission. |
| 2. State water commission, how constituted; reimbursement for expenditures; assistance to by director of division of sanitary engineering and college of engineering at West Virginia University. | 7. Petition by party aggrieved by order for modification or revocation; procedure and hearing on. |
| 3. Organization of and clerical assistants to water commissioner; records and meetings of. | 8. Study of water pollution and research and experiments by commission; cooperation with public or private experimental agencies. |
| 4. Right of entry on premises by commissioner or employee. | 9. Acts not repealed or modified by this act. |
| 5. Citation by commission of person causing water pollution and procedure under. | 10. Provisions of act separable and several. |

Be it enacted by the Legislature of West Virginia:

- Section 1. Terms used in this act are defined as follows:
 2 The term "commission" shall mean the state water commission,
 3 hereby created, and the term "commissioner" shall mean a

4 member of said commission. The term "water" or "waters"
5 shall mean all waters of any river, stream, watercourse, pond
6 or lake. The term "pollution" shall mean the contaminating
7 or rendering unclean or impure of any water by any act pro-
8 hibited by section six, article six, chapter twenty of the code of
9 West Virginia, or sections two and three, article nine, chapter
10 sixteen of the code of West Virginia, and "person" shall mean
11 any and all persons natural or artificial, including any mu-
12 nicipal or private corporation organized or existing under the
13 laws of this or any other state or country, and as well any firm
14 or association.

Sec. 2. On and after the date this act shall go into effect,
2 the commissioner of health, the chairman of the public service
3 commission of West Virginia and the chairman of the West
4 Virginia game and fish commission, and their successors in office,
5 shall constitute the state water commission and shall serve as
6 commissioners thereof; they shall be reimbursed, out of moneys
7 appropriated for such purposes, all sums which they necessarily
8 shall expend in the discharge of their duties as members of such
9 commission. The director of the division of sanitary engineer-
10 ing in the state health department shall perform such services
11 as said commission may request of him in connection with its
12 duties hereunder; he shall be reimbursed, out of moneys appro-
13 priated for such purposes, all sums which he necessarily shall
14 expend in the performance of such services. Nothing contained
15 in this act, however, shall be construed to limit or interfere with
16 the power of the state health department to select, employ and
17 direct the direction of the division of sanitary engineering of
18 said department, or any employee thereof who in any way may
19 perform any services for the commission. The college of en-
20 gineering at West Virginia University, under the direction of
21 the dean thereof, shall, insofar as it can, without interference
22 with its usual and regular activities, aid and assist the com-
23 mission in the study and research of questions connected with
24 pollution of waters. The dean of the college of engineering
25 shall be reimbursed, out of moneys appropriated for such pur-
26 poses, any and all sums which he necessarily shall expend in
27 the performance of any services he may render to the commis-
28 sion under the provisions hereof.

Sec. 3. Said commission shall elect from its membership a

2 chairman and also elect a secretary, who need not be a member.
3 The commission may employ such stenographic, clerical and
4 other assistance as shall necessarily be required, and whose
5 duties shall be defined by the commission, and whose compensa-
6 tion, to be fixed by the commission, shall be paid out of the state
7 treasury, out of moneys appropriated for such purpose, upon
8 the requisition of said commission. All orders of the said com-
9 mission shall be entered in a permanently bound record book,
10 properly indexed and the same carefully preserved. Copies of
11 orders entered by the commission, as well as copies of papers or
12 documents filed with it, or the records of proceedings before the
13 commission, shall be attested by the secretary of the commis-
14 sion. Said commission shall meet at such times or places as
15 agreed upon by the commissioners, or upon call of its chairman,
16 to take up any matters proper or necessary to be considered
17 by it.

Sec. 4. Any commissioner or any assistant or employee of
2 said commission may, at any reasonable time, enter any premises
3 while engaged in the performance of duty under the provisions
4 of this act.

Sec. 5. Any person, causing the pollution of any water, or
2 alleged to be causing the pollution of any water, may be cited
3 by the commission on its own motion, and shall, upon the peti-
4 tion of any person affected by such pollution, be cited to appear,
5 not less than fifteen nor more than thirty days from the service
6 of such citation, before said commission at a place designated
7 by it, then and there to show cause, if any shall exist, why said
8 commission should not issue an order regulating such pollution,
9 and any person affected by such pollution may by petition
10 intervene as a party complainant or respondent in any proceed-
11 ing instituted by or before such commission. Such citation may
12 be issued by the commission or any member thereof and may
13 be served and returned in the same manner as process in any
14 civil action, or it may be served by sending a copy thereof by
15 registered mail addressed to the person causing, or alleged to be
16 causing, any pollution of any water, at his, their or its usual,
17 or last known, post office address. Any commissioner may issue
18 any subpoena, administer oaths and cause the attendance of

19 witnesses, the production of evidence and testimony in any pro-
20 ceeding before the commission, subject to the same conditions
21 as are provided by the general statutes for the attendance of
22 witnesses and the production of evidence and testimony in civil
23 actions: *Provided, however,* That such commission shall not in-
24 stitute proceedings against any person engaged in the mining
25 of coal and draining mines in compliance with existing law.

Sec. 6. After a full hearing the commission shall make its
2 findings of facts, and if it find that any person is polluting any
3 of the waters of the state, it shall make and enter an order di-
4 recting such person to cease such pollution and such person shall
5 have thirty days after notice of the entry of such final order
6 to notify the commission that he will comply therewith or will
7 install, use and operate some practical and reasonably available
8 system or means which will reduce, control or eliminate or re-
9 duce to a harmless minimum such pollution, having regard for
10 the rights and interests of all persons concerned, and if such
11 person does not so comply with such order, thereafter the com-
12 mission may cause the enforcement of any order issued by it to
13 cease such pollution and, as well, all other orders entered by it in
14 matters subject to its jurisdiction, by application to the circuit
15 court of any county wherein the alleged pollution originated or
16 naturally flows, or to any judge of such court if the same shall
17 be in vacation, to enjoin any person from continuing such pollu-
18 tion, which application shall be brought and the proceedings
19 thereon conducted by the prosecuting attorney of the county
20 wherein such proceedings may be pending, or by special counsel
21 employed by any intervening petitioner. If any person notify
22 the commission that he will comply with such final order by in-
23 stalling, using and operating some practical and available system
24 to reduce, control or eliminate or reduce to a harmless minimum
25 such pollution, and make application for an extension of time,
26 the commission within reasonable limits may grant such exten-
27 sion of time. The person against whom such order shall be
28 issued shall, before proceeding to install any system or means,
29 submit to the commission for its consideration and approval, a
30 plan or statement describing the system or means which is pro-
31 posed to be used or operated; if any person shall desire to make
32 any substantial change in any system or means used or operated,
33 such person shall, before making such change, file with the com-

34 mission for its consideration and approval a plan or statement
35 describing such proposed change, together with application for
36 the action of the commission thereon and in respect thereto. The
37 commission shall, in any case, enter an order approving, or dis-
38 approving any such system or means proposed to be used or
39 operated, or permit or refuse to permit the proposed change in
40 any system or means adopted, used or operated, and shall make
41 and enter all such orders as the commission deems proper and
42 necessary. Any order of the commission may, at any time after
43 at least twenty days' notice in writing to any person affected
44 thereby and any intervening petitioner, and after a hearing
45 thereon, be modified or revoked by an order entered by the com-
46 mission and the commission shall forthwith cause an attested
47 copy of any order entered by it to be served upon all persons
48 affected thereby in the same manner as writs or summons in
49 civil actions may be served, or by sending the same by registered
50 mail to such person, or intervener, at his, their or its usual or
51 last known post office address.

Sec. 7. Any party feeling aggrieved by the entry of a final
2 order by the commission, affecting him or it, may present a peti-
3 tion in writing to the circuit court of the county wherein the
4 pollution originated or naturally flows, or to the judge of such
5 court in vacation, within thirty days after the entry of such
6 order, praying that such final order may be set aside or modi-
7 fied. The applicant shall deliver a copy of such petition to the
8 secretary of the commission before presenting the same to the
9 court or judge. The court or judge shall fix a time for the
10 hearing on the application, but such hearing, unless by agree-
11 ment by the parties, shall not be held sooner than five days
12 after its presentation; and notice of the time and place of such
13 hearing shall be forthwith delivered to the secretary of the com-
14 mission, so that the commission may be represented at such hear-
15 ing by one or more of its members or by counsel. For such
16 hearing the commission shall file with the clerk of said court
17 all papers, documents, evidence and records or certified copies
18 thereof as were before the commission at the hearing or in-
19 vestigation resulting in the entry of the order from which the
20 petitioner appeals. The commission shall file with the court be-
21 fore the day fixed for the final hearing a written statement of
22 its reasons for the entry of such order, and after arguments by

23 counsel the court shall by order entered of record, make a find-
24 ing as to whether the act complained of is a statutory pollution,
25 and certify the same back to the commission which shall make
26 such changes in its orders as will be necessary to make it comply
27 with the law, as found by the court, governing the matter. The
28 supreme court of appeals of the state shall have jurisdiction to
29 review the order of the circuit court upon application of either
30 party or any intervener. The prosecuting attorney of the
31 county wherein the proceedings in the circuit court are had
32 shall represent the commission, and the attorney general of the
33 state shall represent it in any proceedings in the supreme court
34 of appeals, and any intervener may be represented by counsel
35 specially employed.

Sec. 8. The commission shall study questions arising in con-
2 nection with pollution of waters in the state and make reports
3 and recommendations in respect thereto; and in cooperation with
4 the college of engineering at West Virginia University, make
5 research, investigation and scientific experiments in efforts to
6 discover economical and practical methods for elimination, dis-
7 posal and treatment of industrial wastes and the control and
8 correction of stream pollution; and to this end the commission
9 may cooperate with any public or private experimental agency
10 received therefrom, on behalf of the state, and for deposit in its
11 treasury, any money which such agency may contribute as its
12 part of the expense thereof.

Sec. 9. Nothing in this act contained shall be so interpreted
2 or construed as to in any way repeal, supersede or modify sec-
3 tion six, article six, chapter twenty of the code of West Virginia,
4 and section seven, article one, and sections two and three, article
5 nine, chapter sixteen of the code of West Virginia; all other
6 acts and parts of acts inconsistent herewith are hereby repealed.

Sec. 10. The various provisions of this act shall be construed
2 as separable and several, and should any of the provisions or
3 parts thereof be construed or held to be unconstitutional, or for
4 any other reason invalid, the remaining provisions of this act
5 shall not be thereby affected.

CHAPTER 7

(House Bill No. 555—By Mr. Norton)

AN ACT to amend section six, article two, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, relating to the bonds of state officers.

[Passed March 6, 1933; in effect from passage. Approved by the Governor.]

SEC.	6. Bonds of state elective officials, ap-		SEC.	proval by the governor and amounts.
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Be it enacted by the Legislature of West Virginia:

That section six, article two, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 6. The following officers shall give bonds to be approved by the governor, in the penalties hereinafter named: Secretary of state, twenty-five thousand dollars; auditor, fifty thousand dollars; treasurer, five hundred thousand dollars; state superintendent of free schools, three thousand dollars; and commissioner of agriculture, five thousand dollars.

CHAPTER 8

(House Bill No. 568—By Mr. Hiner, Mr. Speaker)

AN ACT to amend and reenact section two, article three, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, relating to workmen's compensation fund.

[Passed March 11, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.	6. Workmen's compensation fund, custodian, of what to consist; to be kept as separate and distinct fund; how disbursed; in what bonds or notes may be invested by board of public works; what		SEC.	bonds must be offered to board of public works before advertising for sale; opinion of attorney general on legality of issuance of bonds or notes.
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Be it enacted by the Legislature of West Virginia:

That section two, article three, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 2. The state treasurer shall be the custodian of the workmen's compensation fund and all premiums, deposits or other moneys paid thereto shall be deposited in the state treasury

4 to the credit of the workmen's compensation fund in the manner
5 prescribed in section five, article two of this chapter. The work-
6 men's compensation fund shall consist of the premiums and
7 deposits provided by this chapter and all interest accruing
8 thereto upon investments and deposits in the state depositories,
9 and any other moneys or funds which may be given, appro-
10 priated or otherwise designated or accruing thereto. Said fund
11 shall be a separate and distinct fund and shall be so kept upon
12 the books and records of the auditor and treasurer and the state
13 depositories in which any part is deposited. Disbursements
14 therefrom shall be made upon requisitions signed by the secre-
15 tary and approved by the compensation commissioner.

16 The board of public works shall have authority to invest the
17 surplus, reserve or other moneys belonging to the fund in the
18 bonds of the United States, notes or bonds of this state, bonds
19 of any county, city, town, village or school district of the state.
20 No such investment shall be made, nor any investment sold or
21 otherwise disposed of without the concurrence of a majority of
22 all members of the board of public works. It shall be the duty
23 of every county, school district or municipality issuing any
24 bonds, to offer the same in writing to the board of public works,
25 prior to advertising the same for sale, and the board of public
26 works shall, within fifteen days after receipt of such offer, accept
27 the same and purchase such bonds, or any portion thereof at par
28 and accrued interest, or reject such offer. All securities pur-
29 chased by the board of public works for investment for the
30 workmen's compensation fund shall be placed in the hands of
31 the state treasurer as the custodian thereof, and it shall be his
32 duty to keep and account for the same as he keeps and accounts
33 for other securities of the state, and to collect the interest there-
34 on as the same becomes due and payable, and the principal when
35 the same is due. No notes, bonds or other securities shall be
36 purchased by the board of public works until and unless the
37 attorney general shall investigate the issuance of such notes,
38 bonds or securities and shall give a written opinion to the board
39 that the same have been regularly issued according to the con-
40 stitution and the laws of this state, which opinion, if such notes,
41 bonds or securities be purchased, shall be filed with the treasurer
42 with such bonds or securities.

CHAPTER 9

(House Bill No. 389—By Mr. Hiner, Mr. Speaker)

AN ACT to amend article one, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, relating to the West Virginia board of control, by the addition thereto of new sections to be numbered sections twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three, thirty-four and thirty-five, respectively, authorizing the West Virginia board of control to provide, construct, erect, improve, equip, maintain and operate dormitories, homes or refectories for students or teachers at the various state educational institutions; authorizing the issuance of revenue bonds of the state payable solely from the earnings of such dormitories, homes or refectories to pay the cost thereof; providing for the collection of rents, fees and charges for the payment of such bonds and for the cost of maintenance, operation and repair thereof; setting forth the conditions upon which such dormitories, refectories or homes shall become the property of the state; fixing certain powers and duties of the state board of control; declaring that no debt of the state shall be incurred in the exercise of any of the powers granted hereby; and providing for condemnation.

[Passed March 9, 1933; in effect from passage. Became a law without the approval of the Governor.]

- | SEC. | SEC. |
|---|---|
| <p>24. State board of control authorized to construct, improve, maintain and operate dormitories, etc., at state educational institutions, the cost of construction and improvement to be paid from proceeds of revenue bonds for the purpose; employment of architects, etc.</p> | <p>28. Maintenance, management and control of fiscal affairs of dormitories, etc., by board of control.</p> |
| <p>25. Condemnation proceeding by state board of control; state not obligated to pay except from revenue bonds; bond to secure owners of condemned property.</p> | <p>29. Rents, fees and charges to be sufficient to retire bonds and pay cost of maintenance; to be paid monthly to state sinking fund commission and placed in special fund; if bond purchased by the federal reconstruction finance corporation, payment of rents, etc., may be made to its trustee.</p> |
| <p>26. Revenue bond of state, negotiable instruments, interest, maturity, form, when payable, tax exempt; use of proceeds; temporary bonds.</p> | <p>30. When bonds paid or payment provided for, the dormitories, etc., to become property of state and rents, etc., to be paid into state treasury.</p> |
| <p>27. Agreement between trustee for bond holders and board of control, provisions, cost and binding effect of.</p> | <p>31. Projects hereunder declared to be self-liquidating and not to be interpreted as authorizing any state debt of the nature contemplated by the state constitution; if bonds not purchased by federal reconstruction finance corpo-</p> |

SEC.	SEC.
<p>ration, to be advertised and sold on sealed bids or at private sale.</p> <p>32. Powers hereunder are supplementary and additional to powers conferred by other laws; after bond issue for any particular institution, restrictions on erection of other dormitories, etc., at that institution.</p>	<p>33. Powers hereunder limited only by this act and the state constitution.</p> <p>34. Act to be liberally construed to effectuate its purposes.</p> <p>35. Provisions of act separable and if any part is illegal or invalid remaining parts to remain in force and effect.</p>

Be it enacted by the Legislature of West Virginia:

That article one, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, relating to the West Virginia board of control, be, and the same is hereby amended, by the addition thereto of new sections to be numbered sections twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three, thirty-four and thirty-five, respectively, to read as follows:

Section 24. The state board of control is hereby authorized to provide, construct, erect, improve, equip, maintain and operate dormitories, homes or refectories on land owned by the state for students or teachers at the various state educational institutions, but the cost of construction, erection, improvement or equipment shall be solely by means of or with the proceeds of the revenue bonds hereinafter authorized. The state board of control shall have power and authority to employ engineering, architectural and construction experts, and such other employees as may be necessary in its judgment, and fix their compensation, all of whom shall do such work as the state board of control shall direct, all of which shall be included as part of the cost of the construction and equipment thereof.

Sec. 25. Whenever it shall become necessary, the state board of control may condemn any interest, right or privilege, land or improvement which in its opinion may be necessary, in the manner provided by law for the acquisition by this state of property for public purposes. The state shall be under no obligation to accept and pay for any property condemned and shall in no event pay for the same except from the funds provided hereinafter, and in any proceedings to condemn, such orders shall be made by the court having jurisdiction of the suit, action or proceedings as may be just to the state and to the owners of property to be condemned, and a bond or other security may be required by the court securing such owners against any loss or damage to be sustained by reason of the

14 failure of the state to accept and pay for the property, but
15 such bond or security shall impose no liability or debt on or of
16 the state as contemplated by the provisions of the constitution
17 of the state in relation to state debt.

Sec. 26. The state board of control may pay the cost as
2 defined in sections twenty-four to thirty-five, inclusive, of this
3 article, of any one or more of such dormitories, homes or refec-
4 tories out of the proceeds of revenue bonds of the state. The
5 said board is authorized to issue revenue bonds of the state,
6 by a resolution of the board which shall recite an estimate by
7 the board of such cost, the principal and interest of which
8 bonds shall be payable solely from the special fund herein pro-
9 vided for such payment. The board, after any such issue of
10 bonds or simultaneously therewith, may issue further issues of
11 bonds to pay the cost of any other one or more of such dormi-
12 tories, homes or refectories, in the manner and subject to all
13 of the provisions herein contained as to the bonds first men-
14 tioned in this section. All such bonds shall have and are hereby
15 declared to have all the qualities of negotiable instruments
16 under the law merchant. Such bonds shall bear interest at
17 not more than six per centum per annum, payable semi-an-
18 nually, and shall mature in not more than thirty years from
19 their date or dates and may be made redeemable at the option
20 of the state, to be exercised by the state board of control, at
21 such price and under such terms and conditions as the board
22 may fix prior to the issuance of such bonds. The board shall
23 determine the form of such bonds, including coupons to be
24 attached thereto to evidence the right of interest payments,
25 which bonds shall be signed by the governor and the president
26 of the state board of control, under the great seal of the state,
27 attested by the secretary of the state, and the coupons attached
28 thereto shall bear the facsimile signature of the president of
29 the board. In case any of the officers whose signatures appear
30 on the bonds or coupons shall cease to be such officers before
31 the delivery of such bonds, such signatures shall nevertheless
32 be valid and sufficient for all purposes the same as if they had
33 remained in office until such delivery. The board shall fix the
34 denominations of such bonds, the principal and interest of
35 which shall be payable at the office of the treasurer of the state
36 of West Virginia, at the capitol of said state, or, at the option

37 of the holder, at some bank or trust company in the city of
38 New York to be named in the bonds, either in lawful money
39 or in gold coin of the United States of America, of or equal
40 to the then current standard of weight and fineness, as may be
41 determined by the board. Such bonds shall be exempt from
42 taxation by the state of West Virginia or any county, school
43 district or municipality therein. The board may provide for
44 the registration of such bonds in the name of the owner as
45 to principal alone and as to both principal and interest under
46 such terms and conditions as the board may determine, and
47 shall sell such bonds in such manner as it may determine to
48 be for the best interest of the state, taking into consideration
49 the financial responsibility of the purchaser and the terms
50 and conditions of the purchase and especially the availability
51 of the proceeds of the bonds when required for payment of
52 the cost of the dormitories, homes or refectories, such sale to be
53 made at a price not lower than a price which, computed upon
54 standard tables of bond values, will show a net return of not
55 more than six percentum per annum to the purchaser based
56 on the purchase price thereof.

57 The proceeds of such bonds shall be used solely for the pay-
58 ment of the cost of such dormitories, homes or refectories, and
59 shall be checked out by the president of the board and the
60 treasurer thereof and under such further restrictions, if any,
61 as the board may provide. If the proceeds of such bonds,
62 by error or otherwise, shall be less than the cost of such dormi-
63 tories, homes or refectories, additional bonds may in like man-
64 ner be issued to provide the amount of such deficit, and, unless
65 otherwise provided in the trust agreement hereinafter men-
66 tioned, shall be deemed to be of the same issue and shall be
67 entitled to payment from the same fund, without preference
68 or priority of the bonds first issued for the same dormitory
69 or dormitories, home or homes, or refectory or refectories. If
70 the proceeds of bonds issued for any such dormitories, homes or
71 refectories shall exceed the cost thereof, the surplus shall be
72 paid into the fund hereinafter provided for payment of the
73 principal and interest of such bonds. Such fund may be
74 used for the purchase of any of the outstanding bonds payable
75 from such fund at the market price, but not exceeding the
76 price, if any, at which such bonds shall in the same year be

77 redeemable, and all bonds redeemed or purchased shall forth-
78 with be cancelled and shall not again be issued.

79 Prior to the preparation of definitive bonds, the board may
80 under like restrictions issue temporary bonds with or without
81 coupons, exchangeable for definitive bonds upon the issuance
82 of the latter. Such revenue bonds may be issued without any
83 other proceedings or the happening of any other conditions
84 and things than those proceedings, conditions and things which
85 are specified and required by this article or by the constitution
86 of the state.

Sec. 27. The state board of control may enter into an agree-
2 ment or agreements with any trust company or with any bank
3 having the powers of a trust company, either within or out-
4 side of the state, as trustee for the holders of the bonds issued
5 hereunder, setting forth therein such duties of the state and of
6 the board in respect of the acquisition, construction, erection,
7 improvement, maintenance, operation, repair and insurance of
8 the dormitories, homes or refectories, the conservation and
9 application of all moneys, the insurance of moneys on hand
10 or on deposit, and the rights and remedies of the trustee and
11 the holders of the bonds, as may be agreed on with the original
12 purchasers of such bonds, and including therein provisions re-
13 stricting the individual right of action of bondholders as is
14 customary in trust agreements respecting bonds and debentures
15 of corporations, protecting and enforcing the rights and reme-
16 dies of the trustee and the bondholders, and providing for
17 approval by the original purchasers of the bonds, of the ap-
18 pointment of consulting engineers and of the security given
19 by those who contract to make improvements, and by any bank
20 or trust company in which the proceeds of bonds or rents,
21 fees or charges shall be deposited, and for approval by the
22 consulting engineers of all contracts for improvements. All
23 expenses incurred in carrying out such agreement may be
24 treated as a part of the cost of maintenance, operation and re-
25 pair of the dormitories, homes or refectories affected by the
26 agreement. Any such agreement entered into by the board
27 shall be binding in all respects on such board and their suc-
28 cessors from time to time in accordance with its terms and all
29 the provisions thereof shall be enforceable by appropriate pro-
30 ceedings at law or in equity, or otherwise.

Sec. 28. The state board of control shall properly maintain, 2 repair, operate, manage and control the fiscal affairs of such 3 dormitories, homes or refectories, fix the rates of rents, fees 4 or charges and establish rules and regulations for the use and 5 operation of such dormitories, homes or refectories, for the 6 welfare of the students or teachers, and may make and enter 7 into all contracts or agreements necessary and incidental to 8 the performance of its duties and the execution of its powers 9 under this article.

Sec. 29. Rents, fees and charges shall be fixed, charged 2 and collected in connection with the use or occupancy of, or 3 service to be thereby rendered and furnished by, such dormi- 4 tories, homes or refectories, and shall be so fixed or adjusted, 5 in respect of the aggregate of rents, fees and charges from 6 the dormitories, homes or refectories for which a single issue 7 of bonds is issued, as to provide a fund sufficient to pay the 8 principal and interest of such issue of bonds and to provide 9 an additional fund to pay the cost of maintaining, repairing, 10 operating and insuring such dormitories, homes or refectories. 11 The rents, fees and charges from the dormitories, homes or 12 refectories for which a single issue of bonds is issued, except 13 such part thereof as may be necessary to pay such cost of 14 maintaining, repairing, operating and insuring during any 15 period in which such cost is not otherwise provided for (during 16 which period the rents, fees and charges may be reduced ac- 17 cordingly), shall be transmitted each month to the state sink- 18 ing fund commission and by it placed in a special fund which 19 is hereby pledged to and charged with the payment of the 20 principal of such bonds and the interest thereon, and to the 21 redemption or repurchase of such bonds, such special fund to 22 be a fund for all such bonds without distinction or priority 23 of one over another. The moneys in such special fund, less 24 a reserve for payment of interest, if not used by the sinking 25 fund commission within a reasonable time for the purchase 26 of bonds for cancellation at a price not exceeding the market 27 price and not exceeding the redemption price, shall be applied 28 to the redemption of bonds by lot at the redemption price then 29 applicable: *Provided, however,* That if said revenue bonds are 30 sold to and purchased by the reconstruction finance corpora- 31 tion, created under and by virtue of the laws of the United

32 States of America, then at the option of said reconstruction
33 finance corporation in lieu of such moneys being transmitted
34 to the sinking fund commission and by it placed in a special
35 fund, the rents, fees and charges from the dormitories, homes
36 or refectories for which a single issue of bonds is issued, ex-
37 cept such part thereof as may be necessary to pay such cost
38 of maintaining, repairing, operating and insuring as provided
39 aforesaid, may be transmitted and paid to a trustee designated
40 and named by said reconstruction finance corporation in its
41 agreement and contract with the state board of control, for
42 the payment of the principal of such bonds and the interest
43 thereon, under such terms and conditions as may be agreed
44 upon.

Sec. 30. When the particular bonds for any dormitory or
2 dormitories, home or homes, refectory or refectories, and the
3 interest on such bonds, shall have been paid, or a sufficient
4 amount has been provided for their payment and shall continue
5 to be held for that purpose, the said dormitories, homes or re-
6 fectories shall thereafter be exclusively the property of the
7 state of West Virginia, and thereafter the rents, fees and
8 charges collected for the use or occupancy of, or service ren-
9 dered and furnished by, such dormitories, homes or refectories
10 shall be paid into the state treasury as provided by the pro-
11 visions of section two, article two, chapter twelve of this code,
12 as amended, and used and expended for the benefit of the in-
13 stitution where collected.

Sec. 31. Nothing in these sections dealing with dormitories,
2 homes or refectories shall be so construed or interpreted
2-a as to authorize or permit the incurring of state debt
3 of any kind or nature as contemplated by the constitution
4 of this state in relation to the state debt. The dormitories,
5 homes or refectories herein are of the character described as
6 self-liquidating projects under the laws of the United States
7 relating to the reconstruction finance corporation.

8 The said board of control is authorized and empowered to
9 enter into the necessary contracts and agreements to carry out
10 the purposes hereof with the reconstruction finance corporation
11 of the United States, or with any private or public agency, cor-
12 poration or individual: *Provided, however,* That if such bonds
13 are not sold to and purchased by said reconstruction finance

14 corporation, then the state board of control shall advertise such
15 bonds for sale, on sealed bids, which advertisement shall be
16 published at least once a week for three weeks, the first publi-
17 cation to be made at least twenty-one days preceding the date
18 fixed for the reception of bids, in two newspapers published
19 and of general circulation in the state and of opposite political
20 affiliation, and such advertisement shall also be published in a
21 financial paper published either in the city of New York or the
22 city of Chicago. The state board of control may reject any
23 and all bids. If the bonds be not sold pursuant to such adver-
24 tisement, they may, within sixty days after the date advertised
25 for the reception of bids, be sold by the board at private sale,
26 but no private sale shall be made at a price less than the high-
27 est bid which shall have been received pursuant to such adver-
28 tisement. If not sold, such bonds shall be readvertised in the
29 manner herein provided.

Sec. 32. Sections twenty-four to thirty-five, inclusive, of this
2 article shall be deemed to provide an additional and alternative
3 method for the doing of the things authorized hereby and shall
4 be regarded as supplementary and additional to powers con-
5 ferred by other laws: *Provided, however,* That when any reve-
6 nue bonds are issued hereunder for the purposes provided by
7 sections twenty-four to thirty-five, inclusive, of this article,
8 for the benefit of any particular state educational institution,
9 no dormitories, homes or refectories shall thereafter be con-
10 structed, built or erected at such state educational institution
11 until the state board of control shall, by investigating and
12 hearing had thereon, under such rules as it may prescribe, de-
13 termine that there is an imperative public need for the con-
14 struction, building or erection of such dormitories, homes or
15 refectories, and that their construction, building or erection
16 and subsequent maintenance or operation will not materially
17 injure the revenues of and from any dormitories, homes or
18 refectories constructed, built, erected, maintained or operated
19 at such state educational institution under the provisions of
20 sections twenty-four to thirty-five, inclusive, of this article.

Sec. 33. It shall not be necessary to secure from any officer
2 or board not named in sections twenty-four to thirty-five, inclu-
3 sive, of this article, any approval or consent or any certificate
4 or finding, or to hold any election, or to take any proceedings
5 whatever, either for the acquisition, construction or erection of

6 such dormitories, homes or refectories, or the improvement
7 thereof, or their maintenance, operation, repair or insurance,
8 or for the issuance of bonds hereunder, except such as are pre-
9 scribed in the sections herein named or are required by the con-
10 stitution of the state.

Sec. 34. Sections twenty-four to thirty-five, inclusive, of this
2 article being necessary for the health, welfare and convenience
3 of the students and teachers at the various state educational
4 institutions, shall be liberally construed to effectuate the pur-
5 poses thereof.

Sec. 35. The provisions and parts of sections twenty-four
2 to thirty-five, inclusive, of this article, are separable and are
3 not matters of mutual essential inducement, and it is the inten-
4 tion to confer the whole or any part of the powers herein pro-
5 vided for, and if any of the sections or provisions, or parts
6 thereof, are for any reason illegal or invalid, it is the intention
7 that the remaining sections and provisions or parts thereof
8 shall remain in full force and effect.

CHAPTER 10

(House Bill No. 275—By Mr. Neal, by request)

AN ACT to authorize the state board of control to settle the claim
of Walter Crawford against the state.

[Passed March 11, 1933; in effect from passage. Became a law without the approval
of the Governor.]

SEC.	1. State board of control authorized to compromise and settle the claim of Walter Crawford	SEC.	against the state and report to the legislature.
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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 hereby
2 authorized and empowered at its discretion to compromise and
3 settle the claim of Walter Crawford against the state of West
4 Virginia for damages by reason of injuries sustained by him while
5 an inmate of the West Virginia industrial school for boys; and
6 that said board be directed to report to the legislature such sum
7 as it may determine to be a just compensation to him for said in-
8 juries, and to include the same in the budget bill submitted to
9 the legislature at this or any ensuing session; or if it so desires,

10 purchase an artificial leg for said Crawford and give him some
11 suitable employment in lieu of compensation.

* CHAPTER 11

(House Bill No. 492—By Mr. Hiner, Mr. Speaker)

AN ACT to amend article four, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to banking institutions, by the addition of a new section thereto designated and numbered six-(a); providing for the vesting in the board of directors of any banking institution additional authority in the management, operation and conduct of its business under the direction of the state banking commissioner and by and with the consent of the governor.

[Passed February 28, 1933; in effect from passage. Approved by the Governor.]

SEC.

6-(a). Additional powers over banking institutions conferred upon commissioner of banking, with con-

SEC.

sent of the governor, where requested by the board of directors.

Be it enacted by the Legislature of West Virginia:

That article four, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, be, and the same is hereby, amended by the addition of a new section thereto designated and numbered six-(a) to read as follows:

Section 6-(a). At the request of the board of directors of any bank or banking institution authorized to do business in this state, the commissioner of banking may, by and with the consent of the governor, authorize such bank or banks to:

(1) Operate and do business in such manner and under such limitations and regulations as the banking commissioner, with the approval of the governor, may prescribe, or,

(2) Cease business for such period of time as the banking commissioner, with the approval of the governor, may direct, in which case the period of such cessation shall be held to be a legal holiday, as now defined, as to such bank.

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

*Sec chapter twelve, acts of this session.

CHAPTER 12

(House Bill No. 493—By Mr. Hiner, Mr. Speaker)

AN ACT to amend and reenact an act of the legislature, session one thousand nine hundred thirty-three, effective from passage, and approved by the governor on the twenty-eighth day of February, one thousand nine hundred thirty-three, entitled "An Act to amend article four, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to banking institutions, by the addition of a new section thereto designated and numbered six-(a); providing for the vesting in the board of directors of any banking institution additional authority in the management, operation and conduct of its business under the direction of the state banking commissioner and by and with the consent of the governor."

[Passed March 1, 1933; in effect from passage. Approved by the Governor.]

SEC. 6-(a). Additional powers over banking institutions conferred on the		SEC. commissioner of banking, with the consent of the governor.
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Be it enacted by the Legislature of West Virginia:

That an act of the legislature, session one thousand nine hundred thirty-three, effective from passage, and approved by the governor on the twenty-eighth day of February, one thousand nine hundred thirty-three, entitled "An Act to amend article four, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to banking institutions, by the addition of a new section thereto designated and numbered six-(a); providing for the vesting in the board of directors of any banking institution additional authority in the management, operation and conduct of its business under the direction of the state banking commissioner and by and with the consent of the governor," is hereby amended and reenacted so as to read:

Section 6-(a). The commissioner of banking may, by and with the consent of the governor, permit or require any bank or banking institution authorized to do business in this state, or any number or all of such banks or banking institutions, to:

- (1) Operate and do business in such manner and under such limitations and regulations as the banking commissioner, with the approval of the governor, may prescribe, or,
- (2) Cease business for such period of time as the banking

9 commissioner, with the approval of the governor, may direct, in
10 which case the period of such cessation shall be held to be a legal
11 holiday, as now defined, as to such bank or banks.

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

CHAPTER 13

(Senate Bill No. 75—By Mr. Henderson, by request)

AN ACT to define, license, and regulate the business of making loans or advancements in the amount or of the value of three hundred dollars or less, secured or unsecured, at a greater rate of interest than six per cent per annum; prescribing the rates of interest and charges therefor and penalties for the violation thereof; regulating the assignment of wages or salaries, earned or to be earned, when given as security for any such loan or as consideration for a payment of three hundred dollars or less; providing for the administration of this act; authorizing the making of examinations and investigations and the publication of reports thereof; providing for certain exemptions from the operation of said act; providing for the disposition of revenues received hereunder, and to repeal article seven, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, and to repeal all acts and parts of acts inconsistent with the provisions of this act.

[Passed March 11, 1933; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.

1. License from commissioner of banking required for business of making loans of three hundred dollars or less.
2. Form of application for license and fees; applicant to have liquid assets of at least two thousand dollars.
3. Amount and form of bond to be filed with application for license.
4. Finding of certain facts by commissioner before issuing license; denial of application and return of bond and license fee to applicant; decision of commissioner within sixty days after filing of application; if application denied, commissioner to file written decision in his office and serve copy on applicant.
5. Form and posting of license; not transferable.
6. When additional bond required; liquid assets of at least two

SEC.

- thousand dollars to be maintained at all times.
7. More than one license may issue to same licensee; written notice to commissioner of change of address.
8. Annual license fee and bond.
9. Revocation of license upon notice to licensee and suspension of license without notice; surrender of license not to effect civil or criminal liability or lawful contracts of licensee; reinstatement of suspended, and new license for revoked, license.
10. Powers of commissioner or his representative to investigate business of licensee; yearly examination by commissioner.
11. Records to be kept and annual reports made by licensee.
12. Misleading or false advertising prohibited; no lien on real estate as security for loan except

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| <p>SEC.</p> <p>recorded judgment; where business may be conducted; taking confession of judgment, power of attorney or certain notes prohibited.</p> <p>13. Interest rate on loans; may not be received in advance or compounded; if any charges, except interest, contracted for, loan contract is void.</p> <p>14. Duties of licensee to borrower.</p> <p>15. Only six per cent interest may be charged on loans of more than three hundred dollars.</p> <p>16. When payment for assignment of wages, etc., is a loan.</p> <p>17. When assignment of wages or lien on household furniture not valid.</p> <p>18. Interest on loan of three hundred dollars or less, except as authorized by this act, not to exceed six per cent; if greater, not enforceable.</p> | <p>SEC.</p> <p>19. Penalty for violation of act; when contract for loan void.</p> <p>20. To whom act does not apply.</p> <p>21. Commissioner to make rules and regulations to enforce acts; money collected to be special fund in state treasury for expense of administration.</p> <p>22. Modification or alteration of act not to affect preexisting lawful contract.</p> <p>23. Continuation or revocation of licenses existing when act becomes effective.</p> <p>24. Evidence and procedure in trial of action brought hereunder.</p> <p>25. Recovery of sum illegally paid.</p> <p>26. Inconsistent acts repealed but lawful contracts made before effective date of this act not impaired.</p> <p>27. Provisions of act separable and several; invalid provision not to affect remainder of act.</p> |
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Be it enacted by the Legislature of West Virginia:

Section 1. No person, copartnership, association, or corporation shall engage in the business of making loans of money, credit, goods, or things in action in the amount or of the value of three hundred dollars or less and charge, contract for, or receive on any such loan a greater rate of interest, discount, or consideration therefor than six per cent per annum except as authorized by this act and without first obtaining a license from the commissioner of banking of the state of West Virginia, hereinafter called the commissioner.

Sec. 2. Application for such license shall be in writing, under oath, and in the form prescribed by the commissioner, and shall contain the name and the address (both of the residence and place of business) of the applicant, and if the applicant is a copartnership or association, of every member thereof, and if a corporation, of each officer and director thereof; also the county and municipality with street and number, if any, where the business is to be conducted and such further information as the commissioner may require. Such applicant at the time of making such application shall pay to the commissioner the sum of fifty dollars as a fee for investigating the application and the additional sum of one hundred dollars as an annual license fee for a period terminating on the thirtieth day of June next following such application: *Provided*, That if the application is filed on or after January first in any year such additional sum shall be only fifty dollars. In addition to the said annual license fee every licensee hereunder shall pay

18 to the commissioner the actual costs of each examination as pro-
19 vided for in section ten of this act.

20 Every applicant shall also prove, in form satisfactory to the
21 commissioner, that he or it has available for the operation of
22 such business at the location specified in the application, liquid
23 assets of at least two thousand dollars.

Sec. 3. The applicant shall also at the same time file with
2 the commissioner a bond to be approved by him in which the
3 applicant shall be the obligor, in the sum of one thousand
4 dollars with one or more sureties whose liability as such sure-
5 ties need not exceed the said sum in the aggregate. The said
6 bond shall run to the state for the use of the state and of any
7 person or persons who may have cause of action against the
8 obligor of said bond under the provisions of this act. Such
9 bond shall be conditioned that said obligor will faithfully con-
10 form to and abide by the provisions of this act and of all rules
11 and regulations lawfully made by the commissioner hereunder,
12 and will pay to the state and to pay any such person or per-
13 sons any and all moneys that may become due or owing to the
14 state or to such person or persons from said obligor under and
15 by virtue of the provisions of this act.

Sec. 4. Upon the filing of such application and the payment
2 of such fees and the approval of such bond, if the commis-
3 sioner shall find that the financial responsibility, experience.
4 character, and general fitness of the applicant, and of the mem-
5 bers thereof if the applicant be a copartnership or association,
6 and of the officers and directors thereof if the applicant be a
7 corporation, are such as to command the confidence of the com-
8 munity and to warrant belief that the business will be operated
9 honestly, fairly, and efficiently within the purposes of this act,
10 and if the commissioner shall find that allowing such applicant
11 to engage in business will promote the convenience and advan-
12 tage of the community in which the business of the applicant
13 is to be conducted, and if the commissioner shall find that the
14 applicant has available for the operation of such business at the
15 specified location liquid assets of at least two thousand
16 dollars, he shall thereupon issue and deliver a license to the
17 applicant to make loans in accordance with the provisions of
18 this act at the location specified in the said application, which
19 license shall remain in full force and effect until it is surren-
20 dered by the licensee or revoked or suspended as hereinafter

21 provided; if the commissioner shall not so find he shall not
22 issue such license and he shall notify the applicant of the denial
23 and return to the applicant the bond and the sum paid by the
24 applicant as a license fee, retaining the fifty dollars investiga-
25 tion fee to cover the costs of investigating the application. The
26 commissioner shall approve or deny every application for
27 license hereunder within sixty days from the filing thereof
28 with the said fees and the said approved bond.

29 If the application is denied the commissioner shall within
30 twenty days thereafter file in his office a written decision and
31 findings with respect thereto containing the evidence and the
32 reasons supporting the denial, and forthwith serve upon the
33 applicant a copy thereof.

Sec. 5. Such license shall state the address at which the
2 business is to be conducted and shall state fully the name of
3 the licensee, and if the licensee is a copartnership or associa-
4 tion, the names of the members thereof, and if a corporation,
5 the date and place of its incorporation. Such license shall be
6 kept conspicuously posted in the place of business of the
7 licensee and shall not be transferable or assignable.

Sec. 6. If the commissioner shall find at any time that the
2 bond is insecure or exhausted or otherwise doubtful, an addi-
3 tional bond to be approved by him, with one or more sureties
4 and of the character specified in section three of this act, in the
5 sum of not more than one thousand dollars shall be filed by the
6 licensee within ten days after written demand upon the licensee
7 by the commissioner.

8 Every licensee shall maintain at all times assets of at least
9 two thousand dollars either in liquid form available for
10 the operation of or actually used in the conduct of such busi-
11 ness at the location specified in the license.

Sec. 7. Not more than one place of business shall be main-
2 tained under the same license. but the commissioner may issue
3 more than one license to the same licensee upon compliance with
4 all the provisions of this act governing an original issuance of
5 a license, for each such new license.

6 Whenever a licensee shall change his place of business to
7 another location within the same municipality he shall at once
8 give written notice thereof to the commissioner who shall attach
9 to the license in writing his record of the change and the date
10 thereof, which shall be authority for the operation of such busi-

11 ness under such license at such new location. No change in the
12 place of business of a licensee to a location outside of the orig-
13 inal municipality shall be permitted under the same license.

Sec. 8. Every licensee shall, on or before the twentieth day
2 of each June, pay to the commissioner the sum of one hundred
3 dollars as an annual license fee for the next succeeding fiscal
4 year and shall at the same time file with the commissioner a
5 bond in the same amount and of the same character as required
6 by section three of this act.

Sec. 9. The commissioner shall, upon ten days' notice to the
2 licensee stating the contemplated action and in general the
3 grounds therefor, and upon reasonable opportunity to be heard,
4 revoke any license issued hereunder if he shall find that:

5 (a) The licensee has failed to pay the annual license fee or
6 to maintain in effect the bond or bonds required under the pro-
7 visions of this act or to comply with any demand, ruling, or
8 requirement of the commissioner lawfully made pursuant to
9 and within the authority of this act.

10 (b) The licensee has violated knowingly any provision of
11 this act or any rule or regulation lawfully made by the com-
12 missioner under and within the authority of this act.

13 The commissioner may, without notice or hearing, suspend
14 any license for a period not exceeding thirty days, pending
15 investigation.

16 The commissioner may revoke or suspend only the particular
17 license with respect to which grounds for revocation or suspen-
18 sion may occur or exist, or, if he shall find that such grounds
19 for revocation or suspension are of general application to all
20 offices, or to more than one office, operated by such licensee, he
21 shall revoke or suspend all of the licenses issued to said licensee
22 or such licenses as such grounds apply to, as the case may be.

23 Any licensee may surrender any license by delivering to the
24 commissioner written notice that he thereby surrenders such
25 license, but such surrender shall not effect the civil or criminal
26 liability of the licensee for acts committed prior to such
27 surrender.

28 No revocation or suspension or surrender of any license shall
29 impair or affect the obligation of any preexisting lawful con-
30 tract between the licensee and any borrower.

31 Every license issued hereunder shall remain in force and
32 effect until the same shall have been surrendered, revoked, or

33 suspended in accordance with the provisions of this act, but the
34 commissioner shall have authority on his own initiative to re-
35 instate suspended licenses or to issue new licenses to a licensee
36 whose license or licenses shall have been revoked if no fact or
37 condition then exists which clearly would have warranted the
38 commissioner in refusing originally to issue such license under
39 this act.

40 Whenever the commissioner shall revoke or suspend a license
41 issued pursuant to this act, he shall forthwith file in his office
42 a written order to that effect and findings with respect thereto
43 containing the evidence and the reasons supporting the revoca-
44 tion or suspension, and forthwith serve upon the licensee a copy
45 thereof.

Sec. 10. For the purpose of discovering violations of this
2 act or securing information lawfully required by him hereunder,
3 the commissioner may at any time, either personally or by a
4 person or persons duly designated by him, investigate the loans
5 and business and examine the books, accounts, records, and files
6 used therein, of every licensee and of every person, copartner-
7 ship, association, and corporation who or which shall be engaged
8 in the business described in section one of this act, whether
9 such person, copartnership, association or corporation shall act
10 or claim to act as principal or agent, or under or without the
11 authority of this act. For that purpose the commissioner and
12 his duly designated representatives shall have free access to
13 the office and place of business, books, accounts, papers, records,
14 files, safes and vaults of all such persons, copartnerships, asso-
15 ciations and corporations. The commissioner shall have power
16 to subpoena witnesses and take testimony and administer oaths
17 to any witness in any investigation made or proceeding had
18 by him with reference to any matter within his jurisdiction
19 under this act. In all hearings or proceedings before the com-
20 missioner the evidence of witnesses and the production of docu-
21 mentary evidence may be required at any designated place of
22 hearing; and in case of disobedience to a subpoena or other
23 process the commissioner may invoke the aid of any circuit
24 court of this state in requiring the evidence and testimony of
25 witnesses and the production of books, accounts, papers and
26 records; and such court, in the case of refusal to obey the
27 subpoena issued to any person or to any applicant for a license
28 hereunder, or to any licensee subject to the provisions of this

29 act, shall issue an order requiring such person, applicant or
30 licensee to appear before such commissioner and produce all
31 such books, accounts, papers and records, if so ordered,
32 and give evidence touching the matter in question. Any failure
33 to obey such order of the court may be punished by such court
34 as contempt thereof.

35 The commissioner shall make such an examination of the
36 affairs, business, office, and records of each licensee at least
37 once each year. The actual cost of every examination shall be
38 paid to the commissioner by every licensee so examined, and
39 the commissioner may maintain an action for the recovery of
40 such costs in any court of competent jurisdiction.

Sec. 11. The licensee shall keep and use in his business such
2 books, accounts and records as will enable the commissioner to
3 determine whether such licensee is complying with the pro-
4 visions of this act and with the rules and regulations lawfully
5 made by the commissioner hereunder. Every licensee shall pre-
6 serve such books, accounts and records, including cards used in
7 the card system, if any, for at least two years after making the
8 final entry on any loan recorded therein.

9 Each licensee shall annually on or before the fifteenth day of
10 September file a report with the commissioner giving such
11 relevant information as the commissioner reasonably may re-
12 quire concerning the business and operations during the pre-
13 ceding fiscal year of each licensed place of business conducted
14 by such licensee within the state. Such report shall be made
15 under oath and shall be in the form prescribed by the commis-
16 sioner who shall make and publish annually an analysis and
17 recapitulation of such reports.

Sec. 12. No licensee or other person, copartnership, associa-
2 tion, or corporation shall advertise, print, display, publish, dis-
3 tribute, or broadcast or cause or permit to be advertised,
4 printed, displayed, published, distributed or broadcasted, in
5 any manner whatsoever any statement or representation with
6 regard to the rates, terms, or conditions for the loaning of
7 money, credit, goods, or things in action in the amount or of
8 the value of three hundred dollars or less, which is false, mis-
9 leading, or deceptive.

10 The commissioner may order any licensee to desist from any
11 conduct which he shall find to be a violation of the foregoing
12 provisions.

13 No licensee shall take a lien upon real estate as security for
14 any loan under the provisions of this act, except such lien as
15 is created by law upon the recording of a judgment.

16 No licensee shall conduct the business of making loans under
17 the provisions of this act within any office, room, or place of
18 business in which any other business is solicited or engaged in,
19 or in association or conjunction therewith, except as may be
20 authorized in writing by the commissioner upon his finding that
21 the character of such other business is such that the granting
22 of such authority would not facilitate evasions of this act or of
23 the rules and regulations lawfully made hereunder.

24 No licensee shall transact such business or make any loan pro-
25 vided for by this act under any other name or at any other
26 place of business than that named in the license.

27 No licensee shall take any confession of judgment or any
28 power of attorney. No licensee shall take any note, promise to
29 pay, or security that does not accurately disclose the actual
30 amount of the loan, the time for which it is made, and the
31 agreed rate of interest, nor any instrument in which blanks
32 are left to be filled in after execution.

Sec. 13. Every licensee hereunder may loan any sum of
2 money not exceeding three hundred dollars in amount and may
3 charge, contract for, and receive thereon interest at a rate not
4 exceeding two and one-half per centum per month, except on
5 the first one hundred fifty dollars of any loan, or remaining
6 balance thereof, a rate not to exceed three and one-half per-
7 centum per month may be charged.

8 No amount whatsoever shall be paid, deducted, or received
9 in advance. Interest shall not be compounded and shall be
10 computed only on unpaid principal balances.

11 In addition to the interest herein provided for no further
12 or other charge or amount whatsoever for any examination,
13 service, brokerage, commission, expense, fee, or bonus or other
14 thing or otherwise shall be directly or indirectly charged, con-
15 tracted for, or received. If any interest, consideration or
16 charges in excess of those permitted by this act are charged,
17 contracted for, or received, the contract of loan shall be void
18 and the licensee shall have no right to collect or receive any
19 principal, interest, or charges whatsoever.

Sec. 14. Every licensee shall:

2 Deliver to the borrower at the time any loan is made a state-

3 ment (upon which there shall be printed a copy of section
4 thirteen of this act) in the English language showing in clear
5 and distinct terms the amount and date of the loan and of its
6 maturity, the nature of the security, if any, for the loan, the
7 name and address of the borrower and of the licensee, and the
8 agreed rate of charge;

9 Give to the borrower a plain and complete receipt for all
10 payments made on account of any such loan at the time such
11 payments are made, specifying the amount applied to interest
12 and the amount, if any, applied to principal, and stating the
13 unpaid principal balance, if any, of such loan;

14 Permit payment to be made in advance in any amount on
15 any contract of loan at any time, but the licensee may apply
16 such payment first to all interest in full at the agreed rate up
17 to the date of such payment;

18 Upon repayment of the loan in full, mark indelibly every
19 obligation and security signed by the borrower with the word
20 "paid" or "cancelled", and release any mortgage, restore
21 any pledge, cancel and return any note, and cancel and return
22 any assignment given to the licensee by the borrower.

Sec. 15. No licensee shall directly or indirectly charge, con-
2 tract for, or receive any interest, discount, or consideration
3 greater than six per cent per annum upon the loan, use, or
4 forbearance of money, goods, or things in action, or upon the
5 loan, use, or sale of credit, of the amount or value of more
6-7 than three hundred dollars. The foregoing prohibition shall
8 also apply to any licensee who permits any person, as borrower
9 or as endorser, guarantor, or surety for any borrower, or other-
10 wise, to owe directly or contingently or both to the licensee at
11 any time the sum of more than three hundred dollars for
12 principal.

Sec. 16. The payment of three hundred dollars or less in
2 money, credit, goods, or things in action, as consideration for
3 any sale or assignment of, or order for, the payment of wages,
4 salary, commissions, or other compensation for services, whether
5 earned or to be earned, shall for the purposes of this act be
6 deemed a loan secured by such assignment, and the amount by
7 which such assigned compensation exceeds the amount of such
8 consideration actually paid shall be deemed interest or charges
9 upon such loan from the date of such payment to the date such

10 compensation is payable. Such transaction shall be governed
11 by and subject to the provisions of this act.

Sec. 17. No assignment of or order for payment of any
2 salary, wages, commissions, or other compensation for services,
3 earned or to be earned, given to secure any loan made by any
4 licensee under this act, shall be valid unless the amount of such
5 loan is paid to the borrower simultaneously with its execution:
5-a nor shall any such assignment or order, or any chattel mortgage
6 or other lien on household furniture then in the possession and
7 use of the borrower, be valid unless it is in writing, signed in
8 person by the borrower, nor if the borrower is married unless
9 it is signed in person by both husband and wife: *Provided,*
10 That written assent of a spouse shall not be required when
11 husband and wife have been living separate and apart for a
12 period of at least five months prior to the making of such
13 assignment, order, mortgage, or lien.

14 Under any such assignment or order for the payment of fu-
15 ture salary, wages, commissions, or other compensation for
16 services, given as security for a loan made by any licensee under
17 this act, a sum not to exceed ten per cent of the borrower's
18 salary, wages, commissions, or other compensation for services
19 shall be collectible from the employer of the borrower by the
20 licensee at the time of each payment to the borrower of such
21 salary, wages, commissions, or other compensation for services,
22 from the time that a copy of such assignment, verified by the
23 oath of the licensee or his agent, together with a similarly veri-
24 fied statement of the amount unpaid upon such loan, is served
25 upon the employer.

Sec. 18. No person, copartnership, association, or corpora-
2 tion, except as authorized by this act, shall directly or indirectly
3 charge, contract for, or receive any interest, discount, or con-
4 sideration greater than six per cent per annum upon the loan,
5 use, or forbearance of money, goods, or things in action, or
6 upon the loan, use, or sale of credit of the amount or value of
7 three hundred dollars or less.

8 The foregoing prohibition shall apply to any person, copart-
9 nership, association, or corporation who or which, by any device,
10 subterfuge, or pretense whatsoever shall charge, contract for,
11 or receive greater interest, consideration, or charges than is au-
12 thorized by this act for any such loan, use, or forbearance of.

13 money, goods, or things in action or for any such loan, use, or
14 sale of credit.

15 No loan of the amount or value of three hundred dollars or
16 less for which a greater rate of interest, consideration, or
17 charges than is permitted by this act has been charged, con-
18 tracted for, or received, wherever made, shall be enforced in
19 this state and every person in anywise participating therein
20 in this state shall be subject to the provisions of this act.

Sec. 19. Any person, copartnership, association or corpora-
2 tion and the several members, officers, directors, agents, and
3 employees thereof, who shall violate or participate in the viola-
4 tion of any of the provisions of sections one, eleven, twelve,
5 thirteen, fourteen, or eighteen, of this act, shall be guilty of a
6 misdemeanor, and upon conviction thereof shall be punished by
7 a fine of not more than five hundred dollars, or by imprison-
8 ment of not more than six months, or by both such fine and im-
9 prisonment, in the discretion of the court.

10 Any contract of loan not invalid for any other reason, in the
11 making or collection of which any act shall have been done
12 which constitutes a misdemeanor under this section, shall be
13 void and the lender shall have no right to collect or receive any
14 principal, interest, or charges whatsoever.

Sec. 20. This act shall not apply to any person, copartner-
2 ship, association, or corporation doing business under and as
3 permitted by any law of this state or of the United States re-
4 lating to banks, savings banks, trust companies, building and
5 loan associations, credit unions, licensed pawnbrokers or to any
6 person, copartnership, association or corporation engaged ex-
7 clusively in financing, refinancing and making loans on auto-
8 motive vehicles.

Sec. 21. The commissioner is hereby authorized and em-
2 powered to make such general rules and regulations and such
3 specific rulings, demands, and findings as may be necessary for
4 the proper conduct of such business and the enforcement of this
5 act, in addition hereto and not inconsistent herewith.

6 All money collected by the commissioner under any provision
7 of this act shall be paid into the state treasury and kept as a
8 special fund, designated "Small Loan Law Fund", and shall
9 be used only for the payment of the expense of the administra-
10 tion of this act. The commissioner from time to time shall
11 certify to the state auditor the expense incurred in such ad-

12 ministration, and the auditor shall issue his warrant therefor
13 on the state treasurer payable out of the said fund.

Sec. 22. This act or any part thereof may be modified,
2 amended, or repealed so as to effect a cancellation or alteration
3 of any license or right of a licensee hereunder: *Provided*, That
4 such cancellation or alteration shall not impair or affect the
5 obligation of any preexisting lawful contract between any licen-
6 see and any borrower.

Sec. 23. Any person, copartnership, association or corpora-
2 tion having a license under said article seven, chapter forty-
3 seven, of the code of West Virginia, one thousand nine hundred
4 thirty-one, in force when this act becomes effective, shall notwith-
5 standing the repeal of the said article seven, chapter forty-
6 seven, of said code, be deemed to have a license under this act
7 for a period expiring six months after the said effective date,
8 if not sooner revoked: *Provided*, That no such existing license
9 shall continue in effect after the expiration date of such license,
10 unless such person, copartnership, association or corporation
11 shall pay or cause to be paid to the commissioner a license fee
12 at the rate of one hundred dollars per year for that portion of
13 said six months period extending beyond the expiration date of
14 such license, and shall keep on file with the commissioner dur-
15 ing such six months period the bond required either by this act
16 or by the said article seven, chapter forty-seven of the code of
17 West Virginia, one thousand nine hundred thirty-one. Any such
18 license so continued in effect under the provisions of this act
19 shall; prior to its expiration date, be subject to revocation as
20 provided in said article seven, chapter forty-seven of the code
21 of West Virginia, one thousand nine hundred thirty-one, and
22 thereafter during such six months period as provided in section
23 nine of this act, except that it may not be revoked during such
24 six months period either upon the ground that such licensee has
25 not the minimum amount of assets required in section six of
26 this act, or upon the ground that the convenience and advan-
27 tage of such community will not be promoted by the operation
28 therein of such business.

Sec. 24. Any defendant may plead in general terms that
2 the contract or assurance on which the action is brought was
3 for the payment of interest at a rate prohibited by this act, to

4 which plea the plaintiff shall reply generally, but may give in
5 evidence upon the issue made up thereon any matter which
6 could be given in evidence under a special replication. Under
7 the plea aforesaid, the defendant may give in evidence any
8 facts showing or tending to show that the contract, assurance
9 or other writing upon which the action was brought, was for a
10 consideration which is usurious under this act. Upon such plea
11 the court shall direct a special issue to try and ascertain: (a)
12 whether or not the contract, assurance or other writing is so
13 usurious; (b) what amount, if any, of principal and interest
14 has been paid by the defendant to the plaintiff thereunder. If
15 a verdict be found for the defendant upon the plea of usury,
16 judgment shall be rendered for the defendant and he shall re-
17 cover from the plaintiff and have judgment for all such prin-
18 cipal and interest he has paid the plaintiff.

Sec. 25. If any person pay any sum or thing as principal or
2 interest under any contract or assurance prohibited by this act,
3 he may recover the full amount of such sum or such thing from
4 the person with whom the contract was made or to whom the
5 assurance was given; and it may be so recovered from such
6 person notwithstanding the payment thereof to his endorsee or
7 assignee.

Sec. 26. Article seven, chapter forty-seven, of the code of
2 West Virginia, one thousand nine hundred thirty-one, and all
3 acts and parts of acts inconsistent with the provisions of this
4 act, are hereby repealed.

5 Nothing herein contained shall be so construed as to impair
6 or affect the obligation of any contract of loan between any
7 licensee under the said article seven, chapter forty-seven, of the
8 code of West Virginia, one thousand nine hundred thirty-one,
9 and any borrower, which was lawfully entered into prior to the
10 effective date of this act.

Sec. 27. If any clause, sentence, section, provision or part
2 of this act shall be adjudged to be unconstitutional or invalid
3 for any reason by any court of competent jurisdiction, such
4 judgment shall not impair, affect, or invalidate the remainder
5 of this act, which shall remain in full force and effect there-
6 after.

CHAPTER 14

(House Bill No. 304—By Mr. Dunn)

AN ACT to amend and reenact sections two, three, five and nine, article one, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, relating to depository banks for state funds and depository bonds.

[Passed March 10, 1933; in effect from passage. Became a law without the approval of the Governor.]

<p>SEC. 2. Bond required of state depository, amount, condition and expiration; fidelity, personal and collateral secured bonds; state treasurer custodian of and liable for collateral securities given on bonds.</p>	<p>SEC. 3. Limitations on deposit of state funds in any bank. 5. Interest on active and inactive deposits; adjustment, computation and payment. 9. Emergency transfer of funds by state treasurer.</p>
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Be it enacted by the Legislature of West Virginia:

That sections two, three, five and nine, article one, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, relating to depository banks for state funds and depository banks, be amended and reenacted to read as follows:

Section 2. Before allowing any money to be deposited with any depository the board of public works shall require such depository to give bond with good security to be approved by said board, in the penalty of not less than ten thousand dollars, payable to the state of West Virginia, conditioned for the prompt payment, whenever lawfully required, of any state money, or part thereof, that may be deposited with such depository, or of any accrued interest on deposits, which bond shall expire on the thirtieth day of April next ensuing.

The board of public works may accept as surety on, or for the faithful performance of the conditions of such bonds, the following:

(a) A surety, fidelity or indemnity company authorized to do business in this state and having a combined capital and surplus of not less than one million dollars, and all bonds so secured are here designated as surety bonds;

(b) Persons or corporations which are duly authorized to become surety for another, who are owners of property situate in this state of an aggregate assessed valuation as shown on the current assessment books equal to the penalty of the bond plus

21 all liens or charges against such property, and all bonds so
22 secured are here designated as personal bonds. Any person or
23 any officer of any corporation becoming or offering to become
24 surety on a personal bond may be required by the board of
25 public works or the state treasurer to furnish to said board
26 under oath in writing such data and documentary evidence as
27 to the financial status of such surety as such board may request.
28 Any person who shall knowingly make a false statement in the
29 matter of supplying the information so requested as aforesaid
30 shall be guilty of a misdemeanor, and upon conviction thereof
31 shall be fined not less than twenty-five dollars nor more than
32 five hundred dollars, and may at the discretion of the court be
33 confined in the county jail for not exceeding one year;

34 (c) Collateral security consisting of bonds of the United
35 States, and its possessions, of the federal land banks, of the state
36 of West Virginia or of any county, district or municipality of
37 this state or other bonds or securities approved by the said board
38 of public works. All bonds so secured are here designated as
39 collaterally secured bonds. Withdrawal or substitution of any
40 collateral pledged as security for the performance of the con-
41 ditions of such bond may be permitted with the approval in
42 writing of the treasurer of the State of West Virginia and three
43 other members of the board of public works who shall report
44 such withdrawal or substitution at the next meeting of the board.
45 All depository bonds shall be recorded by the secretary of state
46 in a book kept in his office for the purpose, and a copy of such
47 record certified by him shall be prima facie evidence of the execu-
48 tion and contents of such bond in any suit or legal proceeding.
49 All collateral securities shall be delivered to the treasurer of the
50 state of West Virginia, who shall receipt therefor to the owner
51 thereof, and the said treasurer and his bondsmen shall be liable
52 to any person for any loss by reason of the embezzlement or
53 misapplication of said securities by said treasurer or any of his
54 official employees, and for the loss thereof due to his negligence
55 or the negligence of any of his official employees; and such se-
56 curities shall be delivered to the owner thereof when liability
57 under the bond which they are pledged to secure has terminated.
58 The treasurer may contract with one or more banking institu-
59 tions in the state of West Virginia for safekeeping and exchange
60 of such collateral securities, and may prescribe the rules and

61 regulations for handling and protecting the same, subject to the
62 approval of the board of public works.

Sec. 3. The amount of state funds on deposit in any bank
2 shall at no time be permitted to exceed the penal sum of a surety
3 bond given by such bank; or ninety per cent of the value of the
4 collateral pledged as security for any bond, where pledged col-
5 lateral is the sole security, and the value thereof shall be deter-
6 mined by the board of public works; or ninety per cent of the
7 penal sum of a personal bond also collaterally secured; or
8 seventy-five per cent of the penal sum of a personal bond.

Sec. 5. The board of public works shall contract with such
2 banks for the payment of the interest on all state deposits at a
3 minimum rate of one per cent per annum and at a maximum
4 rate of two and one-half per cent per annum for active deposits,
5 and a minimum of one and one-half per cent per annum and a
6 maximum of three per cent per annum for inactive deposits, and
7 the rates fixed by said board shall be uniform. It shall be the
8 duty of said board to adjust the rate of interest semi-annually,
9 and in fixing the rate to be paid it shall give consideration to the
10 prevailing rates paid on bank balances in the reserve and central
11 reserve cities. Interest shall be paid every three months, to-wit:
12 July first, October first; January first and April first, and shall
13 be computed upon the average daily net balances; in ascertain-
14 ing the average daily net balances, due allowance shall be made
15 to the depository for any time during which any part of the
16 deposits was not actually available to the depository, and there
17 shall be deducted from the gross daily balances so much thereof
18 as is required by law to be carried as reserve by such depository.

Sec. 9. The treasurer may transfer funds for emergency
2 purposes whenever actually needed to pay the warrants drawn
3 by the auditor upon the treasury or to equalize deposits, and he
4 may draw checks upon any inactive depository for disbursement
5 of the tax moneys collected by the state from the public utility
6 companies for the counties, districts and municipalities. All
7 checks drawn for transfer of funds shall have printed or
8 stamped on the face of same "for transfer of funds only."

9 All acts or parts of acts in conflict with this act are hereby
10 repealed.

CHAPTER 15

(Senate Bill No. 176—By Mr. White, of Hampshire)

AN ACT to amend and reenact section sixty-three, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to the consolidation or merger of corporations.

[Passed March 11, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

63. Consolidation or merger of corporations; agreement by directors to be submitted to stockholders after four weeks published notice of meeting and copy of notice mailed stockholder twenty days in advance; meeting for consoli-

SEC.

datation of banking institutions, in emergency and on order of commissioner of banking, may be held on twelve hours notice by mail or telegraph; certification and recordation of agreement.

Be it enacted by the Legislature of West Virginia:

That section sixty-three, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 63. Any two or more corporations organized under 2 the provisions of this chapter, or existing under the laws of this 3 state, for the purpose of carrying on any kind of business, may 4 consolidate or merge into a single corporation which may be 5 any one of such constituent corporations or a new corporation 6 to be formed by means of such consolidation or merger as shall 7 be specified in the agreement hereinafter required. The direc- 8 tors, or a majority of them, of such corporations as desire to 9 consolidate or merge, may enter into an agreement signed by 10 them and under the corporate seals of the respective corpora- 11 tions, prescribing the terms and conditions of consolidation or 12 merger, the mode of carrying the same into effect, and stating 13 such other facts required or permitted by the provisions of this 14 article to be set out in an agreement of incorporation, as can be 15 stated in the case of a consolidation or merger, stated in such 16 altered form as the circumstances of the case requires, as well 17 as the manner of converting the shares of each of the con- 18 stituent corporations into shares of the consolidated corpora- 19 tion, with such other details and provisions as are deemed nec- 20 essary.

21 Such agreement shall be submitted to the stockholders of
22 each constituent corporation, at a meeting thereof, called separ-
23 ately for the purpose of taking the same into consideration; of
24 the time, place and object of which meeting due notice shall be
25 given by publication at least once a week for four successive
26 weeks in one or more newspapers published in the county
27 wherein each such corporation either has its principal office or
28 conducts its business, and a copy of such notice shall be mailed
29 to the last known postoffice address of each stockholder of each
30 such corporation, at least twenty days prior to the date of such
31 meeting: *Provided, however,* That in the consolidation or
32 merger of banking institutions as defined in this chapter, in the
33 case of emergency and upon the order of the commissioner of
34 banking, the meeting may be held upon at least twelve hours'
35 notice sent by mail or telegraph to the last known postoffice ad-
36 dress of each stockholder, and without publication. At such
37 meeting said agreement shall be considered and a vote by bal-
38 lot, in person or by proxy, taken for the adoption or rejection
39 of the same, each share entitling the holder thereof to one vote;
40 and if the votes of stockholders of each such corporation rep-
41 resenting two-thirds of the total number of shares of its capital
42 stock shall be for the adoption of such agreement, then that
43 fact shall be certified on such agreement by the secretary of
44 each such corporation, under the seal thereof; and the agree-
45 ment so adopted and certified shall be signed by the president
46 and secretary of each of such corporations under the corporate
47 seals thereof and acknowledged by the president of each of
48 such corporations before any officer authorized by the laws of
49 this state to take acknowledgments of deeds to be the respec-
50 tive act, deed and agreement of each of such corporations, and
51 the agreement so certified and acknowledged shall be filed in
52 the office of the secretary of state, and shall thence be taken
53 and deemed to be the agreement and act of consolidation or
54 merger of the said corporations; and a copy of such agreement
55 and act of consolidation or merger, duly certified by the secre-
56 tary of state under the seal of his office, shall also be recorded
57 in the offices of the clerks of the county courts of the counties
58 of this state in which the respective corporations so consoli-
59 dating or merging shall have their original certificates of incor-
60 poration recorded, if any, or if any of the corporations shall
61 have been specially created by a public act of the legislature,

62 then such agreement shall be recorded in the county where such
 63 corporation shall have had its principal place of business, if
 64 any, and such record, or a certified copy thereof, shall be evi-
 65 dence of the agreement and act of consolidation or merger of
 66 such corporations, and of the observance and performance of
 67 all acts and conditions necessary to have been observed and
 68 performed precedent to such consolidation or merger.

CHAPTER 16

(Senate Bill No. 141—By Mr. White, of Hampshire)

AN ACT to amend and reenact sections six, eight and thirteen,
 article four, chapter nineteen of the code of West Virginia,
 one thousand nine hundred thirty-one, relating to nonprofit,
 cooperative agricultural associations.

[Passed March 11, 1933; in effect from passage. Became a law without the approval
 of the Governor.]

SEC.

6. What articles of incorporation must set forth; acknowledgment and filing.
 8. What by-laws may provide.
 13. Membership certificates; classes of and payment for stock; members not liable for debts of association beyond amount of un-

SEC.

paid capital stock; holder of common stock have but one vote; common and preferred stock; certain transfers of common stock prohibited; when association may buy in its common stock.

Be it enacted by the Legislature of West Virginia:

That sections six, eight and thirteen, article four, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows:

- Section 6. Each association formed under this article must
 2 prepare 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 period, if any prescribed, for the duration of the
 8 corporation;
 9 (e) The number of incorporators which shall not be less than
 10 five, the number of directors which shall not be less than five
 11 and may be any number in excess thereof, or it may be set forth
 12 that the number of directors shall be fixed by the by-laws;
 13 (f) If organized without capital stock, whether the prop-

14 erty rights and interest of each member be equal or unequal;
15 and if unequal, the general rule or rules applicable to all mem-
16 bers, or classes of members, by which the property rights and
17 interest, respectively, of each member may and shall be de-
18 termined and fixed; and provision for the admission of new
19 members who shall, or shall not be, entitled to share in the
20 property of the association with the old members, in accordance
21 with such general rule or rules. This provision or paragraph
22 of the articles of incorporation shall not be altered, amended,
23 or repealed except by the written consent or vote of three-
24 fourths of the members;

25 (g) If organized with capital stock and authorized to issue
26 only one class of stock, the total number of shares of stock
27 which the association shall have authority to issue and (1) the
28 par value of each of such shares, or (2) a statement that all
29 such shares are to be without par value; or, if the association
30 is to be authorized to issue more than one class of stock, the
31 total number of shares of all classes of stock which the associa-
32 tion shall have authority to issue and (1) the number of shares
33 of each class thereof that are to have a par value and the par
34 value of each share of each such class, and/or (2) the number
35 of such shares that are to be without par value, and (3) a state-
36 ment of all or any of the designations and the powers, prefer-
37 ences and rights, and the qualifications, limitations or restric-
38 tions thereof, which are permitted by the provisions of section
39 thirteen of this article in respect of any class or classes of stock
40 of the association and the fixing of which by the articles of in-
41 corporation is desired, and an express grant of such authority
42 as it may then be desired to grant to the board of directors to
43 fix by resolution or resolutions any thereof that may be desired
44 but which shall not be fixed by such articles;

45 The articles must be subscribed by the incorporators and
46 acknowledged by one of them before an officer authorized by
47 the law of this state to take and certify acknowledgments of
48 deeds and conveyances; and shall be filed in accordance with
49 the provisions of the general corporation law of this state; and,
50 when so filed, such articles of incorporation, or certified copies
51 thereof, shall be received in all the courts of this state and other
52 places as prima facie evidence of the facts contained therein
53 and of the due incorporation of such association;

54 The secretary of state shall provide suitable application
55 blanks and supply them on request;

56 (h) The articles may also contain any provisions which the
57 incorporators may choose to insert for the management of the
58 business and for the conduct of the affairs of the association,
59 and any provisions creating, defining, limiting and/or regu-
60 lating the powers of the association, the directors and the stock-
61 holders, or any class of the stockholders or, in the case of an
62 association which is to have no capital stock, of the members
63 of such association: *Provided*, That such provisions are not
64 contrary to the laws of the state.

Sec. 8. Each association incorporated under this article,
2 must, within thirty days after its incorporation, adopt for its
3 government and management a code of by-laws, not inconsistent
4 with the powers granted by this article. A majority vote of
5 the members or stockholders, or their written assent, is neces-
6 sary to adopt such by-laws. Each association, under its by-
7 laws, may 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 a
11 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
14 effect of such votes;

15 (d) The number of directors constituting a quorum; and,
16 if authority therefor is given in the articles of incorporation,
17 the total number of directors;

18 (e) The qualifications, compensation, duties and term of of-
19 fice of directors and officers; time of their election and the mode
20 and manner of giving notice thereof;

21 (f) Penalties for violation of the by-laws;

22 (g) The amount of entrance, organization and membership
23 fees, if any; the manner and method of collecting the same;
24 and the purposes for which they may be used;

25 (h) The amount which each member or stockholder shall be
26 required to pay annually or from time to time, if at all, to carry
27 on the business of the association; the charge, if any, to be paid
28 by each member or stockholder for services rendered by the
29 association to him and the time of payment and the manner of
30 collection; and the marketing contract between the association

31 and its members or stockholders which every member or stock-
32 holder may be required to sign ;

33 (i) The number and qualifications of members or stock-
34 holders of the association and the conditions precedent to mem-
35 bership or ownership of common stock ; the method, time and
36 manner of permitting members to withdraw or the holders of
37 common stock to transfer their stock ; the manner of assign-
38 ment and transfer of the interest of members and of the shares
39 of common stock ; the conditions upon which and time when
40 membership of any member shall cease ; the automatic suspen-
41 sion of the rights of a member when he ceases to be eligible to
42 membership in the association ; the mode, manner and effect of
43 the expulsion of a member ; the manner of determining the
44 value of a member's interest, and provision for its purchase by
45 the association, at its option, upon the death or withdrawal of a
46 member or stockholder, or upon the expulsion of a member of
47 forfeiture of his membership, or, at the option of the associa-
48 tion, the purchase at a price fixed by conclusive appraisal by
49 the board of directors, or at the election of the board, such
50 property interests may be sold at public auction to the associa-
51 tion itself, or to any person eligible to membership in such as-
52 sociation and the proceeds of such sale paid over to the per-
53 sonal representative of such deceased member, or to the mem-
54 ber withdrawing or expelled, as the case may be.

Sec. 13. 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. An association shall have
4 power to issue one or more classes of stock, or one or more series
5 of stock within any class thereof, any or all of which classes
6 may be of stock with par value or stock without par value, with
7 such voting powers, full or limited, or without voting powers
8 and in such series, and with such designations, preferences and
9 relative, participating, optional or other special rights, and
10 qualifications, limitations or restrictions thereof, as shall be
11 stated and expressed in the articles of incorporation, or in any
12 amendment thereto, or in the resolution or resolutions provid-
13 ing for the issue of such stock adopted by the board of direc-
14 tors pursuant to authority expressly vested in it by the pro-
15 visions of the articles of incorporation or of any amendment
16 thereto.

17 No association shall issue stock to a member until it has been

18 fully paid for. The promissory notes of the members may be
19 accepted by the association as full or partial payment. The
20 association shall hold the stock as security for the payment of
21 the note; but such retention as security shall not affect the
22 member's right to vote.

23 No member shall be liable for the debts of the association to
24 an amount exceeding the sum remaining unpaid on his mem-
25 bership fee or his subscription to the capital stock, including
26 any unpaid balance on any promissory notes given in payment
27 thereof.

28 An association in its by-laws, may limit the amount of com-
29 mon stock which one member may own. No member or stock-
30 holder shall be entitled to more than one vote, regardless of the
31 number of shares of common stock owned by him.

32 Any association organized with stock under this article may
33 issue preferred stock, with or without the right to vote. Such
34 stock may be sold to any person, member or nonmember, and
35 may be redeemable or retirable by the association on such terms
36 and conditions as may be provided for by the articles of in-
37 corporation and printed on the face of the certificate. The by-
38 laws shall prohibit the transfer of the common stock of the as-
39 sociation to persons, or organizations, not engaged in the pro-
40 duction or cooperative marketing of the agricultural products
41 handled by the association, and/or members of credit associa-
42 tions financing such products; and such restrictions shall be
43 printed upon every certificate of stock subject thereto.

44 Other kinds and classes of stock may be issued in compliance
45 with the provisions of the articles of incorporation, the terms
46 of the by-laws, or special resolutions of the board of directors.

47 The association may, at any time, as specified in the by-laws,
48 except when the debts of the association exceed fifty per cent
49 of the assets thereof, buy in or purchase its common stock at
50 the book value thereof, as conclusively determined by the board
51 of directors, and pay for it in cash within one year thereafter.

CHAPTER 17

(Senate Bill No. 159—By Mr. Helsley)

AN ACT to amend and reenact section three, article fourteen, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one; also to amend and reenact section one-(a), section two, article sixteen, by adding section two-(a), amending sections three and four, and by adding section four-(a), all of article sixteen, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to commercial feed stuffs, agricultural and vegetable seeds and seed potatoes.

[Passed March 11, 1933; in effect ninety days from passage. Became a law without the approval of the Governor.]

ARTICLE XIV.

SEC.

3. Certificate of registration of commercial feeding stuff; fees for to be used for enforcement of act; sale of tankage, etc.

ARTICLE XVI.

SEC.

1. Definition of agricultural, noxious, weed and foreign seeds and inert matter.
2. What label on package, etc., of ag-

SEC.

- agricultural and vegetable seeds to show.
- 2-(a). Certificate of registration for agricultural and vegetable seeds; fees for to be used for enforcement of act.
3. Mixed seeds in packages, what tag to show.
4. Other mixtures in packages, what tag to show.
- 4-(a). Certified seed potatoes, what tag to show.

Be it enacted by the Legislature of West Virginia:

That section three, article fourteen, chapter nineteen, and sections one-(a) and two, article sixteen, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows:

ARTICLE XIV

Section 3. Every manufacturer who shall sell, offer or expose for sale, or distribute, in this state any commercial feeding stuff shall, before the same is sold, offered or exposed for sale, obtain from the commissioner of agriculture a certificate of registration for each brand of feed to be sold, offered or exposed for sale. The commissioner of agriculture shall have full power, and is hereby authorized and required, to cancel and withdraw any certificate upon satisfactory evidence that any rules and regulations covering the sale of commercial feeding stuffs has been violated by the holder of the same. The commissioner shall not issue any certificate of registration except upon the filing with the commissioner of a certified copy

13 of the statement specified in section two of this article for each
14 brand of commercial feeding stuffs, accompanied by a fee of
15 five dollars for each brand, from all resident manufacturers;
16 all other manufacturers shall pay a fee of fifteen dollars for
17 each brand registered, which moneys shall become a part of
18 the general revenue of the state to be reappropriated to the
19 department of agriculture to be used for the enforcement of
20 this law. All certificates so issued shall become null and void
21 on June thirtieth next succeeding the issuance thereof. Tank-
22 age, meat meal or meat scrap shall not be sold in this state
23 through dealers or otherwise, except under the regulations of
24 government inspection of tankage, meat meal or meat scraps,
25 and each container shall have a prescribed label from the
26 bureau of animal industry in compliance with the act of con-
27 gress of June thirtieth, one thousand nine hundred six.

ARTICLE XVI.

Section 1. The following words, as used in this article, or in
2 any rule and regulation authorized thereunder, unless the con-
3 text otherwise requires or a different meaning is specifically
4 prescribed, shall have the following meanings:

5 (a) "Agricultural seeds," the seeds of Canada blue grass,
6 Kentucky blue grass, brome grass, fescues, kafir corn, millet,
7 tall meadow oat grass, sorghum, sudan grass, timothy, alfalfa,
8 soybeans, alsike clover, crimson clover, red clover, white sweet
9 clover, yellow sweet clover, Canada field peas, cow peas, vetches
10 and other grasses and forage plants, buckwheat, flax, rape,
11 barley, corn, oats, rye, wheat, seed potatoes, vegetable seeds
12 which are commonly known as "vegetable seeds" and which
13 are of the kind used for the purpose of raising garden and
14 truck crops, and other seeds which may be defined by the com-
15 missioner of agriculture as agricultural seeds, which are sold,
16 stored, offered or exposed for sale or distribution, or had in
17 possession with intent to sell within this state for seeding
18 purposes;

19 (b) "Noxious seeds," the seeds or bulblets of any of the
20 following plants: Wild onion (*allium vineale*), Johnson grass
21 (*sorghum halapense*), quack grass (*agropyron repens*), dodder
22 (*cuscuta* spp.), Canada thistle (*carduus arvensis*), hawk weed
23 (*hieracium* spp.), sow thistle (*sonchus* spp.), buckhorn (plant-
24 ago lanceolata), English charlock or wild mustard (*brassica*
25 *arvensis*), corn cockle (*agrostemma githago*), ox-eye daisy

26 (chrysanthemum leucanthemum), Indian mustard (brassica
27 juncea), star thistle (centaurea solstitialis), wild carrot (daucus
28 carota), galinsoga (galinsoga parviflora), and such other weeds
29 as the commissioner of agriculture may determine to be noxious
30 and a menace in West Virginia: *Provided, however,* That
31 prior to the promulgation of the order defining that any weed
32 seed or seeds are noxious within the definition of this article, a
33 public hearing upon due notice thereof shall be given to per-
34 sons affected by such order, at which hearing such persons may
35 appear in person or by attorney: *Provided further,* That the
36 order determining that any weed seed or seeds shall be deemed
37 to be noxious shall not be effective until six months after the
38 promulgation and publication of such order;

39 (c) "Weed seeds," all seeds, and bulblets of noxious weeds,
40 and, in addition thereto, all seeds other than agricultural seeds;

41 (d) "Foreign seeds," any noxious or weed seeds, or any
42 agricultural seeds other than the particular kind or variety of
43 agricultural seeds represented as being the contents of a pack-
44 age or container of agricultural seeds;

45 (e) "Inert matter," sand, dirt, sticks, stones, chaff, broken
46 seeds and any other matter not included under "foreign seeds."

Sec. 2. Every lot of agricultural seeds and vegetable seeds
2 as defined in section one of this article, except as herein other-
3 wise provided, when sold, stored, offered or exposed for sale or
4 distributed in this state in bulk, packages or other containers,
5 shall have affixed thereto, in a conspicuous place, on the ex-
6 terior of the container of such agricultural seeds, a plainly
7 written or printed tag, or label, in the English language.
8 stating:

9 (a) Commonly accepted name of the kind and variety of
10 such agricultural seeds;

11 (b) The approximate percentage, by weight, of purity,
12 meaning the freedom of such agricultural seeds from foreign
13 seeds and inert matter;

14 (c) The approximate total percentage, by weight, of weed
15 and foreign seeds;

16 (d) The name and approximate number per ounce of each
17 kind of the seeds or bulblets of the noxious weeds listed in
18 subdivision (b), section one of this article, as follows:

19 (1) In excess of one such seed or bulblet in each five

20 grams of timothy, red top, tall meadow oat grass, orchard
21 grass, Canada blue grass, Kentucky blue grass, fescues, brome
22 grasses, perennial and Italian rye grasses, western rye grass,
23 crimson clover, red clover, white clover, alsike clover, sweet
24 clover, alfalfa, and all other grasses and clovers not otherwise
25 classified.

26 (2) In excess of one such seed or bulblet in each twenty-
27 five grams of millet, rape, flax and other seeds not classified in
28 paragraphs one or three of this subdivision;

29 (3) In excess of one such seed or bulblet in each one hun-
30 dred grams of oats, rye, barley, buckwheat, vetch and other
31 seeds as large as, or larger than, wheat;

32 (e) The approximate percentage of germination, together
33 with the month and year such seed was tested;

34 (f) The full name and address of the seedsman, importer,
35 dealer or agent, or other person, firm or corporation, selling,
36 offering or exposing for sale or distribution such agricultural
37 seeds in this state for seeding purposes.

Sec. 2-(a). Every producer or distributor of agricultural or
2 vegetable seeds who shall sell, offer or expose for sale or distri-
3 bution in this state any agricultural or vegetable seeds, shall,
4 before the same is sold, offered or exposed for sale, obtain from
5 the commissioner of agriculture, a certificate of registration for
6 each kind and variety of agricultural or vegetable
7 seeds to be sold, offered or exposed for sale. The commissioner
8 of agriculture shall have full power, and is hereby authorized
9 and required to cancel and withdraw any certificate upon satis-
10 factory evidence that any rules and regulations covering the
11 sale of any kind or variety of agricultural or vegetable seeds
12 have been violated by producer, distributor or the holder of
13 the same. The commissioner shall not issue any certificate of
14 registration except upon the filing with the commissioner of
15 agriculture of a certified copy of the statement of (a), (b),
16 (c), (d), (e), and (f), section two of this article, for each
17 kind and variety of agricultural or vegetable seeds, accom-
18 panied by a fee of five dollars for each kind and variety of
19 agricultural or vegetable seeds, which shall become a part of
20 the general revenue of the state to be reappropriated to the
21 department of agriculture to be used for the enforcement of
22 this law.

23 All certificates so issued shall become null and void on June

24 thirty next succeeding date of issuance thereof.

Sec. 3. Mixtures, when in bulk, packages, or other containers, containing not more than two kinds of agricultural seeds in excess of five per cent by weight of the total mixture, shall have affixed thereto, in a conspicuous place on the exterior of the container of such mixture, a plainly written or printed tag, or label, in the English language stating:

7 (a) That such seed is a mixture;

8 (b) The name and percentage of each kind of agricultural
9 seed present in such mixture in excess of five per cent by
10 weight of the total mixture;

11 (c) The approximate total percentage by weight of weed
12 seeds as defined in subdivision (c), section one of this article;

13 (d) The name and approximate number per ounce of each
14 kind of seeds or bulblets of the noxious weeds listed in sub-
15 division (b), section one of this article, which are present singly
16 or collectively in excess of one seed or bulblet in each fifteen
17 grams of such mixture;

18 (e) The approximate percentage of germination of each
19 kind of agricultural seed present in such mixture in excess of
20 five per cent by weight, together with the month and year in
21 which the seed was tested;

22 (f) The full name and address of the seedsman, importer,
23 dealer, agent, or other person, selling, offering or exposing for
24 sale or distribution, such mixture in this state for seeding
25 purposes.

Sec. 4. Mixtures other than those defined in section three
2 of this article, when in bulk, packages or other containers shall
3 have affixed thereto in a conspicuous place on the exterior of
4 the container of such mixture, a plainly written or printed
5 tag, or label, in the English language stating:

6 (a) That such seed is a special mixture;

7 (b) The name and percentage of each kind of agricultural
8 seed present in such mixture in excess of five per cent by
9 weight of the total mixture;

10 (c) The approximate total percentage by weight of weed
11 seeds as defined in subdivision (c), section one of this article;

12 (d) The name and approximate number per ounce of each
13 kind of the seeds or bulblets of the noxious weeds listed in
14 subdivision (b), section one of this article, which are present

15 singly or collectively in excess of one seed or bulblet in each
16 fifteen grams of such mixture;

17 (e) The full name and address of the seedsman, importer,
18 dealer, agent, or other person, selling, offering or exposing for
19 sale or distribution, such mixture in this state for seeding
20 purposes.

Sec. 4-(a). When potatoes are sold, offered or exposed for
2 sale as certified seed potatoes, there shall be attached to the bag
3 or container, a tag showing by whom certified, the standard or
4 conditions under which such certification is made and the name
5 of the official state or governmental agency making the inspec-
6 tion upon which the certification is made, and this shall be
7 the only designation indicating suitable quality for seed
8 purposes.

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

CHAPTER 18

(Senate Bill No. 163—By Mr. Henderson)

AN ACT to amend article eleven, chapter thirty-eight of the code
of West Virginia, one thousand nine hundred thirty-one, by
adding thereto sections eighteen, nineteen and twenty, relat-
ing to liens on crops for advances for cultivation or cropping
of land and their protection and providing exceptions.

[Passed March 11, 1933; in effect ninety days from passage. Became a law without
the approval of the Governor.]

Sec.

18. Lien on crops for money or supplies
advanced, if written agreement
signed by both parties filed and
recorded in office of county
court; statement required of
lienor when crop subject to lien
of attachment or fieri facias;

Sec.

contest of validity of claims for
advances.
19. Injunction to prevent disposal of
crops covered by lien.
20. Rights of landlord nor of previously
recorded lien not affected.

Be it enacted by the Legislature of West Virginia:

That article eleven, chapter thirty-eight of the code of West
Virginia, one thousand nine hundred thirty-one, be amended and
reenacted by adding thereto sections eighteen, nineteen and
twenty to read as follows:

Section 18. If any person makes advances, either in money
2 or supplies, or other thing of value, to anyone who is engaged
3 in, or is about to engage in, the cultivation or cropping of
4 land, the person so making such advances shall have a lien

5 on the crops which may be made or seeded during the year
6 upon the lands in or about the cultivation or cropping of
7 which the advances so made have been or were intended to be
8 expended, to the extent of such advances; but the person mak-
9 ing such advances shall not have the benefit of the liens given
10 in this section, unless there is an agreement, in writing, signed
11 by both parties, in which there is specified the amount ad-
12 vanced, or a limit to be fixed beyond which any advances, made
13 from time to time during the year, shall not go, and a descrip-
14 tion of the land cultivated or cropped, or to be cultivated or
15 cropped, sufficient to identify it, and such agreement be filed
16 in the office of the clerk of the county court of the county in
17 which such land so cultivated or cropped or to be cultivated
18 or cropped, lies, in a well-bound book to be known as "crop
19 lien book", and alphabetically indexed therein, by such clerk,
20 setting forth the date of the lien, a brief description of the
21 land so cultivated or cropped, or to be cultivated or cropped,
22 sufficient to identify the same as stated in the writing, the
23 name of the lienor and the lienee, the amount advanced or the
24 limit thereof, and the crops affected; and from the time such
25 lien is so filed it shall have the same force and effect as a duly
26 recorded trust deed, and shall be valid as to purchasers with-
27 out notice from, and the creditors of, the parties or party ob-
28 taining such advances; and in the event of a sale, under a
29 trust deed or mortgage, of the land upon which any such crop
30 has been so seeded and/or may be growing, and before such
31 crop has been severed, such sale shall be made subject to such
32 crop lien: *Provided*, That whenever the crops are subject to
33 a lien of a fieri facias or attachment, whether a levy be actually
34 made or not, it shall be the duty of the person claiming a lien
35 under this section, upon the request of the sheriff, or any
36 party in interest, to render to the sheriff of the county wherein
37 the crops are grown, a complete and itemized statement, under
38 oath, of the claims for advances, showing the nature of the
39 claims, the dates of advancement and the respective amounts.
40 And in case the person claiming the advances fails to render
41 to the sheriff of such county the verified itemized statement
42 above provided for within ten days after request has been
43 made, he shall forever lose the benefit of the lien on the crops
44 for advances granted him under this section: *Provided further*,
45 That if the execution creditor or attachment creditor desires

46 to contest the validity of the claims for advances, he may cause
 47 the clerk of the circuit court of the county in which such crops
 48 are grown to summons the person claiming such lien, to appear
 49 before such court and show to the satisfaction of the court that
 50 such money, supplies and other things of value were advanced
 51 for the purpose of, and were actually used in and about, the
 52 cultivation or production of the crops upon which the lien is
 53 claimed. For the services of the clerk in recording a crop lien
 54 under this section, he shall receive a fee of fifty cents.

Sec. 19. If any person to whom advances have been made,
 2 for which a lien on his crops has been obtained, under the pre-
 3 ceding section, shall be about to sell, or otherwise dispose of
 4 his crops, without having paid for the advances or secured
 5 the payment thereof, or in any way attempt to defeat the said
 6 lien, he may be restrained from so doing by injunction, and
 7 thereupon such decrees and orders may be made as shall be
 8 necessary to secure payment and satisfaction for such
 9 advances.

Sec. 20. The lien provided for in section eighteen of this
 2 article shall not affect in any manner the rights of the land-
 3 lord to his proper share of rents, or his rights of distress or
 4 attachment for the same, nor any lien existing at the time of
 5 making the agreement mentioned in said section, which is re-
 6 quired by law to be recorded and shall have been admitted to
 7 record. Nor shall it affect the right of the party to whom the
 8 advances have been made, to claim such part of his crops as is
 9 exempt from levy or distress for rent.

CHAPTER 19

(Senate Bill No. 33—By Mr. Smith)

AN ACT to amend and reenact section three, article seven, chapter
 sixty-one of the code of West Virginia, one thousand nine
 hundred thirty-one, relating to the carrying of dangerous or
 deadly weapons.

[Passed February 28, 1933; in effect ninety days from passage. Approved by the
 Governor.]

SEC.

3. Exceptions as to prohibition		Sec.	against carrying dangerous or deadly weapons.
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Be it enacted by the Legislature of West Virginia:

That section three, article seven, chapter sixty-one of the code
 of West Virginia, one thousand nine hundred thirty-one, be amend-
 ed and reenacted so as to read as follows:

Section 3. Nothing in this article shall prevent any person from carrying any such weapon as is mentioned in the first section of this article, in good faith and not having felonious purposes, upon his own premises; nor shall anything herein prevent a person from carrying any such weapon, unloaded, from the place of purchase to his home or residence, or to a place of repair and back to his home or residence; nor shall anything herein prevent a bona fide member of the national guard of West Virginia, or of the reserve officers component of the United States army, while in performance of his official duties as such or any properly organized target shooting club authorized by law to obtain firearms by purchase or requisition from this state or from the United States for the purpose of target practice, from carrying any revolver or pistol mentioned in this article, unloaded, from his home or place of residence to a place of target practice, and from any such place of target practice back to his home or residence, or using any such weapon at such place of target practice in training and improving his skill in the use of such weapons; but nothing herein shall be construed to authorize any employee of any person, firm or corporation doing business in this state to carry, on or about the premises of such employer, any such pistol, or other weapon mentioned in this article, for which a license is herein required, without having first obtained the license and given the bond as herein provided.

CHAPTER 20

(Senate Bill No. 44—By Mr. Taylor, by request)

AN ACT to amend and reenact section fourteen, article one, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, relating to the appointment of special constables by justices of the peace, and the authority of such special constables to carry revolvers, pistols and other dangerous or deadly weapons of like kind or character, and the authority of such special constables to execute or assist in executing any warrant in any criminal proceeding.

[Passed February 22, 1933: in effect from passage. Approved by the Governor.]	
SEC.	SEC.
14. When special constable may be appointed in civil actions; not authorized to carry revolver,	etc., or execute or assist in executing warrant in criminal proceeding.

Be it enacted by the Legislature of West Virginia:

That section fourteen, article one, chapter fifty of the code

of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows:

Section 14. Whenever it shall satisfactorily appear to a justice issuing a summons, attachment or warrant of arrest in a civil action that a necessity exists therefor, he may appoint a special constable to execute the same, provided no duly elected constable is available, either by directing such process to such special constable by name as follows:

“To A.....B....., who is hereby appointed a special constable to execute this process,” or by endorsing such appointment on such process: *Provided*, That nothing herein contained shall be construed as empowering a justice to confer upon any special constable, so appointed by him, authority to carry revolvers, pistols or other dangerous or deadly weapons of like kind or character, nor shall any such authority be so conferred by any justice; and no special constable shall have or exercise such authority by virtue of such appointment, nor shall such authority be pleaded as a defense by any such special constable to any indictment for carrying such weapons; *Provided further*, That nothing herein contained shall be construed as empowering a justice to confer upon any special constable, so appointed by him, authority to execute or to aid or assist in executing any warrant in any criminal proceeding.

CHAPTER 21

(House Bill No. 332—By Mr. Boley)

AN ACT to define and make a crime the endangering of life by placing maliciously explosives in, near or about a coal mine, building or other structures, or by carrying or possessing a bomb, bombshell or other explosive substance with the intent to use the same unlawfully against the person or property of another, and to provide penalties therefor.

[Passed March 8, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Placing of dynamite or other explosive substance in or near coal mine, building, etc., with intent to destroy same, if human life or safety endangered if intent accomplished, a felony; penalty;

SEC.

carrying or possession of bomb or other explosive substance with intent to use same unlawfully against person or property, a felony; penalty.

Be it enacted by the Legislature of West Virginia:

Section 1. If any person places in, upon, under, against, or

2 near to any coal mine, building, car, vessel or other structure,
 3 gunpowder, dynamite, nitroglycerine or any other explosive
 4 substance, with intent to destroy, throw down, or injure the
 5 whole or any part thereof, under such circumstances, that, if
 6 the intent were accomplished, human life or safety would be
 7 endangered thereby, although no damage is done, he shall be
 8 guilty of a felony, and, upon conviction, shall be confined in the
 9 penitentiary not less than one year or more than five years;
 10 also if any person carries or possesses a bomb, bombshell or
 11 other explosive substance with the intent to use the same un-
 12 lawfully against the person or property of another, he shall be
 13 guilty of a felony, and, upon conviction, shall be fined not to
 14 exceed five hundred dollars and be confined in the penitentiary
 15 not to exceed five years.

* CHAPTER 22

(Senate Bill No. 174—By Mr. Jones)

AN ACT to provide for a convention to pass on the amendment to the constitution of the United States providing for the repeal of the eighteenth article of amendment to the constitution and the prohibition of the transportation or importation into any state, territory or possession of the United States for delivery or use therein of intoxicating liquors in violation of the laws thereof proposed by the congress for ratification by conventions in the several states.

[Passed March 10, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Special election on June 27, 1933, to select delegates to a state convention to consider repeal of eighteenth article of amendment to federal constitution.
2. Qualification of voters.
3. How election conducted; commissioners of election, duties, qualifications and compensation; compensation of registrars.
4. Number and qualification of delegates.
5. Nomination of ten delegates for

SEC.

- and ten delegates against ratification by both the Democratic and Republican state executive committee upon written pledges of nominees; nominations by secretary of state if committees fail to nominate; unpledged nominees by petition.
6. Form of ballot.
 7. The twenty nominees receiving highest number of votes to be delegates; filling vacancies.
 8. Place and time of convention.

*See chapter nineteen, acts of extraordinary session 1933, in this volume.

SEC.

9. Organization of convention.
10. Journal of convention proceedings.
11. If convention agrees to ratification, certificate of result to be certified by the president and secretary of convention; disposition of certificate.

SEC.

12. Compensation of delegates and expenses of convention.
13. If act not in accord with further action of the Congress prescribing how conventions shall be constituted, act to be inoperative.

Be it enacted by the Legislature of West Virginia:

Section 1. The congress of the United States having proposed an amendment to the constitution of the United States providing for the repeal of the eighteenth article of amendment to the constitution and the prohibition of the transportation or importation into any state, territory or possession of the United States for delivery or use therein of intoxicating liquors in violation of the laws thereof to be ratified by conventions in the several states, a special election for the purpose of electing delegates to such convention in this state is hereby called and shall be held on Tuesday the twenty-seventh day of June, one thousand nine hundred thirty-three.

Sec. 2. At such election all persons qualified to vote for members of the legislature shall be entitled to vote.

Sec. 3. Except as in this act otherwise provided such election shall be conducted and the results thereof ascertained and certified in the same manner as in the case of the election of presidential electors in this state, and all provisions of the laws of this state relative to elections except so far as inconsistent with this act are hereby made applicable to such election. The county court of each county shall appoint for each precinct in such county three commissioners of election, and no more and no poll clerks, for the special election hereby called, and at least one commissioner shall be known to the court to be for ratification and one shall be so known to be against ratification. The commissioners shall designate two of their number, one known to be for ratification and one known to be against ratification, as poll clerks, who shall perform all duties of poll clerks as well as commissioners at such election. Each commissioner of election shall receive one dollar for each day actually employed instead of the compensation provided by statute, which compensation shall be allowed and paid by the county court upon application within ten days after the day of election by the person entitled thereto, attested by the commissioners

21 of election, and not otherwise. The registrars for the perform-
22-ance of their duties under section ten of article two of chapter
23 three of the code in connection with such special election shall
24 receive one dollar per day instead of the compensation pro-
25 vided by statute, and the clerk of each county court shall fur-
26 nish to the election commissioners of the respective voting
27 precincts one of the registration books filed with him instead
28 of a certified list of voters.

Sec. 4. The number of delegates to be chosen to such con-
2-vention shall be twenty, who shall be citizens and residents
3 of the state, and shall be elected by the vote of the state at
4 large.

Sec. 5. Nominations of candidates for the office of delegate
2 to the convention shall be made as follows:

3 The Democratic state executive committee and the Repub-
4 lican state executive committee shall each nominate ten per-
5 sons who shall have signed a written pledge in triplicate to
6 vote in such convention for ratification of the amendment and
7 filed one counterpart thereof with the secretary of state of
8 West Virginia and two with the secretary of such committee,
9 and ten persons who shall have signed a written pledge in
10 triplicate to vote in such convention against ratification of the
11 amendment, and filed one counterpart thereof with the secre-
12 tary of state of West Virginia and two with the secretary of
13 such committee. In each group of ten each congressional dis-
14 trict of the state shall be represented by at least one and not
15 more than two residents thereof. No person shall be nominated
16 by either committee who shall not have filed counterparts of a
17 written pledge as aforesaid on or before the fifteenth day of
18 April, one thousand nine hundred thirty-three, and nominations
19 shall be made by said committees, respectively, and a certificate
20 thereof, showing under separate and distinguishing headings
21 the list of the ten nominees pledged to vote for ratification and
22 the ten nominees pledged to vote against ratification, forwarded
23 to the secretary of state of West Virginia, with one counter-
24 part of the pledge of each person so nominated, on or before
25 the first day of May, one thousand nine hundred thirty-three.
26 The twenty persons so nominated, ten by each of said commit-
27 tees. pledged to vote for ratification, shall be the candidates
28 favoring ratification of the amendment, and the twenty persons

29 so nominated, ten by each of said committees, pledged to vote
30 against ratification of the amendment, shall be the candidates
31 opposing ratification. If a vacancy shall occur in any nomina-
32 tion so made, from death, withdrawal or other cause, the va-
33 cancy shall be filled and the name of the candidate certified by
34 the state executive committee which made the original nomina-
35 tion, or the chairman thereof, as the case may be, according
36 to the provisions of chapter three, article four, section twenty-
37 three of the West Virginia code of one thousand nine hundred
38 thirty-one, and the nominee to fill such vacancy shall be chosen
39 from among persons who shall have filed with such committee
40 a pledge similar to the pledge filed by the original nominee.

41 If either committee shall fail to make and file nominations
42 as hereinbefore provided on or before the first day of May, one
43 thousand nine hundred thirty-three, the secretary of state shall
44 on or before the tenth day of May, one thousand nine hundred
45 thirty-three, make up the lists, which such committee should
46 have made, of ten nominees pledged to vote for ratification
47 and ten pledged to vote against ratification, according to the
48 counterpart pledges filed with the secretary of such committee
49 and the secretary of state, drawing names by lot in any case
50 where there shall be more than one person eligible for either
51 list resident in any congressional district, and if when a nomi-
52 nation for either list shall have been made from each congres-
53 sional district there shall remain more than four persons eligi-
54 ble for such list. And the lists so made up by the secretary
55 of state shall be held and serve the same purposes as if made
56 up by such committee failing to do its duty hereunder. If a
57 vacancy shall occur in any nomination so made by the secre-
58 tary of state, he shall fill the vacancy, drawing the name by
59 lot if there remain more than one person eligible for the list in
60 which the vacancy shall have occurred who shall have filed
61 counterparts of a written pledge as aforesaid.

62 Unpledged candidates for the office of delegate to the con-
63 vention may be nominated by petition and not otherwise. A
64 single petition may nominate any number of nominees, not
65 exceeding the total number of delegates to be elected, shall
66 be signed by not less than two hundred voters, shall show the
67 residence of each signer thereof and shall have attached the
68 promise in writing of each nominee therein named that he will

69 remain unpledged. The twenty nominees, whose nominating
 70 petitions have respectively been signed by the largest number
 71 of voters, ties to be decided by lot drawn by the secretary of
 72 state, shall be the unpledged candidates. If a vacancy shall
 73 occur in any nomination so made it shall be filled by the desig-
 74 nation by the secretary of state of the remaining nominee whose
 75 nominating petitions filed with the secretary of state as afore-
 76 said shall have been signed by the largest number of voters,
 77 a tie to be decided by lot drawn as aforesaid.

Sec. 6. The election shall be by ballot which shall first state
 2 the substance of the proposed amendment, followed by appro-
 3 priate instructions to the voter and containing perpendicular
 4 columns of equal width, headed respectively in plain type.
 5 "For Ratification", "Against Ratification" and "Unpledged".
 6 In the column headed "For Ratification" shall be placed the
 7 names of the candidates nominated as in favor of ratification.
 8 In the column headed "Against Ratification" shall be placed
 9 the names of the candidates nominated as against ratification.
 10 In the column headed "Unpledged" shall be placed the names
 11 of the candidates nominated as unpledged. The voter shall
 12 indicate his choice by making one or more cross-marks in the
 13 appropriate spaces provided on the ballot. No ballot shall be
 14 held void because any such cross-mark is irregular in character.
 15 The ballot shall be so arranged that the voter may, by making
 16 a single cross-mark, vote for the entire group of nominees
 17 whose names are comprised in any column, and shall be in
 18 substantially the following form:

19 PROPOSED AMENDMENT TO THE CONSTITUTION
 20 OF THE UNITED STATES.

21 Delegates to the Convention to Ratify the
 22 Proposed Amendment.

23 The congress has proposed an amendment to the constitution
 24 of the United States which provides:

25 "Section 1. The eighteenth article of amendment to the
 26 constitution of the United States is hereby repealed".

27 "Sec. 2. The transportation or importation into any state,
 28 territory, or possession of the United States for delivery or use
 29 therein of intoxicating liquors, in violation of the laws thereof,
 30 is hereby prohibited".

31 The congress has also proposed that the said amendment
 32 shall be ratified by convention in the states.

33

INSTRUCTIONS TO VOTERS.

34 Do not vote for more than twenty (20) candidates.

35 To vote for all candidates in favor of Ratification or for all
36 candidates against Ratification, or for all candidates Unpledged,
37 make a cross-mark in the CIRCLE at the head of the list of
38 candidates for whom you wish to vote. If you do this, make
39 no other mark.

40 To vote for an individual candidate make a cross-mark in
41 the SQUARE at the left of the name.

42 For Ratification Against Ratification Unpledged



43 John Doe Charles Coe Peter Roe

44 Richard Poe Thomas Moe James Defoe

Sec. 7. The twenty nominees who shall receive the highest
2 number of votes shall be the delegates to the convention. If
3 there shall be a vacancy in the convention caused by the death
4 or disability of any delegate or any other cause, the same
5 shall be filled by appointment by the majority vote of the
6 delegates comprising the group in which such delegate was
7 included and if the membership of the convention contains no
8 other delegate of that group, shall be filled by the governor.
9 If any nominee shall die before such special election without
10 a nomination having been made to fill the vacancy thus created
11 as hereinbefore provided, and if the remaining members of the
12 group of candidates in which such decedent was included shall
13 be elected, such death shall create a vacancy in the convention
14 within the meaning of this act and no other candidate shall
15 be held as elected at such election in the place of such decedent.

Sec. 8. The delegates to the convention shall meet at the
2 Capitol on the twenty-eighth day after their election at twelve
3 o'clock noon, and shall thereupon constitute a convention to
4 pass upon the question of whether or not the proposed amend-
5 ment shall be ratified. It shall be called to order by the oldest
6 delegate present.

Sec. 9. The convention shall be the judge of the election and qualification of its members; and shall have power to elect its president, secretary and other officers, and to adopt its own rules.

Sec. 10. The convention shall keep a journal of its proceedings, in which shall be recorded the vote of each delegate on the question of ratification of the proposed amendment. Upon final adjournment the journal, having been duly verified by the president and secretary of the convention, shall be filed with the secretary of state.

Sec. 11. If the convention shall agree, by vote of a majority of the total number of delegates, to the ratification of the proposed amendment, a certificate to that effect shall be executed by the president and secretary of the convention and transmitted to the secretary of state of the state of West Virginia, who shall transmit the certificate under the great seal of the state to the secretary of state of the United States.

Sec. 12. Each delegate to the convention shall receive ten dollars for his compensation and in addition mileage at the same rate as members of the legislature receive. And for the expenses of the convention the sum of one thousand dollars, or so much thereof as is necessary, shall be appropriated payable out of the state treasury from moneys not otherwise appropriated.

Sec. 13. If congress shall take action effective before the date of such convention prescribing the manner in which conventions to vote upon the ratification of said amendment shall be constituted, and shall not except from the provisions of such statute or resolution such states as may theretofore have provided for constituting such conventions, this act shall be inoperative, and no expense, or no further expense, as the case may be, shall be incurred pursuant hereto, but such expense, if any, as shall have been lawfully incurred pursuant hereto shall be paid according to law.

* CHAPTER 23

(House Bill No. 210—By Mr. Thomas)

AN ACT to amend and reenact section five, article one, chapter sixty of the code of West Virginia as last amended and reenacted by chapter sixteen, acts extraordinary session legislature, one thousand nine hundred thirty-two, authorizing licensed physicians to prescribe spirituous liquors for medicinal purposes, to levy a tax thereon, and authorizing the tax commissioner to issue permits for the sale of other alcoholic preparations.

[Passed February 9, 1933; in effect from passage. Approved by the Governor.]

SEC.

5. Provisions concerning the manufacture of nonintoxicating wine and manufacture and sale of vinegar, nonintoxicating cider, pure grain alcohol and sacramental wine; sale of spirituous

SEC.

liquors and alcohol to and by druggists: when permits from tax commissioner required and fees for same: stamps for spirituous liquors sold by druggists.

Be it enacted by the Legislature of West Virginia:

That section five, article one, chapter sixty of the code of West Virginia as last amended and reenacted by chapter sixteen, acts extraordinary session legislature, one thousand nine hundred thirty-two, authorizing licensed physicians to prescribe spirituous liquors for medicinal purposes, to levy a tax thereon, and authorizing the tax commissioner to issue permits for the sale of other alcoholic preparations, be amended and reenacted to read as follows:

Section 5. The provisions of this chapter shall not be construed to prevent anyone from manufacturing (other than by "moonshine still"), from fruit grown exclusively in this state, nonintoxicating wine for his own domestic consumption; or to prevent the manufacture from fruit grown exclusively within this state of vinegar and nonintoxicating 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 of medicinal, pharmaceutical, scientific and mechanical purposes, or of wine for sacramental purposes by religious bodies; or to prevent the manufacture and sale of spirituous liquors to druggists, 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 pharmacopoeia or national formulary preparation in conformity with

*See chapter twenty-one, acts of extraordinary session 1933, in this volume.

16 the West Virginia pharmacy law, or any preparation which is
17 exempted by the provisions of the national pure food law; or to
18 prevent the sale by druggists through pharmacists, of pure grain
19 alcohol for medicinal, scientific, pharmaceutical and mechanical
20 purposes; or to prevent the use of such alcohol by physicians,
21 dentists and veterinarians in the practice of their profession;
22 or to prevent the medication and sale of pure grain alcohol ac-
23 cording to formulae and under regulations of the national pro-
24 hibition act; or to prevent the sale by druggists, through
25 pharmacists, of spirituous liquors under prescriptions properly
26 issued by licensed physicians in conformity and in accordance
27 with the provisions of Title II of the act of congress known as
28 national prohibition act, passed October twenty-eight, one thou-
29 sand nine hundred nineteen; or to prevent the purchase and use
30 in the manufacture of medicinal preparations and compounds
31 by wholesale druggists only of sherry wine in quantities not
32 exceeding twenty-five wine gallons during any period of ninety
33 days:

34 *Provided*, That no one shall manufacture, sell, keep for sale,
35 purchase or transport any liquors, as defined in section one of
36 this article and as herein excepted, without first obtaining a
37 permit from the tax commissioner so to do. Forms of applica-
38 tions and permits shall be prepared by the tax commissioner
39 and a fee for each permit issued shall be collected by him as
40 follows:

41 (a) All manufacturers of liquors and wholesale dealers
42 therein shall pay a fee of fifty dollars for each permit;

43 (b) All purchasers in wholesale quantities of ethyl alcohol
44 in any form, whether pure, medicated, or denatured, for use as
45 herein provided, shall pay a fee of ten dollars for each permit;

46 (c) All purchasers in wholesale quantities of liquors as de-
47 fined in section one of this article for sale at retail, except duly
48 licensed druggists, shall pay a fee of two dollars for each permit;

49 (d) All persons except duly licensed druggists registering
50 stills and given permits to use the same for lawful purposes
51 shall pay a fee of five dollars for each permit: *Provided*, That
52 any still used only for the manufacture of chemicals, including
53 water, in which the process of distillation is a common and
54 necessary operation, and which still shall not be used for the
55 distillation of ethyl alcohol in any form, shall be required to be
56 registered, but the owner and operator thereof shall not be re-

57 quired to obtain a permit therefor, or to pay license tax thereon.
 58 No fee shall be required for a permit to obtain wine for sacra-
 59 mental or religious rites;

60 (e) All purchasers of spirituous liquors shall be required to
 61 pay a fee of fifty cents per pint, such fee to be represented by a
 62 stamp furnished to druggists and duly cancelled by the initials
 63 in ink of the person affixing the same. Said stamp shall be pre-
 64 pared by the state tax commissioner and sold by him to the
 65 parties permitted by law to handle the same. The persons for
 66 whom the prescriptions are given shall pay for the stamps
 67 affixed thereto.

68 Permits shall be issued for the calendar year and shall expire
 69 on the thirty-first day of December next following the issuance
 70 thereof. All moneys received by the state tax commissioner
 71 shall belong to the state and shall be by him immediately paid
 72 into the state treasury:

73 *Provided further*, That such liquors shall be manufactured,
 74 sold, kept for sale, transported and used under permits issued
 75 by the federal prohibition commissioner and in accordance with
 76 regulations issued in pursuance of the national prohibition act.

* CHAPTER 24

(House Bill No. 359—By Mr. Beacom)

AN ACT to amend and reenact section one, article one, and section six, article two, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, providing for the raising of additional public revenue by a tax upon the sale of non-intoxicating beer; to provide for the collection of such tax; to amend and reenact certain existing statutes; and to repeal all provisions of laws inconsistent with the purpose of this enactment.

[Passed March 11, 1933; in effect ninety days from passage. Became a law without the approval of the Governor.]

ARTICLE I.

SEC.

1. Definition of nonintoxicating beer and other words and phrases.

ARTICLE II.

SEC.

6-(a). Amount and disposition of license tax on brewers, etc.; definition of "liquors"; when seizure of liquors prima facie evidence of unlawful selling, etc.

Be it enacted by the Legislature of West Virginia:

That section one, article one, chapter sixty of the code of West

*Repealed by chapter twenty, acts of the extraordinary session 1933, in this volume.

Virginia, one thousand nine hundred thirty-one be amended and reenacted to read as follows:

ARTICLE I.

Section 1. For the purposes of this act, the following words, 2 terms and phrases are defined as follows:

3 "Nonintoxicating beer" shall mean and include all beer, lager
4 beer, ale, porter, malt liquor and other similar fermented liquors
5 containing not more than three and five hundredths percentum
6 of alcohol by weight. "Package dealer" shall include any per-
7 son, firm, association, partnership or corporation selling, de-
8 livering or otherwise distributing within the State of West Vir-
9 ginia nonintoxicating beer in glass bottles for consumption at a
10 place other than such place of sale or delivery. "Dispenser" shall
11 include any person, firm, association, partnership or corporation
12 selling, serving, delivering or otherwise distributing within the
13 state of West Virginia, nonintoxicating beer, either in glass bot-
14 tles or on draught for consumption at the place of such sale. serv-
15 ice or delivery. "A manufacturer or brewer" shall include any
16 person, firm or corporation manufacturing nonintoxicating
17 beer for sale at wholesale. "Distributor" shall include any
18 person, firm or corporation jobbing or distributing nonintoxi-
19 cating beer to a retailer at wholesale.

ARTICLE II.

Section 6-(a). There is hereby levied and imposed upon
2 package dealers, as herein defined, an annual license tax of
3 fifty dollars, and upon dispensers, as herein defined, an annual
4 license tax of one hundred dollars. The license tax on a manu-
5 facturer or brewer operating within the state shall be five
6 hundred dollars per year, and in addition thereto one dollar on
7 each barrel, and in like ratio on part barrel, and eight cents on
8 each case, or part case, so manufactured in this state. The
9 license tax on a distributor (wholesale) shall be two hundred
10 fifty dollars, and in addition thereto one dollar on each barrel,
11 and in like ratio on part barrel, and eight cents on each case,
12 or part case, so distributed in this state.

13 Each such package dealer, dispenser, manufacturer or brewer
14 and distributor being engaged in the business of selling, de-
15 livering or otherwise distributing nonintoxicating beer at more
16 than one place within the State of West Virginia shall pay the
17 full amount of the tax hereby imposed for each such place of
18 business.

19 The taxes levied by the next preceding section shall be paid
20 by such package dealers, dispensers, manufacturers or brewers
21 and distributors, to the state tax commissioner on or before
22 the first day of January of each year.

23 (c) Each such package dealer or dispenser, manufacturer or
24 brewer and distributor, on or before the first Monday of Decem-
25 ber shall make out and deliver to the state tax commissioner,
26 upon a blank to be furnished by such commissioner for that
27 purpose, a statement showing the name of such package dealer
28 or dispenser, manufacturer or brewer and distributor, a brief
29 and accurate description of the place or places where his busi-
30 ness as such package dealer or dispenser, manufacturer or
31 brewer and distributor is conducted and by whom owned. Such
32 statement shall be signed and sworn to before a notary public
33 or other officer empowered to take acknowledgement to deeds;

34 (d) All monies collected by the state tax commissioner from
35 licenses taxes imposed by this act shall be paid into the state
36 treasury for credit to the general revenue fund;

37 (e) The word "liquors" as used in this chapter, shall be con-
38 strued to embrace all malt, vinous or spiritous liquors, wine,
39 porter, ale, beer, or any drink, mixture or preparation of like
40 nature containing more than three and five hundredths per-
41 centum of alcohol by weight, but shall not include beer, lager
42 beer, ale, porter, malt liquor and other similar fermented liquors
43 containing not more than three and five hundredths percentum
44 of alcohol by weight: *Provided further*, That the word
45 "liquors," as used in this chapter shall not be construed as
46 including liquids, mixtures or preparations intended for non-
47 beverage purposes which have been manufactured and prepared
48 for the market in accordance with the laws of the United
49 States;

50 (f) Wherever liquors shall be seized in any room, building or
51 place which has been searched under the provisions of this act
52 the finding of such liquors in such room shall be prima facie
53 evidence of the unlawful selling, and keeping and storing for
54 sale of the same by the person, or persons, occupying such
55 premises, or his associates, agents or employees thereunder;
56 and the proprietor or other persons in charge of the premises
57 where such liquor was found and his associates shall be subject

58 to trial by due process of law, on the charge of selling or keep-
 59 ing or storing for sale unlawfully such liquor, under the in-
 60 dictment and form prescribed in section three of this act, and
 61 upon his conviction of selling, offering, storing or exposing for
 62 sale liquor unlawfully, the liquor found upon said premises
 63 shall at once be publicly destroyed by some responsible person
 64 to be appointed by the court.

65 That all provisions of law inconsistent with the provisions of
 66 this act be, and the same are, hereby repealed.

CHAPTER 25

(House Bill No. 534—By Mr. Butcher)

AN ACT to provide for the submission to the voters of the state of
 an amendment to the constitution of the state of West Vir-
 ginia, as follows: Amending section forty-six, article six.

[Passed March 10, 1933; in effect ninety days from passage. Became a law without
 the approval of the Governor.]

SEC.

1. Submits to the voters at the general election in one thousand nine hundred thirty-four the question of ratification or rejection of a proposed amendment to section forty-six, article six of the state constitution.
2. Name of proposed amendment.

SEC.

3. Form of ballot; how election conducted and returned.
4. Certificates of election commissioners and board of canvassers.
5. Proclamation by governor of result of election.
6. Publication of proposed amendment by governor.

Be it enacted by the Legislature of West Virginia:

Section 1. That the question of the ratification or rejection
 2 of an amendment to the constitution of the state of West Vir-
 3 ginia, proposed in accordance with the provisions of section two,
 4 article fourteen of said constitution, shall be submitted to the
 5 voters of the state at the next general election, to be held in the
 6 year one thousand nine hundred thirty-four, which proposed
 7 amendment is as follows:

8

Proposed Amendment

9 That section forty-six, article six of the constitution of the
 10 state of West Virginia, be and the same is hereby repealed and
 11 the following inserted in lieu thereof:

Section 46. The legislature shall by appropriate legislation
 2 regulate the manufacture and sale of intoxicating liquors within

3 the limits of this state, and any law authorizing the sale of such
4 liquors shall forbid and penalize the consumption and the sale
5 thereof for consumption in a saloon or other public place.

6 The foregoing amendment shall, if ratified, become effective
7 on the first day of March, one thousand nine hundred thirty-
8 five.

Sec. 2. For convenience in referring to the said proposed
2 amendment and in the preparation of the form of the ballot
3 hereinafter provided for, said proposed amendment is hereby
4 designated as follows: To be known as the "Prohibition repeal
5 amendment."

Sec. 3. For the purpose of enabling the voters of the state to vote
2 on the question of said proposed amendment to the constitution,
3 at the said general election to be held in the year one thousand
4 nine hundred thirty-four, the board of ballot commissioners of
5 each county is hereby required to place upon, and at the foot
6 of, the official ballots to be voted at said election, the following:

7 Ballot on constitutional prohibition repeal amendment,
8 amending section forty-six, article six.

9 For ratification of prohibition repeal amendment.

10 Against ratification of prohibition repeal amendment.

11 The said election on the proposed amendment, at each place of
12 voting, shall be superintended, conducted and returned, and the
13 result thereof ascertained by the same officers and in the same
14 manner as the election of officers to be voted for at said election;
15 and all of the provisions of law relating to general elections, in-
16 cluding all duties to be performed by any officer or board, as far
17 as applicable and not inconsistent with anything herein con-
18 tained, shall apply to the election held under the provisions of
19 this act, except when it is herein otherwise provided. The bal-
20 lots cast on the question of said proposed amendment shall be
21 counted as other ballots cast at said election.

Sec. 4. As soon as the result is ascertained the commissioners,
2 or a majority of them, and the canvassers (if there be any), or
3 a majority of them, at each place of voting, shall make out and
4 sign two certificates thereof in the following form or to the
5 following effect:

6 "We, the undersigned, who acted as commissioners (or can-
 7 vassers, as the case may be), of the election held at precinct
 8 No....., in the district of....., in the county of.....,
 9 on the.....day of November, one thousand nine hundred
 10 thirty-four, upon the question of the ratification or rejection of
 11 the proposed constitutional amendment to section forty-six,
 12 article six, do hereby certify that the result of said election is as
 13 follows:

14 "Amending section forty-six of article six:

15 "For ratification of prohibition repeal amendment....votes.

16 "Against ratification of prohibition repeal amendment.....
 17votes.

18 "Given under our hands this.....day of November, one
 19 thousand nine hundred thirty-four."

20
 21
 22

23 The said two certificates shall correspond with each other in
 24 all respects, and contain the full and true returns of said elec-
 25 tion at each place of voting on said question. The said com-
 26 missioners, or any one of them (or said canvassers, or any one
 27 of them, as the case may be), shall within four days, excluding
 28 Sunday, after that on which said election was held, deliver one
 29 of said certificates to the clerk of the county court of his county,
 30 together with the ballots, and the other to the clerk of the cir-
 31 cuit court of the county.

32 The said certificates, together with the ballots cast on the ques-
 33 tion of said proposed amendment, shall be laid before the com-
 34 missioners of the county court at the court house at the same
 35 time the ballots, poll books and the certificates of the election
 36 for the members of the legislature are laid before them; and as
 37 soon as the result of said election in the county upon the ques-
 38 tion of such ratification or rejection is ascertained, two certifi-
 39 cates of such result shall be made out and signed by said com-
 40 missioners, as a board of canvassers, in the following form or
 41 to the following effect:

42 "We, the board of canvassers of the county of.....,
 43 having carefully and impartially examined the returns of the

44 election held in said county, in each district thereof, on the
 45day of November, one thousand nine hundred
 46 thirty-four, do certify that the result of the election in said
 47 county, on the question of the ratification or rejection of the
 48 proposed constitutional amendment to section forty-six, article
 49 six, is as follows:

50 "For ratification of Prohibition Repeal Amendment.....
 51 votes.

52 "Against ratification of Prohibition Repeal Amendment.....
 53 votes.

54 "Given under our hands this.....day of.....,
 55 nineteen hundred thirty-four."

56
 57
 58

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

Sec. 5. On the twenty-fifth day after the election is held, or
 2 as soon thereafter as practicable, the said certificates shall be
 3 laid before the governor, whose duty it shall be to ascertain
 4 therefrom the result of said election in the state, and declare
 5 the same by proclamation published in one or more newspapers
 6 printed at the seat of government. If a majority of the votes
 7 cast at said election upon said question be for the ratification
 8 of the said amendment, the proposed amendment so ratified shall
 9 be of force and effect from and after the first day of March,
 10 one thousand nine hundred thirty-five.

Sec. 6. The governor shall cause the said proposed amend-
 2 ment, with the proper designation for the same as hereinbefore
 3 adopted, to be published one time, at least three months before
 4 such election, in some newspaper in every county in this state
 5 in which a newspaper is printed, at a price to be agreed upon in
 6 advance in writing, and the cost of such advertising shall in the
 7 first instance, if found necessary by him, be paid out of the
 8 governor's contingent fund and be afterwards repaid to such
 9 fund by appropriation of the legislature.

CHAPTER 26

(House Bill No. 110—By Mr. Randolph)

AN ACT to amend and reenact sections two, three, four, five, six and eight, article one, chapter fifty-three of the code of West Virginia, one thousand nine hundred thirty-one, relating to proceedings in prohibition and mandamus.

[Passed February 22, 1933; in effect from passage. Approved by the Governor.]

SEC.

2. Jurisdiction of writs of mandamus and prohibition; rule to show cause; peremptory writ.
3. Verified petition for writ.
4. Petition to state grounds of application.

SEC.

5. Rule to show cause; copy of petition to accompany service of; when returnable.
6. Pleadings on writ.
8. Writ peremptory.

Be it enacted by the Legislature of West Virginia:

That sections two, three, four, five, six and eight, article one, chapter fifty-three of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 2. Jurisdiction of writs of mandamus and prohibition, (except cases whereof cognizance has been taken by the supreme court of appeals or a judge thereof in vacation) shall be in the circuit court of the county in which the record or proceeding is to which the writ relates. A rule to show cause as hereinafter provided for may be issued by a judge of a circuit court or of the supreme court of appeals in vacation. A writ peremptory may be awarded by a circuit court or a judge thereof in vacation, or by the supreme court of appeals in term.

Sec. 3. Application for a writ of mandamus or a writ of prohibition shall be on verified petition.

Sec. 4. The petition shall state plainly and concisely the grounds of the application, concluding with a prayer for the writ.

Sec. 5. The court or judge to whom the petition in mandamus or prohibition is presented shall, if the petition makes a prima facie case, issue a rule against the defendant to show cause why the writ prayed for should not be awarded. A copy of the petition shall accompany service of the rule. Such rule shall be returnable at a time to be fixed by the court or judge.

Sec. 6. If the defendant appear and make defense, such defense may be by demurrer, or answer on oath, to the petition, or both, such answer to be subject to demurrer by the petitioner

4 or relator. Reply may be made when proper. The court or
5 judge may permit amendments as in other cases.

Sec. 8. The writ peremptory shall be awarded or denied ac-
2 cording to the law and facts of the case, and with or without
3 costs, as the court or judge may determine.

CHAPTER 27

(Senate Bill No. 61—By Mr. White, of Hampshire)

AN ACT relating to alimony and maintenance for wives and re-
quiring certain facts and conditions to be considered by courts
and judges in fixing or rejecting the same.

[Passed March 6, 1933; in effect ninety days from passage. Became a law without
the approval of the Governor.]

SEC.

1. Facts to be considered by judges
and courts in fixing amount of
alimony, support or maintenance

SEC.

to be paid by a husband to his
wife.

Be it enacted by the Legislature of West Virginia:

Section 1. That all judges and courts of this state, called
2 upon to fix, ascertain and determine an amount as alimony,
3 support or maintenance to be paid by a husband to his wife or
4 to modify any decree or order pertaining thereto, shall take
5 into consideration, among other things, the financial needs of
6 the wife, the earnings and earning ability of the husband and
7 wife, the estate, real and personal, and the extent thereof as
8 well as the income derived therefrom of both the husband and
9 wife and shall allow, or deny, alimony or maintenance or mod-
10 ify any former decree with relation thereto, in accordance with
11 the principles of equity and justice.

12 All acts and parts of acts in conflict with this act or any part
13 hereof are hereby repealed.

CHAPTER 28

(Senate Bill No. 124—By Mr. Sandridge)

AN ACT to amend and reenact section nine, article two, chapter fifty-four of the code of West Virginia, one thousand nine hundred thirty-one, relating to report of commissioners in condemnation cases and the elements of damages to be allowed.

[Passed March 11, 1933; in effect ninety days from passage. Became a law without the approval of the Governor.]

<p>SEC. 9. Ascertainment and report of damages by commissioners in condemnation cases; when no dam-</p>		<p>SEC. ages ascertained for farm crossings, fences and cattle guards.</p>
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Be it enacted by the Legislature of West Virginia:

That section nine, article two, chapter fifty-four of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows:

Section 9. The commissioners, after viewing the property 2 and hearing any proper evidence which is offered shall ascer- 3 tain what will be a just compensation to the person entitled 4 thereto for so much thereof as is proposed to be taken, or for 5 the interest therein, if less than a fee, and for damage to the 6 residue of the tract beyond all benefits to be derived, in re- 7 spect to such residue, from the work to be constructed, or the 8 purpose to which the land to be taken is to be appropriated, 9 including, when less than the fee is taken, the actual damage, 10 if any, done, or that may be done, to the fee by such construc- 11 tion, and make report to the following effect: We, the commis- 12 sioners, appointed by the circuit court of county, 13 (or by the judge thereof in vacation, as the case may be) by 14 an order made on the..... day of..... 15 on the application of....., respectfully 16 report, that having first been duly sworn, we have viewed the 17 real estate owned by....., mentioned 18 in the said application, and are of opinion that..... 19 dollars will be a just compensation for so much of the said 20 real estate as is proposed to be taken by the said applicant, 21 that is to say: (here describe the part to be taken, and the 22 interest therein, if less than a fee, so as to identify the same 23 with reasonable certainty, which description may be supple-

24 mented by reference to a plat annexed to the report, or in any
 25 manner that would be sufficient in a conveyance) as well as
 26 for damages to the residue of the said real estate beyond all
 27 benefits which will be derived in respect to such residue from
 28 the work to be constructed (or from the purposes to which the
 29 part to be taken by said applicant is to be appropriated).
 30 Given under our hands this.....day of.....

31 But if the property is proposed to be taken by a company
 32 incorporated for the construction of a railroad, no damages
 33 shall be ascertained for the construction of any farm crossings,
 34 fences, or cattle guards, or for keeping the same in repair.
 35 The report shall be signed by at least three of the commis-
 36 sioners, and forthwith returned to the clerk's office of the
 37 court, to be filed with the papers of the case.

CHAPTER 29

(Senate Bill No. 133—By Mr. White, of Hampshire)

AN ACT to amend and reenact section three, article seven, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, relating to unlawful distraining.

[Passed March 11, 1933; In effect from passage. Became a law without the approval of the Governor.]

SEC.

3. Recovery of damages when property wrongfully seized or sold

SEC.

under distraint or attachment.

Be it enacted by the Legislature of West Virginia:

That section three, article seven, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows:

Section 3. If property be distrained for any rent not due, 2 or attached for any rent not accruing, or taken under any at- 3 tachment sued out without good cause, the owner of such prop- 4 erty may, in an action against the party suing out the warrant 5 of distress or attachment, recover damages for the wrongful 6 seizure, and also, if the property be sold, for the sale 7 thereof.

CHAPTER 30

(Senate Bill No. 134—By Mr. White, of Hampshire)

AN ACT to amend and reenact section two, article two, chapter fifty-three of the code of West Virginia, one thousand nine hundred thirty-one, relating to venue for a quo warranto proceeding.

[Passed March 11, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

2. Venue of writ of quo warranto.

Be it enacted by the Legislature of West Virginia:

That section two, article two, chapter fifty-three of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows:

Section 2. Whenever the attorney general or prosecuting attorney of any county is satisfied that a cause exists therefor he may, at his own instance, or at the relation of any person interested, apply by petition to the circuit court, or the judge thereof in vacation, of the county wherein the seat of government is, or of the county wherein the cause, or any part thereof, for the issuing of such writ arose, to have such writ issued, and shall state therein the reason therefor. Whenever such writ is issued at the relation of any person, the petition shall be to the circuit court, or the judge thereof in vacation, of the county wherein the seat of government is, or of the county wherein the cause, or any part thereof, for the issuing of such writ arose, as the relator may elect. Any such writ may be awarded either by the circuit court or by the judge thereof in vacation.

CHAPTER 31

(Senate Bill No. 135—By Mr. White, of Hampshire)

AN ACT to amend and reenact section one, article one, chapter forty of the code of West Virginia, one thousand nine hundred thirty-one, relating to acts void as to creditors, purchasers and others and exceptions thereto.

[Passed March 11, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Acts void as to creditors, purchasers and others. |

Be it enacted by the Legislature of West Virginia:

That section one, article one, chapter forty of the code of West Virginia one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows:

Section 1. Every gift, conveyance, assignment, or transfer of, or charge upon, any estate, real or personal, every suit commenced, or decree, judgment, or execution suffered or obtained, and every bond or other writing given, with intent to delay, hinder, or defraud creditors, purchasers, or other persons, of or from what they are or may be lawfully entitled to, shall as to such creditors, purchasers, or other persons, their representatives or assigns, be void. This section shall not affect the title of a purchaser for valuable consideration, unless it appear that he had notice of the fraudulent intent of his immediate grantor, or of the fraud rendering void the title of such grantor.

CHAPTER 32

(Senate Bill No. 136—By Mr. White, of Hampshire)

AN ACT to amend and reenact section twelve, article one, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to bond of trustee appointed by court to execute provisions of trust.

[Passed March 11, 1933; in effect from passage. Became a law without the approval of the Governor.]

<p>Sec. 12. Bond of trustee appointed by court,</p>		<p>Sec. amount, approval, condition of and filing.</p>
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Be it enacted by the Legislature of West Virginia:

That section twelve, article one, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows:

Section 12. Of a trustee appointed by the court under the provisions of section ten of this article bond shall be required in the penalty of at least the full value of the property which may come into his hands, which bond may be given before and approved by such court or judge, or be given before and approved by the clerk of the county court of such county, upon the order of such circuit court or judge, and shall be filed by such clerk in his office, and recorded as provided in section eleven of this article, and shall be with like condition as the bond given by a trustee named in the trust deed.

CHAPTER 33

(Senate Bill No. 137—By Mr. White, of Hampshire)

AN ACT to amend and reenact section eight, article four, chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, relating to a covenant of further assurances by grantor in deed for land.

[Passed March 11, 1933; in effect from passage. Became a law without the approval of the Governor.]

<p>Sec. 8. Effect of covenant of further assur-</p>		<p>Sec. ances by grantor in a deed for land.</p>
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Be it enacted by the Legislature of West Virginia:

That section eight, article four, chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows:

Section 8. A covenant by a grantor in a deed for land "that he will execute such further assurances of the said lands as may be requisite," or a covenant of like import, shall have the same effect as if he covenanted that he, the grantor, his heirs or personal representatives, will, at any time, upon any reasonable request, at the expense of the grantee, his heirs or assigns, do, execute, or cause to be done or executed, all such further acts, deeds and things, for the better, more perfectly and absolutely conveying and assuring the said lands and premises hereby conveyed or intended so to be, unto the grantee, his heirs and assigns, in manner aforesaid, as by the grantee, his heirs or assigns, his or their counsel in the law, shall be reasonably advised, or required.

CHAPTER 34

(Senate Bill No. 170—By Mr. Taylor)

AN ACT to amend and reenact section eight, article one, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to sales under trust deeds and requiring reports thereof to be made to the circuit court.

[Passed March 11, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

8. Trustee selling property under trust deed, except under a decree, to file petitions with circuit court for confirmation of sale; action on petition; no transfer of title

SEC.

until directed by court; entry of orders in chancery order book; costs; notice of time and place of filing report, if in vacation.

Be it enacted by the Legislature of West Virginia:

That section eight, article one, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, be and the same is hereby amended and reenacted to read as follows:

Section 8. When a sale of property is made under any trust deed, otherwise than under a decree, the trustee shall promptly thereafter file his petition with his written report of sale to the circuit court of the county in which such sale shall have been made, or the judge thereof in vacation, praying for a confirmation of such sale, and in case the court or judge shall be satisfied that said sale was in all respects regular and that the sale price reported is reasonably adequate under all the circumstances, he shall confirm such sale; otherwise the court or judge

10 shall have discretion to direct a resale or resales, under such
 11 terms or conditions as may be deemed just, to the end that a
 12 reasonably adequate price shall be obtained, and in determining
 13 all questions in respect to adequacy of price, the court or judge
 14 may consider the appraisement of the property, and as well
 15 affidavits filed pro and con and all evidence taken upon the in-
 16 quiry. The trustee shall make no conveyance or transfer title
 17 to the property, until directed to do so by the court or judge:
 18 *Provided, however,* That in the case of real property, the pro-
 19 visions of article thirteen of this chapter shall be followed. All
 20 decrees and orders entered in respect to such report of sale
 21 shall be entered upon the chancery order book and properly
 22 indexed in the name of the grantor in said trust deed, with the
 23 addition of the words "trust deed". The taxable cost of such
 24 proceeding shall be only that prescribed by law for filing re-
 25 ports and entering orders and decrees, and shall be payable as
 26 other costs of executing the trust. Such report may be made
 27 and filed in the vacation of the court, but in such case the trus-
 28 tee shall by public proclamation at the time of sale give notice
 29 of the time and place at which the report will be so made.

CHAPTER 35

(Senate Bill No. 37—By Mr. Belknap)

AN ACT to amend and reenact section fourteen-(a)-one, chapter sixty-nine, acts of one thousand nine hundred twenty-nine, relative to the extension of time given sheriffs for the collection of taxes.

[Passed March 8, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.

14-(a)-1. Extension of time for collection of taxes for the years one thousand nine hundred twenty-nine, one thousand nine hundred thirty, one thousand nine hundred thirty-one and one thousand

Sec.

nine hundred thirty-two, not returned delinquent: by suit or distraint; collection when person against whom assessments were made has moved to another county.

Be it enacted by the Legislature of West Virginia:

That section fourteen-(a)-one, chapter sixty-nine, acts of the legislature of one thousand nine hundred twenty-nine be amended and reenacted so as to read as follows:

Section 14-(a)-1. The sheriffs of the several counties of
 2 the state of West Virginia whose term of office expired on the
 3 thirty-first day of December, one thousand nine hundred thirty-
 4 two, shall be allowed until the thirty-first day of December,
 5 one thousand nine hundred thirty-three, within which to make
 6 distraint and sale for the collection of taxes, with interest there-

7 on, and costs of collection, not returned delinquent for the
 8 years one thousand nine hundred twenty-nine, one thousand
 9 nine hundred thirty, one thousand nine hundred thirty-one, and
 10 one thousand nine hundred thirty-two, and the said sheriffs
 11 and their deputies and the constables of their respective coun-
 12 ties are empowered to collect the said taxes, either by suit or by
 13 making distraint and sale of the property of the persons against
 14 whom such assessment for taxes were made for the years one
 15 thousand nine hundred twenty-nine, one thousand nine hun-
 16 dred thirty, one thousand nine hundred thirty-one and one
 17 thousand nine hundred thirty-two, and for which taxes have
 18 not been returned delinquent for those years; and in case any
 19 such person against whom such assessments were made for those
 20 years has removed or shall remove to another county, the said
 21 sheriff and his deputies are authorized to make distraint and
 22 sale in such county to which any such person has removed or
 23 shall remove. Such sheriff may send a statement of the taxes
 24 due from any such person who has removed to another county
 25 to the sheriff of the county to which he or she has removed, and
 26 the sheriff of that county is authorized and empowered to make
 27 levy and collection of said taxes as on assessments made in his
 28 own county.

CHAPTER 36

(House Bill No. 112—By Mr. Holt)

AN ACT requiring licenses for the operation, maintenance, opening or establishment of stores in this state, prescribing the license and filing fees to be paid therefor, and the disposition thereof, and the powers and duties of the state tax commissioner in connection therewith, and prescribing penalties for the violation thereof.

[Passed March 8, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.	SEC.
1. Unlawful to operate store without license so to do.	8. Definition of store.
2. Form of application for license; separate application for each store; filing fee.	9. Penalty for violation of act.
3. When application to be returned; granting and display of license.	10. Cost of administration of act to be paid from fees; money collected to be paid monthly into state treasury for fund for elementary schools.
4. Expiration and renewal of license; when license shall lapse; filing fee for renewal license.	11. Injunction against collection of license tax not to issue; payment under protest.
5. Amount of annual license fee.	12. Provisions of act are several; if any part invalid, remaining part not affected.
6. License fee for part year.	
7. To whom act applies.	

Be it enacted by the Legislature of West Virginia:

Section 1. It shall be unlawful for any person, firm, cor-

2 poration, association or copartnership, either foreign or domes-
3 tic, to operate, maintain, open or establish any store in this
4 state without first having obtained a license so to do from the
5 state tax commissioner, as hereinafter provided.

Sec. 2. Any person, firm, corporation, association or co-
2 partnership desiring to operate, maintain, open or establish a
3 store in this state, shall apply to the state tax commissioner for
4 a license so to do. The application for a license shall be made
5 on a form which shall be prescribed and furnished by the state
6 tax commissioner, and shall set forth the name of the owner,
7 manager, trustee, lessee, receiver or other person desiring such
8 license, the name of such store, and such other facts as the state
9 tax commissioner may require. If the applicant desires to
10 operate, maintain, open or establish more than one such store,
11 he shall make a separate application for a license to operate,
12 maintain, open or establish each such store, but the respective
13 stores for which the applicant desires to secure licenses may
14 all be listed on one application blank. Each such application
15 shall be accompanied by a filing fee of fifty cents, and by the
16 license fee as prescribed in section five of this act.

Sec. 3. As soon as practicable after the receipt of any such
2 application, the state tax commissioner shall carefully examine
3 such application to ascertain whether it is in proper form and
4 contains the necessary and requisite information. If, upon ex-
5 amination, the state tax commissioner shall find that any such
6 application is not in proper form and does not contain the
7 necessary and requisite information, he shall return such ap-
8 plication for correction. If an application is found to be satis-
9 factory, and if the filing and license fees, as herein prescribed,
10 shall have been paid, the state tax commissioner shall issue to
11 the applicant a license for each store for which an application
12 for license shall have been made. Each licensee shall display
13 the license so issued in a conspicuous place in the store for which
14 such license is issued.

Sec. 4. All licenses shall be so issued as to expire on the
2 thirty-first day of December of each calendar year. On or
3 before the first day of January of each year, every person, firm,
4 corporation, association or copartnership having a license shall
5 apply to the state tax commissioner for a renewal license for

6 the calendar year next ensuing. All applications for renewal
7 licenses shall be made on forms which shall be prescribed and
8 furnished by the state tax commissioner. No license shall lapse
9 prior to the thirty-first day of January of the year next follow-
10 ing the year for which such license was issued; if a renewal
11 license has not been made, the state tax commissioner shall
12 notify such delinquent license holder thereof, by registered
13 mail, and if application is not made for and a renewal license
14 issued on or before the last day of February, next ensuing, the
15 former license shall lapse and become null and void. Each
16 such application for a renewal license shall be accompanied by
17 a filing fee of fifty cents, and by the license fee as prescribed
18 in section five of this act.

Sec. 5. Every person, firm, corporation, association or co-
2 partnership opening, establishing, operating, maintaining one or
3 more stores or mercantile establishments within this state under
4 the same general management, supervision or ownership, shall
5 pay the license fees hereinafter prescribed for the privilege of
6 opening, establishing, operating or maintaining such stores or
7 mercantile establishments. The annual license fee prescribed
8 herein shall be as follows: (1) Upon one store, the annual li-
9 cense fee shall be two dollars for each such store; (2) upon two
10 stores, or more, but not to exceed five stores, the annual license
11 fee shall be five dollars for each such additional store; (3) upon
12 six stores or more, but not to exceed ten stores, the annual license
13 fee shall be ten dollars for each such additional store; (4) upon
14 each store in excess of ten, but not to exceed fifteen, the annual
15 license fee shall be twenty dollars for each such additional store;
16 (5) upon each store in excess of fifteen and not to exceed twenty
17 stores, the annual license fee shall be thirty dollars for each such
18 additional store; (6) upon each store in excess of twenty, but
19 not to exceed thirty stores, the annual license fee shall be thirty-
20 five dollars for each such additional store; (7) upon each store
21 in excess of thirty, but not to exceed fifty stores, the annual
22 license fee shall be one hundred dollars; (8) upon each store in
23 excess of fifty, but not to exceed seventy-five stores, the annual
24 license fee shall be two hundred dollars; (9) upon each store in
25 excess of seventy-five, the annual license fee shall be two hundred
26 fifty dollars for each additional store.

Sec. 6. Each and every license issued prior to the first day

2 of July of any year shall be charged for at the full rate, and
3 each and every license issued on or after the first day of July
4 of any year shall be charged for at one-half of the full rate, as
5 prescribed in section five of this act.

Sec. 7. The provisions of this act shall be construed to
2 apply to every person, firm, corporation, copartnership or asso-
3 ciation, either domestic or foreign, which is controlled or held
4 with others by majority stock ownership or ultimately con-
5 trolled or directed by one management or association of ulti-
6 mate management.

Sec. 8. The term "store" as used in this act shall be con-
2 strued to mean and include any store or stores or any mercantile
3 establishment or establishments which are owned, operated, main-
4 tained and/or controlled by the same person, firm, corporation,
5 copartnership or association, either domestic or foreign, in
6 which goods, wares or merchandise of any kind, are sold, either
7 at retail or wholesale.

Sec. 9. Any person, firm, corporation, copartnership or
2 association who shall violate any of the provisions of this act
3 shall be deemed guilty of a misdemeanor and upon conviction
4 thereof shall be fined in any sum not less than twenty-five
5 dollars nor more than one hundred dollars, and each and every
6 day that such violation shall continue shall constitute a separate
7 and distinct offense.

Sec. 10. Any and all expenses incurred by the state tax
2 commissioner in the administration of this act shall be paid out
3 of the funds accruing from the fees imposed by and collected
4 under the provisions of this act. All money collected under the
5 provisions of this act shall be paid into the state treasury,
6 monthly, by the state tax commissioner, and shall be added to
7 and shall constitute a part of the general fund for the elementary
8 schools.

Sec. 11. No injunction shall issue from any court in this
2 state enjoining the collection of any license tax provided herein,
3 but the party claiming that any license is not due, for any rea-
4 son, shall pay the same under protest with the right to collect
5 the same from the state tax commissioner by an appropriate
6 remedy as provided by law.

Sec. 12. The provisions of this act are several, and if any

2 section, provision, word or clause of this act be declared invalid,
 3 the decision of the court shall not affect or impair any of the
 4 remaining provisions of this act. It is hereby declared as a
 5 legislative intent that this act would have been adopted had such
 6 invalid portion not been included herein.

CHAPTER 37

(Com. Sub. for House Bill No. 119—Originating in the Committee on
 the Judiciary)

AN ACT to amend and reenact section ten, article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to the assessment of taxes, the failure to list property for taxation, the failure to make oath or answer and proceedings on default.

[Passed March 8, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.

10. Penalty for failure or refusal to list property for taxation, make oath to same, etc., for what years forfeiture enforced, exception; by whom and how forfeiture collected; taxation and disposition of prosecuting attorney's fee for

Sec.

sult; disposition of amount of forfeiture collected; when discrepancy between appraised estate of decedent and last assessment list decedent; if any part of act invalid, remainder not affected.

Be it enacted by the Legislature of West Virginia:

That section ten, article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 10. If any person whose duty it is by law to list any
 2 real estate or personal property for taxation, shall refuse to
 3 furnish a proper list thereof, or refuse to furnish a list within
 4 the time required by law, or to make such oath as required by
 5 this chapter; or if any person refuse to answer or answer un-
 6 truly any question asked him by the assessor, or fail or refuse
 7 to deliver any statement required by law, he shall forfeit not less
 8 than twenty-five nor more than one hundred dollars, and shall
 9 be denied all remedy provided by law for the correction of any
 10 assessment made by the assessor. If any person, firm or corpo-
 11 ration, including public service corporations, required by law

12 to make return of property for taxation, whether such return
13 is to be made to the assessor, the board of public works, or any
14 other assessing officer or body, fails to return a true list of all
15 property which should be assessed in this state, including
16 money, notes, bonds, bills and accounts receivable, stocks and
17 any other intangible personal property, such person, firm or
18 corporation, in addition to all other penalties provided by law,
19 shall forfeit five per cent of the value of the property not re-
20 turned and not otherwise taxed in this state. A forfeiture as to
21 all property aforesaid may be enforced for any such default
22 occurring in any year not exceeding five prior to the time the
23 same is discovered but no liability to penalty or forfeiture as to
24 moneys, notes, bonds, bills, and accounts receivable, stocks and
25 other intangible personal property arising prior to the first day
26 of January nineteen hundred thirty-three shall be enforceable
27 on behalf of the state or of any of its subdivisions. Each failure
28 to make a true return as herein required shall constitute a sepa-
29 rate offense, and a forfeiture shall apply to each of them, but
30 all such forfeitures, to which the same person, firm or corpora-
31 tion is liable, shall be enforced in one proceeding against such
32 person, firm or corporation, or against the estate of any deceased
33 person, and shall not exceed twenty-five per cent of the value
34 of the property not returned. The state tax commissioner shall
35 collect such forfeitures without suit, but if unable so to do, shall
36 instruct the prosecuting attorney of the county in which the
37 defaulting taxpayer resides or has its principal office, or in
38 which such property should have been returned for taxation to
39 enforce collection. It shall thereupon be the duty of the prose-
40 cuting attorney to institute and prosecute proceedings in the
41 name of the State of West Virginia against the defaulting tax-
42 payer, or, in case of a decedent, his personal representative,
43 in the circuit court upon motion, whereof the defendant shall
44 have at least twenty days' notice. Either party shall have the
45 right to have the issue tried by jury, and the state, as well as the
46 defendant, shall have the right to an appeal. Ten per cent of
47 the amount collected and an attorney's fee of ten dollars to be
48 taxed as a part of the cost shall be collected and paid over by
49 the prosecuting attorney to the sheriff of the county and by him
50 credited to the general county fund. No special counsel shall

51 be employed to institute or conduct such suits. Any prosecuting
52 attorney failing or refusing to perform the duties required of
53 him by this section shall forfeit the sum of one hundred dol-
54 lars, to be recovered against him by the state tax commissioner
55 in the name of the State of West Virginia upon twenty days'
56 notice by motion in any court having jurisdiction. The amount
57 collected in any such suit after deducting ten per cent as afore-
58 said, or the entire sum if collected by the tax commissioner
59 without suit, shall be paid over to the sheriff of the proper
60 county and his receipt taken therefor. The sheriff shall appor-
61 tion such fund among the state, county, district, school district,
62 and municipalities which would have been entitled to the taxes
63 upon such property if it had been assessed, in proportion to the
64 rates of taxation for each such levying unit for the year in
65 which the judgment was obtained bears to the sum of the rates
66 for all. When the list of property returned by the appraisers
67 of the estate of any deceased person shows an amount greater
68 than the last assessment list of such deceased person next pre-
69 ceding the appraisal of his estate, it shall be prima facie evi-
70 dence that such deceased person returned an imperfect list of
71 his property: *Provided, however,* That any person liable for
72 the tax of his personal representative, may always be permitted
73 to prove by competent evidence that the discrepancy between
74 such assessment list and the appraisal of the estate is caused by
75 a difference of valuation returned by the assessor and that made
76 by the appraisers of the same property or by property acquired
77 after assessment, or that any property enumerated in the ap-
78 praiser's list had been otherwise listed for taxation, or that it
79 was not liable for taxation. Any judgment recovered under
80 this section shall be a lien, from the time of the service of the
81 notice, upon all real estate and personal property of such de-
82 faulting taxpayer, owned at the time or subsequently acquired,
83 in preference to any other lien.

84 If any sentence, clause or phrase of this act shall for any
85 reason be held unconstitutional, the validity of the remaining
86 phrases, clauses and sentences of this act shall not be affected
87 thereby.

CHAPTER 38

(House Bill No. 314—By Mr. Norton)

AN ACT to amend sections one to fifteen, inclusive, article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, by substituting therefor, sections one to twenty-six, inclusive, relating to tax levies.

[Passed March 11, 1933; in effect from passage. Approved by the Governor.]

SEC.	SEC.
1. Purpose of article to provide reasonable and effective rates for taxation of property and to interpret tax limitation amendment.	12. To whom certified copy of order for levies to be sent.
2. Definition of terms.	13. What itemized statement of local levying body at first August session for levy to meet now-existing indebtedness to show; certification and publication of statement; recordation of estimate and laying of levy of second August session.
3. Amount and appointment of state levy; transfer from state fund to general school fund; imposition of levy certified to certain county officials and levy extended on property books; state levy for year one thousand nine hundred thirty-three.	14. Certification, extension and collection of levy for now-existing indebtedness.
4. Division of property into four classes for purpose of local levies.	15. Petition of qualified voters for additional levies; what order of local levying body to show; election on; percentage of votes required to authorize; amount and duration of additional levies.
5. Aggregate of taxes assessed on each class of property.	16. Publication and posting of notice of election; form of ballot.
6. First August session of local levying body.	17. Tax commissioner to furnish forms for statements; attorney general to furnish forms for holding election.
7. What itemized statement of county court at first August session to show; statement to be sent to tax commissioner and published; at second August session court to hear objections and correct estimate and levy and approve same, or approve without correction; amount of levy on different classes.	18. When writ of supersedeas, on petition to circuit court, to order for levy, may be allowed; new levy before or after decision on writ; return of money collected under rescinded levy.
8. To whom order for levy certified by clerk; extension and collection of levies; delinquencies.	19. Funds to be expended only for purposes for which raised.
9. What itemized statement of board of education at first August session to show; statement to be sent to tax commissioner and published; procedure at second August session; amount of levies on different classes.	20. Limitation on expenditures or obligations of local fiscal body.
10. Certified orders for levies to be certified to tax commissioner and county superintendent; to whom county superintendent reports rates of levy and total value of each class of property; extension and collection of taxes.	21. When indebtedness, contracts, or drafts void.
11. What itemized statement of municipal council at first August session to show; statement to be sent to tax commissioner and published; procedure at second August session; amount of levies on different classes.	22. Suit by fiscal body to recover money unlawfully expended or to cancel obligation.
	23. Personal liability of official willfully participating in violation of section nineteen for money illegally expended.
	24. Who may sue official willfully participating in illegal expenditure; disposition of money recovered in suit; costs.
	25. Penalty for official willfully violating provisions of article.
	26. Court proceeding for removal of official willfully or negligently violating provisions of article; pleadings.
	27. Unconstitutionality of part of act not to affect validity of remaining portions.

Be it enacted by the Legislature of West Virginia:

That sections one to fifteen, inclusive, article eight, chapter

*See chapter fourteen, acts of the extraordinary session 1933, in this volume.

eleven of the code of West Virginia, one thousand nine hundred thirty-one, be amended to read as follows:

ARTICLE VIII.

Section 1. The purpose of this article is to provide reasonable and effective rates for the taxation of real and personal property. It is the intent of the legislature that the "tax limitation amendment" shall be interpreted through this article to give full effect to the expressed and well understood purposes of the voters; namely, to secure

(1) A fair classification of property that will promote and encourage home ownership, agriculture and business enterprise;

(2) A limitation on direct levies that will relieve property of oppressive tax burdens without: (a) jeopardizing the services essential to public safety; (b) undermining the integrity of local credit; (c) impairing the obligation of contracts; or (d) denying to the taxpayers the equal protection of the law.

Sec. 2. To accomplish the purposes as set forth in section one, the "tax limitation amendment" and this article shall be interpreted in accordance with the following principles and definitions:

(1) The phrase "aggregate of taxes assessed" shall mean the total amount levied by local levying bodies under each maximum rate on each classification of property as hereinafter defined in sections four and five of this article, for the maintenance of the local unit and the payment of the local debts, except as may be necessary to avoid the impairment of the obligation of contracts;

(2) "Local levies" shall include all levies imposed by the local levying bodies;

(3) "Now-existing indebtedness" shall mean the indebtedness of the state or its political subdivisions contracted prior to the ratification of the "tax limitation amendment;"

(4) "Subsequent indebtedness" shall mean the indebtedness of the state or its political subdivisions contracted after the ratification of the "tax limitation amendment;"

(5) "Local levying body" or "fiscal body" shall mean a county court, board of education, or governing body of a municipal corporation.

Sec. 3. The state levy, other than for now-existing indebtedness, shall be as follows; not to exceed one cent on the one hundred dollars' valuation on all real and personal property for

4 state and state school taxes. The board of public works shall,
5 when it finds that no state levy is necessary for any year, so
6 declare, and refrain from imposing the levy for that year. The
7 board may apportion the levy between the state fund and the
8 general school fund. If the amount of the general school fund
9 in any year is less than seven hundred fifty thousand dollars,
10 the board of public works shall transfer from the state fund
11 an amount necessary to make the general school fund at least
12 seven hundred fifty thousand dollars. Any act of the board of
13 public works in imposing the levy shall be certified by the presi-
14 dent and secretary of the board not later than the first day of
15 August of the year for which the levy applies, to the clerk of the
16 county court, the assessor and the sheriff of each county.

17 The proper officer shall extend the levy on the property books
18 of his county.

19 For the fiscal year one thousand nine hundred thirty-three,
20 the maximum state levy for state and state school purposes
21 shall not exceed ten cents on the one hundred dollars' valuation.

Sec. 4. For the purpose of local levies, except as provided
2 in section thirteen of this article, property shall be classified as
3 follows:

4 Class I. All tangible personal property employed
5 exclusively in agriculture, including horticulture and
6 grazing;

7 All products of agriculture (including livestock)
8 while owned by the producer;

9 All money and all notes, bonds, bills and accounts re-
10 ceivable, stocks and any other intangible personal prop-
11 erty;

12 Class II. All property owned, used and occupied by
13 the owner exclusively for residential purposes;

14 All farms, including land used for horticulture and
15 grazing, occupied and cultivated by their owners or
16 bona fide tenants;

17 Class III. All real and personal property situated
18 outside of municipalities, exclusive of classes I and II.

19 Class IV. All real and personal property situated
20 inside of municipalities, exclusive of Classes I and II.

Sec. 5. The aggregate of taxes assessed in any one year shall
2 not exceed fifty cents on each one hundred dollars' assessed
3 valuation on class I property; one dollar on class II property;

4 one dollar fifty cents on class III property; and two dollars
5 on class IV property.

Sec. 6. Each local levying body shall hold a session on the
2 first Tuesday in August for the transaction of business gen-
3 erally, and particularly for the business herein required.

Sec. 7. The county court shall, at the session provided for
2 in section six of this article, ascertain the fiscal condition of
3 the county, and make an itemized statement which shall set
4 forth:

5 (1) The amount due and the amount that will become due
6 and collectible from every source during the current fiscal year
7 except from the levy of taxes to be made for the year upon the
8 county as a whole and upon any district of the county;

9 (2) Debts legally incurred subsequent to the ratification of
10 the "tax limitation amendment" owed by the county as a whole
11 and such debts payable out of any fund of any district, includ-
12 ing such debts that will become due and payable during the
13 year by the county as a whole or out of the funds of any dis-
14 trict, including interest on indebtedness, funded or bonded, or
15 otherwise;

16 (3) All other expenditures to be paid out of the levy for the
17 current fiscal year, whether by the county as a whole or out of
18 any fund of any district, with proper allowance for delinquent
19 taxes, exonerations and contingencies;

20 (4) The total amount necessary to be raised for each fund
21 by the levy of taxes for the current year;

22 (5) The proposed county levy in cents on each one hun-
23 dred dollars' assessed valuation of each class of property for
24 the county and its subdivisions;

25 (6) The proposed levy in each district for district funds,
26 if any, on each hundred dollars' valuation of each class of
27 property;

28 (7) The separate and aggregate amounts of the real, per-
29 sonal, and public utility property in each class in the county
30 and in each subdivision thereof.

31 A copy of the statement duly certified by the clerk of the
32 court shall be forwarded to the tax commissioner, and shall
33 be published twice, at least one week intervening between publi-
34 cations, in two newspapers published in the county, of general
35 circulation and of opposite politics. If there is only one news-

36 paper published in the county, the publication shall be made
37 therein.

38 The session shall then stand adjourned until the third Tues-
39 day in August, at which time it shall reconvene. The court shall
40 then hear and consider any objections made orally or in writing
41 by the prosecuting attorney, by the tax commissioner or his
42 representative, or by any taxpayer of the county, to the esti-
43 mate and proposed levy or to any item thereof. The court shall
44 enter of record any objections so made and the reasons and
45 grounds for such objections.

46 The failure of any officer or taxpayer to offer objections shall
47 not preclude him from pursuing any legal remedy necessary
48 to correct any levy made by any fiscal body under this article.

49 The court, after hearing objections, shall reconsider the pro-
50 posed original estimate and proposed rate of levy, and if the
51 objections are well taken, shall correct the estimate and levy.
52 The court shall then approve the estimate and levy. Thereupon
53 the clerk shall enter the estimate and levy, together with the
54 order approving them, in the proper record book.

55 The county court shall then levy as many cents per hun-
56 dred dollars' assessed valuation on each class of property in the
57 county or its subdivisions, according to the last assessment, as
58 will produce the amounts shown to be necessary by the state-
59 ment. The levy for all county purposes authorized by law, shall
60 not exceed, on class I property nine and four-tenths cents; on
61 class II property eighteen and seven-tenths cents; on class III
62 and on class IV property thirty-seven and five-tenths cents.

63 When less than the maximum levies are imposed, the levies
64 upon each class of property shall be in the same proportions
65 as the maximum herein authorized.

Sec. 8. When an order is made for a levy the clerk of the
2 court, within three days, shall prepare, certify and forward
3 copies to the tax commissioner, the state auditor, the assessor
4 and the officer who, according to law, is required to collect the
5 levy. He shall charge the collecting officer with the amount of
6 the levy in the proper account book. The assessor shall im-
7 mediately extend the taxes in the land and personal property
8 books. The officer who is required to collect the levy shall make
9 out proper tax bills. County levies shall be collected by the
10 sheriff at the same time, in the same manner, and under the
11 same regulations as other taxes are collected. Delinquent lists

12 for county levies shall be returned and delinquent lands sold
13 for county levies in the same manner and at the same place and
14 under the same regulations that lands returned delinquent for
15 state taxes are returned and sold.

Sec. 9. Every board of education shall, at the session provided
2 for in section six of this article, if the laying of a levy has been
3 authorized by the voters of the district under article nine,
4 chapter eighteen of the code, ascertain the condition of the
5 fiscal affairs of the district, distinguishing between elementary
6 and high schools and the funds provided for each, and make a
7 statement setting forth:

8 (1) The separate amounts due the various funds, and the
9 amounts that will become due and collectible during the cur-
10 rent fiscal year except from the levy of taxes to be made for
11 the year;

12 (2) Debts legally incurred, subsequent to the ratification of
13 the "tax limitation amendment," and such debts that will be-
14 come due and payable during the current fiscal year, including
15 interest on indebtedness, funded, bonded, or otherwise;

16 (3) All other expenditures to be paid out of the levy for the
17 current fiscal year, with proper allowances for delinquent taxes,
18 exonerations and contingencies;

19 (4) The separate amount necessary for each fund and the
20 total to be raised by the levy of taxes for the current fiscal
21 year;

22 (5) The proposed rate of levy in cents on each one hundred
23 dollars' assessed valuation of each class of property;

24 (6) The separate and aggregate amounts of the assessed
25 valuation of real, personal, and public utility property within
26 each class.

27 The secretary of the board shall forward immediately, a
28 certified copy of the statement to the tax commissioner and
29 shall publish the statement in a manner similar to that pro-
30 vided in section seven of this article.

31 The session shall then stand adjourned until the third
32 Tuesday in August, at which time it shall reconvene and pro-
33 ceed in a manner similar in all respects to that provided in
34 section seven of this article.

35 The board, after entering the statement as finally approved,
36 in its record of proceedings, shall levy as many cents on each

37 one hundred dollars' assessed valuation of each class of prop-
38 erty as will produce the amount necessary for defraying the
39 expenses for the fiscal year. These levies shall not exceed, on
40 class I property twenty-eight and one-tenth cents; on class
41 II property, fifty-six and three-tenths cents; on class III and
42 on class IV property, one hundred twelve and five-tenths
43 cents.

44 When less than the maximum levies are imposed, the levies
45 upon each class of property shall be in the same proportions as
46 the maximums herein authorized.

Sec. 10. Within three days after the board of education
2 has laid the levies, the secretary of the board shall forward
3 to the county superintendent and to the tax commissioner,
4 certified copies of the orders laying levies and the rate of levy
5 upon each class. Within three days thereafter the county
6 superintendent shall report the rate of levy for each of the
7 various classes and the total value of real, personal, and public
8 utility property in each class in every district to the clerk of
9 the county court, the assessor, the state superintendent and the
10 auditor. The proper county officers shall then extend on the
11 property books the amount of taxes levied. The sheriff shall
12 collect and account for the taxes as required by law.

Sec. 11. The municipal council shall, at the session provided
2 for in section six, ascertain the fiscal condition of the corpora-
3 tion, and make an itemized statement which shall set forth:
4 (1) The amount due and the amount that will become due
5 and collectible from every source during the current fiscal year
6 except from the levy of taxes to be made for the year;
7 (2) Debts legally incurred, subsequent to the ratification of
8 the "tax limitation amendment," owed by the municipality,
9 and such debts that will become due and payable during the
10 current fiscal year, including interest on indebtedness, funded,
11 bonded, or otherwise;
12 (3) All other expenditures to be paid out of the funds of
13 the municipality for the current fiscal year with proper allow-
14 ance for delinquent taxes, exonerations, and contingencies;
15 (4) The total amount necessary to be raised by the levy
16 of taxes for the current fiscal year;
17 (5) The proposed rate of levy in cents on each one hundred

18 dollars' assessed valuation of each class of property ;

19 (6) The separate and aggregate assessed valuations of real,
20 personal, and public utility property in each class in the muni-
21 cipality.

22 The recording officer of the municipality shall forward im-
23 mediately a certified copy of the statement to the tax commis-
24 sioner, and shall publish the statement in a manner similar
25 to that provided in section seven of this article. The session
26 shall then stand adjourned until the third Tuesday in August,
27 at which time it shall reconvene and proceed in a manner
28 similar in all respects to that provided in section seven of this
29 article.

30 The council, after entering the statement as finally approved,
31 in its record of proceedings, shall levy as many cents on each
32 one hundred dollars' assessed valuation of each class of prop-
33 erty as will produce the amount necessary to defray the ex-
34 penses for the fiscal year. The levies shall not exceed, on
35 class I property, twelve and five-tenths cents on each one hun-
36 dred dollars' assessed valuation ; on class II property, twenty-
37 five cents on each one hundred dollars' assessed valuation ; and
38 on class IV property, fifty cents.

39 When less than the maximum levies are imposed, the levies
40 upon each class of property shall be in the same proportions
41 as the maximums herein authorized.

Sec. 12. Within three days after the council of a munici-
2 pality has laid the levies, its recording officer shall forward
3 certified copies of the order laying levies to the tax commis-
4 sioner, the state auditor and the officer whose duty it is to ex-
5 tend the levies.

Sec. 13. The local levying bodies, at the meeting provided
2 for in section six of this article, shall impose the levy neces-
3 sary for current expenses and for the current requirements of
4 principal and interest upon now-existing indebtedness. If the
5 levy laid exhausts the maximum prescribed in section five of
6 this article without meeting current requirements of principal
7 and interest on now-existing indebtedness, the local levying
8 body shall prepare a statement setting forth the following :

9 (1) The amount necessary in excess of the maximum levies
10 prescribed by section five of this article, to meet the current

11 requirements of now-existing indebtedness, with proper allow-
12 ance for delinquent taxes, exonerations, and contingencies;

13 (2) The total assessed valuation of real, personal, and public
14 utility property, without regard to the classes elsewhere pro-
15 vided for in this article;

16 (3) The rate of levy in cents upon each one hundred dollars'
17 assessed valuation necessary to produce the amount determined
18 under subsection one.

19 The recording officer shall forward immediately a certified
20 copy of this statement to the tax commissioner in the same
21 manner and at the same time as required in section seven of
22 this article for the regular levies imposed by the local levying
23 body. Notice of this levy shall be published at the same time
24 and in the same manner as required for other levies made by
25 the fiscal body.

26 When the fiscal body reconvenes on the third Tuesday in
27 August, it shall reconsider the estimate and if it is found to
28 be sufficient, shall levy on all property without regard to the
29 classes provided for in this article, as many cents per one hun-
30 dred dollars' assessed valuation as will produce the amount
31 determined under subsection one.

Sec. 14. The order making a levy, authorized by section
2 thirteen of this article, shall be certified, extended upon the
3 property books, and collected at the same time and in the same
4 manner as provided for regular levies in this article.

Sec. 15. A local levying body, upon petition of five percent
2 of the qualified voters, based on the number of votes cast at
3 the last general election, may provide for an election to increase
4 the levies, by entering on its record of proceedings, an order
5 setting forth:

6 (1) The purposes for which additional funds are needed;

7 (2) The amount for each purpose;

8 (3) The total amount;

9 (4) The separate and aggregate assessed valuations of each
10 class of taxable property within its jurisdiction;

11 (5) The proposed additional rate of levy in cents on each
12 class of property;

13 (6) The proposed number of years, not to exceed three, to
14 which the additional levy shall apply.

15 The local levying body shall submit to the voters within
 16 their political subdivision, the question of the additional levy,
 17 at either a general or special election. If at least sixty per cent
 18 of the voters cast their ballots in favor of the additional levy,
 19 the local levying body may impose the additional levy. This
 20 levy shall not exceed fifty per cent of the rates authorized in
 21 sections seven, nine, or eleven of this article, as the case may
 22 be.

23 Levies authorized by this section shall not continue for more
 24 than three years without resubmission to the voters.

Sec. 16. The local levying body shall publish notice, call-
 2 ing the election, at least once each week for two successive
 3 weeks before the election in two newspapers of opposite politics
 4 and of general circulation in the territory in which the elec-
 5 tion is held. If there is only one newspaper published in the
 6 county, the publication shall be made therein. The local
 7 levying body shall also post printed copies of the order at each
 8 place of voting at least ten days before the election. All the
 9 provisions of the laws concerning general elections shall apply
 10 as far as they are practicable, except as follows: A separate
 11 ballot shall be used at a levy election held in connection with
 12 any other election. The ballot shall be entitled: "Special
 13 election to authorize additional levies for the year (s).....,
 14 and for the purpose of....., according
 15 to the order of the.....entered on the.....day
 16 of....."

17 "The additional levy shall be on class I property.....
 18 cents; on class II property.....cents; on class III property
 19 (if any).....cents; on class IV property (if any).....
 20 cents."

Sec. 17. The tax commissioner shall prepare and furnish
 2 forms and instructions for making the statement required in
 3 sections seven, nine, eleven and thirteen of this article. The
 4 attorney general shall prepare and furnish forms and instruc-
 5 tions for the holding of any election authorized by this article.

Sec. 18. Within forty days after an order for levy, the cir-
 2 cuit court of the county, or the judge in vacation, may allow
 3 a writ of supersedeas on the petition of at least twenty-four

4 persons interested in reversing the order. The levying body,
5 without awaiting the final decision, may rescind the order, and
6 impose a new levy. If the court, on the hearing, finds that the
7 order is contrary to law and reverses the order, the levying
8 body shall impose a levy according to law. If money is col-
9 lected under any order which is afterward rescinded or re-
10 versed, the collecting officer shall, upon demand, refund any
11 payment to the person from whom it was collected. If the
12 collecting officer fails to repay the amount, he and his sureties
13 shall be jointly and severally liable for the amount and the
14 costs of recovery. Recovery may be had by summons before a
15 justice or on motion in the circuit court.

Sec. 19. Boards or officers expending funds derived from
2 the levying of taxes shall expend the funds only for the pur-
3 poses for which they were raised.

Sec. 20. A local fiscal body shall not expend money or incur
2 obligations:

- 3 (1) In an unauthorized manner;
- 4 (2) For an unauthorized purpose;
- 5 (3) In excess of the amount allocated to the fund in the
6 levy order;
- 7 (4) In excess of the funds available for current expenses.

Sec. 21. Any indebtedness created, contract made, or order
2 or draft issued in violation of section nineteen of this article
3 shall be void.

Sec. 22. A fiscal body which has expended money or in-
2 curred obligations in violation of section nineteen of this article
3 shall institute proceedings in a court of competent jurisdiction
4 to recover the money expended or to cancel the obligation, or
5 both.

Sec. 23. A person who in his official capacity willfully par-
2 ticipates in the violation of section nineteen of this article shall
3 be personally liable, jointly and severally, for the amount
4 illegally expended.

Sec. 24. A person who in his official capacity willfully par-
2 ticipates in an illegal expenditure may be proceeded against
3 for the recovery of the amount illegally expended. The politi-

4 cal subdivision concerned, a taxpayer of the subdivision, the
5 state tax commissioner or a person prejudiced may bring the
6 proceeding.

7 All moneys recovered in these proceedings shall be paid into
8 the treasury of the proper fiscal body and credited to the
9 proper fund.

10 If the plaintiff prevails, he shall recover against the defen-
11 dant, the costs of the proceedings, including a reasonable at-
12 torney's fee to be fixed by the trial court and included in the
13 taxation of costs.

Sec. 25. A person who in his official capacity willfully vio-
2 lates the provisions of this article shall be guilty of a misde-
3 meanor, and upon conviction shall be fined not more than five
4 hundred dollars, or confined in jail not more than one year, or
5 both. Upon conviction he shall also forfeit his office.

Sec. 26. The state, a taxpayer, or the tax commissioner may
2 institute and prosecute to final judgment any proceeding for
3 the removal of a member of a local fiscal body who has willfully
4 or negligently violated any of the provisions of this article.

5 Upon the petition of the state, a taxpayer, or the tax commis-
6 sioner, the court or in vacation, the judge, shall set a time for
7 hearing the petition. An attested copy of the petition and the
8 charges contained therein, shall be served upon the defendants
9 at least twenty days prior to the date of hearing. No other
10 pleading or notice of the proceedings shall be necessary.

Sec. 27. If a part of this act is, for any reason, declared
2 unconstitutional, the decision of the court shall not affect the
3 validity of any of the remaining portions.

4 All existing provisions of law inconsistent with this act are
5 hereby repealed.

CHAPTER 39

(House Bill No. 365—By Mr. Randolph)

AN ACT to amend and reenact sections six, seven and ten, article nine, chapter eleven, and section eighteen, article six, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter twelve, acts of the legislature, extraordinary session one thousand nine hundred thirty-two, relating to tax levies and collections; and providing for the semi-annual collection of taxes by all cities and municipalities.

[Passed March 11, 1933; in effect from passage. Became a law without the approval of the Governor.]

ARTICLE IX.

SEC.

6. Dates of publication and posting of notices by sheriff of tax collections; penalty for failure by sheriff to post or publish notice.
7. All taxes, including municipalities, may be paid in semi-annual installments on November 1 and May 1; discounts and penalties.
10. Distraint of goods and chattels for taxes due.

ARTICLE VI.

SEC.

18. Taxes of public service corporations may be paid in semi-annual installments on November 1 and May 1; discounts and penalties; proceedings on overpayments; auditor to transmit taxes collected to counties.

Be it enacted by the Legislature of West Virginia:

That sections six, seven and ten, article nine, chapter eleven, and section eighteen, article six, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter twelve, acts of the legislature, extraordinary session, one thousand nine hundred thirty-two, be amended and reenacted to read as follows:

Section 6. It shall be the duty of the sheriff or collector to
 2 give notice by posting at not less than six public places in each
 3 magisterial district, for at least ten days before the time ap-
 4 pointed, that he will attend at one or more of the most public
 5 and convenient places for the people in each district, such places
 6 to be specified in such notice, between the fifteenth day of Sep-
 7 tember and the date such taxes are due, for the purposes of re-
 8 ceiving taxes due by the people residing or paying taxes in such
 9 district, and that he will make a discount of two and one-half
 10 percentum to all such persons as shall pay their taxes on or
 11 before the first day of November of that year; which discount
 12 shall be made on the whole amount of taxes and levies of every

13 kind so collected by such sheriff or collector. Any sheriff or col-
14 lector failing to post such notice as herein required shall for-
15 feit one hundred dollars for every such failure. The county
16 court of any county may order that the notice hereinbefore re-
17 quired shall also be given by the sheriff or collector by adver-
18 tising the same. After such order is made, and until it is set
19 aside, the sheriff or collector shall, besides posting as hereinafter
20 required, advertise such notice once a week for three successive
21 weeks, next preceding the first day of October in every year, in
22 all newspapers published in such county, and for each failure
23 so to advertise, the sheriff or collector shall forfeit one hundred
24 dollars.

Sec. 7. All taxes assessed on real and personal property by
2 the state, county court and boards of education, including the
3 independent school district of Wheeling, and the city of Wheel-
4 ing, and all other municipalities, not having semi-annual pay-
5 ments of taxes, beginning with taxes assessed for the year one
6 thousand nine hundred thirty-two, shall be collected by the
7 sheriff or municipal collector and may be paid in two equal in-
8 stallments; the first installment shall be payable on or before
9 November first of the year in which the assessment is made;
10 the second installment shall be payable on or before the first
11 day of the following May. All taxes paid on or before the date
12 such taxes are payable, including both first and second install-
13 ments, shall be subject to a discount of two and one-half per-
14 centum. If the first installment is not paid before December
15 first of any year, interest at the rate of nine percentum per
16 annum shall be added from said December first until paid; if
17 the second installment is not paid before June first, interest at
18 the rate of nine percentum per annum shall be added from said
19 June first until paid. The sheriff shall on the first day of
20 December and the first day of June following the year for which
21 the taxes were levied proceed immediately to collect the taxes
22 then due.

Sec. 10. Any goods or chattels in the county belonging to
2 the person or estate assessed with taxes, which are due and
3 payable, may be distrained therefor after the last day of Nov-
4 ember in the year following the year for which the taxes were
5 assessed; or before that day if such goods or chattels are about
6 to be removed from the county.

Sec. 18. The auditor shall, as soon as possible after such

2 assessment is completed, make out and transmit by mail or
3 otherwise, to such owner or operator, a statement of all taxes
4 and levies so charged, and it shall be the duty of such owner or
5 operator, so assessed and charged, to pay one-half of the amount
6 of such taxes and levies into the treasury of the state by the first
7 day of November and the remaining one-half by the first day of
8 the following May, subject to a deduction of two and one-half
9 percentum if the taxes be paid on or before the date due. If such
10-11 owner or operator fail to pay such taxes and levies when due,
12 interest thereon at the rate of nine percentum per annum until
13 paid shall be added, and the auditor shall certify, after the date
14 the second installment is due, to the sheriff of each county, the
15 amount of such taxes and levies assessed within his county; and
16 it shall be the duty of every sheriff to collect and account for
17 such taxes and levies in the same manner as other taxes are
18 levied or collected and accounted for by him. The payment of
19 such taxes and levies by any such owner or operator shall not
20 prejudice or affect the right of such owner or operator to obtain
20-a relief against the assessment or valuation of its property in
21 proceedings now pending or hereafter brought under the provi-
22 sions of section twelve of this article, or in any suit, action or
23 proceeding in which such relief may be obtainable; and if under
24 the provisions of said section twelve or in any suit, action or
25 proceeding, it be ascertained that the assessment or valuation of
26 the property of such owner or operator is too high and the
27 same is accordingly corrected, it shall be the duty of the
28 auditor of the state to issue to the owner or operator a certi-
29 ficate showing the amount of taxes and levies which have been
30 overpaid, and such certificate shall be receivable thereafter for
31 the amount of such overpayment in payment of any taxes and
32 levies assessed against the property of such owner or operator,
33 its successors or assigns. It shall likewise be the duty of said
34 auditor to certify to the county courts, school districts and
35 municipalities, the amounts of the respective over-payments
36 distributable to such counties, school districts and munic-
37 palities.

38 All moneys received by the auditor under the provisions of
39 this section shall be transmitted to the several counties within
40 twenty days from receipt thereof.

41 All acts and parts of acts, general and special, inconsistent
42 with this act are hereby repealed.

CHAPTER 40

(House Bill No. 408—By Mr. Hiner, Mr. Speaker)

AN ACT to amend and reenact sections one, six, nine, fourteen, fifteen and nineteen, article three; to amend and reenact article four by substituting for sections one through sixteen, inclusive, as amended by chapter fifty-three of the acts of one thousand nine hundred thirty-one, sections one through twenty, inclusive; to amend and reenact article five by substituting for sections one through eleven, inclusive, sections one through ten, inclusive; and to amend and reenact sections fourteen and sixteen, article six, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to the method of determining the tax base and the procedure therefor.

[Passed March 11, 1932; in effect from passage. Approved by the Governor.]

ARTICLE III.

SEC.

1. Basis for valuing property for assessment; owners to pay the taxes whether assessed to them or others; when tax commissioner may appoint special assessors and fix compensation payable out of county fund; penalty where assessor falls or refuses to assess property.
6. Assessor shall certify to municipalities and boards of education statement showing total assessment and total of each class separately; clerk county court shall certify aggregate of property assessed by board of public works in such cities or districts; statement conclusive on municipal councils as to valuations; action by council and other municipal officers on statement.
9. Property exempt from taxation; exceptions; to be entered on assessor's book but no taxes to be extended or levied; when property under certain trusts exempt; procedure of tax commissioner determines trust is not bona fide.
14. Stock in banking institutions, etc., assessed to shareholder; how value ascertained; duty of cashier to furnish list of shareholders to assessor or tax commissioner and to answer questions of assessor; taxes on shares to be paid by bank but may be recovered from shareholder; assessment of real estate of bank; value of shares when title to bank building assessed to separate corporation.

SEC.

15. How value of capital used in a trade or business taxable by law ascertained; what verified statement by owner, agent or chief accountant to show; entries on property books by assessor; form of affidavit and certificate to statement.
19. Completion of property books by assessors, delivery of copies to sheriff, clerk and auditor; form of oath and certificate to copies.

ARTICLE IV.

SEC.

1. What separate lists landbooks to show; entry of town lots; entry of tracts of land separately for independent school districts and magisterial districts.
2. Form of land books.
3. Definition of words and phrases.
4. In making out landbooks assessor shall use copy of last landbook, correcting errors.
5. What information to be obtained from landowners by assessor; corrections in landbook of previous year.
6. Land properly charged, not to be transferred to another within that assessment year.
7. Entry of different parcels of land as a whole.
8. What list of transfers furnished by county clerk to assessor to show; action of assessor on list; county clerk to send list of transfers of lands lying in another county to assessor of that county.
9. Assessment of parcels of tract; of surface and other interests assessed to respective owners; of undivided interests.

- SEC.
10. Land and buildings assessed and entered separately; land valued by the acre; town lots designated by number; improvements; back taxing of building omitted from landbook.
 11. When new building to be assessed; when material entered as personal property.
 12. Land owner dying intestate assessed to heirs; each heir liable for whole tax but may recover proper share from other heirs; when land charged to devisee or to decedents' estate.
 13. Real estate purchased for state to be carried on landbooks but no taxes assessed until redeemed or disposed of by state; certificate of redemption sent by auditor to assessor; real estate sold for taxes to individual entered in name of former owner until deed made to purchaser.
 14. Valuation and entry of tracts of more than one thousand acres lying in more than one county.
 15. Assessment of conveyance of part of tract and of remainder lying in more than one county but assessed in one county only.
 16. Assessment of conveyance of part of tract and of remainder lying in more than one district.
 17. Consolidation of contiguous tracts or interest in same; what order of consolidation to show; duty of assessor as to consolidated tracts or interests; penalty for failure of officer to comply with provisions of section; to what interests section does not apply.
 18. Division or consolidation of tracts for segregation according to classification; when division not to be made.
 19. Deductions for acreage of public road or railroad right-of-way; assessment of right-of-way to railroad company; deduction by county court after notice to prosecuting attorney and upon proof; order to direct correction of landbooks.
 20. Valuation of toll ferries, not exempt from taxation; entry on land books; entry when on county line or in two districts.

ARTICLE V.

SEC.

1. Entry and taxation of personal property of residents and non-residents whether property in or out of state; capital stock of foreign corporations owned by residents; money of resident loaned to nonresident or deposited outside state; transfer or gifts with intent to evade taxation.
2. Form of personal property books; copies; extension of levies.
3. Definition of "personal property" and other words and phrases.
4. Where personal property shall be listed for taxation; value of assessed leasehold estate to be deducted from total value of estate.
5. Fixing value of doubtful or disputed credit; when interest to be added to or deducted from principal; value of investment in notes, stocks and bonds.
6. If property of any company assessed to company, shareholder not to be assessed.
7. Itemized list of household and kitchen furniture not required.
8. Assessment of goods or merchandise of transient for sale; collection of and accounting for taxes on by assessor; penalties for violations of section; apportionment of taxes collected.
9. Assessor to ascertain from court receiver or commissioner amount of money under his control and from clerk of the court amount deposited by order of court to credit of any suit.
10. Duty of assessor when taxes on personal property omitted in former year.

ARTICLE VI.

SEC.

14. Certificates of levies by clerk of county court, secretary of board of education and municipal recorder to auditor.
16. Assessment of property of public service corporations by auditor.
2. If any part of article invalid, remaining provisions not affected.

Be it enacted by the Legislature of West Virginia:

Section 1. Sections one, six, nine, fourteen, fifteen and nineteen, article three, are hereby amended; for sections one through sixteen, inclusive, article four, as amended by chapter fifty-three of the acts of one thousand nine hundred thirty-one, sections one through twenty, inclusive, are hereby substituted; for sections one through eleven, inclusive, article five, sections one through ten, inclusive, are hereby substituted; and sections fourteen and sixteen, article six, chapter eleven of the code of West

9 Virginia, one thousand nine hundred thirty-one, are hereby
10 amended to read as follows:

ARTICLE III.

Section 1. All property shall be assessed annually as of the
2 first day of January at its true and actual value; that is to say,
3 at the price for which such property would sell if voluntarily
4 offered for sale by the owner thereof, upon such terms as such
5 property, the value of which is sought to be ascertained, is
6 usually sold, and not the price which might be realized if such
7 property were sold at a forced sale, except that the true and
8 actual value of all property owned, used and occupied by the
9 owner thereof exclusively for residential purposes and upon
10 farms occupied and cultivated by their owners or bona fide
11 tenants shall be arrived at by giving primary, but not exclusive,
12 consideration to the fair and reasonable amount of income which
13 the same might be expected to earn, under normal conditions
14 in the locality wherein situated, if rented. The taxes upon all
15 property shall be paid by those who are the owners thereof on
16 that day, whether it be assessed to them or others. If at any
17 time after the beginning of the assessment year, it be ascertained
18 by the tax commissioner that the assessor, or any of his deputies,
19 is not complying with this provision or that he has failed, neg-
20 lected or refused, or is failing, neglecting or refusing after five
21 days' notice to list and assess all property therein at its true
22 and actual value, the tax commissioner may order and direct
23 a reassessment of any or all of the property in any county, dis-
24 trict or municipality, where any assessor, or deputy, fails, neg-
25 lects or refuses to assess the property in the manner herein pro-
26 vided. And, for the purpose of making such assessment and
27 correction of values, the tax commissioner may appoint one or
28 more special assessors, as necessity may require, to make such
29 assessment in any such county, and any such special assessor
30 or assessors, as the case may be, shall have all the power and au-
31 thority now vested by law in assessors, and the work of such
32 special assessor or assessors shall be accepted and treated for all
33 purposes by the county boards of review and equalization and
34 the levying bodies, subject to any revisions of value on appeal, as
35 the true and lawful assessment of that year as to all property
36 valued by him or them. The tax commissioner shall, with the
37 approval of the board of public works, fix the compensation of
38 all such special assessors as may be designated by him, which,

39 together with their actual expenses, shall be paid out of the
40 county fund by the county court of the county in which any such
41 assessment is ordered, upon the receipt of a certificate of the tax
42 commissioner filed with the clerk of the court showing the
43 amounts due and to whom payable, after such expenses have
44 been audited by the county court.

45 Any assessor who knowingly fails, neglects or refuses to assess
46 all the property of his county, as herein provided, shall be guilty
47 of malfeasance in office, and, upon conviction thereof, he shall
48 be fined not less than one hundred nor more than five hundred
49 dollars, or imprisoned in the county jail not less than three nor
50 more than six months or both, in the discretion of the court,
51 and upon conviction, he shall be removed from office.

Sec. 6. The assessor shall annually, not later than the twen-
2 tieth day of July, furnish to the recorder or clerk of the city or
3 town council of every incorporated city and town in his county,
4 and also to the secretary of the various boards of education of
5 his county, a certified statement, showing in separate amounts
6 the aggregate value of all property, real and personal, and of
7 all property within each class as provided in section four, article
8 eight of this chapter, and the clerk of the county court shall,
9 in like fashion, certify the aggregate value of all property as-
10 sessed by the board of public works, or other board in lieu there-
11 of, in such city or districts, as ascertained from the land and
12 personal property books and from the statement furnished by
13 the auditor to the county clerk of the value of property as-
14 sessed in such county by the board for the current year.

15 The statement so furnished shall be taken, by the council of
16 such city or town, as the proper valuation of all property situ-
17 ated therein and liable for taxation for municipal purposes not-
18 withstanding any provisions which may be contained in the
19 charter of any city or town. Upon receiving such statement the
20 recorder, or clerk of the council, shall present the same to the
21 council at a meeting to be held for the purpose of making the
22 estimate and laying the levy as hereinafter required; and, as
23 soon as the rate shall have been determined upon, the recorder,
24 or secretary of the council, shall furnish the officer whose duty
25 it is to make out the land and personal property books a certi-
26 fied copy of the order of such city or town council fixing the
27 rate of tax, and such officer shall thereupon extend the tax

28 against the property situated in such city or town, in the land
29 book and the personal property book of his county, in separate
30 columns in such books, which columns shall be headed with the
31 words: "Town, or city, tax for the town, or city, of....."

Sec. 9. All property, real and personal, described in this
2 section, and to the extent herein limited, shall be exempt from
3 taxation, that is to say: Property belonging to the United
4 States; property belonging exclusively to the state; property
5 belonging exclusively to any county, district, city, village, or
6 town in this state, and used for public purposes; property used
7 exclusively for divine worship; parsonages, and the household
8 goods and furniture pertaining thereto; mortgages, bonds and
9 other evidence of indebtedness in the hands of bona fide owners
10 and holders hereafter issued and sold by churches and religious
11 societies for the purpose of securing money to be used in the
12 erection of church buildings used exclusively for divine wor-
13 ship, or for the purpose of paying indebtedness thereon; ceme-
14 teries, property belonging to colleges, seminaries, academies and
15 free schools, if used for educational, literary or scientific pur-
16 poses, including books, apparatus, annuities, money and furni-
17 ture; public and family libraries; property used for charitable
18 purposes, and not held or leased out for profit; all real estate
19 not exceeding one-half acre in extent, and the buildings there-
20 on, and used exclusively by any college or university society as
21 a literary hall, or as a dormitory or club room, if not leased or
22 otherwise used with a view to profit; all property belonging to
23 benevolent associations, not conducted for private profit; prop-
24 erty belonging to any public institution for the education of the
25 deaf, dumb or blind, or any hospital not held or leased out for
26 profit; house of refuge, lunatic or orphan asylum; homes for
27 children or for the aged, friendless or infirm, not conducted for
28 private profit; fire engines and implements for extinguishing
29 fires, and property used exclusively for the safe-keeping thereof,
30 and for the meetings of fire companies; and all property on
31 hand to be used in the subsistence of live stock on hand at the
32 commencement of the assessment year, household goods to the
33 value of two hundred dollars, dead victuals laid away for family
34 use and any other property or security exempted by any other
35 provision of law; but no property shall be exempt from tax
36 ation which shall have been purchased or procured for the pur-
37 pose of evading taxation, whether temporarily holding the same

38 over the first day of the assessment year or otherwise: *Pro-*
39 *vided, however,* That the property, both real and personal,
40 which is exempt from taxation by this section shall be entered
41 upon the assessor's books, together with the true and actual
42 value thereof, but no taxes shall be levied upon the same or ex-
43 tended upon the assessor's books: *Provided further,* That such
44 exemption from taxation shall apply to all property, including
45 the principal thereof, and the income therefrom, held for a term
46 of years or otherwise under a bona fide trust deed, transfer or
47 assignment, by a trustee or trustees required by the terms of
48 such trust to apply, annually, the income derived from such
49 property to education, religion, charity and cemeteries, when
50 not used for private purposes or profit. Such transfer or assign-
51 ment shall be in writing, and have the approval of the tax com-
52 missioner indorsed thereon; and a copy thereof shall be filed
53 in his office before such exemption shall apply to the property
54 embraced therein; and all books and papers showing the col-
55 lection and distribution of money or property under or by
56 virtue of any such trust shall be open to the inspection of said
57 commissioner, his deputies or assistants, at all reasonable times.
58 And, whenever from any cause, such commissioner shall de-
59 termine that any such trust is not bona fide, or that it was cre-
60 ated or is carried on for the purpose of evading taxation, then
61 he shall withdraw his approval thereof by written notice served
62 upon any trustee in such trust, and thereafter all property
63 covered by such trust shall be subject to taxation; but any per-
64 son beneficially interested may appeal from any such decision
65 of said commissioner to the circuit court of the county wherein
66 the trustee resides, and if such trustee reside outside the State
67 of West Virginia, then to the circuit court of the county wherein
68 the seat of government is located; and with the further right of
69 appeal to the supreme court of appeals by any party to the
70 proceedings.

Sec. 14. Shares of stock in a banking institution, national
2 banking association or industrial loan company shall be assessed
3 at their true and actual value, according to the rules prescribed
4 in this chapter, to the several holders of such stock in the
5 county, district and town where such bank, company or asso-
6 ciation is located, and not elsewhere, whether such holders re-
7 side there or not. The real and actual value of such shares
8 shall be ascertained according to the best information which the

9 assessor may be able to obtain, whether from any return made
10 by such bank, company or association to any officer of the state
11 or the United States, from actual sales of the stock, from
12 answers to questions by the assessor, as hereinafter provided,
13 or from other trustworthy sources. The cashier, secretary or
14 principal accounting officer of every such bank, company or
15 association shall cause to be kept a correct list of the names
16 and residences of all the shareholders therein, and the number
17 of shares held by each, which list shall be open to the inspec-
18 tion of the assessors of the county, and of the tax commissioner
19 or assistants; and such cashier, secretary or officer shall
20 answer under oath such questions as the assessor may ask him
21 concerning the matters shown by such list, and concerning the
22 value of such shares, and shall be subject to the same penalties,
23 for failure to do so, which are imposed by law upon individuals
24 failing to answer questions which the assessor is authorized to
25 ask. The taxes so assessed upon the shares of any such bank,
26 company or association shall be paid by the cashier, secretary
27 or proper accounting officer thereof, and in the same manner
28 and at the same time as other taxes are required to be paid in
29 such county, district and town. In default of such payment
30 such cashier, secretary or accounting officer as well as such
31 bank, company or association shall be liable for such taxes, and
32 in addition, for a sum equal to ten per cent thereof. Any taxes
33 so paid upon any such share may, with interest thereon, be re-
34 covered from the owners thereof by the bank, company, asso-
35 ciation or officer paying them, or may be deducted from the
36 dividends accruing on such shares. The real estate of any
37 such bank, company or association shall be assessed as in other
38 cases, and a proportionate share of such assessed value shall be
39 deducted in ascertaining the market value of the shares. And
40 if the title to the building in which any such bank, company or
41 association does its business and the land on which such build-
42 ing stands is held by a separate corporation, in which such
43 bank, company or association alone or together with another
44 such bank or banks, company or companies, association or asso-
45 ciations owns stock, and such building and land be assessed to
46 such separate corporation, a proportionate share of the assessed
47 value of such real estate of such separate company shall be
48 deducted in ascertaining the market value of the shares of

49 such bank, company or association. The return shall be made
50 as of the first day of the assessment year.

Sec. 15. The value of the capital used by any individual or
2 firm not incorporated, in any trade or business taxable by law,
3 shall be ascertained in the following manner: The owner,
4 agent, or chief accountant of every such trade or business, ex-
5 cept the business of agriculture, carried on in any county of
6 the state, shall, annually, between the first day of the assess-
7 ment year and the first day of May of the current year, make
8 a written report as of the first day of the assessment year, to
9 the assessor, verified by his affidavit, showing the following
10 matters and things, viz:

11 (a) The amount, the true and actual value and classification of
12 all tangible personal property used in connection with such
13 trade or business, otherwise than such as is regularly kept for
14 sale therein, including chattels real; (b) the true and actual
15 value and classification of all goods and property kept for sale
16 and remaining unsold; (c) the amount of all money derived
17 from or belonging to such trade or business, on hand or re-
18 maining uninvested on that day, whether in or out of the
19 state, payable to such individual or firm; (d) the amount in
20 value of all credits arising out of any such business and re-
21 maining unpaid on that date, whether due or not, and whether
22 in or out of the state; (e) the amount and true and actual
23 value of all money, notes, bonds, bills, accounts receivable,
24 stocks and other intangible property made by such person or
25 firm whether in or out of the state, other than those hereinbe-
26 fore specified; (f) the location, quantity, the true and actual
27 value and classification of all real estate owned by such in-
28 dividuals or firm and used in such trade or business. The
29 assessor shall, upon the receipt of such report, properly veri-
30 fied, if he is satisfied with the correctness thereof, enter the
31 real estate in the landbook of the county in the district where-
32 in the same is situated, and assess the same with taxes, if not
33 otherwise assessed, to the owner thereof; the personal property
34 mentioned in such report he shall enter in the personal prop-
35 erty book of his county for assessment with taxes as follows,
36 viz: Items (a) and (b) shall be entered in the magisterial dis-
37 tricts where they are for the greater part of the year kept or
38 located; and items (c) and (d), (e) and (g) shall be entered
39 under their appropriate headings, in the municipality or magis-

40 terial district wherein the principal place of business of such
 41 individual or firm is; if the assessor is not satisfied with the
 42 correctness of such report he may proceed to ascertain a cor-
 43 rect list of the property on which such individual or firm is
 44 liable to be assessed with taxes, and to value the same as in
 45 other cases; the person making such report shall take and
 46 subscribe an oath in substantially the following form:

47 I,..... do solemnly swear (or affirm) that the fore-
 48 going list is true and correct to the best of my knowledge; that
 49 the value affixed to the property therein listed I believe to be
 50 the true and actual value thereof; that none of the assets be-
 51 longing to (here state the name of individual or firm) and
 52 used in the business of (here describe the business) have to
 53 my knowledge, since the first day of the assessment year, been
 54 converted into nontaxable securities for the purpose of evading
 55 the assessment of taxes thereon; so help me, God.

56 The officer administering said oath shall append thereto the
 57 following certificate, viz:

58 Subscribed and sworn to before me by (here insert affiant's
 59 name) this _____ day of _____, 19_____.

Sec. 19. The assessor shall complete his assessment and
 2 make up his official copy of the land and personal property
 3 books in time to submit the same to the board of equalization
 4 and review not later than July fifth of the assessment year.
 5 The assessor shall, as soon as practicable after the levy is laid,
 6 extend the levies on the land and personal property books, and
 7 shall forthwith make three copies of the land and personal
 8 property books with the levies extended; one of such copies he
 9 shall deliver to the sheriff not later than the tenth day of Sep-
 10 tember, one copy he shall deliver to the clerk of the county
 11 court not later than the first day of October, and one copy he
 12 shall send to the state auditor not later than the first day of
 13 October, and such copies so delivered shall be official records
 14 of the respective offices. He may require the written receipt
 15 of each of such officers for such copy. Before delivering any
 16 of such copies the assessor shall make and subscribe the follow-
 17 ing oath at the foot of each of them: I, _____, assessor
 18 of the county of _____, do solemnly swear, (or affirm)

19 that in making the foregoing assessment I have to the best of
 20 my knowledge and ability pursued the law prescribing the
 21 duties of assessors and that I have not been influenced in mak-
 22 ing the same by fear, favor or partiality; so help me, God.

23

Assessor.

24 The officer administering the foregoing oath shall append
 25 thereto a certificate in substantially the following form:

26 Subscribed and sworn to before me, a _____ for
 27 the county of _____ and state of West Virginia,
 28 by _____, assessor, for said county, this
 29 the _____ day of _____, 19_____.

ARTICLE IV.

Section 1. The assessor shall make out the landbooks, in-
 2 cluding all extensions, in such form as the tax commissioner
 3 may prescribe. Such landbooks shall contain separate lists for
 4 the different magisterial districts and separate lists for the
 5 municipalities of the county, and, if there are independent
 6 school districts which include municipalities and also lands
 7 lying outside of such municipalities, there shall also be a sep-
 8 arate list for so much of each of such independent school dis-
 9 tricts as lies outside of such municipalities. There shall, for
 10 the purpose of taxation, be entered on the landbooks the town
 11 lots in the alphabetical order of the names of the owners there-
 12 of in the list arranged for them, and the assessor shall desig-
 13 nate such list as "town (or city) lots of the town (or city)
 14 of _____." There shall also be entered in like
 15 alphabetical order, in the separate lists for the independent
 16 school districts and magisterial districts, the tracts of land,
 17 the whole or greater part of which is situated therein; but no
 18 tract or lot of land shall be entered in more than one of such
 19 lists, and no part of any tract or lot of land which does not
 20 lie within the incorporated limits of a town shall be entered
 21 in the list or charged with municipal taxes for such town.

Sec. 2. The tax commissioner shall prescribe a form of land-
 2 book and the information and itemization to be entered
 3 therein, which shall include separate entries of:

4 (1) All real property owned, used and occupied by the

5 owner exclusively for residential purposes; (2) all farms in-
6 cluding land used for agriculture, horticulture and grazing oc-
7 cupied by the owner or bona fide tenant; (3) all other real
8 property; and, for each entry there shall be shown; (4) the
9 value of land, the value of buildings, and the aggregate value;
10 (5) the character and estate of the owners, the number of acres
11 or lots, and the local description of the tracts or lots; (6) the
12 amount of taxes assessed against each tract or lot for all pur-
13 poses.

Sec. 3. For the purpose of giving effect to the "tax limita-
2 tion amendment" this chapter shall be interpreted in accord-
3 ance with the following definitions, unless the context clearly
4 requires a different meaning:

5 "Owner" shall mean the person who is possessed of the
6 freehold, whether in fee or for life. A person seized or en-
7 titled in fee subject to a mortgage or deed of trust securing a
8 debt or liability shall be deemed the owner until the mortgagee
9 or trustee takes possession, after which such mortgagee or
10 trustee shall be deemed the owner. A person who has an equi-
11 table estate of freehold, or is a purchaser of a freehold estate
12 who is in possession before transfer of legal title shall also be
13 deemed the owner.

14 "Used and occupied by the owner thereof exclusively for
15 residential purpose" shall mean actual habitation by the owner
16 as a place of abode to the exclusion of any commercial use. If
17 a license is required for an activity on the premises or if an
18 activity is conducted thereon which involves the use of equip-
19 ment of a character not commonly employed solely for domestic
20 as distinguished from commercial purposes, the use shall not
21 be construed to be exclusively residential.

22 "Farm" shall mean a tract or contiguous tracts of land used
23 for agriculture, horticulture or grazing.

24 "Occupied and cultivated" shall mean subjected as a unit
25 to farm purposes, whether used for habitation or not, and al-
26 though parts may be lying fallow, in timber or in waste lands.

Sec. 4. The landbooks for every county shall be made out by
2 the assessor of such county. In making such landbooks in
3 each year such officer shall be governed, as far as is proper,
4 by the copy of the land books last made out in his county. But
5 he shall correct errors and mistakes which he may have made

6 in any such land books as to the names of persons properly
7 chargeable with taxes on any tract or lot of land therein, and
8 enter and charge the same with taxes thereon to the person or
9 persons properly chargeable therewith, whether such correction
10 be rendered necessary by the conveyance of such tract or lot
11 by the person last charged with taxes thereon or otherwise.
12 He shall also correct all errors and mistakes he may find in
13 such landbooks as to the local description thereof, and all clerical
14 errors of every sort which he may find therein.

Sec. 5. The assessor and his deputies shall annually when
2 listing and assessing personal and real property, make diligent
3 inquiry of every resident landowner, and of the resident agents
4 of nonresident landowner, as to the number of acres of land
5 owned by them, the number of acres in each tract, and the
6 number of town lots owned by them, and the value per acre
7 of each tract and the local description thereof, and the value
8 and location of the town lots.

9 They shall determine the nature and extent of the interest
10 of the owner whether in fee and undivided or otherwise, and
11 the character of use to which the property is put, whether exclusively
12 residential or agricultural or otherwise. They shall
13 also inquire of such owners or agents whether the entries
14 charged against them in the land books of the previous year
15 are correct, whether any part thereof ought to be transferred
16 to any other person, and if so to whom, and the nature of the
17 evidence to authorize such transfer; also, whether any other
18 land in the county ought to be charged to such resident or non-
19 resident, and whether the description given to any tract of
20 land or town lot in the book of the previous year is incorrectly
21 given. It shall be the duty of such owners and agents to answer
22 all of such inquiries on oath. The assessor shall provide
23 for himself, and for each one of his deputies, a copy of so much
24 of the land book of the previous year as contains a list of the
25 land in the magisterial districts severally apportioned to them,
26 and shall note in such copies such changes and corrections as
27 ought to be made in the land book of the previous year, according
28 ing to the information obtained. The deputy assessors shall
29 report any such changes and corrections, as appear to them
30 should be made, to the assessor at some of the stated meetings
31 provided for. The assessor shall make such use of the infor-

32 mation so obtained as he can properly make, consistently with
33 the other provisions of this chapter, in making out the land-
34 book of the county for the current year.

Sec. 6. Land which has been properly charged to one per-
2 son upon the landbook for any assessment year shall not after-
3 wards, within that assessment year, be transferred on such
4 book to another person.

Sec. 7. If the owner of a tract or lot of land has derived
2 title thereto by several conveyances from the same person, or
3 from different persons, such tract or lot shall be entered and
4 charged with taxes on the land books as a whole, and not in
5 different parcels.

Sec. 8. The clerk of the county court shall annually, not
2 later than fifteen days after the beginning of the assessment
3 year, make out a certified list and deliver the same to the asses-
4 sor, showing all the transfers of title of land made in his county
5 prior to the first day of the assessment year; such list shall
6 show whether the transfer was made by will or by deed of con-
7 veyance, or by judgment or decree, the names of the devisors
8 and devisees, the names of the grantors and grantees and the
9 names of the parties in favor of and against whom such judg-
10 ment or decree was rendered, with the title of the cause, the
11 nature of the estate transferred, the character of interest in the
12 land conveyed, the quantity and location of the land or interest
13 transferred, and, if a part of a tract, of what tract it was a
14 part when the whole tract was transferred, and reference to
15 the book and page showing such transfer; from the list thus
16 furnished the assessor shall make the necessary changes in the
17 landbooks for the current year, and shall value each tract of
18 land or interest therein so transferred, at its true and actual
19 value according to the rule established in this chapter. Such
20 clerk shall also, within such period of fifteen days, make out
21 a list of all lands, if any, lying in another county and devised
22 by wills recorded in his office and not before reported, stating
23 in such list the date of the will in each case, when admitted
24 to record, the names of the devisor and devisee, and the descrip-
25 tion of the land devised; and, upon completion, such list shall
26 be delivered or transmitted by mail, by such clerk, to the as-
27 sessor of the county or counties where such lands are situated.

Sec. 9. When a tract of land becomes the property of different owners in several parcels, the assessor shall assess the several parcels separately to the individual owners thereof, giving to each of such parcels its true and actual value according to the rule prescribed in this chapter. When any person becomes the owner of the surface, and another or others become the owner or owners of the coal, oil, gas, ore, limestone, fireclay, or other minerals or mineral substances in and under the same, or of the timber thereon, the assessor shall assess such respective estates to the respective owners thereof at their true and actual value, according to the rule prescribed in this chapter. When any person or persons are, or becomes, the owner or owners of any undivided interest or interests in land, or in the surface, coal, oil, gas, ore, limestone, fireclay, timber or other estates, therein, the owner or owners of such undivided interest or interests may, on request of the assessor, and without consent or acquiescence of the other joint owner or owners of the other undivided interest or interests, have such undivided interest or interests assessed to him or them separately and independently of other undivided interest or interests therein; and all such assessments and undivided interests heretofore entered on the assessment books are hereby validated.

Sec. 10. Land and the buildings or structures erected thereon shall be assessed separately and the value of each entered separately in the landbooks. Land, except town lots, shall be valued by the acre, and town lots shall be designated by the number of the lot and the name of the street on which it fronts, provided the lots be numbered and the streets of the town designated by name. Every assessor shall, in each year, in arriving at the value of the buildings, take into account any improvements or changes affecting the value of such buildings. If the assessor shall discover any building which has been omitted from the landbook for any previous years, he may back tax the same in the same manner and to the same extent as in the case of personal property.

Sec. 11. No new building, addition or improvement shall be assessed until it is so far finished as to be fit for use, but the material in the same shall be entered in the personal property books and assessed as provided by this chapter.

Sec. 12. When the owner dies intestate his undivided real estate may be listed to his heirs, without designating any of them by name, until division of same and each heir shall be liable for the whole tax assessed upon such land while it is so listed; but when he pays the same he may recover of the others their proper proportion of the amount so paid, and the proportion thereof for which such other or others are liable shall be a lien on the interest owned by him or them in such lands; and such liens, when the amount so paid exceeds twenty dollars in all, may be enforced in a court of equity. When the owner has devised the lands or a freehold estate therein absolutely, such land shall be charged to the devisee. If under the will the land is to be sold, it shall be charged to the decedent's estate and the assets in the hands of the personal representative shall be liable for the taxes until a sale and conveyance thereof be made.

Sec. 13. Real estate purchased for the state, at a sale for taxes, shall not be omitted from the landbooks, but no taxes shall be assessed thereon while the same remains the property of the state; there shall be noted on the landbooks, and by the officer whose duty it is to make out the same, opposite the name of the former owner, the time when the same was purchased by the state, and such officer shall continue such memorandum in the landbooks for succeeding years, and until such real estate is redeemed or until it is otherwise disposed of by the state; the auditor shall also keep a record of such purchase. When real estate so purchased appears to have been redeemed, the officer whose duty it is to make out the landbooks shall note the fact therein for the year in which the redemption was made, and shall value the same at its value according to the rule prescribed in this chapter, and taxes shall thereafter be assessed against the same. The auditor shall, in the first month of the assessment year, certify to the officer whose duty it is to make out the landbooks, a list of such lands in his county as have been so redeemed within the preceding year; when real estate is sold to an individual for taxes, the officer whose duty it is to make out the landbooks shall continue the same upon the landbooks in the name of the former owner until the purchaser obtains a deed therefor; such officer shall then enter the same so purchased in the name of the purchaser and shall

25 value the same according to the rule prescribed for the valuing
26 of other lands.

Sec. 14. Every tract of land of one thousand acres or less,
2 lying in more than one county, may be entered for taxation
3 on the landbook of the county where the greater part thereof
4 in value, lies, but the entry thereof and payment of taxes
5 thereon, in any county where any part thereof is situated, shall,
6 for the time during which the same is so entered and paid, be
7 a discharge of the whole of the taxes and levies charged and
8 chargeable thereon. Every tract of land of more than one
9 thousand acres, lying in two or more counties, shall, for the
10 purpose of taxation, be entered and charged with all taxes in
11 each magisterial district of the several counties in which any
12 part of it is, to the extent, as near as may be, that the same
13 lies in such district. When any such tract of more than one
14 thousand acres is thus assessed, partly in one county and partly
15 in another, the several officers of such counties whose duty it is
16 to make out the landbooks of the respective counties shall value
17 the part lying in his county without regard to the value of the
18 whole tract, and he shall ascertain its value, as in other cases,
19 according to the rule prescribed in this chapter.

Sec. 15. When land lying in more than one county has
2 been assessed in one of such counties only, if the owner convey
3 that portion, or any part thereof, lying in the county wherein
4 the same is not assessed, such officer in such county shall enter
5 the part so conveyed in the landbooks of his county, and shall
6 assess it to its owner at its proper value according to the rule
7 prescribed in this chapter. And such officer of the county in
8 which the whole of such land has been previously assessed shall
9 deduct the part so conveyed and assess the remainder accord-
10 ing to its proper value.

Sec. 16. In like manner, when a tract or lot of land lies
2 in more than one district, and the owner conveys any portion
3 thereof situated in a district wherein such land was not as-
4 sessed, the part so conveyed shall be thereafter entered in the
5 proper district, and the proper value thereof ascertained, as in
6 other cases, according to the rule prescribed in this chapter,
7 and the quantity thereof shall be deducted from the entire tract
8 or lot as it was before entered.

Sec. 17. Any owner of two or more contiguous tracts of
2 land, or the surface of land, or of any estate in the coal, oil,
3 gas, ore, limestone, fireclay, or other minerals or mineral sub-
4 stances, in and under the same, or of the timber thereon, sit-
5 uated in whole or in part in the same magisterial district of any
6 county, may upon application to the county court of such
7 county and duly showing the relative location of such tracts,
8 their ownership and present description on the landbook, have
9 the same, by order of such court, consolidated with other like
10 tracts or parts of tracts, and charged by aggregating the quan-
11 tities thereof, so far as lying in the same magisterial district,
12 as one tract upon the landbook of such county for the succeed-
13 ing year and thereafter: *Provided*, That for the purpose of con-
14 solidation of lands or the surface of lands or any estate in the
15 coal, oil, gas, ore, limestone, fireclay, or other minerals, or min-
16 eral substances in and under the same, or of the timber there-
17 on, on the landbooks, any tract heretofore charged separately
18 thereon, whether as fee (by which is meant not only the estate
19 of the owner therein, but also the entire body of the land), or
20 as one or more mineral interests, or other interests herein speci-
21 fied, or surface, or timber only, may be divided, and the divi-
22 sions thereof be charged separately or be consolidated with
23 other like tracts or parts of tracts.

24 In every case of consolidation the order directing the con-
25 solidation to be made shall so describe the several properties
26 consolidated as to enable the same to be therein identified as
27 separate parcels or to be so identified by reference therein made
28 to a recorded instrument, or recorded instruments, or both by
29 description and reference to such instrument or instruments.

30 The officer whose duty it is to make out the landbooks, upon
31 presentation to him of a certified copy of such order showing
32 the consolidation of designation of such several tracts or parts
33 of tracts of land, surface or timber, or estates in the coal, oil,
34 gas, ore, limestone, fireclay, or other minerals or mineral sub-
35 stances herein mentioned, shall enter the same as one upon
36 the landbook for the year next ensuing, and make a proper
37 note opposite the last entry of each of such several tracts so
38 consolidated or designated in whole or in part, referring to
39 such order, and a like note opposite the entry or the tract so
40 consolidated or designated. He shall value such tract at its

41 proper value according to the rule prescribed in this chapter.
42 Any such officer, failing to comply promptly with any of the
43 several duties imposed by this section, shall be deemed guilty
44 of a misdemeanor, and, upon conviction thereof, shall be fined
45 not less than twenty-five nor more than fifty dollars: *Provided*,
46 That this section shall not apply to any undivided interest in
47 any estate in any land, coal, oil, gas, ore, limestone, fireclay,
48 or other mineral substances in or under lands or of the timber
49 on land.

Sec. 18. In the manner prescribed in section seventeen of
2 this article, the county court may, upon the application of the
3 owner, divide, consolidate, or both, as the case may be, any
4 tracts or lots for the purpose of entry upon the land books of
5 the county. This shall apply solely to the segregation of real
6 property according to the classification contemplated by the
7 "tax limitation amendment." No such division shall be made
8 unless there is in actual fact a distinction in use, and unless
9 the division requested is one which the owner would make for the
10 separate conveyance of portions of the tract or lot, but in no
11 case shall any single structure be divided and only contiguous
12 tracts or lots shall be consolidated.

Sec. 19. Any person through whose lands a public road has
2 been or may hereafter be established according to law, or
3 through whose lands a railroad company has acquired or may
4 hereafter acquire a right-of-way, by purchase or condemna-
5 tion, may have the number of acres so taken for such public
6 road or railroad deducted from the whole number of acres in the
7 tract of land, and if such deduction is made on account of land
8 taken for a railroad, the amount so deducted shall be trans-
9 ferred and charged to the railroad company until such time as
10 the railroad is constructed and assessed by the board of public
11 works under the provisions of this chapter, and when such rail-
12 road is so assessed by the board of public works the land occu-
13 pied by its right-of-way and assessed to it under the provisions
14 of this section shall be stricken from the land books, and be no
15 longer assessed under this section. The reduction, provided for
16 in this section, shall be made only by the county court of the
17 county wherein such land is assessed at the time the reduction
18 is applied for, after ten days' notice in writing to the prose-
19 cuting attorney of such county and upon satisfactory proof
20 of the number of acres in any such public road or railroad, and

21 of the number of acres in the whole tract or tracts of land from
22 which the deduction is desired to be made. If the reduction
23 is made on account of land taken for a public road, such reduc-
24 tion shall continue only so long as the land is used as a public
25 highway, after which time the officer, whose duty it is to make
26 out the landbooks, shall increase the quantity of land in the
27 tract by adding to it the number of acres included in that part
28 of the public road running through such land, with the proper
29 value thereof, which has ceased to be used as such public road.
30 Any order made by the county court upon such application
31 shall direct such officer to correct the landbooks according to the
32 facts established by such order.

Sec. 20. The assessor shall, upon the best information he
2 can obtain, ascertain for the purpose of taxation, the annual
3 value of all ferries upon which a toll or fare is charged, located
4 in his county, except such as are by law exempt from taxation;
5 he shall value each of such ferries each year at ten times its an-
6 nual value, and enter the same in the landbook in the name of
7 the owner in the magisterial district wherein the same is lo-
8 cated, if such ferry is on a line dividing two counties, or two
9 districts in the same county, one-half of the value so ascertained
10 shall be assessed in each county or district as the case may be.

ARTICLE V.

Section 1. All personal property belonging to persons resid-
2 ing in this state, whether such property be in or out of the state,
3 and all personal property in the state, though owned by persons
4 residing out of the state, shall be entered in the personal prop-
5 erty book, and be subject to equal and uniform taxation, ex-
6 cept as classified in section four, article eight of this chapter,
7 unless especially exempted by law; but personal property of all
8 classes, except as hereinbefore provided, belonging to the resi-
9 dents of this state, which is actually and permanently located
10 in another state, and by the laws of such other state is subject
11 to taxation and is actually taxed in such other state, shall not
12 be entered on the personal property book, or be taxed in this
13 state. But the shares of capital stock owned by residents of this
14-15 state in corporations actually located in other states, and
16 whose property is taxed by the laws of such other state, shall not
17 be required to be listed for taxation. All moneys belonging to
18 citizens of this state, and loaned to any person or deposited out
19 of the state, shall be subject to taxation the same as if loaned or

20 deposited in this state. Any person who at any time before
21 the assessment year transfers by loan, deposit or gift, any
22 money, notes, bonds, bills and accounts receivable, stocks and
23 other intangible personal property, which are subject to tax-
24 ation to anyone, who does not return a list of taxation as of the
25 day on which the assessment year commences including such
26 property, transfers, loans, deposits or gifts, if made with the in-
27 tention of evading taxation, shall be deemed and treated as
28 illegal and fraudulent and the assessor shall assess such prop-
29 erty for taxation to the party who makes such transfers, loans,
30 deposits or gifts as aforesaid.

Sec. 2. In his personal property books the assessor shall
2 enter the names and post office addresses of the owners of per-
3 sonal property and of other persons liable to capitation tax,
4 alphabetically arranged by districts, showing separately the
5 values of:

6 (1) All tangible personal property employed exclusively
7 in agriculture including horticulture and grazing;

8 (2) All products of agriculture (including live stock) while
9 owned by the producer;

10 (3) All money, notes, bonds, bills and accounts receivable,
11 stocks and any other intangible personal property;

12 (4) The total of one, two and three;

13 (5) All other tangible personal property.

14 The tax commissioner may prescribe such itemization and
15 further information as he deems necessary. The assessor shall
16 make the same number of copies and extend the levies in the
17 same way as he does with the landbook.

Sec. 3. The words "personal property," as used in this
2 chapter, shall include all fixtures attached to land, if not in-
3 cluded in the valuation of such land entered in the proper land-
4 book; all things of value, movable and tangible, which are the
5 subjects of ownership; all chattels, real and personal; all money,
6 notes, bonds, and accounts receivable, stocks and other intan-
7 gible property.

8 The word "money" includes not only coin, but all notes,
9 tokens or papers which circulate or are used in ordinary trans-
10 actions as money or currency, and deposits, which either in
11 terms or effect are payable in money on demand.

12 "Agriculture" shall mean the cultivation of the soil, includ-

13 ing the planting and harvesting of crops and the breeding and
14 management of live stock.

15 "Horticulture" shall mean plant production of every char-
16 acter except forestry.

17 "Grazing" shall mean the use of land for pasturage.

18 "Products of agriculture" shall mean those things the exist-
19 ence of which follows directly from the activity of agriculture,
20 horticulture or grazing, including dairy, poultry, bee and any
21 other similar products, whether in the natural form or processed
22 as an incident to the marketing of the raw material.

23 "Producer" shall mean the person who is actually engaged
24 in the agriculture, horticulture and grazing which gives exist-
25 ence and fruition to products of agriculture as distinguished
26 from the broker or middleman.

27 "While owned by the producer" shall mean while title is in
28 the producer as above defined.

29 "Employed exclusively" shall mean that the preponderant,
30 and the sole gainful, use is for the designated purpose.

Sec. 4. Every person required by law to list personal prop-
erty for taxation shall list the tangible personal property in the
magisterial district wherein it is on the first day of the assess-
ment year, and chattels real in the magisterial district wherein
the land to which they relate is located; and he shall list for tax-
ation in the magisterial district in which he resides the money,
notes, bonds, bills and accounts receivable, stocks and other in-
tangible personal property subject to taxation belonging to him-
self or under his charge or control, whether the same, or the
evidence thereof be in or out of the state; but capital, money and
intangible property (except real estate and chattels real) em-
ployed in any trade or business (other than agriculture) be-
longing to a company whether it is incorporated or not, or to an
individual, shall be assessed for taxation in the magisterial dis-
trict wherein the principal office for the transaction of the
financial concerns pertaining to such trade or business is lo-
cated; or, if there be no such office, then in the district where
the operations are carried on. Goods and chattels and other
tangible personal property not exempt from taxation which
may not be assessed for taxation in the magisterial district
where the same were on the first day of the assessment year,
but which have been removed therefrom, shall be assessed in the
magisterial district where the same were on the first day of the

23 assessment year; but the assessment and payment of taxes in any
24 county or district in any year shall exonerate the owner of
25 such property in any other county or district for such year:
26 *Provided, however,* That in cases of the assessment of lease-
27 hold estates a sum equal to the valuations placed upon such
28 leasehold estates shall be deducted from the total value of the
29 estate, to the end that the valuation of such leasehold estate
30 and the remainder shall aggregate the true and actual value of
31 the estate.

Sec. 5. The value of any credit, if the solvency of the party
2 liable therefor be doubtful or if the claim be disputed, shall be
3 estimated at its probable worth; if it be payable in anything but
4 money, its probable value in money, to be fixed by the assessor,
5 is to be listed; if a solvent credit bear interest which has not
6 been paid, the amount of principal and interest, calculated up
7 to the first day of the assessment year of the year for which the
8 assessment is made shall be listed; but if it do not bear interest,
9 and be not due, the interest for the time it has run from the
10 first day of the assessment until it be due and payable, may be
11 deducted. Investment, in notes, bonds, bills, stocks and other
12 intangible property, shall be rated by the assessor at their
13 market price, or if there be no known market price, then at their
14 proper value, according to the rule prescribed in this chapter.

Sec. 6. When the property, stock or capital of any company,
2 whether incorporated or not, is assessed to such company, no
3 person owning any share, portion or interest therein, shall be
4 required to list the same or be assessed with the valuation
5 thereof.

Sec. 7. Nothing contained in this chapter shall be construed
2 to require any person to furnish, or the assessor to take, a list
3 of the several articles of such person's household and kitchen
4 furniture, except as required under the provisions of section
5 two of this article.

Sec. 8. Any transient person desiring to offer or furnish for
2 sale, either by auction or otherwise, any goods or merchandise
3 not assessed for the purpose of taxation in any county in this
4 state, shall apply to the assessor of the county in which such
5 goods or merchandise is about to be offered or furnished for sale,
6 and have the value thereof ascertained and assessed with taxes,
7 as like property is valued and assessed, and shall, before selling
8 any of such goods or merchandise, pay to such assessor the taxes

9 levied for the current year. If at the time of such valuation
10 any payment of taxes the levies for the current year shall not
11 have been ascertained, the assessor shall assess such valuation
12 according to the rate of taxation levied for the previous assess-
13 ment year, for all purposes for which such goods or merchan-
14 dise is liable to be assessed for the current year, in the place
15 where they are to be offered or furnished for sale. If the
16 amount thus ascertained and paid is afterward ascertained to
17 be in excess of the taxes levied for the current year, he shall
18 have such excess refunded to him. The assessor shall at the
19 time he so values such goods or merchandise and collects the
20 taxes thereon, if his personal property book has not been com-
21 pleted and certified, enter such valuation therein, under the
22 appropriate heading in the name of the owner of such goods or
23 merchandise. If at the time of such valuation and collection of
24 taxes thereon such personal property books shall have been com-
25 pleted and certified, he shall enter the same in the supplement to
26 the copy of such book retained by him, and in either event he
27 shall furnish to the auditor, to the clerk of the county court
28 and to the municipality, if any, interested therein, respectively,
29 certifies of such valuation and of the amount of taxes collected
30 thereon by him. The auditor and such clerk shall preserve such
31 certificates in their respective offices, and, if the entry of such
32 valuation and assessment of taxes thereon shall not have been
33 made in the personal property book before copies thereof have
34 been certified, they shall also enter the amount of such valuation
35 so certified to them in the supplements to their respective copies
36 of such personal property book. The assessor shall deliver to
37 such person a receipt for the amount of taxes paid by him,
38 stating therein the character of the goods or merchandise on
39 which such taxes were paid, the value assessed thereon, and the
40 amount of taxes and the year for which the same were paid.
41 Such receipt shall be signed by the assessor and attested by the
42 clerk of the county court, and when so signed and attested shall
43 operate as a discharge to such person holding the same for any
44 further liability for taxes in any county of the state on account
45 of such goods or merchandise for that year; but it shall not re-
46 lieve him from all liability for taxes on account of goods or
47 merchandise which he has not reported to the assessor to be
48 valued, and on which he has not paid the taxes as herein pro-
49 vided. The assessor shall report to the clerk of the county court all

50 taxes collected by him, under this and the preceding section, upon
51 property assessed by him after he has completed and certified
52 his personal property book, and it shall be the duty of such
53 clerk to charge the same against him in the supplement to the per-
54 sonal property book filed with such clerk. Any such person
55 who shall violate any of the provisions of this section shall be
56 guilty of a misdemeanor, and shall be fined not less than fifty
57 nor more than five hundred dollars. The assessor shall appor-
58 tion the taxes collected by him under the provisions of this sec-
59 tion, and shall account therefor to the county, district and mu-
60 nicipality entitled thereto, according to the rate levied for the
61 current year for each of them. Any assessor who shall fail to
62 perform the duty required of him by this section shall forfeit
63 not less than twenty-five nor more than one hundred dollars.
64 If he shall fail to account for any taxes collected by him under
65 the provisions of this section he shall be guilty of embezzle-
66 ment, and shall, in addition to the foregoing penalty, be pun-
67 ished therefor according to law.

Sec. 9. The assessor shall ascertain from each person in his
2 county, who acts under the order of any court as receiver or
3 commissioner, the amount of all moneys and bonds, or other
4 evidence of debt, under his control, and the style of the suit
5 in which such fund belongs and, from the clerk of such court,
6 the amount deposited by order of such court in any banking
7 institution or national banking association to the credit of any
8 suit in such court, and the style of such suit.

Sec. 10. If the assessor discover that any taxes on personal
2 property were omitted in any former years, he shall proceed as
3 provided in section five of article three of this chapter.

ARTICLE VI

Section 14. The clerk of the county court of every county
2 in which any property lies which was so assessed shall, within
3 thirty days after the county and district levies are laid by such
4 court, certify to the auditor the amount levied upon each one
5 hundred dollars' value of the property of each class in the
6 county for county purposes, and on each one hundred dollars
7 of the value of the property of each class in each magisterial
8 district for the district purposes. It shall be the duty of the
9 secretary of the board of education of every school district
10 and independent district in which any part of the property

11 lies, within thirty days after the levies are laid therein for
12 free school and building purposes, or either, to certify to the
13 auditor the amount so levied on each one hundred dollars'
14 value of the property of each class therein for each of such
15 purposes; and it shall be the duty of the recorder, clerk or
16 other recording officer of every municipal corporation in which
17 any part of the property lies, within the same time, after levies
18 are laid therein for any of the purposes authorized by law, to
19 certify to the auditor the amount levied upon each one hundred
20 dollars' value of the property of each class therein for each
21 and every purpose.

Sec. 16. As soon as possible after the valuation of the prop-
erty of such owner or operator is fixed by the board of public
works or by the circuit court on appeal as aforesaid, and after
he shall have obtained the information herein provided for to
enable him to do so, the auditor shall assess and charge each
class of property of every such owner or operator with the
taxes properly chargeable thereon, in a book to be kept by him
for that purpose, as follows: (a) With the whole amount of
taxes upon such property for state and state school purposes,
if any such taxes are levied; (b) with the whole amount of
taxes on such property in each county for county purposes;
(c) with the whole amount of taxes on such property in each
magisterial district for road and other district purposes, other
than free school and building purposes; (d) with the whole
amount of taxes on such property in each school district and
independent school district for free school and building pur-
poses; (e) with the whole amount of taxes on such property
in each municipal corporation for each and all of the purposes
for which a levy therein was made by the municipal authorities
of such corporation.

Sec. 2. The various provisions of this article shall be con-
strued as separable and several and should any of the provi-
sions or parts thereof be construed or held to be unconstitu-
tional or, for any other reason, invalid. the remaining provi-
sions of this act shall not be thereby affected.

All acts, general or special, inconsistent with the provisions
of this act are hereby repealed.

CHAPTER 41

(House Bill No. 554—By Mr. Hiner, Mr. Speaker)

AN ACT to amend and reenact section two, article one; sections twenty-four, twenty-five and twenty-seven, article three; and to add section twenty-four-(a) to article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to the review of assessments.

[Passed March 11, 1933; in effect from passage. Approved by the Governor.]

ARTICLE I.

SEC.

2. Duties and powers of tax commissioner concerning the assessment and collection of taxes; may appoint appraisers and experts to ascertain value for assessment purposes; powers of such appraisers and experts; procedure if subpoenaed witness refuses to appear and testify; removal of assessor or collecting officer.

ARTICLE III.

SEC.

24. County court to review and equalize assessments; duty of assessor and assistants to attend; classification or taxability not reviewed; notice to property owner of increase; notice of general increase in any one district; notice of meeting by clerk of county court; if property owner fails to

SEC.

- apply for relief after review by court, levies extended.
- 24-(a). If taxpayer dissatisfied with classification or believes property exempt, protest to assessor; action on by assessor; action on by tax commissioner; appeal to circuit court by assessor or taxpayer; forms for certification.
25. Appeal by taxpayer to circuit court; notice to prosecuting attorney and by him to tax commissioner; appeal by state or taxpayer; procedure on appeal; orders and certification; appeal by either party to supreme court of appeals.
27. Application to county court by taxpayer or state for correction of mistake or clerical error; notice to opposing party; procedure on; effect of order or judgment on.

Be it enacted by the Legislature of West Virginia:

That section two, article one; sections twenty-four, twenty-five and twenty-seven, article three, are hereby amended, and section twenty-four-(a), article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, is added, to read as follows:

ARTICLE I

Section 2. It shall be the duty of the tax commissioner to
 2 see that the laws concerning the assessment and collection of
 3 all taxes and levies, whether of the state or of any county, dis-
 4 trict or municipal corporation thereof, are faithfully enforced.
 5 He shall prepare all proper forms and books for the use and
 6 guidance of assessors, and shall perform all such other duties
 7 as may be required by law. He shall from time to time visit the
 8 several counties and municipal corporations of the state; shall
 9 inspect the work of the several assessors, county courts, justices,

10 prosecuting attorneys, clerks of the courts, sheriffs, constables
11 and collecting officers, among whom are included commissioners
12 of school lands, and shall confer with them respecting such
13 work for the future. In such conference, or by writing or
14 otherwise, he may inquire into the proceedings of any such offi-
15 cer, make to him such suggestions respecting the discharge of
16 his duty as may seem proper, and give such information and
17 require such action as will tend to produce full and just assess-
18 ments throughout the state, and the diligent collection of all
19 taxes and levies, including licenses and inheritance taxes, and
20 of fines.

21 The tax commissioner may, with the approval of the board
22 of public works, appoint competent persons to appraise prop-
23 erty values, and may employ experts to examine and report
24 upon the different kinds and classes of property in the state,
25 with a view to ascertaining the true and actual value thereof
26 for assessment purposes, to the end that he may furnish to
27 county assessors, county courts and the state board of public
28 works more accurate information, and more effectively aid and
29 supervise the assessors and the county courts in their work of
30 assessment and valuation of property for purposes of taxation.
31 Any such appraiser, or expert person, so appointed by the tax
32 commissioner for the purpose of ascertaining property values,
33 as aforesaid, shall have authority to examine, under oath, the
34 owner or owners, of any property subject to taxation in this
35 state as to any matters touching the value thereof; and he may
36 examine, under oath, any other person as to any pertinent facts
37 or matters within his knowledge, relative to the character and
38 value of any such property. And, for the purposes of this
39 provision, such appraisers and expert examiners shall have au-
40 thority to administer oaths and to subpoena witnesses. If any
41 person refuse to appear and to testify in response to any sub-
42 poena issued by such appraiser or expert examiner, he may
43 apply to any judge of any criminal, intermediate, common
44 pleas or circuit court, or the clerk thereof, either in term time
45 or in vacation, for subpoena, or other proper process, for any
46 such witness; and the judge of the court, or such clerk shall
47 thereupon issue a subpoena, or other proper process, requiring
48 the attendance and testimony of any such person before such
49 appraiser, or examiner, and if such person refuse to obey any

50 such order, he shall be guilty of contempt and punished accord-
51 ingly.

52 Upon the application of any officer concerned with the assess-
53 ment or collection of taxes, he shall as to any matter specified
54 by such officer, make like suggestions and give like information.
55 In case of the failure of any assessing or collecting officer in
56 the discharge of any duty, imposed upon him by law, the said
57 tax commissioner shall, after due notice to any such assessor
58 or collecting officer, proceed to enforce such penalty as may
59 be provided by law, including, in any proper case, the removal
60 of such officer, and to that end he is authorized to appear before
61 any court or tribunal having jurisdiction. He may cause the
62 violation of any law respecting the assessment or collection of
63 taxes to be prosecuted. He may also be heard before any court,
64 council or tribunal, in any proceeding in which an abatement
65 of taxes is sought.

ARTICLE III

Section 24. The county court shall annually, not later than
2 the fifth day of July, meet for the purpose of reviewing and
3 equalizing the assessment made by the assessor. It shall not ad-
4 journ for longer than three days at a time until this work is
5 completed, and shall not remain in session for a longer period
6 than twenty-five days. At the first meeting, the assessor shall
7 submit the property books for the current year, which shall
8 be complete in every particular, except that the levies shall not
9 be extended. The assessor and his assistants shall attend and
10 render every assistance possible in connection with the value
11 of property assessed by them. The court shall proceed to ex-
12 amine and review the property books, and shall add on the books
13 the names of persons, the value of personal property and the
14 description and value of real estate liable to assessment which
15 was omitted by the assessor. They shall correct all errors in the
16 names of persons, in the description and valuation of property,
17 and they shall cause to be done whatever else may be necessary
18 to make the valuation comply with the provisions of this chap-
19 ter. But in no case shall any question of classification or tax-
20 ability be considered or reviewed. If the court determine that
21 any property or interest is assessed at more or less than its true
22 and actual value, it shall fix it at the true and actual value. But
23 no assessment shall be increased without giving the property

24 owner at least five days' notice, in writing, and signed by the
25 president of the court, of the intention to make the increase.
26 Service upon the property owner shall be sufficient, or upon his
27 agent or attorney in person, or if sent by registered mail to
28 such property owner, his agent, or attorney, at the last known
29 place of abode. If he be not found and have no known place of
30 abode, then notice shall be given by publication once in some
31 newspaper published in the county, at least five days prior to
32 the increase. When it is desired to increase the entire valuation
33 in any one district by a general increase, notice shall be given
34 by publication in two newspapers published in the county, once
35 each week for two consecutive weeks, and completed at least five
36 days prior to the increase in valuation. When an increase is
37 made the same valuation shall not again be changed, unless
38 notice is again given as heretofore provided.

39 The clerk of the county court shall publish notice once each
40 week for three successive weeks before the meeting of the county
41 court in two newspapers of general circulation published in
42 the county, of opposite politics, if there be any; if there be no
43 newspaper published in the county, notice shall be published
44 in some newspaper of general circulation. The notice shall state
45 briefly the time, place and general purpose of the meeting. The
46 expense of publication shall be paid out of the county treas-
47 ury.

48 If any person fails to apply for relief at this meeting he
49 shall have waived his right to ask for correction in his assess-
50 ment list for the current year, and shall not thereafter be per-
51 mitted to question the correctness of his list as finally fixed by
52 the county court, except on appeal to the circuit court. After
53 the county court completes the review and equalization of the
54 property books, a majority of the court shall sign a statement
55 that it is the completed assessment of the county for the year;
56 then the property books shall be delivered to the assessor and the
57 levies extended as provided by law.

Sec. 24-(a). At any time after property is returned for tax-
2 ation and up to and including the time the property books are
3 before the county court for equalization and review, any tax-
4 payer may apply to the assessor for information regarding the
5 classification and taxability of his property. In case the tax-
6 payer is dissatisfied with the classification of property assessed
7 to him or believes that such property is exempt or otherwise not

8 subject to taxation, he shall file his objections in writing with
9 the assessor. The assessor shall decide the question by either
10 sustaining the protest and making proper corrections, or by
11 stating, in writing if requested, the reasons for his refusal. The
12 assessor may, and if the taxpayer requests, the assessor shall,
13 certify the question to the state tax commissioner in a state-
14 ment sworn to by both parties, or if the parties are unable to
15 agree, in separate sworn statements, giving a full description
16 of the property and any other information which the tax com-
17 missioner may require.

18 The tax commissioner shall, as soon as possible on receipt of
19 the question, but in no case later than August first of the assess-
20 ment year, instruct the assessor as to how the property shall be
21 treated. The instructions issued and forwarded by mail to the
22 assessor shall be binding upon him, but either the assessor or the
23 taxpayer may apply to the circuit court of the county for the
24 review of the question of classification and taxability in the
25 same fashion as is provided for appeals from county court in
26 section twenty-five of this article. The tax commissioner shall
27 prescribe forms on which the aforesaid questions shall be cer-
28 tified and he shall have the authority to pursue any inquiry and
29 procure any information which may be necessary for the dis-
30 position of the issue.

Sec. 25. Any person claiming to be aggrieved by any assess-
2 ment in any land or personal property book of any county who
3 shall have appeared and contested the valuation or whose assess-
4 ment has been raised by the county court above the assessment
5 fixed by the assessor, or who contested the classification or
6 taxability of his property may, at any time up to thirty days
7 after the adjournment of the county court, apply for relief to
8 the circuit court of the county in which such books are made
9 out; but he shall, before any such application is heard, give
10 ten days' notice to the prosecuting attorney of the county,
11 whose duty it shall be to attend to the interests of the state,
12 county and district in the matter, and the prosecuting attorney
13 shall give at least five days' notice of such hearing to the tax
14 commissioner. The right of appeal from any assessment by
15 the county court, as hereinbefore provided, may be taken either
16 by the applicant or by the state, and in case the applicant, by
17 his agent or attorney, or the state, by its prosecuting attorney
18 or tax commissioner, desires to take an appeal from the decision

19 of the county court, the party desiring to take such an appeal
20 shall have the evidence taken at the hearing of the application
21 before the county court. If there was an appearance by or on
22 behalf of the owner before the county court, or if actual notice,
23 certified by such court, was given to the owner, the appeal,
24 when allowed by the court or judge, in vacation, shall be de-
25 termined from the evidence so certified. If, however, there was
26 no actual notice to such owner, and no appearance by or on
27 behalf of the owner before the county court, or if a question
28 of classification or taxability is presented, the matter shall be
29 heard de novo by the circuit court. If, upon the hearing of
30 such appeal, it is determined that any property has been valued
31 at more than its true and actual value, or illegally classified or
32 assessed, the circuit court shall, by an order entered of record,
33 correct the assessment, and fix the property at its true and
34 actual value. A copy of such order or orders entered by the
35 circuit court reducing the valuation shall be certified to the
36 auditor by the clerk within twenty days after the entering of
37 the same, and every order or judgment shall show that the
38 prosecuting attorney or tax commissioner was present and de-
39 fended the interest of the state, county and district. If it be
40 ascertained that any property has been valued too high, and that
41 the owner has paid the excess tax, it shall be refunded to him,
42 and if not paid he shall be relieved from the payment thereof.
43 If it is ascertained that any property is valued too low the cir-
44 cuit court shall, by an order entered of record, correct the valu-
45 ation and fix it at its true and actual value. A copy of any
46 order entered by any circuit court increasing the valuation of
47 property shall be certified within twenty days to the auditor
48 the county clerk and the sheriff, and it shall be the duty of the
49 auditor, the county clerk and the sheriff to charge the taxpayer
50 affected with the increase of taxes occasioned by the increase of
51 valuation by applying the rate of levies for every purpose in
52 the district where such property is situated for the current year.
53 The order shall also be filed in the office of the auditor and clerk
54 of the county court. Any order disposing of a question of
55 classification or taxability shall be similarly prepared, certi-
56 fied and filed, and the increase or decrease of taxes resulting
57 shall be treated as provided above for changes in valuation.
58 The state or the aggrieved taxpayer may appeal a question of

59 valuation to the supreme court of appeals, if the assessed
60 value of the property is fifty thousand dollars or more, and
61 either party may appeal a question of classification or tax-
62 ability.

Sec. 27. Any taxpayer, or the prosecuting attorney or tax
2 commissioner on behalf of the state, county and districts, claim-
3 ing to be aggrieved by any entry in the property books of the
4 county, resulting from a mistake or clerical error may, within
5 one year from the time the property books are delivered to the
6 sheriff, apply for relief to the county court of the county in
7 which such books are made out. Before the application is
8 heard, the taxpayer shall give notice to the prosecuting attorney
9 of the county or the state shall give notice to the taxpayer, as
10 the case may be. The application, whether by the taxpayer or
11 the state, shall have precedence over all other business before
12 the court; but any order or judgment shall show that either
13 the prosecuting attorney or the tax commissioner was present
14 defending the interests of the state, county and district.

15 In the event it is ascertained that the applicant is entitled
16 to relief, taxes already paid shall be refunded and if charged,
17 but not paid, the applicant shall be released from payment.
18 Whenever any correction is made by the county court, the clerk
19 shall certify copies of the order to the auditor, to the sheriff
20 and to the assessor, and in the case of real estate, the assessor
21 shall thereupon make a correction in accordance with the order
22 in his land book for the next year. Any such order delivered to
23 the sheriff or other collecting officer shall restrain him from
24 collecting so much as is erroneously charged against the tax-
25 payer, and, if already collected, shall compel him to refund the
26 money if such officer has not already paid it into the treasury.
27 In either case, when indorsed by the person exonerated, it shall
28 be sufficient voucher to entitle the officer to a credit for so
29 much in his settlement which he is required to make. If the
30 applicant be the state, the order certified to the sheriff shall
31 show the correct amount of taxes due the state, county and dis-
32 tricts and shall be sufficient to authorize collection in the same
33 manner as for other state, county and district taxes.

CHAPTER 42

(Senate Bill No. 140—By Mr. White, of Hampshire)

AN ACT to amend and reenact section one, article eleven, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to inheritance and transfer taxes.

[Passed March 11, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. A state tax imposed on certain transfers of property of five hun-

SEC.

dred dollars or more in value.

Be it enacted by the Legislature of West Virginia:

That section one, article eleven, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows:

Section 1. A tax, payable into the treasury of the state, shall be imposed upon the transfer, in trust, or otherwise, of any property, or interest therein, real, personal, or mixed, of five hundred dollars or more if such transfer be

(a) By will or by laws of this state regulating descent and distribution from any person who is a resident of the state at the time of his death and who shall die seized or possessed of property;

(b) By will or by laws regulating descent and distribution of property within the state, or within its jurisdiction, and the decedent was a nonresident of the state at the time of his death;

(c) By a resident, or be of property within the state, or within its jurisdiction, by a nonresident, by deed, grant, bargain, sale or gift, made in contemplation of the death of the grantor, bargainor or donor, or intended to take effect in possession or enjoyment at or after such death. Every transfer by deed, grant, bargain, sale or gift, made within three years prior to the death of the grantor, bargainor, vendor, or donor, of value of five hundred dollars, or in excess thereof, at the time of such transfer in the nature of final disposition, or distribution of an estate, and without adequate valuable consideration, shall be construed to have been made in contemplation of death within the meaning of this article;

(d) If any person shall transfer any property which he owns, or shall cause any property, to which he is absolutely en-

*See chapter thirty-six, acts extraordinary session 1933, in this volume.

27 titled, to be transferred to, or vested in himself and any other
 28 person jointly so that the title therein, or in some part thereof,
 29 vest any survivorship in such other person, a transfer shall be
 30 deemed to occur and to be taxable under the provisions of this
 31 article upon the vesting of such title;

32 (e) Whenever any person shall exercise a power of ap-
 33 pointment derived from any disposition of property made, such
 34 appointment when made shall be deemed a transfer taxable
 35 under the provisions of this article, in the same manner as
 36 though the property to which such appointment relates be-
 37 longed absolutely to the donee of such power and had been be-
 38 queathed or devised by such donee by will; and whenever any
 39 person possessing such a power of appointment so derived shall
 40 omit or fail to exercise the same within the time provided there-
 41 for, in whole or in part, a transfer taxable under the pro-
 42 visions of this article shall be deemed to take place to the ex-
 43 tent of such omission or failure, in the same manner as though
 44 the person thereby becoming entitled to the possession or en-
 45 joyment of the property to which such power related had
 46 succeeded thereto by a will of the donee of the power failing to
 47 exercise such power, and shall take effect at the time of such
 48 omission or failure.

CHAPTER 43

(Sen. Com. Sub. for House Bill No. 41—Originating in the Senate
 Committee on the Judiciary)

AN ACT to authorize county courts and boards of education to
 fund their indebtedness, other than bonded indebtedness, rep-
 resented by orders, drafts or warrants at a lower rate of in-
 terest than six per cent, and to authorize the cancellation of
 such orders, drafts or warrants and to issue in lieu thereof new
 orders, drafts or warrants in such denominations as such
 boards or court may deem advisable and convenient.

[Passed March 11, 1933; in effect ninety days from passage. Became a law without
 the approval of the Governor.]

SEC.

1. County courts and boards of educa-
 tion may fund any indebtedness
 represented by orders or drafts
 by taking up such orders or
 drafts and issuing new orders or
 drafts on same fund; what new
 orders to show; authority here-
 in not to make legal or binding

SEC.

any order or draft not binding
 when originally issued; new
 orders to be for principal and
 interest of old orders and old
 orders to be cancelled and filed
 with clerk of county court; rate
 of interest, after endorsement by
 sheriff, on new orders.

Be it enacted by the Legislature of West Virginia:

Section 1. County courts and boards of education may, upon

2 the application of the owner or holder or holders, by an order
3 entered of record, fund any indebtedness represented by orders,
4 drafts, or warrants by taking up one or more of such orders,
5 drafts, or warrants issued on the same fund, and issue in lieu
6 thereof new orders, drafts or warrants to the person or persons
7 entitled to receive the sums of money due upon said orders,
8 drafts, or warrants, and in which orders there shall be set out
9 in detail the number of each order, draft, or warrant, the date
10 thereof, to whom issued, the fund or funds on which drawn,
11 the name of the present holder thereof, or the person or per-
12 sons entitled to receive the sum due thereon, if interest-bearing
13 the date from which interest began, the credits, if any endorsed
14 thereon, and the date thereof, and such other information so
15 as to completely identify the orders, drafts or warrants for
16 which new orders, drafts or warrants are issued: *Provided,*
17 *however,* That no power or authority herein given or contained
18 shall be construed to make legal and binding any order, draft
19 or warrant not legal and/or binding when originally ordered
20 and/or issued by any county court or board of education. The
21 court and/or boards shall when the orders, drafts or warrants
22 are interest-bearing, in issuing such new orders, drafts or war-
23 rants, issue them on the same fund upon which the original
24 order, draft or warrant was issued and for the aggregate
25 amount of unpaid principal and interest to that date, and can-
26 cel all such orders, drafts or warrants funded and file the same
27 with the clerk of the county court of their county for preserva-
28 tion. All such new orders, drafts or warrants shall not become
29 interest-bearing until the same shall have been presented to the
30 sheriff for payment and endorsed as provided by law, and when
31 so presented shall draw interest at five and one-half per cent
32 per annum.

CHAPTER 44

(Senate Bill No. 15—By Mr. Wiseman)

AN ACT to amend and reenact section seven, article five, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, relating to nonpayment of orders by the sheriff, ex officio county treasurer in the several counties of the state.

[Passed March 11, 1933; in effect ninety days from passage. Became a law without the approval of the Governor.]

Sec.

7. Indorsement and interest on orders presented to sheriff, when no funds to pay same; second pre-

SEC.

senting to and indorsement by sheriff: interest bearing periods of order if funds available.

Be it enacted by the Legislature of West Virginia:

That section seven, article five, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows:

Section 7. If, when an order is presented to the sheriff, there are no funds to pay the same, the person entitled to receive the sum of money specified in such order may require the sheriff to indorse thereon, or write across the face thereof, the words "presented for payment," with the proper date, and sign the same; and the order, if it was due at the time of presentment, shall in such case be payable with legal interest from such date: *Provided, however,* That any such order not paid when presented as aforesaid shall again be presented to the sheriff for payment by the person entitled to receive the money thereon not later than the first day of December after such indorsement, and if not so presented, no further interest shall be allowed or paid on such order thereafter, unless such order shall be so presented and indorsed as aforesaid a second time by the sheriff: *Provided, however,* That in no event shall any such order issued subsequent to January one, one thousand nine hundred thirty-three, bear interest for a longer period than one year and six months from the date of its issue: *And provided further,* That as to all such orders issued on or before January one, one thousand nine hundred thirty-three, such interest-bearing period shall not exceed three years six months from the date of the issue thereof. But if the sheriff, having funds to pay the same, fail to pay any county order properly endorsed, when presented to him during business hours by a person en-

25 titled to receive the money therein specified, if the same be
 26 then due and payable, he and his sureties, and the personal
 27 representatives of such of them as are dead, shall be liable to
 28 the person entitled to receive the money due on such county
 29 order, for the whole amount due thereon at the time of such
 30 presentation, with legal interest on such amount from that time
 31 until payment, and ten per cent on the same amount as dam-
 32 ages.

CHAPTER 45

(House Bill No. 422—By Mr. Carden, by request)

AN ACT to amend and reenact section five, article two, chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, relating to probation officers, their compensation and expenses.

[Passed March 10, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

5. Appointment of probation officers by courts having juvenile jurisdiction; appointment and salaries of chief and assistant probation officers in counties of more than forty-eight thousand population; in counties of eighteen thousand or over, or less than forty-eight thousand population; one appointed, salary and expenses; in counties of less than

SEC.

eighteen thousand population; in counties of thirty thousand population or more; county board to pass on appointments; filing of appointments and oath of appointee; fixing, apportionment and payment of compensation and expenses; appointment of officers to serve without pay.

Be it enacted by the Legislature of West Virginia:

That section five, article two, chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 5. The courts in this state which have and exercise
 2 juvenile jurisdiction shall have authority to appoint any number
 3 of discreet persons of good moral character to serve as proba-
 4 tion officers during the pleasure of the court so appointing; but
 5 such probation officers shall receive no compensation from the
 6 county treasury except as herein provided.

7 Of the number of probation officers named and designated
 8 by the court those who may receive compensation from the
 9 county shall be as follows: In counties having a population of
 10 forty-eight thousand or over, one or two probation officers may
 11 be appointed, in the discretion of the judge. If two are ap-

12 pointed, one shall be designated as chief probation officer and the
13 other as assistant probation officer. The chief probation officer
14 shall receive a salary not exceeding eighteen hundred dollars
15 per year, and the assistant shall receive a salary not exceeding
16 twelve hundred dollars per year, and expenses shall be allowed
17 each probation officer in a sum not exceeding one hundred dol-
18 lars per year: *Provided*, That in counties having a population
19 of sixty thousand or over, the county court may pay the chief
20 probation officer the sum of three hundred dollars per annum
21 for each ten thousand of population or fraction thereof: *Pro-*
22 *vided further*, That the maximum sum paid any probation offi-
23 cer under this section shall not exceed three thousand dollars
24 per annum. In counties having a population of eighteen thou-
25 sand or over, or less than forty-eight thousand, one probation
26 officer may be appointed (but in Berkeley county the court shall
27 appoint the sheriff as such probation officer at a salary not to
28 exceed six hundred dollars per year), except in the county of
29 Wyoming, where the sheriff of said county shall be the probation
30 officer without additional compensation or expense; and ex-
31 penses shall be allowed the probation officer of any such county
32 in a sum not to exceed one hundred dollars per year. In any
33 county of less than eighteen thousand population, one proba-
34 tion officer, at a salary of not to exceed one hundred dollars per
35 year, shall be appointed by the judge of the court having and
36 exercising juvenile jurisdiction, whenever, in the opinion of the
37 judge, the county superintendent of schools, and a majority of
38 the members of the county court of such county it shall be nec-
39 essary so to care for the delinquent children of the county. In
40 counties having a population of thirty thousand or over, when-
41 ever, in the opinion of the judge, a majority of the members of
42 the county court, and the county superintendent of schools, ad-
43 ditional probation officers to those allowed herein are necessary,
44 for the care of the delinquent children, not to exceed two as-
45 sistant probation officers may be appointed in the manner pro-
46 vided by this article, at a salary of not to exceed six hundred
47 dollars per year each.

48 The county superintendent of schools and the county commis-
49 sioners in their respective counties shall constitute a board to
50 investigate the competency of any person to act as a probation
51 officer whenever such probation officer is to receive from the
52 county a salary or other compensation provided for under this

53 section. Any judge desiring to appoint such probation officer
54 shall transmit the name of such prospective appointee to such
55 board of the county in which such appointment is to be made,
56 and it shall be the duty of a majority of such board to approve
57 or disapprove of such appointee within thirty days after sub-
58 mission of such name by such judge, and failure to act thereon
59 within such time shall constitute an approval of such appointee,
60 and such judge may then make the appointment. If a majority
61 of such board are of the opinion that such appointee does not
62 possess the qualifications for a probation officer, they shall notify
63 the judge of their conclusions within thirty days from the sub-
64 mission of such name to the respective members thereof, where-
65 upon it shall be the duty of the judge to withdraw such name
66 and to submit another name for the approval of such board.

67 The appointment of probation officers and the approval there-
68 of as to the qualification of such officers by the board herein
69 designated, shall be filed in the office of the clerk of the juvenile
70 court. Probation officers shall take such oaths as is required of
71 other county officers to perform their duties, and file it in the
72 office of the clerk of the county court of the county where they
73 have been appointed, in which office the same shall be preserved
74 and recorded as in the case of oaths of other county officers.

75 Salaries or compensation of paid probation officers shall be
76 fixed by the judge, not to exceed the sum herein provided for,
77 and any bills for expenses, not exceeding the sums herein pro-
78 vided for, shall be certified to by the judge as being necessary
79 in and about the performance of the duties of the probation
80 officer or officers. The court or judge having jurisdiction may,
81 if it be deemed best, apportion the allowance to probation offi-
82 cers among any two or more of them, but the total amount for
83 any county shall not exceed the amount for such county fixed
84 herein. The compensation and expenses allowed to probation
85 officers hereunder shall be paid in monthly installments from the
86 county treasury.

87 Nothing herein contained, however, shall be held to limit or
88 abridge the power of the judge to appoint any number of per-
89 sons as probation officers that may be willing to serve without
90 pay from the county for their services and that the judge may
91 see fit to appoint.

CHAPTER 46

(House Bill No. 247—By Mr. Thomas)

AN ACT to amend and reenact section twenty-two, article eleven, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, and to amend said section in such manner as to repeal the portion thereof providing for the appointment of some person other than the sheriff as probation officer in counties having a population of one hundred thousand or more, as provided therein, and as enacted by chapter twenty-nine, acts of the West Virginia legislature, regular session, one thousand nine hundred twenty-nine.

[Passed March 8, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

22. Probation of minor for offense not capital or of any one guilty of misdemeanor by courts, except justice of the peace; probation by appellate court of person convicted before justice of the

SEC.

peace or mayor; what may be required of probationer; sheriff to be probation officer, duties; duties and powers of probation officer.

Be it enacted by the Legislature of West Virginia:

That section twenty-two, article eleven, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 22. Whenever, in any court of this state having 2 original jurisdiction of criminal actions, except a justice of the 3 peace, a person under the age of twenty-one years is convicted 4 of or pleads guilty to any offense not capital, or a person of any 5 age is convicted of or pleads guilty to a misdemeanor, such 6 court, whenever it shall appear to the satisfaction of the court 7 that the ends of justice and the best interest of the public, as 8 well as of the defendant, will be subserved thereby, shall have 9 power to suspend the imposition or execution of sentence and to 10 place the defendant upon probation for such period and upon 11 such terms and conditions as it deems best; or the court may 12 impose a fine and may also place the defendant upon probation 13 in the manner aforesaid. The court may revoke or modify any 14 condition of probation; or may change the period of probation, 15 provided that the period of probation, together with any exten- 16 sion thereof, shall not exceed five years.

16-a Whenever any person stands convicted, before a justice of
17 the peace or the mayor of any incorporated city or town, acting
18 as ex officio justice of the peace as provided by statute, either
19 upon his own plea of guilty or after trial, and upon whom
20 either a fine or jail sentence has been imposed, such person may
21 file in any court to which an appeal would lie in such case, or
22 with the judge thereof in vacation, his petition in writing
23 seeking to be placed upon probation and accompanying such
24 petition with a transcript of the docket of such justice or mayor.
25 Whereupon the court shall have power to act upon such peti-
26 tion and suspend the execution of such sentence, and otherwise
27 deal with the petitioner in accordance with the provisions of
28 this section as fully and completely as if conviction had been
29 had in any court of said county having general criminal juris-
30 diction.

31 While on probation the defendant may be required to pay,
32 in one or several sums, a fine imposed at the time of being
33 placed on probation, and may also be required to make restitu-
34 tion or reparation to the aggrieved party or parties for actual
35 damages or loss caused by the offense for which conviction was
36 had, and may also be required to provide for the support of
37 any person or persons for whose support he is legally respon-
38 sible.

39 The sheriff of each county shall be and is hereby made the
40 probation officer for such county.

41 It shall be the duty of a probation officer to investigate any
42 case referred to him for investigation by the court in which he
43 is serving and to report thereon to the court. The probation
44 officer shall furnish to each person released on probation under
45 his supervision a written statement of the conditions of proba-
46 tion and shall instruct him regarding the same. Such officer
47 shall keep informed concerning the conduct and condition of
48 each person on probation under his supervision and shall report
49 thereon to the court placing such person on probation. Such
50 officer shall use all suitable methods, not inconsistent with the
51 conditions imposed by the court, to aid persons on probation and
52 to bring about improvements in their conduct and condition.
53 Each officer shall keep records of his work; shall keep accurate
54 and complete accounts of all moneys collected from persons under
55 his supervision, and shall give receipts therefor, and shall make

56 at least monthly returns thereof ; shall make such reports to the
57 prosecuting attorney as he may at any time require ; and shall
58 perform such other duties as the court may direct.

58-a On January first and July first of each year, and at such
59 other times as the court may direct, the probation officer shall
60 make a written report to the court giving the names of all per-
61 sons placed on probation during the previous year, together
62 with a brief statement of the conduct of each person while so on
63 probation. A copy of all such reports to the court shall also be
64 filed with the pardon attorney of the state not later than ten
65 days after such report shall have been filed with the court as
66 shall seem advisable.

67 At any time within the probation period the probation officer
68 may arrest the probationer without warrant, or the court may
69 issue a warrant for his arrest. Thereupon such probationer
70 shall forthwith be taken before the court. At any time after
71 the probation period, but within the maximum period for which
72 the defendant might originally have been sentenced, the court
73 may issue a warrant and cause the defendant to be arrested
74 and brought before the court. Thereupon the court may re-
75 voke the probation or the suspension of sentence, and may im-
76 pose any sentence which might originally have been imposed.

77 Nothing herein contained shall be construed to authorize a
78 justice of the peace to release any prisoner on probation, or as
79 affecting the provisions of chapter forty-nine of this code.

CHAPTER 47

(Senate Bill No. 2—By Mr. White, of Mingo)

AN ACT to amend and reenact section twenty, article two, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, relating to payment of premiums on official bonds.

[Passed March 3, 1933 ; in effect from passage. Became a law without the approval of the Governor.]

SEC.
20. Officer or employee required to give official bond, giving surety company bond, to be reimbursed by state, county, municipality or

SEC.
board of education not to exceed five dollars a thousand per annum of premium charged for bond.

Be it enacted by the Legislature of West Virginia:

That section twenty, article two, chapter six of the code of

West Virginia, one thousand nine hundred thirty-one be amended and reenacted so as to read as follows:

Sec. 20. Every officer or employee who is paid a salary, 2 and who is required to give an official bond by virtue of the 3 provisions of this article, and who furnishes a surety company 4 bond, shall be reimbursed by the state, county, municipality, 5 or board of education, as the case may be, the premium charged 6 by the surety company for such bond, not exceeding five dollars 7 a thousand per annum.

CHAPTER 48

(House Bill No. 76—By Mr. Lubliner, by request)

AN ACT to amend and reenact section two, article seventeen, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, relating to the fees of constables in civil cases.

[Passed February 24, 1933; in effect from passage. Approved by the Governor.]

Sec.

2. Fees of constables in civil cases; fee		Sec.	for summoning jury and witnesses for inquest.
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Be it enacted by the Legislature of West Virginia:

That section two, article seventeen, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 2. Every constable shall be entitled to charge and 2 receive the following fees in civil cases:

3 For removing a person by virtue of a warrant issued un-	
4 der section fifteen, article one, chapter nine of this	
5 code, to be charged to the county court of the county	
6 for each mile of necessary travel, going and return-	
7 ing	\$0.05
8 For service and return of summons to commence a suit	
9 and for every additional summons .....	.75
10 For serving and returning order of attachment, for each	
11 garnishee summoned .....	.50
12 For taking property under order of attachment, includ-	
13 ing inventory and appraisalment, besides the reasonable	
14 expenses of removing, securing and keeping the prop-	

15	erty attached	1.00
16	For subpoenas, for each person served therewith.....	.25
17	For summoning and returning a jury.....	1.50
18	For levying an execution or distress warrant on personal	
19	property and return.....	1.00
20	For posting notices of sale.....	.40
21	For money collected, after levy, under execution or at-	
22	tachment and paid to the justice.....	5%
23	For making sale of personal property under distress war-	
24	rant, after levy, upon the proceeds of such sale.....	5%
25	If the claim under distress warrant be satisfied prior to sale	
26	the constable or other officer to whom the warrant to distrain	
27	was issued or the officer levying such warrant shall be entitled	
28	to receive and collect only such fees as are provided for in this	
29	section for making levy and also for posting notice of sale, if	
30	such notice was posted.	
31	For serving and returning other writs and notices not	
32	specified in this section, each.....	.75
33	For executing a writ of possession under section ten,	
34	article one of this chapter.....	2.00
35	For summoning the jury and witnesses for inquest on a	
36	dead body, to be audited and paid from the treasury	
37	of the county.....	3.00
38	For services not otherwise provided for, the same fees as	
39	for a sheriff for similar cases.	

CHAPTER 49

(Senate Bill No. 38—By Mr. Neale)

AN ACT to amend and reenact section ten, article seventeen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, relating to prepayment of tolls on toll bridges, and penalties for violation thereof.

[Passed March 11, 1933; in effect from passage. Became a law without the approval of the Governor.]

<p>Sec. 10. Payment of lawful toll on bridge before passage; penalty for overcharge; penalty for evading, or</p>		<p>Sec. attempting to evade, payment of lawful toll.</p>
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Be it enacted by the Legislature of West Virginia:

That section ten, article seventeen, chapter seventeen of the code

of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows:

Section 10. The proprietor of any toll bridge may require 2 lawful toll to be paid previously to a passage thereover. But if 3 there be demanded at any such bridge more than is lawful, the 4 proprietor shall forfeit to the party aggrieved so much as is 5 illegally demanded and a further sum of not less than two nor 6 more than fifteen dollars. Whoever shall knowingly or inten- 7 tionally defraud, or attempt to defraud, the proprietor of any 8 toll bridge by evading, or attempting to evade, the payment of 9 lawful toll for crossing such bridge, or whoever shall aid an- 10 other to evade, or attempt to evade, the payment of such toll, 11 shall be guilty of a misdemeanor, and for every such offense 12 shall, upon conviction thereof, be fined not in excess of ten 13 dollars.

CHAPTER 50

(House Bill No. 90—By Mr. Hickle)

AN ACT amending and reenacting section three, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by section three, chapter nineteen of the acts of the extraordinary session of one thousand nine hundred thirty-two, relating to the salaries of circuit clerks.

[Passed February 3, 1933; In effect from passage. Approved by the Governor.]

Sec.

3. Salaries of clerks of circuit courts; allowance for stenographer to clerk, Pleasants county; clerk to

Sec.

retain fees for naturalization proceedings and applications for passports.

Be it enacted by the Legislature of West Virginia:

That section three of chapter nineteen of the acts of the special session of one thousand nine hundred thirty-two, relating to the salaries of county officers be amended and reenacted to read as follows:

Section 3. On and after the first day of January, one thousand nine hundred thirty-three, the annual compensation of the 3 clerk of the circuit court (without further compensation for 4 acting as clerk of the criminal, intermediate, common pleas, 5 juvenile, and other courts of limited jurisdiction) in each county 6 shall be as follows: Barbour county, thirteen hundred fifty dol-

7 lars; Berkeley county, thirteen hundred fifty dollars; Boone
8 county, sixteen hundred dollars; Braxton county, two thousand
9 dollars; *Provided further*, That no assistant clerk or stenog-
10 rapher shall hereafter be provided for by the county court of
11 said county; Brooke county, eighteen hundred dollars; Cabell
12 county, thirty-six hundred dollars; Clay county, fifteen hun-
13 dred dollars; Calhoun county, nine hundred dollars; Doddridge
14 county, fourteen hundred dollars; Fayette county, twenty-two
15 hundred fifty dollars; Gilmer county, twelve hundred dollars;
16 Greenbrier county, sixteen hundred dollars; Hampshire county,
17 one thousand dollars; Hancock county, one thousand two hun-
18 dred dollars; Harrison county, three thousand two hundred
19 dollars; Jackson county, thirteen hundred fifty dollars; Jeffer-
20 son county, two thousand dollars; Kanawha county, four thou-
21 sand five hundred dollars; Lewis county, eighteen hundred dol-
22 lars; Lincoln county, seventeen hundred dollars; Logan county,
23 two thousand dollars; Marion county, thirty-six hundred dol-
24 lars; Marshall county, eighteen hundred dollars; Mason county,
25 eighteen hundred dollars; Mercer county, three thousand dol-
26 lars; McDowell county, thirty-eight hundred dollars; Mineral
27 county, two thousand dollars; Mingo county, twenty-seven hun-
28 dred dollars; Monongalia county, three thousand dollars; Mon-
29 roe county, one thousand dollars; Morgan county, eight hun-
30 dred dollars; Nicholas county, eighteen hundred dollars; Ohio
31 county, four thousand five hundred fifty dollars; Pleasants
32 county, thirteen hundred dollars, and the clerk of the circuit
33 court in this county shall have no assistants or deputies but shall
34 be allowed two hundred dollars annually for a stenographer;
35 Pocahontas county, fifteen hundred dollars; Preston county,
36 two thousand dollars; Putnam county, fourteen hundred dol-
37 lars; Raleigh county, twenty-four hundred dollars; Randolph
38 county, eighteen hundred dollars; Ritchie county, sixteen hun-
39 dred twenty dollars; Roane county, fifteen hundred dollars;
40 Summers county, twelve hundred dollars; Taylor county, eight-
41 een hundred dollars; Tucker county, fourteen hundred forty
42 dollars; Tyler county, fifteen hundred dollars; Upshur county,
43 two thousand dollars; Wayne county, eighteen hundred dol-
44 lars; Webster county, one thousand six hundred twenty dollars;
45 Wetzel county, eighteen hundred dollars; Wirt county, nine

46 hundred dollars; Wood county, twenty-five hundred fifty dol-
47 lars; Wyoming county, twenty-two hundred dollars.

48 The clerk of the circuit court shall be entitled to retain, in
49 addition to his salary, all fees taxed and allowed him by the
50 United States of America and paid by the person to him for
51 services rendered and performed in the naturalization of per-
52 sons to citizenship in the United States of America, and for
53 preparing applications for passports from the United States,
54 and none other.

CHAPTER 51

(House Bill No. 137—By Mr. Arnold)

AN ACT to prevent the deaf from being disqualified, because of
their deafness, to operate motor vehicles on the public roads,
highways and streets of any city or town of this state.

[Passed March 9, 1933; in effect from passage. Became a law without the approval
of the Governor.]

SEC.

1. Deaf persons to be subjected to
same examination as others for
license to operate motor vehicle.

SEC.

but not to be denied license by
reason of deafness.

Be it enacted by the Legislature of West Virginia:

Section 1. That no person shall be refused an operator's or
2 chauffeur's license to operate a motor vehicle on the public roads,
3 highways and streets of any city or town of this state because of
4 the fact that he is deaf: *Provided*, That every deaf person shall
5 be subjected to the same examination and tests given other ap-
6 plicants for licenses to operate motor vehicles, except that,
7 hearing not being a requisite for the safe operation of a motor
8 vehicle, no person shall be denied such license because of failure
9 to pass tests based on ability to hear.

CHAPTER 52

(Senate Bill No. 49—By Mr. Taylor, by request)

AN ACT to amend and reenact section one, article eight, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, relating to trade names and goods of principal liable for debts of agent unless principal disclosed.

[Passed February 22, 1933; in effect ninety days from passage. Approved by the Governor.]

Sec.

1. If name of principal or partner not disclosed by sign at place of business and by publication by factor, agent, etc., property and stock used in business, liable for

Sec.

debts of such agent; not to apply to auctioneer or commission merchant or seller of goods under conditional sales act in code.

Be it enacted by the Legislature of West Virginia:

That section one, article eight, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted, so as to read as follows:

Section 1. If any person shall transact business as a trader
 2 on his own account and in addition to such business, shall
 3 act as factor, agent or in any other sales representative
 4 capacity, or if any person without transacting business on
 5 his own account shall act as such factor, agent or in any other
 6 representative capacity, either with or without the use of
 7 the terms "and company" or "and co.," and shall fail to
 8 disclose the name of his principal or partner by a sign in
 9 letters easy to be read, placed conspicuously at the house or
 10 place of business wherein such business is transacted and
 11 also by a notice published once each week for two successive
 12 weeks in a newspaper printed in the town or county where-
 13 in the same is transacted, or if no such newspaper be printed
 14 therein, then in a newspaper of general circulation in such
 15 town or county; then all of the property, stock, and choses
 16 in action, acquired or used in such business shall, as to the
 17 creditors of such person, be liable for all of the debts of such
 18 person. This section shall not apply to a person transacting
 19, such business under a license to him as an auctioneer or com-
 20 mission merchant and nothing herein contained shall be con-
 21 strued as affecting to his disadvantage any right or rights
 22 reserved to or acquired by any seller of goods, by or on
 23 account of his compliance with the terms, conditions and pro-

24 visions of what is known as the uniform conditional sales act
 25 as contained in article three, chapter forty of the code of
 26 West Virginia, one thousand nine hundred thirty-one.

CHAPTER 53

(Senate Bill No. 130—By Mr. White, of Hampshire)

AN ACT to amend and reenact section twelve, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to bond of persons contracting for building or repairing of schoolhouses.

[Passed March 11, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC. 12. Boards of education to require		SEC. bond from contractors building or repairing schoolhouses.
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Be it enacted by the Legislature of West Virginia:

That section twelve, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows:

Section 12. Boards of education shall in all cases require 2 persons entering into contract for the building or repairing of 3 schoolhouses to execute bond as provided in section thirty-nine, 4 article two, chapter thirty-eight of this code.

CHAPTER 54

(Senate Bill No. 132—By Mr. White, of Hampshire)

AN ACT to amend and reenact section nine, article one, chapter thirty-nine of the code of West Virginia one thousand nine hundred thirty-one, relating to certificate of acknowledgment of a corporation.

[Passed March 11, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC. 9. Form of acknowledgment of a corporation.		
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Be it enacted by the Legislature of West Virginia:

That section nine, article one, chapter thirty-nine of the code

*See section twelve, article five, chapter eight, acts of the extraordinary session 1933, in this volume.

of West Virginia one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows:

Section 9. The certificate of acknowledgment of a corporation may be in form or effect as prescribed in section four of this article as far as the words "do certify" and thence as follows: do certify that....., who signed the writing above (or hereto annexed), bearing date the..... day of....., 19....., for..... (name of corporation), has this day in my said county, before me, acknowledged the said writing to be the act and deed of said corporation.
Given under my hand this.....day of....., 19.....

CHAPTER 55

(Senate Bill No. 138—By Mr. White, of Hampshire)

AN ACT to amend and reenact section one, article seventeen, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to lawful fences.

[Passed March 11, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.

1. Height and description of lawful fences. |

Be it enacted by the Legislature of West Virginia:

That section one, article seventeen, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows:

- Section 1. Every fence of the height and description herein-
after mentioned shall be deemed a lawful fence as to any horses,
mules, ass, jennet, cattle, sheep, swine or goats, which could not
creep through the same, that is to say:
- (a) If built of common rails, known as the worm fence, four and one-half feet high;
 - (b) If built with posts and rails, or posts and plank, or pickets, four feet high;
 - (c) If built with stone, two feet wide at base, and three and one-half feet high;
 - (d) If a hedge fence, four feet high. If any hedge fence be

12 built upon a mound, the same from the bottom of the ditch
13 shall be included in estimating the height of such fence;

14 (e) If built with posts and wire, or pickets and wire, four
15 feet high, and shall consist of not less than six strands, the first
16 strand five inches, the second strand ten inches, the third strand
17 seventeen inches, the fourth strand twenty-five inches, the fifth
18 strand thirty-six inches, and the sixth strand forty-eight inches
19 from the ground; and if with more than six strands, the space
20 between the strands shall in no case be greater than hereinbe-
21 fore provided. The space between the posts shall, in no case,
22 be greater than sixteen feet.

23 All fences heretofore built under the existing law and in com-
24 pliance therewith shall be and remain and may be kept up as
25 lawful fences.

CHAPTER 56

(Senate Bill No. 139—By Mr. White, of Hampshire)

AN ACT to amend and reenact section one, article eight, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to assessments for improving sidewalks and footways.

[Passed March 11, 1933; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.

1. Collection by municipalities from property owner or occupant of expense of paving, repaving or

SEC.

keeping clean any sidewalk or footway.

Be it enacted by the Legislature of West Virginia:

That section one, article eight, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows:

Section 1. If the owner of real property abutting upon any sidewalk or footway, in any municipality to which this chapter applies, shall fail or refuse to curb, recurb, pave, repave or keep the same clean, or if the occupant abutting upon such sidewalk or footway shall fail or refuse to keep the same clean, in the manner or within the time required by the council, it shall be the duty of the council to cause the same to be done at the expense of the municipality and to assess the amount of such

9 expense upon such owner or occupant, and the same may be
10 collected by the sergeant, or such other officer as may be desig-
11 nated by the municipal council, in the manner herein provided
12 for the collection of municipal taxes.

CHAPTER 57

(House Bill No. 157—By Mr. Randolph)

AN ACT to establish the rate of wages to be paid to workmen and mechanics employed in construction of public improvements.

[Passed March 11, 1933; in effect ninety days from passage. Became a law without the approval of the Governor.]

- | | |
|--|--|
| <p>SEC.</p> <ol style="list-style-type: none"> 1. Public improvements, definitions of words and phrases. 2. Minimum rate of wages to be determined by public authority before advertising for bids for construction of public improvement and printed on the bidding blanks. 3. Successful bidder required to pay wages not less than minimum fixed. | <p>SEC.</p> <ol style="list-style-type: none"> 4. Penalty for violation of wage provisions of contract by contractor; recovery of damages by employee from contractor. 5. If any part of act invalid, remainder not affected. 6. Act in force and effect only until July first, one thousand nine hundred thirty-five. |
|--|--|

Be it enacted by the Legislature of West Virginia:

Section 1. The term "public authority," as used in this act, shall mean any officer, board or commission of the state of West Virginia, or any political subdivision thereof, authorized by law to enter into a contract for the construction of a public improvement. The term construction, as used in this act shall mean any construction, reconstruction, improvement, enlargement or repair of any public improvement. The term "public improvement," as used in this act, shall include all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or works constructed by the state of West Virginia or any political subdivision thereof. The term "locality," as used in this act, shall mean the county wherein the physical work upon any public improvement is being performed.

Sec. 2. Any public authority authorized to contract for a public improvement shall, before advertising for bids for the

3 construction thereof, fix and determine a fair minimum rate of
4 wages to be paid by the successful bidder to the employees in
5 the various branches or classes of the work, which minimum
6 shall be determined from a consideration of the prevailing rate
7 of wages paid for each such branch or class in the locality
8 wherein the physical work upon such improvement is to be
9 performed. The minimum rate of wages so fixed shall be printed
10 on the bidding blanks.

Sec. 3. In all cases where any public authority shall fix a
2 fair minimum rate or rates of wages as herein provided, the con-
3 tract executed between the public authority and the successful
4 bidder shall contain a provision requiring the successful bidder
5 and all his subcontractors to pay a rate or rates of wages which
6 shall not be less than the minimum rate or rates of wages so fixed.
7 It shall be the duty of the successful bidder and all his subcon-
8 tractors to strictly comply with such provisions of the contract.

Sec. 4. Any contractor or subcontractor who shall violate
2 the wage provisions of such contract, or who shall suffer, permit
3 or require any employee to work for less than the minimum rate
4 of wages so fixed, shall be fined not less than fifty dollars or more
5 than five hundred dollars. Any employee upon any public im-
6 provement who is paid less than the fixed minimum rate of wages
7 applicable thereto may recover from the contractor or subcon-
8 tractor the difference between the fixed minimum rate of wages
9 and the amount paid to him, and in addition thereto a penalty
10 equal in amount to such difference.

Sec. 5. Each section of this act and every part thereof is
2 hereby declared to be an independent section or part of a section,
3 and if any section, subsection, sentence, clause or phrase of this
4 act shall for any reason be held unconstitutional, the validity of
5 the remaining phrases, clauses, sentences, subsections, and sec-
6 tions of this act shall not be affected thereby.

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

Sec. 6. All the provisions of this act shall be in force and
2 effect only until July first, one thousand nine hundred thirty-
3 five, and shall be of no force or effect after that date.

CHAPTER 58

(House Bill No. 190—By Mr. Norton)

AN ACT to amend and reenact section eleven, article three, chapter forty of the code of West Virginia, one thousand nine hundred thirty-one, relating to the refiling of conditional sales contracts.

[Passed February 22, 1933; in effect ninety days from passage. Approved by the Governor.]

Sec.	SEC.	ing; extension of time of validity by refiling or rerecording.
11. Time for which conditional sales contracts are made valid by fil-	|	

Be it enacted by the Legislature of West Virginia:

That section eleven, article three, chapter forty of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 11. The filing of any conditional sale contract, here-
 2 tofore or hereafter filed, pursuant to the provisions of sections
 3 five, six and seven of this article, shall be valid for a period
 4 of five years only from the date of such filing. The recording
 5 be valid for a period of fifteen years only. The validity of the
 6 filing or recording may in each case be extended for successive
 7 additional periods of two years from the date of refiling or re-
 8 recording by filing or recording in the proper filing district a
 9 copy of the original contract within thirty days next preceding
 10 the expiration of each period, with a statement attached, signed
 11 by the seller, showing that the contract is in force and the
 12 amount remaining to be paid thereon. Such copy, with state-
 13 ment attached, shall be filed or recorded in the same manner as
 14 a contract or copy for the first time, and the filing or recording
 15 officer shall be entitled to a like fee as upon the original filing
 16 or recording.

CHAPTER 59

(House Bill No. 259—By Mr. Marsh, of Ohio)

AN ACT to amend and reenact section fourteen, article five-(a), chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, relating to the license to be paid by contestants in any boxing or wrestling contest or exhibition held in this state.

[Passed March 1, 1933; in effect from passage. Approved by the Governor.]

SEC.	SEC.
14. License fee for contestant, referee or second in boxing or wrest-	ling contest for single contest or for yearly license.

Be it enacted by the Legislature of West Virginia:

That section fourteen, article five-(a), chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 14. No contestant, referee or second shall be permitted to take part in any boxing or wrestling contest or exhibition, unless holding a license from the state, said license to be issued by the commission upon the payment of one dollar for each exhibition or contest, or upon the payment of ten dollars for a license for a year, dating from July first to June thirtieth, said license to be revoked upon conviction of violation of this article.

CHAPTER 60

(House Bill No. 265—By Mr. Ferrell)

AN ACT to provide for the appointment and promotion of members of paid fire departments in cities and municipalities; to provide for the creation and maintenance of a civil service commission for that purpose; to establish rules and procedure therefor; to regulate the manner in which demotions and discharge of employees of paid fire departments shall be made, and the rights and limitations of said employees in that respect; to provide for other matters relating to the duties and

powers of said civil service commission, defining its powers, limiting its authority, etc.; and to provide penalties for the violation of the provisions of this bill.

[Passed March 11, 1933; in effect ninety days from passage. Became a law without the approval of the Governor.]

Sec.

1. Examinations for appointments to and promotions in all paid fire departments in municipalities; appointments, promotions, reinstatements and discharges to be governed by act.
2. Civil service commission, number, appointment and qualifications; method of appointment, terms and vacancies; selection of president; removal from office and petition to circuit court; appeal to supreme court of appeals; procedure in circuit court on charges filed against commissioner; appeal; commissioner not to hold other office, serve on political committee or manage political campaign.
3. City clerk or recorder to be clerk of commission and supply clerical and stenographic services.
4. Rooms, stationery, postage stamps, etc., to be furnished commission by municipality.
5. Powers and duties of commission.
6. Rules and regulations for examinations; probationary appointments for six months; removal or retention of probationer.
7. Character and public notice of examination; three years residence in city required before application; press representatives at examination; posting of eligible list.
8. Form of application for examination; certificates of citizens, physicians and others concerning applicant; refusal by commission to examine applicant or certify after examination; public hearing on refusal, if requested by applicant.

Sec.

9. Positions filled by appointing officer from list of eligibles furnished by commission; objection by appointing officer and removal of name from list; special examinations for electricians or mechanics; definition of "appointive officer."
10. Noncompetitive examination for filling vacancy and provisional appointment.
11. Vacancies filled, as far as practicable, by promotions; eligibility for promotion.
12. Physical examination and age of applicant; exceptions as to age and full examination.
13. Removal, discharge or reduction in rank or pay; written statement of reasons to employee; answer by employee and public hearing; appeal to circuit and supreme court; employment of counsel; procedure when city makes reduction in personnel for economy or other reasons; reinstatements if department again increased in numbers.
14. No inquiry concerning or discrimination against applicant because of his political or religious opinions or affiliations.
15. Penalty for violation of act.
16. Certain actions as misdemeanors.
17. Penalty for misdemeanors hereunder.
18. Present membership of departments to continue, but to be divided equally politically.
19. Repeal of conflicting acts; intent of this act.
20. Act not to apply to municipalities of Huntington, Parkersburg and Wheeling.

Be it enacted by the Legislature of West Virginia:

Section 1. On and after the date this act takes effect, one thousand nine hundred thirty-three, appointments to and promotions in all paid fire departments of cities of any population whatsoever shall be made only according to qualifications and fitness to be ascertained by examinations, which, so far as practicable, shall be competitive, as hereinafter provided. On and after the aforesaid date, no person shall be appointed, reinstated, promoted or discharged as a paid member of said department, regardless of rank or position, in any fire department, of any city in the State of West Virginia, in any manner or by any means other than those prescribed in this act.

Sec. 2. There shall be a "civil service commission" in each city or incorporated town having a fire department, any of the members of which are paid by said city or municipality. This civil service commission shall consist of three commissioners, one of whom shall be appointed by the mayor or principal executive officer of said city; one of whom shall be appointed by the local trades board in event that said board shall exist in said city, or in case no such board exists in said city, then by the paid international association of fire fighters; and the third shall be appointed by the local chamber of commerce. The persons appointed commissioners shall be qualified voters of the city or municipality for which they are appointed; and at least two of said commissioners shall be persons in full sympathy with the purposes of this act. Not more than two of the said commissioners, at any one time, shall be adherents of the same political party. The commissioners in each city shall be appointed as follows: Within thirty days after this act takes effect, the person, organization or board having appointive power to this civil service commission shall appoint three commissioners, the first of which to be appointed by the mayor or principal executive officer shall serve for six years from the date of his appointment; the second commissioner to be appointed by the local trades board, or in the absence of such board, by the international association of fire fighters, shall serve for four years from the date of his appointment; and the third commissioner to be appointed by the chamber of commerce of each city or municipality for a term of two years from the date of his appointment; in the absence of the existence of a board of commerce, at time any appointment is to be made—this third appointment shall be made by the other two members by mutual agreement; thereafter all appointments shall be made for periods of four years each by the appointing power hereinbefore designated. In event that any commissioner of said civil service commission shall cease to be a member thereof by virtue of death, removal, or other cause, a new commissioner shall be appointed to fill out the unexpired term of said commissioner within ten days after said commissioner shall have ceased to be a member of said commission. Such appointment shall be made by the officer or body who in the first instance appointed the commissioner who is no longer a member of the commission. The three members of the commis-

42 sion shall, together, elect one of their number to act as president
43 of the commission, who shall serve as president for one year. Each
44 year thereafter the commissioners shall elect one of their number
45-46 president, the member so elected to serve one year. The mayor
47 or principal executive officer, may, at any time, remove a com-
48 missioner for good cause, which shall be stated in writing and
49 made a part of the records of the commission: *Provided, how-*
50 *ever,* That once the mayor has to remove any commissioner, such
51 removal shall be temporary only and shall be in effect for a
52 period of ten days, if at the end of said period of ten days the
53 circuit court of the county in which said city or municipality
54 is located, is in term or session. Within said ten day period the
55 mayor shall file in the office of the clerk of the circuit court of
56 said county a petition setting forth in full the reason for said
57 removal and praying for the confirmation by said circuit court
58 of the action of the mayor in so removing the said commissioner.
59 A copy of said petition, in writing, shall be served upon the com-
60 missioner so removed simultaneously with its filing in the office
61 of the clerk of the circuit court and shall have precedence on the
62 docket of said court and shall be heard by said court as soon as
63 the removed commissioner shall demand. All rights hereby
64 vested in said circuit court may be exercised by the judge there-
65 of during vacation. In event that no term of circuit court is
66 being held at the time of the filing of said petition, and the judge
67 thereof can not be reached in the county wherein the petition
68 was filed, said petition shall be heard at the next succeeding
69 term of said circuit court, whether regular or special, and the
70 commissioner so suspended shall remain suspended until a hear-
71 ing is had upon the petition of the mayor. The court, or the
72 judge thereof, in vacation, shall hear and decide upon said pe-
73 tition. The contestant against whom the decision of the court
74 or judge thereof, in vacation, shall be rendered, shall have the
75 right to petition the supreme court of appeals for a review of the
76 decision of the circuit court, or the judge thereof, in vacation,
77 as in chancery cases. In event that the mayor shall fail to file
78 his petition in the office of the clerk of the circuit court, as
79 hereinbefore provided, within ten days after the removal of said
80 commissioner, such commissioner shall immediately resume his
81 position as a member of the civil service commission.
82 Any citizen or citizens shall have the right, at any time, to file

83 charges against any member of the civil service commission;
84 such charges shall be filed in the form of a petition in the office
85 of the clerk of the circuit court, a copy of said petition, in writ-
86 ing, to be served upon the commissioner sought to be removed.
87 Said petition shall be matured for hearing and heard by the cir-
88 cuit court of the county wherein the said city or municipality
89 for which such commissioner serves, as a member of the civil
90 service commission, in the same manner as chancery proceedings
91 in the Circuit courts of West Virginia are heard, saving the right
92 to petition the supreme court of appeals for a review of the
93 action of the circuit court to the contestant against whom the
94 circuit court's decision is rendered.

95 No commissioner shall hold any other office under the United
96 States, the State of West Virginia, or any city, county or other
97 political subdivision thereof; nor shall any commissioner serve
98 on any political committee or take any active part in the man-
99 agement of any political campaign.

Sec. 3. The city clerk or city recorder of any municipality
2 under the terms of this act shall ex officio be clerk of the civil
3 service commission and shall supply to the commission without
4 extra compensation all necessary clerical and stenographic serv-
5 ices for the work of the civil service commission.

Sec. 4. It shall be the duty of the mayor, or principal ex-
2 ecutive officer, and heads of departments of every city to cause
3 suitable and convenient rooms and accommodations to be as-
4 signed and provided, and to be furnished, heated and lighted for
5 carrying on the work and examinations of the civil service com-
6 mission. The civil service commission may order from the
7 proper authorities the necessary stationery, postage stamps,
8 official seal and other articles to be supplied, and the necessary
9 printing to be done, for its official use. It shall be the duty
10 of the officers of every city to aid the civil service commission
11 in all proper ways in carrying out the provisions of this act,
12 and to allow the reasonable use of public buildings, and to heat
13 and light the same, for holding examinations and investigations,
14 and in all proper ways to facilitate the same.

Sec. 5. The civil service commission in each city or munici-
2 pality, within the terms of this act, shall:

3 *First:* Prescribe, amend and enforce rules and regulations
4 for carrying into effect the provisions of this act. All rules so
5 prepared may, from time to time, be added to, amended or re-

6 scinded: *Provided*, That all rules shall be approved by the
7 mayor or principal executive officer and the council, and if no
8 council, the principal governing body, before they go into ef-
9 fect, but when so approved shall not be annulled or changed ex-
10 cept by the commission with the approval of the mayor or prin-
11 cipal executive officer and the council, or principal governing
12 body: *Providing further, however*, That if said executive officer
13 and said governing body takes no action on a rule or amend-
14 ment submitted to them within a period of twenty days from
15 the date of its submission, then the rule or amendment shall be-
16 come effective as though approved by the principal executive
17 officer and principal governing body;

18 *Second*: Keep minutes of its own proceedings, and records
19 of its examinations and other official actions. All recommenda-
20 tions of applicants for office, received by the said commission
21 or by any officer having authority to make appointments to
22 office, shall be kept and preserved for a period of ten years, and
23 all such records, recommendations of former employees ex-
24 cepted, and all written causes of removal, filed with it, shall,
25 subject to reasonable regulation, be open to public inspection;

26 *Third*: Make investigations, either sitting as a body or
27 through a single commissioner, concerning all matters touching
28 the enforcement and effect of the provisions of this act, and the
29 rules and regulations prescribed thereunder, concerning the
30 action of any examiner or subordinate of the commission, or any
31 person in the public service in respect to the execution of this
32 act; and, in the course of such investigations, each commissioner
33 shall have the power to administer oaths and affirmations, and to
34 take testimony;

35 *Fourth*: Have power to subpoena and require the attendance
36 of witnesses, and the production thereby of books and papers
37 pertinent to the investigations and inquiries hereby authorized,
38 and to examine them and such public records as it shall require,
39 in relation to any matter which it has the authority to investi-
40 gate. The fees of such witnesses for attendance and travel shall
41 be the same as for witnesses before the circuit courts, and shall
42 be paid from the appropriation for the incidental expenses of the
43 commission. All officers in the public service, and their depu-
44 ties, clerks, subordinates and employees shall attend and testify
45 when required to do so by said commission. Any disobedience to,
46 or neglect of any subpoena issued by the said commissioners, or

47 any one of them, to any person, shall be held a contempt of court,
48 and shall be punished by any circuit court, within the county
49 in which is the city from the civil service commission of which
50 the said subpoena had issued, as if such subpoena had been issued
51 therefrom. Any judge of any of said courts shall, upon the ap-
52 plication of any one of said commissioners, in such cases, cause
53 the process of said court to issue to compel such person or per-
54 sons, disobeying or neglecting any such subpoena, to appear and
55 to give testimony before the said commissioners, or any one of
56 them, and shall have power to punish any such contempt;

57 *Fifth:* Make an annual report to the mayor or principal
58 executive officer showing its own action, and rules and regula-
59 tions, and all the exceptions thereto in force, and the practical
60 effects thereof, and any suggestions it may approve for the more
61 effectual accomplishment of the purposes of this act. Such re-
62 port shall be available for public inspection five days after the
63 same shall have been delivered to the mayor or principal execu-
64 tive officer of any city or municipality.

Sec. 6. The civil service commission, in each city, shall make
2 rules and regulations providing for examinations for positions
3 in the paid fire department in each municipality under this act,
4 and for appointments to and promotions therein, and for such
5 other matters as are necessary to carry out the purposes of
6 this act. Due notice of the contents of such rules and regula-
7 tions and of any modifications thereof shall be given, by mail,
8 in due season, to appointing officers affected thereby; and said
9 rules and regulations and modifications thereof shall also be
10 printed for public distribution. All original appointments to any
11 positions in fire departments within the terms of this act shall
12 be for a probationary period of six months: *Provided, however,*
13 That at any time during the probationary period the appointee
14 may be dismissed for just cause, in the manner provided in sec-
15 tion thirteen of this act. If, at the close of this probationary
16 term, the conduct or capacity of the probationer has not been
17 satisfactory to the appointing officer, the probationer shall be
18 notified, in writing, that he will not receive absolute appoint-
19 ment, whereupon his employment shall cease; otherwise, his re-
20 tention in the service shall be equivalent to his final appoint-
21 ment.

Sec. 7. All examinations for positions or promotions shall be
2 practical in their character, and shall relate to such matters, and

3 include such inquiries, as will fairly and fully test the compara-
4 tive merit and fitness of the persons examined to discharge the
5 duties of the employment sought by them. All examinations
6 shall be open to all applicants who have fulfilled the preliminary
7 requirements, stated in other sections of this act. All applicants
8 for any position in the fire department shall, as hereinafter
9 stated, subject to regulations adopted by the civil service com-
10 mission, be required to submit to a physical examination before
11 being admitted to the regular examinations held by the commis-
12 sion. Said applicant shall have been a resident for three years
13 next preceding date of his application, of the city or munici-
14 pality in which he seeks to obtain employment on the fire depart-
15 ment. Adequate public notice of the time and place of every
16 examination held under the provisions of this act, together with
17 information as to the kind of position or place to be filled, shall
18 be given at least one week prior to such examinations. The
19 said commission shall adopt reasonable regulations for permit-
20 ting the presence of representatives of the press at the examina-
21 tions. The commission shall post, in a public place at its office,
22 the eligible list, containing the names and grades of those who
23 have passed examinations for positions in fire departments, under
24 this act, and shall indicate thereon such appointments as may
25 be made from said lists.

Sec. 8. The civil service commission, in each city, shall re-
2 quire persons applying for admission to any examination pro-
3 vided for under this act or under the rules and regulations of
4 the said commission, to file in its office, within a reasonable time
5 prior to the proposed examination, a formal application in which
6 the applicant shall state under oath or affirmation:

7 *First:* His full name, residence, and post office address;

8 *Second:* His citizenship, age, and the place and date of his
9 birth;

10 *Third:* His health, and his physical capacity for public
11 service;

12 *Fourth:* His business and employments and residences for
13 at least three previous years;

14 *Fifth:* Such other information as may reasonably be re-
15 quired, touching the applicant's qualifications and fitness for
16 the public service.

17 Blank forms for such applications shall be furnished by the
18 said commission, without charge, to all persons requesting the

19 same. The said commission may require, in connection with
20 such application, such certificate of citizens, physicians or others,
21 having knowledge of the applicant, as the good of the service
22 may require. The said commission may refuse to examine an ap-
23 plicant, or, after examination, to certify as eligible, one who is
24 found to lack any of the established preliminary requirements
25 for the examination or position or employment for which he
26 applies; or who is physically so disabled as to be rendered
27 unfit for the performance of the duties of the position to which
28 he seeks appointment; or who is addicted to the habitual use of
29 intoxicating liquors or drugs; or who has been guilty of any
30 crime, or of infamous or notoriously disgraceful conduct; or
31 who has been dismissed from the public service for delinquency or
32 misconduct; or who has made a false statement of any material
33 fact, or practiced or attempted to practice any deception or
34 fraud in his application, in his examination, or in securing his
35 eligibility; or who refuse to comply with the rules and regula-
36 tions of the commission.

37 If any applicant feels himself aggrieved by the action of the
38 commission in refusing to examine him, or after an examination,
39 to certify him as an eligible, as provided in this section, the com-
40 mission shall, at the request of such applicant, appoint a time
41 and place for a public hearing; at which time such applicant
42 may appear, by himself or counsel, or both, and the commission
43 shall then review its refusal to make such examination or certi-
44 fication, and testimony shall be taken. The commission shall
45 subpoena, at the expense of the applicant, any competent wit-
46 nesses requested by him. After such review, the commission
47 shall file the testimony taken, in its records, and shall again
48 make a decision, which decision shall be final.

Sec. 9. Every position or employment, unless filled by
2 promotion, reinstatement, or reduction, shall be filled only in
3 the following manner: The appointing officer shall notify the
4 civil service commission of any vacancy in the service which he
5 desires to fill, and shall request the certification of eligibles.
6 The commission shall forthwith certify, from the eligible list,
7 the names of the three persons thereon who received the high-
8 est averages at preceding examinations held under the pro-
9 visions of this act within a period of three years next preceding
10 the date of such appointment. The appointing officer shall,
11 thereupon, with sole reference to the relative merit and fitness

12 of the candidates, make an appointment from the three names
13 so certified: *Provided, however,* That should he make objection,
14 to the commission, to one or more of these persons, for any of
15 the reasons stated in section eight of this act, and should such
16 objections be sustained by the commission, as provided in sec-
17 tion eight of this act, the commission shall thereupon strike
18 the name of such person from the eligible list, and certify the
19 next highest name for each person so stricken off. As each
20 subsequent vacancy occurs, in the same or another position,
21 precisely the same procedure shall be followed: *Provided, how-*
22 *ever,* That after any name has been three times rejected, for
23 the same or another position, in favor of a name or names below
24 it on the same list, the said name shall be stricken from the list.
25 When there are a number of positions of the same kind to be
26 filled at the same time, each appointment shall, nevertheless,
27 be made separately and in accordance with the foregoing pro-
28 visions. When an appointment is made under the provisions
29 of this section it shall be, in the first instance, for the proba-
30 tionary period of six months, as provided in section six of this
31 act: *Provided, however,* That in event any position as an elec-
32 trician or mechanic is to be filled upon any paid fire depart-
33 ment, then the examinations to be given to applicants for either
34 the positions of electrician or mechanic shall be so drawn as to
35 test only the qualifications of such applicants in regard to their
36 ability as electricians or mechanics, such examinations to be
37 special examinations.

38 The term "appointing officer" as used in this act shall be
39 construed to mean the municipal officer in whom the power of
40 appointment of members to a paid fire department is vested by
41 the charter of a city or municipality in which an appointment
42 shall be made.

Sec. 10. Whenever there are urgent reasons for filling a
2 vacancy in any position in the fire department and there is no
3 list of persons eligible for appointment after a competitive ex-
4 amination, the appointing officer may nominate a person to the
5 civil service commission for noncompetitive examination; and
6 if such nominee shall be certified by the said commission as
7 qualified, after such noncompetitive examination, he may be
8 appointed provisionally, to fill such vacancy until a selection
9 and appointment can be made after competitive examination,

10 in the manner prescribed in section nine; but such provisional
11 appointment shall not continue for a longer period than three
12 months, nor shall successive provisional appointments be made
13 to the same position, under this provision.

Sec. 11. Vacancies in positions in the fire department shall
2 be filled, so far as practicable, by promotions from among per-
3 sons holding positions in the next lower grade in the depart-
4 ment. Promotions shall be based upon merit to be ascertained
5 by tests to be provided by the civil service commission and
6 upon the superior qualifications of the persons promoted, as
7 shown by his previous service and experience: *Provided, how-*
8 *ever,* That no person shall be eligible for promotion from the
9 lower grade to the next higher grade until such person shall
10 have completed at least two years' service in the next lower
11 grade in the department. The commission shall have the power
12 to determine in each instance whether an increase in salary
13 constitutes a promotion.

Sec. 12. All applicants for any position in the fire depart-
2 ment shall undergo a physical examination which shall be con-
3 ducted under the supervision of a commission composed of two
4 doctors of medicine appointed for that mission by the mayor
5 or principal executive officer of the city or municipality. Said
6-7 commission shall certify that an applicant is free from any
8 bodily or mental defects, deformity or diseases that might in-
9 capacitate him from the performance of the duties of the posi-
10 tion desired before said applicant shall be permitted to take
11 further examinations. No application will be received if the
12 person applying is less than twenty-one years of age or more
13 than thirty-five years of age at the date of his application:
14 *Provided, however,* That in event any applicant has formerly
15 served upon the fire department of the city to which he makes
16 application, for a period of more than six months, and has
17 resigned from the department at a time when there were no
18 charges of misconduct or other misfeasance pending against
19 such applicant, within a period of two years next preceding
20 the date of his application, and is a resident of the city or
21 municipality, and is still a resident of the city or municipality
22 of the fire department on which he seeks reinstatement, then
23 such person shall be eligible for reinstatement in the discre-
24 tion of the civil service commission, even though such applicant

25 shall be over the age of thirty-five years. Such applicant, pro-
26 viding his former term of service so justifies, may be reap-
27 pointed to the fire department without examination other than
28 a physical examination; if such person shall be so reinstated
29 to the fire department he shall be the lowest in rank in the
30 department next above the probationers of the department.

Sec. 13. No member of any fire department within the terms
2 of this act shall be removed, discharged or reduced in rank or
3 pay except for just cause, which shall not be religious or politi-
4 cal; further, no such employee shall be removed, discharged or
5 reduced except as provided in this act, and in no event
6 until he shall have been furnished with a written statement
7 of the reasons for such action. In every case of such removal
8 or reduction, a copy of the statement of reasons therefor
9 and of the written answer thereto, if the person sought to be
10 removed desires to file such written answer, shall be furnished
11 to the civil service commission and entered upon its records.
12 If the person sought to be removed or reduced shall demand it,
13 the civil service commission shall grant him a public hearing,
14 which hearing shall be held within a period of ten days from
15 the filing of the charges in writing and the written answer
16 thereto. At such hearing the burden shall be upon the remov-
17 ing officer to justify his action. In event that the civil service
18 commission fails to justify the action of the removing officer,
19 then the person sought to be removed shall be reinstated with
20 full pay for the entire period during which he may have been
21 prevented from performing his usual employment, and no
22 charges be officially recorded against his record. A written
23 record of all testimony taken at such hearing shall be kept and
24 preserved by the civil service commission, which record shall
25 be sealed and not be available for public inspection, in event
26 that no appeal shall be taken from the action of the commission.
27 In event that the civil service commission shall sustain the ac-
28 tion of the removing officer the person removed shall have an
29 immediate right of appeal to the circuit court of the county
30 wherein the city or municipality is situated. Said appeal shall
31 be taken within ninety days from the entry by the civil service
32 commission of its final order; upon such an appeal being taken
33 and docketed with the clerk of the circuit court of said county,
34 the circuit court shall proceed to hear the appeal upon the

35 original record taken therein and no additional proof shall be
36 permitted to be introduced. The circuit court's decision shall
37 be final, saving to the employee, however, the right to petition
38 the supreme court of appeals for a review of the circuit court's
39 decision.

40 The removing officer and the person sought to be removed
41 shall at all times, both before the civil service commission and
42 upon appeal, be given the right to employ counsel to represent
43 either of them before said civil service commission and upon
44 appeal; should the person removed elect to appeal to the cir-
45 cuit court as hereinbefore provided: *Provided, however,* That
46 if for reasons of economy or other reasons it shall be deemed
47 necessary by any city or municipality to reduce the number of
48 paid members of any fire department then said municipality
49 shall follow the following procedure:

50 *First:* If there be any paid firemen eligible for retirement
51 under the terms of a pension fund act, if such fund exists in
52 said city or municipality, then such reduction in numbers shall
53 be made by retirement on pension of all such eligible paid mem-
54 bers of the fire department;

55 *Second:* If the number of paid firemen eligible for re-
56 tirement under the pension fund of said city or mu-
57 nicipality, if such pension fund exists, is insufficient to ef-
58 fect the reduction in numbers of said paid fire department de-
59 sired by said city or municipality, or if there is no eligible per-
60 son for retirement under the pension fund of said city or mu-
61 nicipality, or if no pension fund exists in said city or munici-
62 pality, then reduction in members of the paid fire department
63 of said city or municipality shall be effected by suspending
64 the last man or men, including probationers, that have been
65 appointed to said fire department. Such removal shall be ac-
66 complished by suspending in numerical order commencing with
67 the last men appointed to the fire department, all recent ap-
68 pointees to said fire department until such reduction shall have
69 been accomplished: *Provided further,* That in event the said
70 fire department shall again be increased in numbers to the
71 strength existing prior to such reduction of members the said
72 firemen suspended under the terms of this act shall be rein-

73 stated before any new appointments to said fire department
74 shall be made.

Sec. 14. No question in any form of application or in any
2 examination shall be so framed as to elicit information con-
3 cerning the political or religious opinions or affiliations of any
4 applicant; nor shall inquiry be made concerning such opinions
5 or affiliations; and all disclosures thereof shall be discounten-
6 anced. No discrimination shall be exercised, threatened, or
7 promised by any person in the fire department against, or in
8 favor of, an applicant, eligible, or employee in fire departments
9 under this act because of his political or religious opinions or
10 affiliations.

Sec. 15. Whoever makes an appointment to office, or selects
2 a person for employment, contrary to the provisions of this
3 act, or wilfully refuses or neglects otherwise to comply with,
4 or to conform to, any of the provisions of this act, or violates any
5 of such provisions, shall be deemed guilty of a misdemeanor.

Sec. 16. Any commissioner or examiner, or any other person,
2 who shall wilfully, by himself or in cooperation with one or
3 more persons, defeat, deceive or obstruct any person in respect
4 to his right of examination or registration according to this
5 act, or to any rules or regulations prescribed pursuant thereto,
6 or who shall wilfully or corruptly, falsely, mark, grade, esti-
7 mate, or report upon the examination or proper standing of
8 any person examined, registered, or certified, pursuant to the
9 provisions of this act, or aid in so doing, or who shall wilfully
10 or corruptly furnish to any person any special or secret informa-
11 tion, for the purpose of either improving or injuring the pros-
12 pects or chances of appointment of any person so examined,
13 registered, or certified, or to be examined, registered, or certi-
14 fied; or who shall personate any other person, or permit or aid
15 in any manner any other person to impersonate him in con-
16 nection with any examination or registration, or application
17 or request to be examined or registered, shall, for each offense,
18 be deemed guilty of a misdemeanor.

Sec. 17. Misdemeanors under the provisions of this act shall
2 be punishable by a fine of not less than fifty dollars, nor more
3 than one thousand dollars, or by imprisonment for a term not
4 exceeding one year, or by both fine and imprisonment, in the
5 discretion of the court.

Sec. 18. All paid firemen in cities or municipalities under the provisions of this act who are employed by such cities or municipalities upon the date of the passage of this act shall be construed to have been appointed under the provisions of this act and shall hold their positions in accordance therewith: *Provided*, That the roster of said fire department is equally divided between the two great political parties. However, if fire departments are not now equally divided new members coming on shall be of the minority until this section is complied with.

Sec. 19. All acts and parts of acts of the legislature of the State of West Virginia, general, special, local or municipal charters, or parts thereof, in relation to any civil service measure affecting the paid fire departments of any city or municipality inconsistent with this act shall be, and the same are hereby repealed insofar as such inconsistencies shall exist. It is understood and intended by this act to furnish a complete and exclusive system for the appointment, promotion, reduction, removal and reinstatement of all officers, firemen or other employees of said fire departments in all cities and municipalities wherein the members of the fire department are paid.

Sec. 20. The provisions of this act shall not apply to the municipalities of Huntington, Parkersburg and Wheeling.

CHAPTER 61

(House Bill No. 417—By Mr. LaFon)

AN ACT to amend and reenact section five, article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to making out land and personal property books, correcting mistakes, and entry of omitted property.

[Passed March 11, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

6. Correction by assessor of mistakes in land and personal property books of previous year; entry of omitted property and charges against, with interest; entry, after one thousand nine hundred

SEC.

thirty-two and charges against with interest of omitted money, notes and other intangibles; forfeiture by assessor for failure to enter omitted property.

Be it enacted by the Legislature of West Virginia:

That section five, article three, chapter eleven of the code of

West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 5. The assessor in making out the land and personal property books, shall correct any and every mistake he shall discover in the books for any previous year.

When the assessor shall ascertain that any real or personal property in his county liable to taxation, other than that mentioned in the next succeeding paragraph, has been omitted from the land or personal property books for a period of less than five years, he shall make an entry thereof in the proper book of the year in which such omission was discovered, and assess the same according to the rule prescribed in section one of this article, and shall charge the same with all taxes chargeable against it at the rate of levy for the year or years the same was omitted, together with interest thereon at the rate of six per cent per annum for the years the same was omitted from the books.

And when the assessor shall ascertain that any moneys, notes, bonds, bills and accounts receivable, stocks and other intangible personal property in his county liable to taxation has been omitted from the personal property books for a period of five years or less after December thirty-first, one thousand nine hundred thirty-two, he shall make entry thereof in the personal property book of the year in which such omission was discovered, and assess the same at its true and actual value according to the rule prescribed in section one of this article, and shall charge the same with all taxes chargeable against it after the year last aforesaid at the rate of levy for the year or years the same was omitted after the year aforesaid, together with interest thereon at the rate of six per cent per annum for the years the same was omitted from the books.

Any assessor failing to make such entry as in this act provided, when discovered by him, or called to his attention by any taxpayer interested therein, shall forfeit one hundred dollars.

CHAPTER 62

(Senate Bill No. 116—By Mr. Beneke)

AN ACT to amend and reenact sub-section one-(a), article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, prescribing the dates for the holding of the regular terms of circuit court for the first judicial circuit.

[Passed February 28, 1933; in effect from passage. Approved by the Governor.]

SEC.

1-(a). Terms of court in first judicial circuit.

Be it enacted by the Legislature of West Virginia:

That sub-section one-(a), article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows:

Section 1. (a) For the county of Ohio, on the second Monday in January, April and September.

3 For the county of Brooke, on the first Monday in March, 4 June and November.

5 For the county of Hancock, beginning with the month of 6 September, one thousand nine hundred thirty-three; on the 7 Tuesday after the second Monday in January, April and 8 September.

CHAPTER 63

(Senate Bill No. 117—By Mr. Beneke)

AN ACT to amend and reenact chapter two, acts of the legislature of West Virginia, one thousand eight hundred seventy-nine, entitled "An Act to organize the circuit courts in the first judicial circuit".

[Passed February 28, 1933; in effect from passage. Approved by the Governor.]

SEC.

1. In first judicial circuit, judges may hold court in same or different counties at same time; term in one county may continue after time fixed for commencement of term in another county.
2. Either or both judges may hold regular, special or adjourned term; may sit together to make rules, appointments, etc., and hold court together or separately;

SEC.

rules and appointments in county where but one judge sitting; designation of courts as part one and part two.
3. Duties of clerk and sheriff in county in which two parts of circuit court.
4. Jurors and witnesses in attendance on one part of court, on order, to attend other part.

- | | |
|--|---|
| <p>SEC.</p> <p>5. Designation of judges to hold particular courts.</p> <p>6. Classification and apportionment of business of court in which both judges sit at same time; docket.</p> <p>7. Selection of presiding magistrate.</p> | <p>SEC.</p> <p>8. If vacancy, powers of remaining judge; if presiding magistrate vacant; change in presiding magistrate.</p> <p>9. When opinion of presiding magistrate prevails.</p> <p>10. Additional rule making powers.</p> |
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Be it enacted by the Legislature of West Virginia:

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

Section 1. In the first judicial circuit, circuit court judges 2 may hold court in the same county at the same time, or in dif- 3 ferent counties at the same time, and a court in one county 4 may continue after the time provided by law for the commence- 5 ment of a court in any other county in the circuit.

Sec. 2. Either or both of the judges of the first judicial cir- 2 cuit may hold any regular, special or adjourned term of any 3 circuit court therein. When both judges shall be present at 4 a court in any county in which both judges hold court, they 5 may sit together for the purpose of making rules, making any 6 appointments authorized to be made by the circuit court, as- 7 signing the business of the court to the respective judges, or 8 transacting any business of the court for which it is proper in 9 their opinion that they should sit together, and they may hold 10 court separately or together, but no one may demand that any 11 cause shall be tried or heard by the judges sitting together. In 12 any county in which only one of the judges of the first judicial 13 circuit shall hold court, such judge shall make rules of court 14 and shall make any appointments authorized to be made by the 15 circuit court of such county. In a county in which the two 16 judges shall sit at the same time, or at different times, but sep- 17 arately, the courts held by the respective judges shall be desig- 18 nated as part one and part two of the circuit court of such 19 county, and each shall have and exercise the same power, au- 20 thority and jurisdiction as are or may be vested in circuit 21 courts. Either of said parts may be held by a judge of an- 22 other circuit or by another person in any case where the cir- 23 cuit court of the county might be held by such judge or person 24 if there were but one judge of the first circuit. Either of said 25 parts may be held at such place other than the court house, but 26 in the same town, as may be appointed by the judge thereof.

Sec. 3. The clerk of the circuit court of a county in which

2 there are two parts of the circuit court, shall, when not present
3 in person, cause a suitable deputy to attend the court and each
4 part thereof, and shall cause proper record books to be pro-
5 vided and kept for each part of the court. Rules and all or-
6 ders and proceedings of the judges sitting or acting together
7 shall be entered on the order book of each part. The sheriff
8 shall, in person or by deputy, attend the said court and each
9 part thereof.

Sec. 4. Either part of a circuit court having two parts, may
2 order jurors and witnesses in attendance upon it to attend the
3 other part, and such order may be enforced and disobedience
4 thereof punished by either part of such court.

Sec. 5. As early as convenient in each year, the judges of
2 the first judicial circuit shall designate the courts to be held by
3 each judge during the year, and the courts at which both judges
4 are to attend. They shall also designate which judge shall sit
5 in part one of a court having two parts, and which judge shall
6 sit in part two of such a court, during the year. Such desig-
7 nations shall be made in writing and a copy thereof signed by
8 the judges, shall be sent to each clerk of a circuit court effected
9 thereby, and by him be entered upon his law order book. Such
10 designations may be changed during the year, both judges con-
11 curring, and a copy of the order or agreement making such
12 change shall be sent to the clerk of each court affected there-
13 by, and by him be entered upon his law order book.

Sec. 6. The judges may from time to time, classify, arrange
2 and apportion the business of a court in which both judges are
3 to sit at the same time, or at different times, and such appor-
4 tionment may be rearranged by them during a term if such re-
5 arrangement be convenient for dispatch of business. As soon
6 as possible before the beginning of any term of court, the clerk
7 shall cause a docket of the business thereof to be prepared,
8 which shall be divided into two parts if the court be so divided.
9 Cases may be set from one part of a court to the other as the
10 individual judges may agree and direct.

Sec. 7. As soon as possible after this act takes effect, and
2 thereafter as soon as possible after the beginning of each suc-
3 cessive full term of office, the judges shall select by lot one of
4 their number who shall be the presiding magistrate of the cir-
5 cuit, and of the circuit courts held therein, for the first year
6 of the then current term of office. The next year the other

7 judge shall be the presiding magistrate, and so for alternate
8 years throughout their term.

Sec. 8. If either judge ceases to be a judge of the circuit,
2 the other judge shall thereupon have and exercise the powers
3 and discharge the duties conferred upon and required of the
4 two judges acting jointly until the vacancy is filled. If the
5 presiding magistrate ceases to be a judge of the circuit, the
6 other judge shall thereupon become the presiding magistrate
7 until the vacancy is filled, when the new judge shall take the
8 place of his predecessor and be the presiding magistrate during
9 the years and parts of years for which such predecessor would
10 have been presiding magistrate had he remained a judge of the
11 circuit. At any time while one judge is presiding magistrate,
12 an order or appointment concurred in by both judges, may
13 make the other judge the presiding magistrate in his stead for a
14 specified time, or until further order or appointment of the two
15 judges made with like concurrence. Every selection, order or
16 appointment made under this section, shall be entered on the
17 law order book of each circuit court in the circuit.

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

Sec. 10. In addition to the ordinary power of making rules,
2 the court of any county in the first judicial circuit, may make
3 such other rules not inconsistent with law, as may be proper
4 and necessary in view of the peculiar organization of the court,
5 and may have been concurred in by both judges of the circuit.

CHAPTER 64

(Senate Bill No. 68—By Mr. Henderson)

AN ACT to authorize the county court of Doddridge county to
transfer all the unexpended balance of a fund created by sec-
tion one, chapter one hundred twenty-seven, of the acts of
the legislature of the year one thousand nine hundred twenty-
seven, for the purpose of draining and grading certain roads

in Southwest district, Doddridge county, West Virginia, to the district road fund of said district.

[Passed February 15, 1933; in effect from passage. Approved by the Governor.]

SEC.	1. County court of Doddridge county authorized to transfer to road fund of Southwest district		SEC.	special fund raised to drain and grade certain roads in said district.
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Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Doddridge county is hereby 2 authorized and empowered to transfer all the unexpended bal- 3 ance of a fund created by section one, chapter one hundred 4 twenty-seven, of the acts of the legislature of the year one 5 thousand nine hundred twenty-seven, for the purpose of drain- 6 ing and grading certain roads in Southwest district, Doddridge 7 county, West Virginia, to the district road fund of said district.

CHAPTER 65

(Senate Bill No. 69—By Mr. Henderson)

AN ACT to authorize the county court of Doddridge county to transfer all the unexpended balance of a fund created by section one, chapter one hundred twenty-eight, of the acts of the legislature of the year one thousand nine hundred twenty-seven, for the purpose of draining and grading certain roads in McClelland district, Doddridge county, West Virginia, to the district road fund of said district.

[Passed February 15, 1933; in effect from passage. Approved by the Governor.]

SEC.	1. County court of Doddridge county authorized to transfer to road fund of McClelland district		SEC.	special fund raised to drain and grade certain roads in said district.
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Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Doddridge county is hereby 2 authorized and empowered to transfer all the unexpended bal- 3 ance of a fund created by section one, chapter one hundred 4 twenty-eight, of the acts of the legislature of the year one 5 thousand nine hundred twenty-seven, for the purpose of drain- 6 ing and grading certain roads in McClelland district, Doddridge 7 county, West Virginia, to the district road fund of said district.

CHAPTER 66

(House Bill No. 103—By Mr. Harper)

AN ACT to authorize the county court of Randolph county, West Virginia, to transfer a sum not exceeding ten cents on each one hundred dollars of the assessed valuation of all property of the county from the county road fund to the general county fund for the fiscal years beginning July first, one thousand nine hundred thirty-three, and July first, one thousand nine hundred thirty-four.

[Passed March 7, 1933; in effect ninety days from passage. Became a law without the approval of the Governor.]

Sec.

1(1). County court of Randolph county authorized to transfer, for fiscal year beginning July first, one thousand nine hundred thirty-three, not exceeding ten cents on each one hundred dollars assessed valuation, from

Sec.

county road fund to general county fund.

1(2). Said court authorized to make similar transfer for fiscal year beginning July first, one thousand nine hundred thirty-four.

Be it enacted by the Legislature of West Virginia:

Section 1. That the county court of Randolph county be, and it is hereby authorized and empowered:

3 (1) To transfer, during the fiscal year beginning the first
4 day of July, one thousand nine hundred thirty-three, from the
5 county road fund to the general county fund, a sum not exceed-
6 ing ten cents on each one hundred dollars of the assessed valu-
7 ation of all property of the county.

8 (2) To transfer from the county road fund to the general
9 county fund, a sum not exceeding ten cents on each one hun-
10 dred dollars of the assessed valuation of all property of the
11 county during the fiscal year beginning the first day of July,
12 one thousand nine hundred thirty-four.

CHAPTER 67

(House Bill No. 388—By Mr. Randolph, by request)

AN ACT to authorize the county court of Harrison county, West Virginia, to transfer money from the special fund, known as the court house fund, to the general county fund and to the county road fund of said county, and providing for the use thereof.

[Passed March 11, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. County court of Harrison county authorized to transfer two-thirds of amount now in special fund, known as court house fund to general county fund and one-

SEC.

third to county road fund and use same for purposes for which said general county and county road funds may be used.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Harrison county, West Virginia, is hereby authorized and empowered to transfer the amount of money now in the special fund, known as the court house fund, derived by special levies authorized by an act of the legislature, passed April thirteen, one thousand nine hundred twenty-seven, (chapter one hundred thirty), and as amended and reenacted March one, one thousand nine hundred twenty-nine, (chapter one hundred twenty-seven), two-thirds thereof to be transferred to the general county fund, and one-third thereof to be transferred to the county road fund, and to permit the said county court to use such money, so transferred, for any purpose for which the money in the general county fund and the county road fund may be used.

CHAPTER 68

(House Bill No. 497—By Mr. Lantz, by request)

AN ACT to empower the county court of Wetzel county to transfer a sum, not exceeding seven cents on each hundred dollars of the assessed value of all property in the county for the years one thousand nine hundred thirty-three and one thousand

nine hundred thirty-four, from the county road fund to the general county fund.

[Passed March 3, 1933; in effect from passage. Approved by the Governor.]

SEC.

1. County court of Wetzel county authorized to transfer, for the years one thousand nine hundred thirty-three and one thousand nine hundred thirty-four, not to

SEC.

exceed seven cents on each one hundred dollars assessed valuation, from the county road fund to the general county fund.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Wetzel county is hereby authorized and empowered to transfer a sum, not exceeding seven cents on each hundred dollars of the assessed value of all property in the county for the years one thousand nine hundred thirty-three and one thousand nine hundred thirty-four, from the county road fund to the general county fund.

CHAPTER 69

(House Bill No. 561—By Mr. Summerfield)

AN ACT to authorize the county court of Fayette county, West Virginia, to transfer a sum not exceeding twenty cents on each one hundred dollars of the assessed valuation of all property of the county from the county road fund to the general county fund for the fiscal years beginning July first, one thousand nine hundred thirty-three, and July first, one thousand nine hundred thirty-four.

[Passed March 11, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1(1). County court of Fayette county authorized to transfer, for fiscal year beginning July first, one thousand nine hundred thirty-three, not to exceed twenty cents on each one hundred dollars as-

SEC.

1(2). Authorized to make the same transfer for the fiscal year beginning July first, one thousand nine hundred thirty-four.

Be it enacted by the Legislature of West Virginia:

Section 1. That the county court of Fayette county, be and it is hereby authorized and empowered:

(1) To transfer, during the fiscal year beginning the first day of July, one thousand nine hundred thirty-three, from the county road fund to the general county fund, a sum not exceed-

6 ing twenty cents on each hundred dollars of the assessed valu-
 7 ation of all property of the county ;
 8 (2) To transfer from the county road fund to the general
 9 county fund, a sum not exceeding twenty cents on each one
 10 hundred dollars of the assessed valuation of all property of the
 11 county during the fiscal year beginning the first day of July,
 12 one thousand nine hundred thirty-four.

CHAPTER 70

(Senate Bill No. 92—By Mr. Beneke)

AN ACT to authorize the board of education of Triadelphia dis-
 trict, Ohio county, to transfer funds, excepting proceeds of
 bond issues, from any school fund or funds, to any other school
 fund or funds, under its control.

[Passed February 17, 1933; in effect from passage. Approved by the Governor.]

SEC.

1. Board of education, Triadelphia
 district, Ohio county, authorized
 to transfer any school fund, ex-
 cept proceeds of bond issues, to

SEC.

any other school fund, for fiscal
 year ending June thirtieth, one
 thousand nine hundred thirty-
 three.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Triadelphia district,
 2 Ohio county, is authorized to transfer any school fund or funds
 3 under its control, excepting proceeds of bond issues, to any other
 4 school fund or funds, for the fiscal year ending June thirty,
 5 one thousand nine hundred thirty-three.

CHAPTER 71

(Senate Bill No. 126—By Mr. Jones)

AN ACT to authorize the board of education of Washington dis-
 trict, Boone county, to transfer funds from the high school
 teachers' fund to the elementary teachers' fund.

[Passed March 1, 1933; in effect from passage. Became a law without the approval
 of the Governor.]

SEC.

1. Board of education, Washington dis-
 trict, Boone county, authorized
 to transfer, for the fiscal year
 ending June thirtieth, one thou-
 sand nine hundred thirty-three,

SEC.

all or any part of fifteen hundred
 dollars from high school teachers'
 fund to elementary teachers'
 fund.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Washington district,

2 Boone county, is authorized to transfer all or any part of fif-
 3 teen hundred dollars from the high school teachers' fund to
 4 the elementary teachers' fund for the fiscal year ending
 5 June thirtieth, one thousand nine hundred thirty-three.

CHAPTER 72

(Senate Bill No. 128—By Mr. Hodges)

AN ACT to authorize the board of education of Morgantown school district, Monongalia county, to transfer funds, excepting proceeds of bond issues, or moneys raised by levy for the purpose of meeting the interest and sinking fund requirements of outstanding bond issues, from any school fund or funds to any other school fund or funds, under its control, for the fiscal year ending June thirty, one thousand nine hundred thirty-three.

[Passed March 1, 1933; in effect from passage. Approved by the Governor.]

Sec.

1. Board of education, Morgantown school district, authorized to transfer, for fiscal year ending June thirtieth, one thousand nine hundred thirty-three, any school fund, except proceeds of bond

SEC.

issues and money raised by levies to meet interest and sinking fund requirements, to any other school fund or funds under its control.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Morgantown school district, Monongalia county, is authorized to transfer any school fund or funds under its control, excepting proceeds of bond issues, or monies raised by levy for the purpose of meeting the interest and sinking fund requirements of outstanding bond issues, to any other school fund or funds, for the fiscal year ending June thirty, one thousand nine hundred thirty-three.

CHAPTER 73

(House Bill No. 144—By Mr. Tucker, by request)

AN ACT to empower the board of education of Union district, Wayne county, West Virginia, to transfer a sum, not exceeding two thousand sixty-six dollars forty-six cents, for the year one thousand nine hundred thirty-three only, from the junior high school teachers' fund to the elementary maintenance fund of said Union district.

[Passed February 8, 1933; in effect from passage. Approved by the Governor.]

SEC.	1. Board of education, Union district, Wayne county authorized to transfer, for year one thousand nine hundred thirty-three only, not to exceed two thousand and	SEC.	sixty-six dollars and forty-six cents from junior high school teachers' fund to elementary maintenance fund.
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Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Union district, Wayne 2 county, West Virginia, is hereby authorized and empowered to 3 transfer a sum, not exceeding two thousand sixty-six dollars 4 forty-six cents for the year one thousand nine hundred thirty- 5 three only, from the junior high school teachers' fund to the ele- 6 mentary maintenance fund of said Union district, Wayne 7 county, West Virginia.

CHAPTER 74

(House Bill No. 183—By Mr. Reed, by request)

AN ACT to authorize the board of education of Union district, Clay county, to make a transfer of money from the special fund for the transfer of pupils to Clay county high school to the elementary teachers' fund of said district.

[Passed February 22, 1933; in effect from passage. Approved by the Governor.]

SEC.	1. Board of education, Union district, Clay county, authorized to transfer four hundred dollars from special fund for transfer of pupils to Clay county high school	SEC.	to elementary teachers' fund for payment of salaries for fiscal year ending June thirtieth, one thousand nine hundred thirty-three.
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Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Union district, Clay 2 county, is authorized to transfer four hundred dollars from 3 the surplus in the special fund for the transfer of pupils to Clay

4 county high school to the elementary teachers' fund of said
 5 district, to be expended as the law provides, for the payment of
 6 teachers' salaries for the fiscal year ending June thirty, one
 7 thousand nine hundred thirty three.

CHAPTER 75

(House Bill No. 184—By Mr. Reed, by request)

AN ACT to authorize the board of education of Henry district, Clay
 county, to make a transfer of money from the new building
 fund to the elementary teachers' fund.

[Passed February 22, 1933; in effect from passage. Approved by the Governor.]

SEC.

1. Board of education, Henry district,
 Clay county, authorized to trans-
 fer part or all of surplus, exist-
 ing or hereafter accumulated
 from one thousand nine hundred

SEC.

thirty-two levy, for new building
 fund to elementary teachers'
 fund for payment of teachers'
 salaries.

Be it enacted by the Legislature of West Virginia:

Section 1. The district board of education of Henry district,
 2 Clay county, is hereby authorized to transfer all or any part
 3 of the surplus it may now have, or may hereafter accumulate
 4 from the one thousand nine hundred thirty-two levy, for new
 5 building fund purposes, to the elementary teachers' fund of
 6 said district to be used and expended in the payment of teach-
 7 ers' salaries as provided by law.

CHAPTER 76

(House Bill No. 310—By Mr. Goodwin)

AN ACT authorizing the transfer of funds from the high school
 maintenance fund and the elementary maintenance fund to the
 elementary teachers' fund of the Ravenswood independent
 district to permit the continuance of the elementary school.

[Passed February 16, 1933; in effect from passage. Approved by the Governor.]

SEC.

1. Ravenswood independent school
 board, Jackson county, author-
 ized to transfer two hundred and
 fifty dollars from elementary
 maintenance fund and four hun-

SEC.

dred dollars from high school
 maintenance fund to elementary
 teachers' fund for school year
 one thousand nine hundred
 thirty-three.

Be it enacted by the Legislature of West Virginia:

Section 1. That the Ravenswood independent school board

2 be and is hereby authorized to transfer two hundred fifty dol-
3 lars from the elementary maintenance fund to the elementary
4 teachers' fund and the sum of four hundred dollars from the
5 high school maintenance fund to the elementary teachers' fund
6 making a total of six hundred fifty dollars, to make possible
7 one month additional term for the year one thousand nine
8 hundred thirty-three.

CHAPTER 77

(House Bill No. 311—By Mr. Smith, of Wirt)

AN ACT to grant the right and authority to the Elizabeth joint high school board in Wirt county to transfer money from the high school teachers' fund to the high school maintenance fund.

[Passed February 16, 1933; in effect from passage. Approved by the Governor.]

SEC.

1. Elizabeth joint high school board, Wirt county, authorized to transfer funds from high school

SEC.

teachers' fund to high school maintenance fund for transportation of tuition pupils.

Be it enacted by the Legislature of West Virginia:

Section 1. That the Elizabeth joint high school board in Wirt county be and it is hereby granted the right and authority to transfer money from the high school teachers' fund in said district to the high school maintenance fund for the purpose of paying bus hire for tuition pupils who are transferred to and from said high school by bus.

CHAPTER 78

(House Bill No. 312—By Mr. Smith, of Wirt)

AN ACT to grant the right and authority to the several boards of education in the school districts in Wirt county to transfer money from the new building fund to the elementary maintenance fund.

[Passed February 16, 1933; in effect from passage. Approved by the Governor.]

SEC.

1. All boards of education, Wirt county, authorized to transfer funds

SEC.

from new building fund to elementary maintenance fund.

Be it enacted by the Legislature of West Virginia:

Section 1. That the several boards of education in each of the

2 school districts of Wirt county be and they are hereby granted
 3 the right and authority to transfer money from the new build-
 4 ing fund to the elementary maintenance building fund to pro-
 5 vide running expenses of the schools in said districts.

CHAPTER 79

(House Bill No. 320—By Mr. Newman)

AN ACT to authorize the board of education of Washington district, Marshall county, to transfer a surplus fund from the high school fund of Washington district, Marshall county, to the elementary teachers' fund of Washington district, Marshall county.

[Passed February 20, 1933; in effect from passage. Approved by the Governor.]

SEC.

1. Board of education, Washington district, Marshall county, authorized to transfer not to exceed three thousand five hundred dol-

SEC.

lars of surplus from high school fund to elementary teacher's fund.

Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of Washington district, Marshall county, is authorized to transfer a surplus fund not to exceed three thousand five hundred dollars from the high school fund of Washington district, Marshall county, to the elementary teachers' fund of Washington district, Marshall county.

CHAPTER 80

(House Bill No. 321—By Mr. Carden, by request)

AN ACT to authorize district boards of education of Wyoming county to transfer money from any school fund or funds to any school fund or funds excepting bonds.

WHEREAS, Certain districts of Wyoming county are reasonably sure of receiving only two-thirds of their original allotment of state aid for schools; and

WHEREAS, Districts of the county had entered into contracts prior to the passage of the eighty-five per cent tax limitation bill in the extraordinary session of the West Virginia legislature, one

thousand nine hundred thirty-two, for which sufficient levies were not laid; and

WHEREAS, Unless the districts are permitted to make transfer of money from certain school funds to other school funds the boards of education will either be forced to close their schools with shorter terms or create overdrafts in some funds, with balances in other funds at the end of the school year; and

WHEREAS, It is the desire of all of the boards of education of the county to operate their schools only so long as funds are available, therefore,

[Passed February 20, 1933: in effect from passage. Approved by the Governor.]

Sec.

1. All boards of education, Wyoming county, authorized to transfer funds from any school fund except bonds, to any other school fund or funds, for school year of

SEC.

one thousand nine hundred thirty-three, to extent necessary to maintain elementary and high schools for terms of eight and nine months respectively.

Be it enacted by the Legislature of West Virginia:

Section 1. The boards of education of Wyoming county shall
 2 have authority to make transfer of money from any school fund
 3 or funds to any school fund or funds, excepting bonds, for the
 4 school year ending June thirty, one thousand nine hundred
 5 thirty-three. Said transfers shall be made only to the extent
 6 necessary for the proper maintenance of the elementary and
 7 high schools for the minimum terms of eight and nine months.

CHAPTER 81

(House Bill No. 380—By Mr. Haynes)

AN ACT empowering the board of education of Talcott district of Summers county, to transfer from funds realized from the new building funds as levied in said Talcott district, a sum of money for the years one thousand nine hundred thirty-two and one thousand nine hundred thirty-three, equal to the amount produced by fifteen cents on each one hundred dollars' valuation on all property in the district from the total funds as levied by said board, on the new building funds, a sum

amounting to four thousand nine hundred eighty-two dollars twenty-seven cents, to the elementary teachers' fund in said district.

[Passed February 22, 1933; in effect from passage. Approved by the Governor.]

SEC.

1. Board of education, Talcott district, Summers county, authorized to transfer fifteen cents on each one hundred dollars assessed valuation, for the year one thousand nine hundred thirty-two only, but

SEC.

not to exceed four thousand nine hundred and eighty-two dollars, twenty-seven cents, from new building fund to elementary teachers' fund.

Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of Talcott district, Summers county, is hereby authorized and empowered to transfer the amount produced by fifteen cents levy on each one hundred dollars' valuation of the new building fund, as levied in Talcott district of Summers county, West Virginia, said sum not exceeding four thousand nine hundred eighty-two dollars twenty-seven cents, realized from the collection of taxes raised through and by the new building fund levy in said district, for the year one thousand nine hundred thirty-two, only, to the elementary teachers' fund in said district of Talcott.

CHAPTER 82

(House Bill No. 393—By Mr. Kelley)

AN ACT to authorize the board of education in Cameron district, Marshall county, to transfer certain funds in said district.

[Passed February 24, 1933; in effect from passage. Approved by the Governor.]

SEC.

1. Board of education, Cameron district, Marshall county, authorized to transfer such funds as

SEC.

deemed necessary from district school funds to elementary teachers' fund.

Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of Cameron district, Marshall county, is authorized to transfer such funds as they deem necessary in Cameron district school funds to the elementary teachers' fund in said district.

CHAPTER 83

(House Bill No. 394—By Mr. Kelley)

AN ACT to authorize the board of education in Sand Hill district, Marshall county, to transfer certain funds in said district.

[Passed February 24, 1933; in effect from passage. Approved by the Governor.]

<p>Sec. 1. Board of education, Sand Hill district, Marshall county authorized to transfer such funds as</p>		<p>Sec. deemed necessary from district school funds to elementary teachers' fund.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of Sand Hill district, 2 Marshall county, is authorized to transfer such funds as they 3 deem necessary in Sand Hill district school funds to the ele- 4 mentary teachers' fund in said district.

CHAPTER 84

(House Bill No. 395—By Mr. Kelley)

AN ACT to authorize the board of education in Meade district, Marshall county, to transfer certain funds in said district.

[Passed February 24, 1933; in effect from passage. Approved by the Governor.]

<p>Sec. 1. Board of education, Meade district, Marshall county, authorized to transfer such funds as deemed</p>		<p>Sec. necessary from district school funds to elementary teachers' fund.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of Meade district, 2 Marshall county, is authorized to transfer such funds as they 3 deem necessary in Meade district school funds to the elementary 4 teachers' fund in said district.

CHAPTER 85

(House Bill No. 396—By Mr. Kelley)

AN ACT to authorize the board of education in Liberty district, Marshall county, to transfer certain funds in said district.

[Passed February 24, 1933; in effect from passage. Approved by the Governor.]

<p>SEC.</p> <p>1. Board of education, Liberty district, Marshall county, authorized to transfer such funds as deemed</p>		<p>SEC.</p> <p>necessary from district school funds to elementary teachers' fund.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of Liberty district, 2 Marshall county, is authorized to transfer such funds as they 3 deem necessary in Liberty district school funds to the elemen- 4 tary teachers' fund in said district.

CHAPTER 86

(House Bill No. 397—By Mr. Kelley)

AN ACT to authorize the board of education in Franklin district, Marshall county, to transfer certain funds in said district.

[Passed February 24, 1933; in effect from passage. Approved by the Governor.]

<p>SEC.</p> <p>1. Board of education, Franklin district, Marshall county, authorized to transfer such funds as</p>		<p>SEC.</p> <p>deemed necessary from district school funds to elementary teachers' fund.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of Franklin district, 2 Marshall county, is authorized to transfer such funds as they 3 deem necessary in Franklin district school funds to the ele- 4 mentary teachers' fund in said district.

CHAPTER 87

(House Bill No. 429—By Mr. Kelley)

AN ACT to authorize the boards of education of Clay, Union and Webster districts, Marshall county, to transfer certain funds in their respective districts.

[Passed March 1, 1933; in effect from passage. Approved by the Governor.]

SEC.

1. Boards of education, Clay, Union and Webster districts, Marshall county authorized to transfer such funds as deemed necessary

SEC.

from their respective school funds to elementary teachers' fund.

Be it enacted by the Legislature of West Virginia:

Section 1. That the boards of education of Clay, Union 2 and Webster districts, Marshall county, are authorized to trans- 3 fer such funds as they deem necessary in their respective school 4 funds to the elementary teachers' fund in said districts.

CHAPTER 88

(House Bill No. 440—By Mr. Adkins, by request)

AN ACT to authorize the board of education of Washington district, Lincoln county, to make a transfer of money from the new building fund to the elementary teachers' fund and also a transfer of money from the new building fund to the high school teachers' fund of the said district.

[Passed March 1, 1933; in effect from passage. Approved by the Governor.]

SEC.

1. Board of education, Washington district, Lincoln county, authorized to transfer not to exceed twelve hundred dollars from new building fund to high school teachers' fund for high school tuition and not to exceed three

SEC.

hundred and fifty dollars from new building fund to elementary teachers' fund for payment of teachers' salaries, both for the fiscal year ending June thirtieth, one thousand nine hundred thirty-three.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Washington district, 2 Lincoln county, is authorized to transfer not to exceed twelve 3 hundred dollars from the new building fund to the high school 4 teachers' fund of said district, to be expended as the law pro- 5 vides, for the payment of high school tuition for the fiscal year 6 ending June thirtieth, one thousand nine hundred thirty-three, 7 also not to exceed three hundred fifty dollars from the new

8 building fund to the elementary teachers' fund of said dis-
 9 trict, for the payment of elementary teachers' salaries, as the
 10 law provides, for the fiscal year ending June thirtieth, one
 11 thousand nine hundred thirty-three.

CHAPTER 89

(House Bill No. 442—By Mr. Giles)

AN ACT to authorize the board of education of Meadow Bluff dis-
 trict, Greenbrier county, to make transfer of money from the
 elementary teachers' and high school teachers' funds to the ele-
 mentary maintenance and high school maintenance funds at the
 end of the seventh and ninth months, respectively.

[Passed March 1, 1933; in effect from passage. Approved by the Governor.]

SEC.

1. Board of education, Meadow Bluff
 district, Greenbrier county, au-
 thorized to transfer any part
 or all of elementary teachers'
 fund to elementary and high

SEC.

school maintenance funds to bal-
 ance said funds at the end of
 seven and nine months, respect-
 ively.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Meadow Bluff district,
 2 Greenbrier county, is hereby authorized to transfer all or any
 3 part of the funds it may now have, or may hereafter accumu-
 4 late from this year's levy or from state aid, from the elementary
 5 teachers' fund purposes, to the elementary maintenance fund,
 6 and for the high school teachers' fund purposes, to the high
 7 school maintenance fund of said district, to be used and ex-
 8 pended to balance the elementary and high school maintenance
 9 funds of the above mentioned district at the end of the seventh
 10 and ninth months, respectively.

CHAPTER 90

(House Bill No. 457—By Mr. Hickel)

AN ACT to transfer certain moneys from the high school teachers' fund of Lafayette district to the maintenance fund of Lafayette district, Pleasants county, for the transportation of high school students to and from high school.

[Passed March 1, 1933; in effect from passage. Approved by the Governor.]

SEC.

1. Transfer of funds from high school teachers fund Lafayette district, Pleasants county, for one thousand nine hundred thirty-

SEC.

two and one thousand nine hundred thirty-three only, for transportation of students to St. Marys high school.

Be it enacted by the Legislature of West Virginia:

Section 1. That sufficient funds be transferred from the 2 high school teachers' fund of Lafayette district to the maintenance fund of Lafayette district for the transportation of high 4 school students to and from high school at St. Marys, Pleasants 5 county, West Virginia, for the year of one thousand nine hundred thirty-two and one thousand nine hundred thirty-three 7 only.

CHAPTER 91

(House Bill No. 473—By Mr. Lantz, by request)

AN ACT to authorize district boards of education of Wetzel county to transfer money from any school fund or funds to any school fund or funds, excepting bonds.

WHEREAS, Unless the districts are permitted to make transfer of money from certain school funds to other school funds the boards of education will either be forced to close their schools with shorter terms or create overdrafts in some funds, with balances in other funds at the end of the school year; and

WHEREAS, It is the desire of all of the boards of education of the county to operate their schools only so long as funds are available, therefore,

[Passed March 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. All boards of education, Wetzel county, authorized to transfer funds from any school fund, except bonds, to any other school fund or funds for school year

SEC.

ending June thirtieth, one thousand nine hundred thirty-three, to maintain elementary and high schools for eight and nine months, respectively.

Be it enacted by the Legislature of West Virginia:

Section 1. The various boards of education of Wetzel county

2 shall have authority to make transfer of money from any school
 3 fund or funds to any school fund or funds, excepting bonds, for
 4 the school year ending June thirty, one thousand nine hundred
 5 thirty-three. Said transfers shall be made only to the extent
 6 necessary for the proper maintenance of the elementary and
 7 high schools for the minimum terms of eight and nine months.

CHAPTER 92

(House Bill No. 499—By Mr. Foster)

AN ACT to authorize the boards of education of Spencer independent, Spencer magisterial, Smithfield magisterial, Geary magisterial and Walton magisterial districts of Roane county, to transfer money from the building funds to the elementary teachers' fund and high school teachers' fund of said districts.

[Passed March 3, 1933; in effect from passage. Approved by the Governor.]

SEC.	1. Boards of education of Spencer independent magisterial and Smithfield, Geary and Walton magisterial districts, Roane county,	SEC. authorized to transfer funds from the building funds to the elementary and high school teachers' funds of said districts.
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Be it enacted by the Legislature of West Virginia:

Section 1. The boards of education of Spencer independent, 2 Spencer magisterial, Smithfield magisterial, Geary magisterial 3 and Walton magisterial districts of Roane county are author- 4 ized to transfer money from the building funds to the elemen- 5 tary teachers' fund and high school teachers' fund of said dis- 6 tricts.

CHAPTER 93

(House Bill No. 509—By Mr. Nichols)

AN ACT to authorize the board of education of McElroy district, Tyler county, to transfer money from the new building fund to the teachers' fund.

[Passed March 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.	1. Board of education, McElroy district, Tyler county, authorized to transfer funds from the building funds to the elementary teachers' fund to maintain the elementary	SEC. schools of the district for the term of eight months for the fiscal year ending June thirtieth, one thousand nine hundred thirty-three.
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Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of McElroy district, Tyler

2 county, is hereby authorized to transfer money from the building
 3 funds of the district to the elementary teachers' fund for the
 4 purpose of enabling the board to maintain the elementary schools
 5 of the district for a full term of eight months for the fiscal year
 6 ending June thirty, one thousand nine hundred thirty-three.

CHAPTER 94

(House Bill No. 556—By Mr. Dixon)

AN ACT to authorize the board of education of each independent school district of Mineral county and the board of education of each of the other school districts of said county to transfer funds, excepting proceeds of bond issues, or moneys raised by levy for the purpose of meeting the interest and sinking fund requirements of outstanding bond issues, from any school fund or funds to any other school fund or funds, under its control, for the fiscal year ending June thirty, one thousand nine hundred thirty-three.

[Passed March 6, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1 All boards of education, Mineral county, authorized to transfer any school funds under its control except proceeds of bond issues or levies for interest and

SEC.

sinking funds, to any other school fund or funds, for the fiscal year ending June thirtieth, one thousand nine hundred thirty-three.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of each independent school district of Mineral county and the board of education of each of the other school districts of said county are authorized to transfer any school fund or funds under its control, excepting proceeds of bond issues, or moneys raised by levy for the purpose of meeting the interest and sinking fund requirements of outstanding bond issues, to any other school fund or funds, for the fiscal year ending June thirty, one thousand nine hundred thirty-three.

CHAPTER 95

(House Bill No. 562—By Mr. Jarvis)

AN ACT to authorize and empower the board of education of Center district, in the county of Calhoun, to transfer all funds now in the new building fund and which may come therein until the thirtieth day of June, one thousand nine hundred thirty-three, to the teachers' fund of said district.

[Passed March 11, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Board of education, Center district, Calhoun county, authorized to transfer all funds now in new building fund or which may come

SEC.

into said fund by June thirtieth, one thousand nine hundred thirty-three, to teachers' fund.

Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of Center district, 2 in the county of Calhoun, be and the same is hereby authorized 3 and empowered to transfer all funds now in the new building 4 fund of said district and which may come therein up until the 5 thirtieth day of June, one thousand nine hundred thirty-three, 6 to the teachers' fund of said district.

CHAPTER 96

(House Bill No. 565—By Mr. Hiner, Mr. Speaker)

AN ACT to authorize and empower the board of education of Mill Run district, Pendleton county, to transfer nine hundred twelve dollars from the new building fund to the high school tuition fund.

[Passed March 11, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Board of education, Mill Run district, Pendleton county, authorized to transfer nine hundred

SEC.

and twelve dollars from new building fund to high school tuition fund.

Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of Mill Run district, 2 Pendleton county, is hereby authorized and empowered to trans- 3 fer nine hundred twelve dollars from the new building fund of 4 said district to the high school tuition fund.

CHAPTER 97

(House Bill No. 569—By Mr. White)

AN ACT to authorize the board of education of Crook district, Boone county, to transfer money from the elementary teachers' fund and the high school teachers' fund to the high school maintenance fund.

[Passed March 11, 1933 : In effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Board of education, Crook district, Boone county, authorized to transfer funds, not to exceed one thousand five hundred dollars

SEC.

from elementary and high school teachers' fund to high school maintenance fund.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Crook district, Boone county, is hereby authorized to transfer money from the elementary teachers' fund and the high school teachers' fund to the high school maintenance fund, which amount so transferred shall not exceed in the aggregate fifteen hundred dollars.

CHAPTER 98

(House Bill No. 557—By Mr. Jarvis)

AN ACT to authorize the board of education of Sherman district, Calhoun county, to transfer funds, excepting proceeds of bond issues, or moneys raised by levy for the purpose of meeting the interest and sinking fund requirements of outstanding bond issues, from any school fund or funds to any other school fund or funds, under its control, for the fiscal year ending June thirty, one thousand nine hundred thirty-three.

[Passed March 11, 1933 : In effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Board of education, Sherman district, Calhoun county, authorized to transfer funds, except proceeds of bond issues or levies for interest and sinking funds,

SEC.

from any school fund to any other school fund or funds under its control, for fiscal year ending June thirtieth, one thousand nine hundred thirty-three.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Sherman district, Calhoun county, is authorized to transfer funds, excepting pro-

3 ceeds of bond issues, or moneys raised by levy for the purpose
 4 of meeting the interest and sinking fund requirements of out-
 5 standing bond issues, from any school fund or funds to any
 6 other school funds, under its control, for the fiscal year ending
 7 June thirty, one thousand nine hundred thirty-three.

CHAPTER 99

(Senate Bill No. 127—By Mr. Millender)

AN ACT creating and establishing the independent school district of Ceredo in the county of Wayne and state of West Virginia and establishing the boundaries of said independent district and providing for a board of education of said independent district and rules and regulations for the establishment and operation and maintenance of schools in said independent school district.

[Passed March 11, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.	SEC.
1. Magisterial district of Ceredo, Wayne county, outside of Ceredo Kenova independent school district, to constitute the independent school district of Ceredo.	11. Duty of board to supply and keep in repair school houses, furniture, etc.
2(a). Board of education, number, election and terms; vacancy filled by county superintendent.	12. Estimates and levies by boards; elections for bond issues.
2(b). Election precincts designated by county court.	13. Collection and disbursement of levies; limitation on expenditures.
3. Form of oath of member of board; administering and filing by secretary of board; nominations for board to be made at regular primary election.	14. Settlement by sheriff with board.
4. Annual meeting of board; election and oath of secretary.	15. Board may establish graded and high schools; branches and textbooks; pupils.
5. Duties and removal of secretary; levies, rate and report of by secretary; secretary pro tempore.	16. Teachers and superintendent subject to regulations and removal by board.
6. Duties of president; president pro tempore.	17. Employment and salaries of teachers and superintendent; title and additional duties of superintendent; procedure for removal of superintendent or teachers; vacancy in office of superintendent; further duties of superintendent, including recommendation of teachers for appointment; from what funds superintendents' salary paid.
7. Meetings of board, stated and special; notice of special meeting; two members must concur in election of superintendent and teachers and in questions involving expenditures of money.	18. Appointment, qualifications and salaries of teachers; special schedule of salaries of superintendent, janitors and others.
8. Board a body corporate; powers of board as to property of and management of schools.	19. Salaries of members of board.
9. Annual school enumeration and report of by secretary.	20. Title to property held by, bond issues and contracts of magisterial school district of Ceredo, transferred to and assumed by
10. Apportionment of school funds by auditor to district.	

SEC.

- independent school district of Ceredo.
21. All provisions of general school law inconsistent with provisions of this act are repealed; if any part of act invalid, remainder not affected.
22. Special election on twenty-third

SEC.

day of May, one thousand nine hundred thirty-three, to vote on adoption of act; call for, published notice of and general provisions for holding, said election; form of ballot and canvass of result.

Be it enacted by the Legislature of West Virginia:

Section 1. The magisterial district of Ceredo, Wayne 2 county, West Virginia, outside and exclusive of the independ- 3 ent school district of Ceredo-Kenova, shall constitute the in- 4 dependent district to be known as the "Independent school 5 district of Ceredo".

Sec. 2-(a). The board of education of the independent 2 school district of Ceredo shall be composed of two commis- 3 sioners and a president of the board whose terms of office shall 4 be six years. The board of education of Ceredo district as 5 now constituted shall be and remain the board of education of 6 the independent school district of Ceredo until July first, 7 one thousand nine hundred thirty-five. There shall be 8 elected by the voters of said independent district at the regu- 9 lar election held in November, one thousand nine hundred 10 thirty-four, in the manner prescribed by the general school 11 law, for the election of school officers, one commissioner, whose 12 term shall expire on July first, one thousand nine hundred 13 thirty-nine, which term shall begin on the first day of July 14 following the election. There shall be elected by the voters 15 of said independent district at said regular election in Novem- 16 ber, one thousand nine hundred thirty-four, in the manner 17 prescribed by the general school law for the election of school 18 officers, a president, whose term shall expire on July first, one 19 thousand nine hundred forty-one which term shall begin on 20 the first day of July following the election. Regularly every 21 two years thereafter, at the general election in November, 22 there shall be elected one commissioner or president as the 23 case may be whose term of office shall commence on the first 24 of July following their election and continue for six years 25 until his successor is elected and qualified: *Provided, how-* 26 *ever,* That should a vacancy occur in the office of commis- 27 sioner or president of said independent board of education by 28 death, resignation or otherwise, the vacancy shall be filled by

29 appointment by the county superintendent of free schools un-
30 til the next school election in said district at which election
31 the vacancy shall be filled by the voters of said independent
32 district for the unexpired term. The county superintendent
33 shall appoint a qualified person of the political party in which
34 the vacancy occurred.

35 (b) The election precincts designated by the county court
36 for general elections in the independent school district of
37 Ceredo shall constitute the school election precincts of said
38 independent district: *Provided*, That the county court shall
39 have sole jurisdiction and authority in designating school elec-
40 tion precincts in said independent school district.

Sec. 3. Before entering upon their duties as members of
2 the board of education of independent school district of
3 Ceredo, each of the commissioners and the president shall be
4 required to qualify by taking and subscribing to the follow-
5 ing oath: "I, A....., B....., do solemnly
6 swear, (or affirm), that I will faithfully perform the duties
7 of commissioner (or president) of the board of education of
8 the independent school district of Ceredo, during the term
9 for which I was elected, (or appointed), to the best of my
10 ability, according to law, so help me God".

11 The secretary of the board of education, or any notary
12 public of the county of Wayne, is authorized to administer
13 said oath, a copy of which shall be kept by him upon the files
14 of his office. Nominations for the office of the commissioner
15 and president of said board of education shall be made at the
16 regular primary election as prescribed by the general election
17 laws of West Virginia.

Sec. 4. The board of education of said district shall meet
2 annually on the first Monday in July at their regular meet-
3 ing place and shall elect a secretary who shall serve during
4 will and pleasure of the board. Before entering upon the
5 duties of his office the secretary shall take the oath as pre-
6 scribed by law.

Sec. 5. The secretary shall record in a book, provided for
2 that purpose, all the official acts and proceedings of the board
3 which shall be a public record, open to the inspection of all
4 persons interested therein. He shall preserve in his office at
5 the high school building, all papers containing evidence of
6 title, contracts, and obligations; and in general shall record

7 and keep on file in his office all such papers and documents as
8 may be required by any of the provisions of this act or by
9 any order of the board of education. He may be removed by
10 the board of education of the independent school district of
11 Ceredo at any regular or special meeting. Any vacancy in
12 this office, shall be filled by the board for the unexpired term.

13 All levies for any purpose shall be levied in accordance with
14 the general school law. The rate of school levy in said district
15 may include total amount available after specific levy for
16 county and state purposes as provided by law has been allow-
17 ed. When the board of education has laid the levies it shall
18 be the duty of the secretary to report the matter thereof to
19 the county superintendent and other county and state offi-
20 cials, such facts in his possession as may be required by the
21 general school law of the state. For his service, he may receive
22 such compensation as provided by general school law of the
23 state. In his absence the board may appoint a secretary pro
24 tempore.

Sec. 6. The president of the board of education shall per-
2 form such duties as usually devolve upon the presiding officer
3 of such a deliberative body, except that he shall have a vote
4 upon each and every question as any other commissioner, but
5 he shall have but one vote only upon one question. In his
6 absence, the board may choose a president pro tempore from
7 among their number. He shall perform all the duties pre-
8 scribed by law for a president of the board of education of
9 magisterial school district.

Sec. 7. The board of education of the independent school
2 district of Ceredo shall hold stated meetings at such times and
3 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
6 president, or at the request of any two members by the secre-
7 tary. No business may be transacted at a special meeting,
8 except that mentioned in the call for such meeting; which call
9 shall be in writing and shall be recorded by the secretary in
10 the record of proceedings of said meeting: *Provided*, That
11 all the members shall have had notice of the place and pur-
12 pose of any special meeting called by the president or secre-
13 tary herein provided: *Provided further*, That a concurrence
14 of two members of said board of education shall be required

15 to elect a superintendent and teachers and to decide all ques-
16 tions involving the expenditures of money.

Sec. 8. The board of education of independent school dis-
2 trict of Ceredo shall be a body corporate in law; and as such
3 may purchase, hold, sell or convey real or personal property
4 for the purpose of education within the district; may be a
5 party to suits and contracts and do other common corporate
6 acts. They shall have the management of, and be vested with
7 the title to all real and personal property, for the use of public
8 schools within the district and shall manage and dispose of the
9 same at will as in their opinion will best serve the interests of
10 the district. The board of education shall have the power to
11 make all necessary rules and regulations for the government
12 of the schools of the district, for the admission of pupils there-
13 in, for the exclusion of pupils whose attendance would be
14 dangerous to the health or detrimental to the morals of dis-
15 cipline of the schools. They may perform such other duties as
16 are permitted by the general school law of the state.

Sec. 9. Annually, on or before April first, the board of
2 education shall cause to be taken an enumeration of all the
3 youth of the district, noting age and color, according to the
4 general school law. The secretary shall report to the county
5 superintendent the result of said enumeration of youth, at
6 such time as may be required by law.

Sec. 10. The state superintendent of schools in his report
2 to the auditor, shall specify separately the result of the enu-
3 meration of youth in the independent school district of Ceredo,
4 and the rest of Wayne county, and the auditor in apportioning
5 money for school purposes, shall apportion to the independent
6 school district of Ceredo and to the rest of Wayne county
7 separately, according to their respective numbers of youth,
8 as shown by the list furnished by the state superintendent of
9 schools, and the said superintendent shall draw his requisition
10 upon the auditor in favor of the sheriff of Wayne county for
11 such amount as the district is entitled to receive, and at the
12 same time notify the secretary of the board of education of
13 the amount.

Sec. 11. It shall be the duty of the said board of education
2 to provide by purchase, condemnation, leasing, building, or
3 otherwise, school houses and grounds, furniture, fixtures and
4 appendages, and keep the same in good order and repair; and

5 to supply the said school houses with fuel and other things
6 necessary for their comfort and convenience.

Sec. 12. It shall be the duty of the board of education of
2 the independent school district of Ceredo, annually, at the
3 same time and in the same manner that is now provided or
4 that may hereafter be provided by the general school law of
5 this state for the ascertaining and making of estimates and
6 the fixing and laying of school levies by the boards of educa-
7 tion of the various school districts within the state for the
8 support of the free schools therein, to ascertain and to make
9 such estimates of the amounts necessary for the support of the
10 schools within the said independent school district and on the
11 property located in the said independent district to determine,
12 fix, and lay such levies for the support of the schools therein.
13 It shall be the duty of the board of education of the said inde-
14 pendent school district of Ceredo, annually, at such meeting,
15 to levy as many cents on each one hundred dollars of valuation
16 of the taxable property of the said independent school dis-
17 trict, according to the last assessment thereof, as will produce
18 the amounts shown by the estimate of said board to be neces-
19 sary to be levied for the maintenance, building, and teachers'
19-a fund purposes; to levy in like manner the amounts necessary
20 to continue the schools in session in the said independent
21 school district for a minimum term of eight months in elemen-
22 tary school and nine months in the junior and senior high
23 schools; and to levy and provide sufficient funds for all pur-
24 poses to keep said schools in session for the full minimum term
25 of eight and nine months as herein provided.

26 For the purpose or purposes mentioned in this act and for
27 the purpose of paying the interest and sinking funds on bonds,
28 and any other legal obligations which are now owed by the
29 independent school district of Ceredo or may hereafter be in-
30 curred by it, the said board of education shall lay annually
31 such levies in the manner that is now provided or that may
32 hereafter be provided by the general school law of the state.
33 Elections for bond issues shall likewise be conducted in ac-
34 cordance with the general school law.

Sec. 13. The levies made under the provisions of this act
2 shall be collected and disbursed as now provided by law. The
3 board of education shall not, during any one year, incur any

4 expense that shall exceed the amount of available funds re-
5 ceived for school purposes during that year.

Sec. 14. The sheriff shall annually at such time and in such
2 manner as required by law make settlement with the board of
3 education.

Sec. 15. The said board of education shall have power to
2 establish within the district, such graded schools, including
3 high schools, of such grade, as may, in their judgment, be
4 best for the interests of the district. The branches and text
5 books to be taught in the high schools and other schools with-
6 in the district shall be determined by the superintendent, with
7 the approval of the board of education. The said high schools
8 shall be open to all pupils in the district, but no pupil shall
9 be entitled to admittance to said high schools until the super-
10 intendent shall have been satisfied that the pupil shall have
11 made due proficiency in the branches taught in the other
12 schools of the district.

Sec. 16. Teachers and superintendent, shall be subject, in
2 all respects, to the rules and regulations adopted by the board
3 of education, and they may be removed by the board for in-
4 competency, immoral conduct, or willful violation of the rules
5 of the board, as prescribed by the general school law of West
6 Virginia.

Sec. 17. A superintendent of schools and teachers for the
2 aforesaid independent school district of Ceredo shall be elected
3 for a term of one year, by the said board of education, on or
4 before the first Monday in July of the year in which contract
5 of said superintendent or teacher of schools shall expire, and
6 the salary of the superintendent or teacher shall be fixed at
7 the aforesaid meeting or as soon thereafter as circumstances
8 will allow: *Provided*, That no person shall be employed as
9 superintendent of schools who shall not have had an experience
10 of at least three years as teacher or principal in a first class
11 high school. The superintendent of schools shall be known as
12 "the superintendent of schools of the independent school dis-
13 trict of Ceredo". Said superintendent, in addition to the
14 duties specified in this act, shall perform such other appropri-
15 ate duties with relation to the schools as provided by the gen-
16 eral school law of West Virginia. The superintendent of
17 schools or teacher shall be liable to removal by the board of
18 education for willful and continued neglect of duty, incom-

19 petence, immorality, or misconduct while in office: *Provided,*
20 That they shall not be removed from office unless charges
21 shall be preferred in writing by a commissioner of the board
22 of education and a copy of such charges and a notice of the
23 time and place set by the board of education for hearing said
24 charges shall be given to the superintendent of schools or
25 teacher at least ten days before the day set for said hearing:
26 *Provided further,* That the said superintendent of schools or
27 teacher shall be allowed to present any evidence they desire
28 and to be heard in his or her own defense, either in person or
29 by counsel, and a concurrence of two members shall be re-
30 quired to remove him from office. When the office shall have
31 become vacant from any cause, before the expiration of the
32 term for which the superintendent shall have been elected,
33 the board of education shall fill the same by appointment for
34 the unexpired term. It shall be the duty of the superintend-
35 ent to make such report to the board of education of the
36 character and conditions of the schools of the district as shall
37 enable the secretary to make his required report to the county
38 superintendent. The superintendent shall not directly or in-
39 directly receive any gift, emolument, or reward for his in-
40 fluence in recommending the use of any book or furniture of
41 any kind whatever in the schools of the said district. It shall
42 be the duty of the superintendent of schools, annually, on or
43 before the first meeting in July, at a meeting of the board of
44 education, or as soon thereafter as circumstances will allow,
45 to recommend to the board of education a sufficient number
46 of teachers and principals to fill the schools of the independent
47 district. The board of education may refuse to appoint any
48 or all of the persons so recommended and may require the
49 superintendent of schools to recommend others: *Provided,*
50 That, if the superintendent of schools within a reasonable
51 time after being required to do so shall fail or refuse to recom-
52 mend a sufficient number of persons to fill the schools of the
53 said school district, the board of education may proceed to
54 fill such vacancies without his recommendation. The salary
55 of the superintendent of schools may be paid out of the ele-
56 mentary teachers' fund or the high school teachers' fund or
57 both.

Sec. 18. The board of education may, on the recommenda-
2 tion of the superintendent and in accordance with the general

3 school law, appoint all teachers for the public schools of any
4 grade or high school within the district and fix their salaries;
5 but in no case shall the salaries be below the minimum salary
6 schedule set by this state for teachers, principals, superin-
7 tendents, etc.: *Provided*, That the said board of education
8 shall have the authority to fix special schedules of salaries and
9 salaries to be paid to the superintendent of schools, principals,
10 supervisors, janitors, bus drivers, mechanics, other employees
11 and teachers, without regard to the limitations and regulations
12 set out in the general school law: *Provided further*, That no
13 person shall be employed to teach in any public school of the
14 district who shall not first have obtained from the state au-
15 thorities a certificate of qualifications to teach a school of the
16 grade for which the appointment is made.

Sec. 19. The salary of the commissioners and president of
2 the independent school district board shall be regulated and
3 fixed by the general school law of the state of West Virginia.

Sec. 20. All school houses, school house sites and all other
2 property of whatsoever description of the board of education
3 of the magisterial school district of Ceredo shall by the
4 passage of this act and its enactment into law, become the
5 property of the independent school district of Ceredo and all
6 departments of the board of education of the magisterial
7 school district of Ceredo, of whatsoever description, including
8 bond issues of said magisterial school district of Ceredo, shall
9 be assumed by and are hereby made the obligations of the
10 independent school district of Ceredo. All contracts between
11 the board of education of Ceredo Magisterial school district
12 employing teachers for the school year of one thousand nine
13 hundred thirty-three and one thousand nine hundred thirty-
14 four are hereby transferred, set over and perpetuated as legal
15 contracts of the board of education of the independent school
16 district of Ceredo.

Sec. 21. All provisions of the general school law of the
2 state and all laws and acts and parts of acts heretofore exist-
3 ing which are in any manner inconsistent with the provisions
4 of this act are hereby repealed and shall be void within the
5 said independent school district; otherwise the said general
6 school law shall remain in full force and effect in said inde-
7 pendent school district as elsewhere in the state. If any sec-

8 tion or part of any section of this act shall be declared uncon-
9 stitutional it shall not effect the other sections of this act.

10 Sec. 22. This act shall not become a law or be in full force
11 and effect until the qualified voters residing in Ceredo school
12 magisterial district by a majority of the votes cast at a special
13 election to be held on the twenty-third day of May, one thou-
14 sand nine hundred thirty-three, declare in favor thereof. On
15 the said twenty-third day of May, one thousand nine hundred
16 thirty-three, it shall be the duty of the board of education of
17 Ceredo school magisterial district, to submit to the legal voters
18 of Ceredo school magisterial district, the question of the
19 adoption or rejection of the provisions of this act. It shall be
20 the duties of the board of education of Ceredo school magis-
21 terial district to meet in special or regular session on the
22 fourth Tuesday in April, one thousand nine hundred thirty-
23 three, for the purpose of calling said special election. Notices
24 thereof shall be published once a week for two successive
25 weeks in two newspapers of opposite politics of general circu-
26 lation in said district, the last notice being published at least
27 one week preceding the day of said special election. It shall
28 be the duties of the board of education of Ceredo school
29 magisterial district to secure the registration of voters prop-
30 erly certified by the county clerk, taken for the last general
31 election held in November last, and the same shall be accepted
32 as proper registration of voters entitled to vote after the same
33 has been corrected in the manner provided by law. The pres-
34 ent voting places in said Ceredo district shall be the voting
35 places for the special election and single election boards to have
36 charge of the polls shall be appointed in the following manner:
37 At the special meeting of the board of education on the fourth
38 Tuesday in April, the board of education of Ceredo school
magisterial district shall appoint as election officers, persons
having qualifications of voters from the two dominant political
parties in said magisterial district. There shall be appointed
three election commissioners, two from the dominant political
party and one from the second dominant party in the district
and one poll clerk each from the two dominant political par-
ties for each precinct. A list of these election officers shall
be published along with the notices of election as provided
above. Necessary booths, ballot boxes, poll books and other
appliances required by law and necessary for the holding of

39 such elections shall be furnished by the county court of Wayne
40 county. The ballots shall be made up as required by law by
41 the ballot commissioners of Wayne county. The expense of
42 said election shall be paid by the board of education of Ceredo
43 school magisterial district and shall be such sum or sums as
44 fixed by the general election law of the state. The ballot to
45 be voted in said election shall be on plain white paper and in
46 the following form:

47 SCHOOL DISTRICT ELECTION:

48 (Indicate how you desire to vote by cross in square.)

49 For Independent School District.

50 Against Independent School District.

51 If a majority of votes cast at said election be for independ-
52 ent school district, then this act shall be binding and in full
53 force as of June first, one thousand nine hundred thirty-three,
54 otherwise this act shall be void.

55 The district school board shall meet on the fifth day (Sun-
56 day excepted) after said special election as a board of can-
57 vassers, to canvass, ascertain and declare the result of said
58 special election. Any contest or appeal from the board of
59 canvassers shall be to the circuit court of Wayne county.

CHAPTER 100

(House Bill No. 124—By Mr. Lester)

AN ACT to amend and reenact sections two, four, seven, twelve, seventeen, nineteen, twenty and twenty-two of chapter ninety-eight of the acts of the legislature of West Virginia, one thousand nine hundred twenty-three, establishing the independent school district of Ceredo-Kenova, and add sections two-(a), two-(b), and two-(c) thereto; to change the term of office of commissioners of the board of education, the time of holding the regular school elections, the conditions of admission to the various schools, the time of the annual meeting of the board of education, and the procedure at special meetings of the board of education; to determine the authority, jurisdiction, and procedure of the board of education in the conduct of school

elections, in fixing salaries of teachers, and in laying tax levies; to set the time for the employment of the superintendent of schools and to further prescribe his duties; and to provide for the employment of certain principals for a term of two years.

[Passed February 20, 1933; in effect from passage. Vetoed by the Governor, but again passed February 28, 1933, notwithstanding the Governor's veto.]

Sec.	Sec.
<p>2. Board of education of the independent school district of Ceredo-Kenova, number, terms, and residences; terms of present members.</p> <p>2-(a). Election precincts designated by county court; emergency action by board as to election precincts; authority of board concerning registration of voters, appointment of registrars, ballot commissioners and election officials, canvassing and certifying election returns, etc.</p> <p>2-(b). Registration of voters; appointment, duties and compensation of registrars; what call for regular school election to show; posting and publication of call; appointment of election officials; board of ballot commissioners, appointment and duties; publication of list of election officials not required; correction of registration list by board; qualification and registration of voter; board as board of canvassers.</p> <p>2-(c). Nominations for commissioner of board by party conventions or by groups of citizens; conventions called by and governed by rules of party executive committees.</p>	<p>4. Annual meeting and organization of board; bond of secretary.</p> <p>7. Meetings of board, stated and special; call for and notice of special meeting; concurrence of three members required to elect superintendent and teachers and decide questions involving expenditure of money.</p> <p>12. Estimates and levies by board; election for bond issues.</p> <p>17. Admission of pupils; tuition of non-resident pupils; establishment and management of schools for colored children.</p> <p>19. Superintendent of schools, appointment, salary, qualifications, title and duties; procedure for removal by board; vacancy; recommendation of teachers, etc., by to board for selection; funds from which salary payable.</p> <p>20. Appointment, qualifications and salaries of teachers; special schedule of salaries for superintendent and others; terms of principals of high and graded schools of Kenova.</p> <p>22. Provisions of general school law inconsistent with provisions of this act repealed; if any part of act invalid, remainder not affected.</p>

Be it enacted by the Legislature of West Virginia:

That sections two, four, seven, twelve, seventeen, nineteen, twenty and twenty-two of chapter ninety-eight of the acts of the legislature of West Virginia, one thousand nine hundred twenty-three, establishing the independent school district of Ceredo-Kenova, in the county of Wayne, be amended and reenacted, and that sections two-(a), two-(b), and two-(c) be enacted and added to the aforesaid chapter ninety-eight, so as to read as follows:

Section 2. The board of education of the "independent school district of Ceredo-Kenova" shall be composed of five commissioners, whose terms of office, commencing July first, one thousand nine hundred thirty-three, shall be six years: *Provided*, That two of the aforesaid commissioners shall be at the time of their nominations and during their terms of office bona fide residents of that part of the aforesaid independent school district that lies east of the western boundary line of the incorporated

9 town of Ceredo and of the aforesaid western boundary line if
10 extended at its southernmost point in a straight line due south
11 to an intersection with the southerly boundary line of the
12 aforesaid independent school district: *Provided further*, That
13 three of the aforesaid five commissioners constituting the afore-
14 said board of education shall be at the time of their nominations
15 and during their terms of office bona fide residents of that part
16 of the aforesaid independent school district that lies west of
17 the western boundary line of the incorporated town of Ceredo
18 and such western boundary line if extended as aforesaid. There
19 shall be elected by the qualified voters of said district, on the
20 second Tuesday in June, one thousand nine hundred thirty-
21 three, one commissioner, whose term of office shall commence on
22 the first day of July following his election and continue six
23 years and until his successor is elected and qualified, and regu-
24 larly every two years thereafter, on the second Tuesday in June,
25 there shall be elected two commissioners whose terms of office
26 shall commence on the first day of July following their election
27 and continue for six years and until their successors are elected
28 and qualified, except that every sixth year, beginning with the
29 year one thousand nine hundred thirty-three, only one commis-
30 sioner shall be elected as set out in this section, who, together
31 with the present commissioners of the said district, shall consti-
32 tute the "board of education of the independent school district
33 of Ceredo-Kenova:" *Provided*, That the terms of office of the
34 present commissioners of the said board of education, which
35 would normally expire on the first day of April, one thousand
36 nine hundred thirty-three, one thousand nine hundred thirty-
37 four, one thousand nine hundred thirty-five, one thousand nine
38 hundred thirty-six, and one thousand nine hundred thirty-seven,
39 as set forth in the aforesaid section two prior to the passage
40 of this act, shall continue until their successors are elected and
41 qualified as set forth in the aforesaid section two prior to the
42 passage of this act.

Sec. 2-(a). The election precincts designated by the county
2 court for general elections in the independent school district of
3 Ceredo-Kenova as a part of Ceredo magisterial district shall con-
4 stitute the school election precincts of said district: *Provided*,
5 That the county court shall have sole jurisdiction and authority
6 in designating school election precincts in said independent

7 school district: *Provided further, however,* That the board of
8 education of the aforesaid independent school district shall have
9 authority at its discretion to act in case of any emergency
10 (affecting the best interests of the schools of the district) that
11 may arise in respect to the election precincts or voting places
12 within the said independent school district. The board of edu-
13 cation of said independent school district shall have final and
14 complete authority and jurisdiction in furnishing a registration
15 of voters, in the appointment of commissioners of election and
16 poll clerks, in the appointment of registrars and ballot commis-
17 sioners, in canvassing and certifying the election returns, in
18 hearing and determining contested elections, in ascertaining and
19 declaring the results of elections, in the furnishing and delivery
20 of election supplies, and all other matters of any kind pertain-
21 ing to the conduct of school elections except that said school
22 elections shall be conducted in a manner consistent with any
23 general provisions of law and in accordance with the general
24 election law of West Virginia so far as the same in either case
25 may be applicable or practicable.

Sec. 2-(b). The board of education of said independent
2 school district shall convene in regular or special session on the
3 first Tuesday in May next preceding a regular school election
4 to be held in said district, for the purpose of hearing any and
5 all matters as to the registration of voters, and said board of
6 education, when so sitting, shall adopt, as the official registra-
7 tion of voters for the ensuing regular school election, a list
8 certified and furnished by the clerk of the county court of the
9 registration of the voters of the respective precincts of the said
10 independent school district as adopted by the county court for
11 the next preceding general election held in the aforesaid six
12 precincts of said school district and amended, corrected, and
13 completed as set out hereafter in this section: *Provided,* That
14 the board of education may, at their discretion, adopt the of-
15 ficial and legal registration of voters adopted by any municipi-
16 pality in said independent school district for a municipal elec-
17 tion which shall be held on the same day as the ensuing regular
18 school election and in precincts which are entirely in both said
19 independent school district and such municipality. And at the
20 regular or special meeting on the first Tuesday in May as afore-
21 said, the said board of education shall appoint for each voting

22 precinct in the said independent school district two competent
23 persons as registrars, one each from the two opposite political
24 parties which at the last preceding general election held in No-
25 vember at the voting places in the several precincts in said
26 independent school district cast the highest and next highest
27 number of votes, who shall sit together on the second Friday
28 and Saturday next preceding the ensuing regular school elec-
29 tion for the purpose of further amending, correcting, and com-
30 pleting the aforesaid certified registration of voters as fur-
31 nished by the clerk of the county court. The said board of edu-
32 cation shall, at least ten days prior to the second Friday next
33 preceding the ensuing regular school election, cause to be trans-
34 mitted to the aforesaid registrars the books of registration of
35 the voters of their respective precincts as certified and fur-
36 nished by the clerk of the county court as aforesaid. And at
37 the time of such sitting of the registrars, the aforesaid books
38 of registration shall be open for public inspection, and the
39 aforesaid registrars in the manner prescribed by law shall reg-
40 ister all qualified voters who have not theretofore been regis-
41 tered, and complete and finish the registration of the voters
42 within their precincts, and shall certify and return to the sec-
43 retary of the said board of education, within three days (Sun-
44 days excepted) from the last day of such sitting, two alpha-
45 betical lists of the registered voters within such precincts en-
46 titled to vote at the ensuing regular school election. For their
47 services, each of such registrars shall receive the sum of five
48 dollars per day. And at the regular or special meeting on the
49 first Tuesday in May as aforesaid, the board of education of
50 said independent school district shall pass and cause to be
51 spread upon its minutes a resolution calling and ordering the
52 regular school election and containing the main items of in-
53 formation pertaining to the purpose of holding the school elec-
54 tion and the terms of office to be filled, the time and
55 place of holding the election, the time and method of
56 making nominations, the time of the appointment of
57-58 registrars and their sitting, the time of the final
59 sitting of the board to complete and certify the registra-
60 tion of voters, and such other items as the board may deem
61 necessary and practicable; said proclamation shall be posted on
62 the front door of the high school building and at each voting
63 precinct at least three weeks previous to the day of the en-

64 suing regular school election, and the same shall be published
65 twice in two newspapers published in said district, the second
66 publication being on the last day upon which such newspapers
67 are issued before the expiration of the time for filing nomina-
68 tions. The said board of education shall convene in special ses-
69 sion on the third Tuesday in May next preceding a regular
70 school election for the purpose of appointing ballot commis-
71 sioners, commissioners of election, poll clerks, and all other of-
72 ficers necessary for conducting the ensuing regular school elec-
73 tion: *Provided*, That at least five days before the aforesaid ap-
74 pointments are to be made, the secretary of said board of edu-
75 cation shall notify the chairmen of the respective executive com-
76 mittees of the two opposite political parties as aforesaid of such
77 appointments: *Provided further*, That if the chairman of
78 either of the executive committees as aforesaid shall designate,
79 in writing, a member of such party as one of the said commis-
80 sioners or clerks having the qualifications of a voter, he shall
81 be appointed by the board: *Provided further*, That the politi-
82 cal party which cast the highest number of votes at the last
83 preceding general election as aforesaid shall have the right to
84 the majority of the election officers of each election board and
85 may designate not more than two commissioners and one clerk
86 for each election board in said district, who shall be appointed
87 as aforesaid by the board of education of said independent
88 school district: *Provided further*, That a vacancy shall be
89 filled in the same manner as an original appointment, but im-
90 mediate notice shall, where necessary, be deemed compliance
91 with the aforesaid five day notice provision. The secretary
92 of the board of education and two persons appointed as afore-
93 said by the board of education, one each from the two opposite
94 political parties as aforesaid, shall constitute the board of bal-
95 lot commissioners, of which board the secretary of the board
96 of education shall be chairman. The said board of ballot com-
97 missioners shall prepare the form and arrangement of the bal-
98 lots and provide printed ballots for the ensuing regular school
99 election: *Provided*, That the printing of the ballots shall be
100 contracted for with the lowest responsible bidder in said inde-
101 pendent school district. The board of ballot commissioners
102 shall cause the ballot which is to be used in the ensuing regular
103 school election to be published twice in two newspapers in said
104 independent school district, the second publication being on the

105 last day on which such newspapers are issued before the en-
106 suing regular school election. The board of education of said
107 independent school district shall not be required to make any
108 publication or posting of the election officers appointed as
109 aforesaid for conducting any regular school election.

110 The board of education of said independent school district
111 shall convene in regular or special session, from nine o'clock
112 a. m. until five o'clock p. m., on the Tuesday next preceding any
113 and every regular school election held in said district, for the
114 purpose of further amending, correcting, completing, and cer-
115 tifying the aforesaid registration of the qualified voters for the
116 ensuing regular school election as completed by the aforesaid
117 registrars, and, at the said meeting, the said board of educa-
118 tion, if it is satisfied that persons have been registered who are
119 not entitled to vote, shall, upon notice to said persons and in
120 the manner prescribed by law, cause their names to be stricken
121 from the aforesaid list of qualified voters, and the said board of
122 education, if it finds that the name of any person who should
123 be registered then has not been registered, shall cause such per-
124 son to be registered as a qualified voter for the aforesaid ensu-
125 ing regular school election. But no voter shall be entitled to
126 register, except upon a certificate of transfer, after the adjourn-
127 ment of such session of the board. And the said board of edu-
128 cation shall, upon the arrival of the hour of five o'clock p. m.,
129 certify the aforesaid registration lists as the official registration
130 of voters for the ensuing regular school election and then ad-
131 journ. No person shall be allowed to vote at any regular school
132 election in said independent school district who is not at the
133 time of the election, an actual, bona fide resident of the election
134 precinct in which he offers to vote and has not been registered
135 as a voter for such election as required by law. Notices of the
136 appointment and the sitting of registrars and the oath of regis-
137 trars, together with all other matters pertaining to the registrars
138 and registration of voters for any and every regular school
139 election, shall be decided upon and determined by the said
140 board of education except that article two, chapter three of the
141 code of West Virginia, one thousand nine hundred thirty-one,
142 shall be followed, until the same shall be amended, so far as
143 the same may be applicable or practicable. The commissioners
144 of the board of education of said independent school district
145 shall be a board of canvassers; they shall have the sole authority

146 and jurisdiction in ascertaining, declaring, recording and cer-
147 tifying the results of any and every regular school election in
148 said independent school district; and they shall convene as such
149 canvassing board, at the regular time and meeting place, on the
150 fifth day (Sundays excepted) after every regular school elec-
151 tion held in said district.

Sec. 2-(c). Nominations for the office of commissioner of
2 said board of education shall be made by party conventions by
3 the two opposite political parties which at the last preceding
4 general election held in November at the voting places in the
5 several precincts in said independent school district cast the
6 highest and next highest number of votes, and shall be filed, duly
7 certified, with the secretary of the board of education at least
8 twenty days prior to said regular school election: *Provided*,
9 That nominations may be made by groups of citizens in the man-
10 ner prescribed by law. The certificate of nomination for the
11 office of school commissioner as aforesaid shall designate the
12 term of office of each person nominated and shall be signed by
13 the chairman and secretary of the executive committee of the
14 party making the nomination and shall be authenticated by the
15 official signature and seal of a notary public. The executive com-
16 mittees of the parties making nominations at any regular school
17 election for the office of commissioner of the board of education
18 of said independent school district shall determine both the
19 time and place of holding and the method of calling the said
20 conventions, and the executive committees as aforesaid shall
21 have the authority to determine and formulate the rules and
22 regulations which shall govern the balloting and all other mat-
23 ters of procedure in the said conventions.

Sec. 4. The board of education of said district shall meet an-
2 nually, on the first day of July, at such time and place as they
3 may designate, and shall elect one of their members president,
4 and shall also elect a secretary who shall serve during the will
5 of the board; *Provided*, That if the first day of July shall fall
6 on Sunday, the next day shall be deemed to be the one intended.
7 Before entering upon the duties of his office, the secretary shall
8 take the oath prescribed by law and he shall, with at least two
9 good sureties to be approved by the board of education, enter
10 into a bond, payable to the board of education of the indepen-
11 dent school district of Ceredo-Kenova in such penal sum as the

12 board may determine, which bond shall be filed with the presi-
13 dent of the board for safekeeping.

Sec. 7. The board of education of the independent school dis-
2 trict of Ceredo-Kenova shall hold stated meetings at such times
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 No business may be transacted at a special meeting, except that
8 mentioned in the call for such meeting, which call shall be in
9 writing and shall be recorded by the secretary in the record
10 of proceedings of said meeting. Three members of said board
11 of education shall constitute a quorum for the transaction of
12 business at any meeting of said board: *Provided*, That all the
13 members shall have had notice of the time, place, and purpose
14 of any special meeting called by the president or secretary as
15 herein provided: *Provided further*, That a concurrence of three
16 members of said board of education shall be required to elect
17 a superintendent and teachers and to decide all questions in-
18 volving the expenditure of money.

Sec. 12. It shall be the duty of the board of education of the
2 independent school district of Ceredo-Kenova, annually, at the
3 same time and in the same manner that is now provided or that
4 may hereafter be provided by the general school law of this
5 state for the ascertaining and making of estimates and the fix-
6 ing 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 of
9 the amounts necessary for the support of the schools within the
10 said independent school district and on the property located in
11 the said independent district to determine, fix, and lay such
12 levies for the support of the schools therein. It shall be the
13 duty of the board of education of the said independent school
14 district of Ceredo-Kenova, annually, at such meeting, to levy
15 as many cents on each one hundred dollars of valuation of the
16 taxable property of the said independent school district, ac-
17 cording to the last assessment thereof, as will produce the
18 amounts shown by the estimate of said board to be necessary to
19 be levied for the maintenance, building, and teachers' fund pur-
20 poses; to levy in like manner the amounts necessary to continue
21 the schools in session in the said independent school district for

22 a minimum term of nine months in the graded or elementary
22-a schools and for a minimum term of nine months in the junior
23 and senior high schools; and to levy and provide sufficient funds
24 for all purposes to keep said schools in session for the full mini-
25 mum term of nine months as herein provided. And the board of
26 education of said independent district is hereby authorized and
27 empowered to lay, within the limits of any tax levy amendment
27-a to the constitution, a levy in addition to the levies authorized
28 by the general school law of the state, if the same shall be re-
29 quired, sufficient for all purposes to conduct the school of the
30 said independent school district for the full minimum term of
31 nine months as aforesaid. For the purpose or purposes mentioned
32 in this or in any other section of the aforesaid chapter ninety-
33 eight as amended and for the purpose of paying teachers and
34 other school officers, the interest and sinking funds on bonds,
35 and any other legal obligations which are now owed by the
36 independent school district of Ceredo-Kenova or may here-
37 after be incurred by it, the said board of education shall lay
38 annually such levies in the manner that is now provided or that
39 may hereafter be provided by the general school law of the
40 state. Elections for bond issues shall likewise be conducted in
41 accordance with the general school law.

Sec. 17. Admission to the various schools of the district shall
2 be gratuitous to all white children, who are actual residents
3 within the district, between the ages of six and twenty-one years:
4 *Provided*, That admission of pupils, residents of one subdistrict,
5 to the schools of another subdistrict shall rest with the board of
6 education: *Provided further*, That pupils whose parents or
7 guardians are not actually bona fide residents or taxpayers
8 within said independent school district shall not be allowed to
9 attend the schools of said district except upon payment in ad-
10 vance of tuition at the rate of not less than two dollars fifty
11 cents per month for the elementary and junior high schools and
12 five dollars per month for the senior high schools. The board
13 of education shall establish within the said independent school
14 district one or more separate schools for colored children, when
15 the whole number by enumeration equals that number required
16 by the state school law, so as to afford them as far as practicable
17 the advantages and privileges of a free school education. All
18 such schools shall be under the management and control of the

19 board, and shall be subject to like general regulations as the
20 other schools of the district; but under no circumstances shall
21 colored children be allowed to attend the same school, or be
22 classified with white children.

Sec. 19. A superintendent of schools for the aforesaid inde-
2 pendent school district of Ceredo-Kenova shall be elected for
3 a term of not more than two years by the said board of educa-
4 tion at the first regular meeting of the said board of education
5 in April of the year in which the contract of the superintendent
6 of schools shall expire, and the salary of the superintendent shall
7 be fixed at the aforesaid meeting in April or as soon thereafter
8 as circumstances will allow: *Provided*, That no person shall be
9 employed as superintendent of schools who shall not have had an
10 experience of at least five years as superintendent or prin-
11 cipal of public schools. The superintendent of schools shall be
12 known as "the superintendent of schools of the independent
13 school district of Ceredo-Kenova."

14 Said superintendent, in addition to the duties specified in this
15 act, shall perform such other appropriate duties with relation
16 to the schools of the district as the board may prescribe. The
17 superintendent of schools shall be liable to removal by the board
18 of education for willful and continued neglect of duty, incompe-
19 tence, immorality, or misconduct while in office: *Provided*, That
20 he shall not be removed from office unless charges shall be pre-
21 ferred in writing by a commissioner of the board of education
22 and a copy of such charges and a notice of the time and place set
23 by the board of education for hearing said charges shall be given
24 to the superintendent of schools at least ten days before the
25 day set for said hearing: *Provided further*, That the said super-
26 intendent of schools shall be allowed to present any evidence
27 he desires and to be heard in his own defense, either in person or
28 by counsel, and a concurrence of three members shall be required
29 to remove him from office. When the office shall have become
30 vacant from any cause, before the expiration of the term for
31 which the superintendent shall have been elected, the board of
32 education shall fill the same by appointment for the unexpired
33 term. It shall be the duty of the superintendent to make such
34 report to the board of education of the character and conditions
35 of the schools of the district as shall enable the secretary to make
36 his required report to the county superintendent.

37 The superintendent shall not directly or indirectly receive
38 any gift, emolument, or reward for his influence in recommend-
39 ing the use of any book or furniture of any kind whatever in the
40 schools of the said district. It shall be the duty of the super-
41 intendent of schools, annually, on or before the first meeting in
42 July, or as soon thereafter as circumstances will allow, at a meet-
43 ing of the aforesaid board of education, to recommend and nomi-
44 nate for election by the aforesaid board of education a sufficient
45 number of principals, special supervisors, and teachers to fill
46 the schools of the aforesaid independent school district. If the
47 aforesaid board of education refuse or fail to employ any or all
48 of the persons recommended and nominated as aforesaid, the
49 board of education shall require the superintendent of schools
50 (and it shall be the duty of the superintendent to do so) to
51 recommend and nominate other persons as aforesaid, but no
52 teacher, principal, or supervisor shall be employed, except as set
53 forth hereinafter, without having been recommended and nomi-
54 nated as aforesaid by the superintendent of schools: *Provided,*
55 That if a sufficient number of teachers to fill the schools of the
56 independent school district shall not, for any reason, have been
57 elected by the board of education from a list of teachers included
58 in the first and second recommendations and nominations as
59 aforesaid by the superintendent of schools, the aforesaid board
60 of education may proceed to fill such vacancies without his
61 recommendation and nomination. The salary of the superin-
62 tendent of schools may be paid out of the elementary teachers'
63 fund or the high school teachers' fund or both.

Sec. 20. The board of education shall, on the recommendation
2 of the superintendent and in accordance with the general school
3 law, appoint all teachers for public schools of any grade or high
4 school within the district and fix their salaries: *Provided,* That
5 the said board of education shall have the authority to fix special
6 schedules of salaries and salaries to be paid to the superinten-
7 dent of schools, principals, supervisors, and teachers, without
8 regard to the limitations and regulations set out in the general
9 school law: *Provided further,* That the principal of the high
10 school and the principal of the Kenova graded school may be
11 elected by the said board of education for a term of not more
12 than two years. But no person shall be employed to teach in
13 any public school of the district who shall not first have ob-

14 tained from the state authorities a certificate of qualifications
 15 to teach a school of the grade for which the appointment is
 16 made or, in lieu of said certificate, a certificate granted by an
 17 examining committee hereinafter provided for.

Sec. 22. All provisions of the general school law of the state
 2 and all laws and acts and parts of acts heretofore existing which
 3 are in any manner inconsistent with the provisions of this act
 4 are hereby repealed and shall be void within the said indepen-
 5 dent school district; otherwise the said general school law shall
 6 remain in full force and effect in said independent school dis-
 7 trict as elsewhere in the state. If any section, subsection, sen-
 8 tence, clause, phrase, or word of this act or of the aforesaid
 9 chapter ninety-eight as amended by this act is for any reason
 10 held to be unconstitutional, such decision shall not affect the
 11 validity of the remaining portions of this act or the aforesaid
 12 chapter ninety-eight as amended by this act. The legislature
 13 hereby declares that it would have passed this act, and each
 14 section, subsection, sentence, clause, phrase, and word thereof,
 15 irrespective of the fact that any one or more other sections, sub-
 16 sections, sentences, clauses, phrases or words be declared un-
 17 constitutional.

CHAPTER 101

(Senate Bill No. 169—By Mr. Reynolds, of Mercer)

AN ACT creating the independent school district of Princeton,
 Mercer county.

[Passed March 9, 1933; in effect from passage. Became a law without the approval
 of the Governor.]

Sec.

1. Establishes independent school district of Princeton, if act approved at election to be held on second Tuesday in April, one thousand nine hundred thirty-three; boundaries.
2. Board of education; number, election and terms.
3. Board of education, corporate name and powers.
4. Regular and special meetings of board.
5. Transfer of real estate, money and debts of East River school dis-

Sec.

- trict to independent district established by this act.
6. Payment of principal and interest of East River school district bonds for building purposes assumed by independent district.
7. General school law, so far as inconsistent with this act, void within district.
8. Special election, posting and publication of notice of, voting places, election officials and form of ballot.

Be it enacted by the Legislature of West Virginia:

Section 1. That in the event a majority of the votes cast at
 2 an election to be held on the second Tuesday in April, one thou-

3 sand nine hundred thirty-three, be in favor thereof; the fol-
4 lowing described territory in the county of Mercer and in the
5 district of East River, shall, after the results of such election
6 are ascertained and declared, be the independent school district
7 of Princeton, to-wit: The territory contained within the lim-
8 its of East River magisterial district, as the same are on the
9 first day of April, one thousand nine hundred thirty-three.

Sec. 2. The board of education of said independent district
2 shall consist of a president and two commissioners, who shall
3 be elected by the qualified voters of said independent district,
4 at the general elections; for a term of six years or until their
5 successors have been elected and qualified, and shall have all
6 the powers and perform all the duties, and be governed by all
7 the laws as boards of education elsewhere in the county, out-
8 side of the independent districts, except in so far as changed
9 by the provisions of this act; and in the event of the establish-
10 ment of the independent district of Princeton, the two mem-
11 bers elected at the general election, held in the year one thou-
12 sand nine hundred thirty and the one member elected at the
13 general election, held in the year one thousand nine hundred
14 thirty-two, shall be members of the board of education of the
15 independent district of Princeton until the expiration of terms
16 for which they were elected. At the next general election after
17 this act goes into effect, one member shall be elected for four
18 years; and a president for six years, and each two years there-
19 after the one candidate who receives the highest number of
20 votes shall be declared elected.

Sec. 3. The board of education of the said independent school
2 district shall be a corporation by the name of "The Board of
3 Education of the Independent School District of Princeton,"
4 and as such, may sue and be sued, plead and be impleaded, con-
5 tract and be contracted with, and exercise all powers and du-
6 ties as other district boards of education operating under the
7 general school law.

Sec. 4. The board of education of said independent school
2 district shall hold its regular meetings in each year on the first
3 Monday in July, the first and third Tuesdays in August, and,
4 when the schools are in session, on any regular day agreed upon
5 by the board, all meetings to be held at a place to be desig-
6 nated by the board at its first meeting held on the first Mon-
7 day in July. Upon the call of the president or of two school

8 commissioners, the board of education may hold other meet-
9 ings, but no business shall be transacted at any called meeting
10 except such as may be designated in the call therefor of which
11 all the members have had notice.

12 A majority of the members of the board of education of said
13 independent school district shall constitute a quorum and such
14 board cannot transact any official business except when as-
15 sembled as a board.

Sec. 5. All moneys, whether belonging to the teachers' build-
2 ing or maintenance funds of the district of East River, Mercer
3 county, which may be unexpended when the provisions of this
4 act take effect, shall become the property of the said indepen-
5 dent school district of Princeton, and all debts contracted by
6 the East River district prior to July first, one thousand nine
7 hundred thirty-three, shall be assumed by the independent
8 school district of Princeton. Title to all school property owned
9 by said board of education of East River district and located
10 within the territorial boundaries of said independent district
11 shall, immediately upon this act becoming effective, pass by
12 operation of law and become vested in the said board of edu-
13 cation of said independent school district.

Sec. 6. The payment of all outstanding bonds of the board
2 of education of East River district in the county of Mercer,
3 issued for building purposes, as well as the interest on such
4 bonds, shall be obligatory upon and assumed by the said inde-
5 pendent district of Princeton.

Sec. 7. 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 gen-
5 eral school law shall remain in full force and effect in the said
6 independent school district, as elsewhere in the state.

Sec. 8. The special election to be held as provided in section
2 one of this act, shall be held under the supervision of the board
3 of education of the district of East River, in the county of
4 Mercer. The said board of education shall prepare or cause to
5 be prepared, a notice, stating that the question of ratifying the
6 act of the legislature of the state of West Virginia, creating
7 the independent district of Princeton, in the county of Mercer,
8 out of territory embraced in the district of East River in the

9 said county, will be submitted to the voters of said East River
10 district, at a special election to be held on the second Tuesday
11 of April, one thousand nine hundred thirty-three, at not less
12 than ten voting places in said district, (to be specified in said
13 notice) which notice shall be signed by the president and sec-
14 retary of said board and shall be posted at least ten days be-
15 fore said election at each of the voting places designated by
16 said board for the purpose of said election. Said notice shall
17 be published once a week for two weeks prior to said election,
18 in two newspapers of opposite politics in Mercer county. The
19 board of education of East River district shall designate the
20 voting places for said election, appoint commissioners and poll
21 clerks to conduct the same, ascertain the results thereof and
22 pay the expenses thereof out of the building fund of the said
23 district.

24 The ballot to be voted at the said election shall be on plain,
25 white paper and in the following form :

26 **SCHOOL DISTRICT ELECTION**

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

28 For Ratification of the "Independent District of Prince-

29 ton."

30 Against Ratification of the "Independent District of

31 Princeton."

32 If the majority of the votes cast be for ratification, then this
33 act shall be in force on and after the first day of July, one
34 thousand nine hundred thirty-three, otherwise this act is void.

CHAPTER 102

(House Bill No. 508—By Mr. Harmon, by request)

AN ACT to amend and reenact section twenty, chapter one hundred
one of the acts of the legislature of West Virginia, one thou-
sand nine hundred twenty-three, relating to the independent

school district of Nitro in the counties of Putnam and Kanawha.

[Passed March 2, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

20. Superintendent of schools, election, salary and title; procedure for removal; recommendation to

SEC.

board of teachers for appointment; further duties and powers; from what funds salaries paid.

Be it enacted by the Legislature of West Virginia:

Section 20. Annually, at a meeting to be held the first Monday in July, the board shall elect a superintendent of schools for the independent district and fix his salary. Such superintendent shall be known as "the superintendent of schools of Nitro independent district," and in addition to the duties prescribed by this act shall have such powers and perform such duties as the board of education shall direct.

The superintendent of schools may be removed from office at any time for incompetency, neglect of duty, immorality, or for any palpable violation of the law. But he shall not be removed except on charges preferred in writing by a school commissioner. A copy of such charges and notice of the time and place set for hearing shall be delivered to him at least ten days before the time set for such hearing, and he shall be allowed to present any evidence of his innocence that he may desire, and be heard in his own defense. A vacancy in the office of superintendent of schools shall be filled by the board of education by appointment, whenever such vacancy may occur.

It shall be the duty of the superintendent of schools, annually, at a meeting to be held for the purpose on the third Monday in July, or as soon thereafter as circumstances will allow, to recommend to the board of education a sufficient number of principals and teachers to fill the schools of the independent district.

The board of education may refuse to appoint any or all of the persons so recommended and may require the superintendent of schools to recommend others, but no teacher, principal or supervisor shall be employed except on the recommendation of the superintendent of schools: *Provided*, That the superintendent of schools within a reasonable time after being required to do so, fail or refuse to recommend a sufficient number of persons, under this section, to fill vacancies, the board of education may proceed to fill such vacancies without his recommendation.

34 It shall be the duty of the superintendent of schools with the
35 approval of the board of education, to prescribe the branches
36 to be taught in the high schools of the district, to carry out the
37 provisions of the course of study prescribed by the state board
38 of education and to supplement the high school course thus
39 prescribed and to adapt it to the high schools of the district;
40 to prescribe regulations for the examination for graduation of
41 pupils; to prescribe conditions for the admission of pupils to the
42 high schools, to have prepared questions for the examination of
43 such pupils, to issue certificates to such pupils as are deemed
44 worthy to be admitted to high schools, to keep a register of all
45 certificates so issued, to select courses of reading to be pursued
46 by the teachers of the district, to select books for the school li-
47 braries, to acquaint himself with the best methods in the schools
48 of other cities; and to this end the board of education of the
49 independent district may appropriate such sums out of the
50 building fund of the district as it may be necessary to pay his
51 traveling expenses, to prepare and to have printed all necessary
52 forms to be used in the district, to make such annual report to
53 the board of education as it shall require, to provide suitable
54 certificates for the graduates of the elementary schools and
55 grammar schools of the district and diplomas for the gradu-
56 ates of the high schools and prescribe the manner and circum-
57 stances under which the same may be conferred, to arrange with
58 other schools and colleges for recognition for the work done in
59 the district.

60 The salary of the superintendent of schools may be paid out
61 of either the teachers' fund or the building fund, or both.

CHAPTER 103

(House Bill No. 517—By Mr. Peters)

AN ACT creating the independent school district of the city of
Bluefield in the county of Mercer and state of West Virginia.

[Passed March 10, 1933; in effect from passage. Became a law without the approval
of the Governor.]

SEC.

1. Establishes independent school district of Bluefield, if act approved at election to be held on second Tuesday in April, one thousand nine hundred thirty-three; boundaries.

SEC.

2. Board of education, number, election and terms.
3. Board of education, corporate name and powers.
4. Regular and special meetings of board.

SEC.

5. Moneys of Beaver Pond school district transferred to independent district established by this act.
6. Payment of principal and interest of Beaver Pond school district bonds for building purposes assumed by independent district.

SEC.

7. General school law, so far as inconsistent with this act, void in district.
8. Special election, posting and publication of notice of, voting places, election officials and form of ballot.

Be it enacted by the Legislature of West Virginia:

Section 1. That in the event a majority of the votes cast at an election to be held on the second Tuesday in April, one thousand nine hundred thirty-three, be in favor thereof, the following described territory in the county of Mercer and the district of Beaver Pond, shall, after the results of such election are ascertained and declared, be the independent district of Bluefield, to-wit: The territory contained within the corporate limits of the magisterial district of Beaver Pond, as the same are on the first day of April, one thousand nine hundred thirty-three.

Sec. 2. The board of education of said independent district shall consist of a president and two commissioners, who shall be elected by the qualified voters of said independent district, at the general elections, for a term of six years or until their successors have been elected and qualified, and shall have all the powers and perform all the duties, and be governed by all the laws as boards of education elsewhere in the county, outside of independent districts, except insofar as changed by the provisions of this act; and in the event of the establishment of the independent district of Bluefield, the two members elected respectively at the general elections, held in the years one thousand nine hundred thirty and one thousand nine hundred thirty-two, who at that time reside in the city of Bluefield, shall be members of the board of education of the independent district of Bluefield until the expiration of terms for which they were elected. The third member, who resides in the rural section of said Beaver Pond district, shall serve in office until his successor is duly elected at the next general election to be held in the year one thousand nine hundred thirty-four, and qualified. At the next general election after this act goes into effect one member shall be elected for four years; and a president for six years, and each two years thereafter the one candidate who receives the highest number of votes shall be declared elected.

Sec. 3. The board of education of the said independent district shall be a corporation by the name of, "The Board of Education of the Independent District of Bluefield," and as such may sue and be sued, plead and be impleaded, contract and be contracted with, and exercise all powers and duties as other district boards of education operating under the general school law.

Sec. 4. The board of education of said independent district shall hold its regular meeting in each year on the first Monday in July, the first and third Tuesdays in August, and, when the schools are in session, on any regular day agreed upon by the board, all meetings to be held at a place to be designated by the board at its first meeting held on the first Monday in July. Upon the call of the president or of two school commissioners, the board of education may hold other meetings, but no business shall be transacted at any called meeting except such as may be designated in the call therefor of which all the members have had notice.

A majority of the members of the board of education of said independent district shall constitute a quorum and such board cannot transact any official business except when assembled as a board.

Sec. 5. All moneys whether belonging to the teachers' or building funds of the district of Beaver Pond, Mercer county, which may be unexpended or overdrawn when the provisions of this act take effect, shall become the property of the said independent district.

Sec. 6. The payment of all outstanding bonds of the board of education of Beaver Pond district in the county of Mercer, issued for building purposes, as well as the interest on such bonds, shall be obligatory upon and assumed by the said board of education of the independent district of Bluefield.

Sec. 7. All the provisions of the general school law of the state, and all the acts heretofore existing, which are in any manner inconsistent with the provisions of this act, shall be void within the said independent district; otherwise the general school law shall remain in full force and effect in the said independent district, as elsewhere in the state.

Sec. 8. The special election to be held as provided in section one of this act, shall be held under the supervision of the board

3 of education of the district of Beaver Pond, in the county of
 4 Mercer. The said board of education shall prepare or cause to
 5 be prepared, a notice, stating that the question of ratifying the
 6 act of the legislature of the state of West Virginia, creating the
 7 independent district of Bluefield, in the county of Mercer, out
 8 of the territory embraced in the district of Beaver Pond in the
 9 said county, will be submitted to the voters of said Beaver Pond
 10 district, at a special election to be held on the second Tuesday
 11 of April, one thousand nine hundred thirty-three, at not less
 12 than ten voting places in said district (to be specified in said
 13 notice), which notice shall be signed by the president and secre-
 14 tary of said board and shall be posted ten days before said
 15 election at each of the voting places designated by said board
 16 for the purpose of said election. Said notice shall be published
 17 once a week for two weeks prior to said election, in two news-
 18 papers of opposite politics in Mercer county. The board of
 19 education of Beaver Pond district shall designate the voting
 20 places for said election, appoint commissioners and poll clerks
 21 to conduct the same, ascertain the results thereof and pay the
 22 expenses thereof out of the building fund of the said district.

23 The ballot to be voted at the said election shall be on plain,
 24 white paper and in the following form:

25 **SCHOOL DISTRICT ELECTION**

26 (Indicate how you desire to vote by a cross in the square)

27 For ratification of "the independent district of Blue-

28 field."

29 Against ratification of "the independent district of
 30 Bluefield."

31 If the majority of the votes cast be for ratification then this
 32 act shall be in force on and after the first day of July, one thou-
 33 sand nine hundred thirty-three, otherwise this act is void.

CHAPTER 104

(House Bill No. 363—By Mr. Haynes)

AN ACT to empower, authorize and direct the board of education of the independent district of Hinton, in Summers county, West Virginia, to pay the superintendent of schools of the said independent district of Hinton, the janitors and all teachers who

have actually taught in and rendered services for the schools in the independent school district, in said city of Hinton, and the high schools of the said independent district of Hinton, for the school session of one thousand nine hundred thirty-two and one thousand nine hundred thirty-three, for which they have not been paid during said session of one thousand nine hundred thirty-two and one thousand nine hundred thirty-three, out of any fund or funds raised and levied by said board, for the payment of teachers, principal, superintendent and janitors, and validating all such payments when made.

[Passed February 22, 1933; in effect from passage. Approved by the Governor.]

SEC.

1. Payment of salaries to superintendent, teachers and janitors, Hinton independent school district, for school years one thousand

SEC.

nine hundred thirty-two and one thousand nine hundred thirty-three authorized and validated.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of the independent district of Hinton, a corporation, in the county of Summers, is hereby authorized, empowered and directed to pay to the superintendent of schools of the independent school district of Hinton, and any and all teachers who have actually taught in said independent district of Hinton for the school session of one thousand nine hundred thirty-two and one thousand nine hundred thirty-three, out of any fund or funds raised by said board for the payment of the superintendent, teachers and janitors, the salary or salaries due to said superintendent, teachers and janitors respectively, for services actually rendered by them, or any of them, during the session of one thousand nine hundred thirty-two and one thousand nine hundred thirty-three, whether employed by said board or said superintendent, and for which they have not been paid, and validating such payments when made for such services actually rendered in said schools, under said board or said superintendent; said services to be paid for according to the schedule of salaries as fixed by the superintendent of schools, being the salaries fixed by the said board of education for the teachers, superintendent or janitors of the respective schools in said independent school district of Hinton, for said session of one thousand nine hundred thirty-two and one thousand nine hundred thirty-three.

24 All acts or parts of acts inconsistent with the provisions of
25 this act or in conflict with this act are hereby repealed.

CHAPTER 105

(House Bill No. 364—By Mr. Haynes)

AN ACT to amend and reenact sections three, five, nine and thirteen, chapter forty-three of the acts of the legislature of West Virginia, regular session one thousand nine hundred twenty-one, relating to the election, qualification, appointment and transaction of business of, and by the school commissioners of the independent school district of Hinton, in Summers county, West Virginia, and to repeal all acts and parts of acts, and all sections and parts of sections of chapter forty-three of the acts of the legislature of West Virginia, regular session one thousand nine hundred twenty-one, in conflict with, or inconsistent with sections three, five, nine and thirteen, as amended by this act; and to repeal sections four and eight of chapter forty-three of the acts of the legislature of West Virginia, regular session one thousand nine hundred twenty-one, relating to the appointment and election of school commissioners of the independent school district of Hinton, and filing a statement of their political affiliations with the board of education of said district; and providing for a board of education and the selection thereof, when, and after this act as amended, shall take effect, and repealing all acts, and parts of acts inconsistent with, or in conflict with this act.

[Passed February 22, 1933; in effect from passage. Approved by the Governor.]

<p>SEC. 1(a). Inconsistent acts repealed. 1(b). Act amended. 3. Board of education independent school district of Hinton, number and qualification. 5. Board of education, election and terms; when not eligible for re-</p>	<p>SEC. election; terms of present members. 9. Vacancy in membership of board, when filled by board and when by county court. 13. Regular and special meetings of board; inconsistent acts repealed.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1(a). That sections four and eight, chapter forty-three of the acts of the legislature of West Virginia, regular session one thousand nine hundred twenty-one, relating to the appointment and election of school commissioners of the independent school district of Hinton, and filing of statements of their

6 political affiliation with the board of education of the district
7 be and the same is hereby repealed;

8 (b) That sections three, five, nine and thirteen, chapter
9 forty-three of the acts of the legislature of West Virginia, regu-
10 lar session one thousand nine hundred twenty-one, be amended
11 and reenacted to read as follows, respectively.

Section 3. There shall be a board of education of the inde-
2 pendent school district of Hinton, to consist of three school
3 commissioners, any two of whom shall constitute a quorum to do
4 business, who shall be elected as hereinafter provided, and who
5 shall be at the time of their election and qualification as such,
6 citizens and residents of the district, and be entitled to vote
7 in the independent school district of Hinton, at the election at
8 which they are elected, and shall be either freeholders owning
9 real estate within the district or persons having a child or chil-
10 dren residing within the district who are entitled to attend
11 school therein.

Sec. 5. There shall be elected by the qualified voters of the
2 independent school district of Hinton, at the general election
3 to be hereafter held at the voting places in the several election
4 precincts in the independent school district of Hinton, on the
5 Tuesday next after the first Monday in November, one thou-
6 sand nine hundred thirty-four, three school commissioners who
7 shall be members of the board of education of the independent
8 school district, one of whom shall be elected for the term of two
9 years one for the term of four years and one for the term of six
10 years; the person receiving the highest number of votes for
11 school commissioner shall be declared elected for the full term
12 of six years the person receiving the next highest number of
13 votes for school commissioner shall be declared elected for the
14 full term of four years and the person receiving the next
15 highest number of votes for school commissioner shall be de-
16 clared elected for the full term of two years; and each two
17 years thereafter at the general election to be held on the Tues-
18 day next after the first Monday in November in each even year
19 in the independent district of Hinton there shall be elected by
20 the qualified voters of the independent district one school com-
21 missioner for the full term of six years. The terms of office of
22 the independent school district of Hinton school commissioners
23 shall commence on the first day of July next after their election,
24 and they shall hold their office until their successors have been

25 duly elected and qualified: *Provided, however,* That no such
26 school commissioner who has served a full term of six years shall
27 be eligible for reelection: *And provided further,* That from and
28 after the time when this act as amended shall take effect, the
29 board of education of the independent school district of Hinton
30 shall be composed of only three commissioners who shall hold
31 and shall continue in office from and after the time that this
32 act as amended shall take effect, until the first day of July, one
33 thousand nine hundred thirty-five. The commissioners of the
34 board of education of the independent school district of Hinton
35 shall consist only of that commissioner or member of the present
36 board of education of the independent school district of Hinton,
37 who was elected commissioner or member of the board of educa-
38 tion of the independent school district of Hinton, at the gen-
39 eral election held in November, one thousand nine hundred
40 thirty, and who is shown by the election record for said year
41 in Summers county, West Virginia, to have received the highest
42 number of votes cast for commissioner or member of the board
43 of education of the independent school district of Hinton at
44 the general election so held, and of the two commissioners or
45 members declared elected as commissioners or members of the
46 board of education of the independent school district of Hin-
47 ton, at the general election held in November, one thousand nine
48 hundred thirty-two.

Sec. 9. If and when a vacancy occurs on the board of educa-
2 tion of the independent school district of Hinton, it shall be
3 filled by the board by appointment thereto of some eligible per-
4 son from the independent school district of Hinton, and the per-
4-a son so appointed shall hold office for the unexpired term and
5 until his successor is elected and qualified: *Provided,* That if a
6 vacancy or vacancies should occur in the membership of the
7 board of education of the independent school district of Hin-
8 ton, or a question shall arise from any cause as to the election
9 or qualifications of a commissioner or member of the board of
10 education of the independent school district of Hinton that
11 cannot for any reason be filled or determined as herein pro-
12 vided; then that vacancy or vacancies shall be filled or that
13 question determined by the county court of Summers county,
14 at any regular term of court or at any special term of said
15 court called for the purpose. And the action of the county court
16 of Summers county, West Virginia, in filling the vacancy or

17 vacancies in membership of the board of education of the inde-
18 pendent school district of Hinton or in determining any ques-
19 tion or questions, when certified, shall be conclusive and bind-
20 ing.

Sec. 13. The 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 the board may be called by the president,
4 or at the request of any member, by the secretary. No business
5 may be transacted at a special meeting except that mentioned in
6 the call for such special meeting, which call shall be in writing
7 and shall be recorded by the secretary in the record of the pro-
8 ceedings of the meeting. Two members of the board of educa-
9 tion shall constitute a quorum for the transaction of business
10 at any meeting of the board: *Provided*, That all of the mem-
11 bers shall have had notice of the time, place and purpose of any
12 special meeting called by the president or secretary as herein
13 provided.

14 All acts and parts of acts and all sections and parts of sec-
15 tions of said chapter forty-three of the acts of the regular ses-
16 sion of the legislature of West Virginia, one thousand nine
17 hundred twenty-one, in conflict with or inconsistent with sec-
18 tions three, five, nine and thirteen as hereby amended are here-
19 by repealed.

CHAPTER 106

(House Bill No. 564—By Mr. Craig)

AN ACT to create the independent school district of Cross Creek,
in the county of Brooke.

[Passed March 11, 1933; in effect from passage. Became a law without the approval
of the Governor.]

SEC.

1. Cross Creek independent school district, Brooke county, created; boundaries.
2. Board of education, name and number and qualifications of members.
3. Terms of present members of Cross Creek district board.
4. Election and terms, members board of independent district.
5. How candidates for board may be nominated.
6. Oath of nominee as to his political affiliations.
7. Elections, how conducted and results ascertained.
8. Salaries of members of board.
9. Form of and filing of oath of members of board.

SEC.

10. Filling of vacancy on board.
11. Corporate name and powers and duties of board; transfer to board of independent district of rights, powers, title to real estate and obligations of district board.
12. Secretary of board, election, term, salary, duties and removal.
13. Regular and special meetings of board; notice of special meeting involving expenditure of more than one hundred dollars.
14. Duties of president of board.
15. Duties of secretary.
16. Duties of board as to schoolhouses, furniture, fuel, etc.; what contracts of board void; special election on debts or contracts which would exceed funds avail-

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| <p>SEC.</p> <p>able; bond issues; proclamation of president for special election.</p> <p>17. Estimates and levies by board.</p> <p>18. Duties of sheriff as to school funds; non payment of orders of board by sheriff.</p> <p>19. Duties and powers as to establishment and government of schools, admission of pupils and designation and furnishing of textbooks.</p> <p>20. Board to establish schools for colored pupils; division of school fund for benefit of colored children, when school for them not established.</p> <p>21. Board may establish and support night, part time or vocational schools; use of school property for community purposes.</p> <p>22. Authority of board as to health of pupils, teachers, etc.</p> <p>23. Board may establish dental clinics and courses in mouth hygiene.</p> <p>24. Purchase and use of United States flags.</p> <p>25. Appointment and removal of teachers and employees.</p> <p>26. Superintendent of schools, election, salary, title and duties; procedure on removal; to recom-</p> | <p>SEC.</p> <p>mend teachers for appointment; further duties.</p> <p>27. Qualifications of pupils entering high school; tuition of non-resident.</p> <p>28. Compulsory school attendance; exemptions; penalty for noncompliance; payment of costs of trial by board; incorrigible child.</p> <p>29. Attendance officers, appointment, powers, duties and compensation.</p> <p>30. Penalty for inducing truancy or harboring truant.</p> <p>31. Disposition of fines imposed under section thirty.</p> <p>32. Compulsory school attendance; age of pupils; exemptions and non-exemption; penalty.</p> <p>33. Penalty for injury to school property; duty of board to ascertain and bring to trial party committing offense; disposition of fines.</p> <p>34. General school law, inconsistent with act, void in district; special election to adopt act, published and posted notice, voting places, election officials and form of ballot.</p> |
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Be it enacted by the Legislature of West Virginia:

Section 1. The magisterial district of Cross Creek, in the 2 county of Brooke, as now bounded and designated in the rec- 3 ords in the office of the clerk of the county court of said county, 4 shall be and is hereby created an independent school district, 5 to be known as the "Cross Creek independent school district."

Sec. 2. There shall be a board of education for said district 2 composed of a president and two commissioners who shall con- 3 stitute a board of education for said district and shall be desig- 4 nated as the "board of education of Cross Creek independent 5 school district." Each member of said board shall be a quali- 6 fied voter and a bona fide resident of said district and shall 7 have been such for at least two years prior to his election, and 8 shall be the owner of real estate which shall have been charged 9 with taxes in his name on the tax records of Brooke county for 10 at least two years prior to his election.

Sec. 3. The now president and commissioners of the Cross 2 Creek district board of education shall be known and continued 3 as the Cross Creek district board of education up to and in- 4 cluding the day fixed by the board of education as hereinafter 5 provided for the submission to the voters of Cross Creek dis- 6 trict, as to whether or not the herein act shall be adopted. 7 Immediately next succeeding the date last aforesaid, the said

8 president and commissioners of the aforesaid Cross Creek dis-
9 trict board of education, shall serve to the end of the term to
10 which each of them have been respectively elected as president
11 and commissioners of the "board of education of the Cross
12 Creek independent school district," herein created.

Sec. 4. There shall be elected by the voters of said district
2 at the general election to be held in the year one thousand nine
3 hundred thirty-four, and every six years thereafter, a presi-
4 dent of the aforesaid board of education of Cross Creek in-
5 dependent school district, whose term of office shall be for a
6 period of six years; there shall also be elected at the general
7 election to be held in the year one thousand nine hundred
8 thirty-four, a commissioner of the aforesaid board of education
9 of Cross Creek independent school district, whose term of office
10 shall be for a period of four years; there shall be elected at the
11 general election to be held in the year one thousand nine hun-
12 dred thirty-six, a commissioner of the aforesaid board of edu-
13 cation of Cross Creek independent school district, whose term
14 of office shall be for a period of six years; and every general
15 election thereafter with the exception of the time aforesaid
16 when the president is to be elected a school commissioner shall
17 be elected for a full term of six years. The terms of office of
18 the said president and commissioners shall commence on the
19 first day of July next after their election, and they shall hold
20 their said office for the terms hereinbefore specified and until
21 their successors have been elected and qualified.

Sec. 5. Candidates to be voted for at any election for mem-
2 bers of said board of education may be nominated by conven-
3 tion, primary or petition in the manner and under the provisions
4 now or hereafter prescribed by the state laws relating thereto.

Sec. 6. Every person so nominated for the office of school
2 commissioner or president, shall, within five days after his
3 nomination has been certified by his political party making the
4 nomination or a petition thereof shall have been filed with the
5 board of education, make under oath, and file with the secretary
6 of said board of education, a statement of the political party to
7 which he claims allegiance, and if nominated by more than one
8 political party he shall state to which of them he belongs. If
9 such person fails to make such oath, and fails to file the same,

10 as herein provided, the board of education shall not place his
11 name on the ballot to be voted at the approaching election.
12 The aforesaid certificate of nomination or petition for same
13 shall be filed with the secretary of said board of education at
14 least fifteen days before the said election.

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
4 a manner prescribed by the laws of the state relating to elec-
5 tions insofar as they are not in conflict or inconsistent with the
6 provisions of this act.

Sec. 8. The salaries of the members of the board shall be
2 as follows:

3 The president of the board shall receive the sum of forty-five
4 dollars per annum, and the salaries of the commissioners shall
5 be thirty-six dollars per annum: *Provided*, That each member
6 of said board of education shall have deducted from his salary
7 as herein provided the sum of two dollars for each regular
8 meeting of said board that he fails to attend. Said salaries
9 shall be payable out of the building fund of said district.

Sec. 9. Before entering upon their duties as officers, the
2 said president and each of said commissioners shall be required
3 to qualify by taking and subscribing the following oath of
4 office:

5 "I,, do solemnly swear (or affirm)
6 that I will faithfully perform the duties of president of the
7 board of education (or school commissioner) of Cross Creek
8 independent school district during the term for which I was
9 elected, to the best of my ability; so help me God."

10 The secretary of the board of education is authorized to ad-
11 minister said oath, a copy of which shall be kept and preserved
12 by him in the files of his office.

Sec. 10. If a vacancy occurs on the board of education it
2 shall be filled by the said board by an appointment thereto of
3 some person, whose eligibility shall be adjudged by the provi-
4 sions of this act, and the person so appointed shall be from the
5 same political party as the member whose vacancy is being filled,
6 and shall hold the said office until the next election, whereupon

7 there shall be elected a commissioner to fill the unexpired term
8 caused by said vacancy.

Sec. 11. The board of education of Cross Creek independent
2 school district shall be a body corporate in law by the name of
3 "board of education of Cross Creek independent school dis-
4 trict," and as such, may sue and be sued, plead and be im-
5 pleaded, contract and be contracted with, purchase, hold, sell
6 and convey real and personal property as may be necessary for
7 the benefit of education in said district; may receive any gift,
8 grant, donation and devise for the benefit of education; employ
9 attorneys, become parties to suits and contracts, and do and
10 perform any and all other corporate acts necessary and proper
11 to the advancement of free school education in said district.
12 The said board of education of Cross Creek independent school
13 district shall succeed and be substituted to all of the rights of
14 the former Cross Creek district board of education, and may
15 prosecute any and all suits and/or proceedings now pending,
16 or which may have been brought and prosecuted in the name
17 of the former board of education for the recovery of any money
18 or property, or damage to any property due to or vested in said
19 board of education, and said board of education shall be liable
20 in its corporate capacity for all claims legally existing against
21 the former board of education or its successors, insofar as the
22 same relates to the school or school properties located within
23 the boundary of the said independent district. The title of all
24 school property, both real and personal, located within the
25 boundaries of the said independent district is hereby vested in
26 said board of education of said independent district and its
27 successors.

Sec. 12. At the first meeting of the board of education of
2 said independent district, or as soon thereafter as practicable,
3 the said board of education shall elect a secretary, whose term
4 of office shall begin at the time of his election and shall continue
5 not to exceed a period of four years, as determined by the said
6 board, with a salary not to exceed three hundred dollars per
7 annum, and said board shall elect a new secretary upon the ex-
8 piration of his term. The secretary shall serve during the
9 term for which he is elected and shall perform such duties of
10 said board as are required by them until his successor is elected

11 and qualified, but he may be removed by the said board of
12 education of Cross Creek independent school district at any
13 regular meeting or special meeting called for such purpose, for
14 immorality, misconduct, neglect of duty, or lack of proficiency.
15 Any vacancy in the office shall be filled for the unexpired term
16 by the said board.

Sec. 13. The said board of education of Cross Creek inde-
2 pendent school district shall hold regular meetings at the time
3 and place prescribed by said board and the general laws of the
4 state. A special meeting may be called at any time by the
5 president or by both commissioners, the commissioners having
6 given written notice of the time, place and purport of the
7 said meeting to the secretary. No business may be transacted
8 at a special meeting, except that mentioned in the call for such
9 special meeting, which call shall be in writing, and shall be re-
10 corded by the secretary in the proceedings of said meeting.
11 Two members of said board shall constitute a quorum for the
12 transaction of business at any meeting of said board: *Provided*,
13 That all the members shall have had notice of the time, place
14 and purport of any special meeting called by the president or
15 secretary as herein provided.

16 No contract shall be made by the board in special meeting
17 involving the expenditure of more than one hundred dollars,
18 unless all members of the said board shall have had at least
19 twelve hours' notice of said meeting by personal service of the
20 call thereof.

Sec. 14. The president shall perform such duties as ordi-
2 narily devolve upon the presiding officer of a deliberative body ;
3 by virtue of his election he shall be a member of the board and
4 entitled to vote on all questions submitted. In his absence the
5 said board may choose a president pro tempore.

Sec. 15. The secretary shall record in a well-bound book,
2 to be provided for that purpose, all official acts and proceedings
3 of the said board, which shall be a public record open to the
4 inspection of all persons interested therein ; he shall also keep
5 and preserve in his office all papers containing evidence of title,
6 contracts, obligations and books of account which shall show
7 the resources of the said board for each current year and the
8 funds from which the same is derived ; and shall also keep and
9 preserve all credits to be charged against said resources by way

10 of delinquents, commissions and otherwise; all disbursements
11 made by said board and on account of what fund, and the bal-
12 ance to the credit of each fund, together with a descriptive entry
13 thereto; for what purpose each item of disbursement is made,
14 which books of account shall always be open to the inspection
15 of any taxpayer of the said district; he shall also preserve in
16 his office all records, papers and documents as shall be required
17 by this act and/or by any rules of the said board of education;
18 and he shall make such reports at intervals required by the gen-
19 eral laws of the state. In his absence the said board may ap-
20 point a secretary pro tempore.

Sec. 16. The said board of education shall provide by con-
2 demnation, purchase, lease, construction or otherwise, such
3 school houses and grounds, furniture, fixtures and appliances,
4 as may be necessary for school purposes, and keep and maintain
5 the same in good order and repair; shall supply said school
6 buildings with fuel and other things necessary for comfort and
7 convenience; and shall pay all charges incurred by virtue of
8 any of the provisions of this act out of the proper fund set
9 aside for that purpose.

10 All contracts made by the said board, to the extent that they
11 shall involve the levy of any future year, shall be void, and no
12 debts shall be contracted or incurred by the said board in any
13 one year which shall exceed the funds available for that pur-
14 pose, unless the object, nature and extent thereof shall have
15 been submitted to the voters of the said district, at a special
16 election to be called by the said board for that purpose, and
17 shall have received a majority of all the votes cast for and
18 against the same; provided, that in case a bond issue is voted
19 upon a three-fifths vote of all votes cast shall be necessary for
20 such bond issue; the president of said board shall issue a proc-
21 lamation of said special election, in which he shall recite the
22 object, nature and the extent of the indebtedness proposed to be
23 incurred, and for what purpose; which proclamation shall be
24 published once in each week for four weeks, previous to the
25 day of election in at least two newspapers published in said
26 county of Brooke. Every special election held pursuant to the
27 provisions of this section, except as herein specially provided
28 otherwise, shall be held and conducted and the results certified

29 in the manner prescribed by law as to general elections.

Sec. 17. It shall be the duty of the said board of education
2 of Cross Creek independent school district annually, at the same
3 time and in the same manner as is now, or that may hereafter
4 be provided by the general school law of this state for the ascer-
5 taining and making of estimates and the fixing and laying of
6 school levies by the boards of education of the various school
7 districts within the state for the support of the free schools
8 therein, to ascertain and to make such estimates of the amounts
9 necessary for the support of the schools within the said inde-
10 dependent district; to determine, fix and lay such levies on the
11 property located within said independent district, for the sup-
12 port of the schools therein. It shall be the duty of the said
13 board of education of the said independent district annually,
14 at such meeting to levy as many cents on each one hundred
15 dollars of valuation of the taxable property of the said district,
16 according to the last assessment thereof, as will produce the
17 amount shown by the estimate of said board to be necessary to
18 be levied for the building fund purposes, and levy in like man-
19 ner the amount necessary, after deducting the sum receivable
20 from the general school fund of the state, for teachers' pur-
21 poses, to continue the schools in session in said independent
22 district for a minimum of nine months in the graded or ele-
23 mentary schools and for a minimum term of nine months in the
24 junior and senior high schools; and to levy and provide suffi-
25 cient funds for all purposes to keep said schools in session for
26 the full minimum term as herein provided.

Sec. 18. The sheriff of the county of Brooke, State of West
2 Virginia, shall receive, collect and disburse all school money
3 for the said independent school district; he shall keep accounts
4 with the said board of education of the money belonging to the
5 several funds, as provided by law, and shall credit every receipt
6 and charge every disbursement to the fund to which it belongs.
7 He shall pay out no money except upon an order of the said
8 board of education specifying the amount to be paid, the pur-
9 pose for which paid, and the fund to which it is to be charged,
10 signed by the president and secretary and countersigned by one
11 other member of the said board of education. The said sheriff
12 of Brooke county, shall report in writing to the said board of

13 education monthly, and as otherwise required by said board
14 as to the condition of the several funds.

15 If, when an order of the aforesaid board of education is pre-
16 sented to the said sheriff, there are no funds to pay the same,
17 the person entitled to receive the sum of money specified in
18 such order may require the said sheriff to indorse thereon, or
19 write across the face thereof, the words "presented for pay-
20 ment," with the proper date, and sign the same; and the order
21 if it is due at the time of presentment, shall, in such case, be
22 payable with legal interest from such date. But if the said
23 sheriff, having funds to pay the same, fail to pay any proper
24 order of the said board of education, properly endorsed, when
25 presented to him during business hours by a person entitled to
26 receive the money therein specified, if the same be then due
27 and payable, he and his sureties, and the personal representa-
28 tives of such of them as are dead, shall be liable to the person
29 entitled to receive the money due on said order for the whole
30 amount due thereon at the time of such presentation, with legal
31 interest on such amount from that time until payment, and ten
32 per cent on the same amount as damages.

Sec. 19. The said board of education shall prescribe all
2 necessary rules and regulations for the government of the
3 schools in said district; for the admission of pupils therein and
4 for the exclusion of pupils dangerous to the health and/or detri-
5 mental to the morals and discipline of the said schools.

6 The said board of education shall establish and maintain such
7 high schools and evening schools as may be necessary and with
8 the approval of the superintendent of said district designate
9 such branches of learning as shall be taught therein; the said
10 board of education upon the recommendation of the said dis-
11 trict superintendent may adopt and prescribe uniform line of
12 textbooks to be used by the said schools in said district, and
13 may furnish such books and stationery and other supplies to
14 make the system efficient and pay the same out of the proper
15 fund. All such books furnished free shall be purchased by the
16 said board of education directly from the publisher contracted
17 with, as prescribed by law, and at the net wholesale price.

Sec. 20. White and colored pupils shall not be taught in the
2 same school or in the same building, but it shall be the duty of

3 the said board of education to establish one free school, or more
4 if necessary, in any subdistrict wherein there are ten or more
5 colored persons of school age, and, if practicable, in any district
6 wherein there are fewer than ten persons. For the purpose of
7 carrying out this section the said board of education may estab-
8 lish schools composed of pupils from adjacent districts in the
9 manner provided by law.

10 Whenever, in any school district, the benefit of a free school
11 education is not secured to the colored children of school age
12 residing therein in the manner mentioned in this section, the
13 funds applicable to the support of the free schools in said dis-
14 trict, shall be divided by the said board of education in the
15 proportion which the number of colored children bears to the
16 number of white children therein, according to the last enum-
17 eration made for school purposes, and the share of the former
18 shall be set apart for the education of colored persons of school
19 age in said district, and applied for the purpose from time to
20 time in such way as the said board of education may deem best.
21 The said board of education failing to comply with this section
22 may be compelled to do so by mandamus.

Sec. 21. The said board of education shall have authority to
2 establish and maintain evening classes or night schools, con-
3 tinuation or part time day schools, and vocational schools,
4 wherever practicable to do so, and shall admit thereto adult
5 persons and all other persons, including persons of foreign
6 birth, but excepting children and youths who are required by
7 law to attend day school. The said board of education shall
8 have the authority to use school funds for the financial support
9 of such schools and to use the schoolhouses and their equipment
10 for such purposes. Any such classes of school shall be con-
11 ducted in accordance with the rules and regulations of the said
12 board of education.

13 The said board of education shall have authority also to pro-
14 vide for the free, comfortable and convenient use of any school
15 property; to promote and facilitate frequent meetings and as-
16 sociations of the people in said district for discussion, study,
17 recreation and other community activities; and may secure,
18 assemble and house material for use in the study of farm, home
19 and community problems, and may provide facilities for the

20 dissemination of information useful on the farm, in the home,
21 or in the community.

Sec. 22. The said board of education may provide proper
2 medical and dental inspection for all pupils attending the
3 schools of their said district.

4 The said board of education shall also have authority to em-
5 ploy school nurses and take any other action necessary to pro-
6 tect the pupils from infectious diseases, including the authority
7 to require from all teachers, superintendents, principals, jani-
8 tors and employees employed in their said district, certificates
9 of good health and of physical fitness for the work of instruc-
10 tion in the said schools.

Sec. 23. The board of education aforesaid, may in its dis-
2 cretion establish and maintain dental clinics or courses for
3 teaching mouth hygiene; and may provide for and furnish
4 treatment, if requested by the parent or guardian or deemed
5 necessary by the said board of education, of children who have
6 defective teeth or mouth conditions, and who shall be found
7 by said board of education, or persons deputized for that pur-
8 pose, to be unable otherwise to procure such treatment. Any
9 expense incurred in connection therewith shall be paid out of
10 the maintenance building fund of the said district.

Sec. 24. The said board of education, shall, out of the build-
2 ing fund, purchase United States flags, four by six feet, of
3 regulation bunting, for schoolhouses in said district, and require
4 the same to be displayed from the schoolhouses during the time
5 the schools are in session, except in inclement weather. And
6 it shall be the duty of the teacher, custodian or other person in
7 charge of such 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.

Sec. 25. The said board of education shall appoint as here-
2 inafter provided, all teachers and principals, and provide for
3 substitute teachers when necessary for all the public schools
4 within the said district and fix their compensation. The said
5 teachers and principals shall be subject in all respects to the

6 rules and regulations adopted by the said board of education
7 and the superintendent of schools of the said independent dis-
8 trict, and they may be removed by the said board of education
9 for incompetency, neglect of duty, gross immorality, or whenever
10 from any cause it shall appear to said board that their removal
11 is for the best interest of the schools of the said district. The
12 said board shall also employ janitors and custodians for their
13 school buildings and fix their compensation, and shall remove
14 said janitors and custodians whenever it appears to the said
15 board of education that their removal is for the best interest
16 of the schools of the said district.

Sec. 26. Annually, on or before the first day of July, or
2 as soon thereafter as circumstances will allow, the said board
3 shall elect a superintendent of schools for the independent dis-
4 trict and fix his salary. Such superintendent shall be known
5 as "the superintendent of schools of Cross Creek independent
6 district," and in addition to the duties prescribed by this act
7 shall have such powers and perform such duties as the said
8 board of education shall direct. And the said board of educa-
9 tion shall direct that the said superintendent shall not receive,
10 directly or indirectly, any gift, emolument or reward for his
11 influence or services in securing any contract, supplies or ap-
12 paratus, or the adoption of any such book, supply or apparatus,
13 and in case he shall do so he shall be removed from office. But
14 he shall not be removed except by written charges preferred
15 by the school commissioner or school commissioners. A copy
16 of such charges and notice of the time and place set for hearing
17 shall be delivered to him at least ten days before the time set
18 for hearing, and he shall be allowed to present any evidence
19 of his innocence that he may desire, and be heard in his own
20 defense. A vacancy in the office of superintendent of schools
21 in said district shall be filled by the said board of education by
22 appointment whenever such vacancy may occur.

23 It shall be the duty of the superintendent of schools in said
24 district annually, on or before the first meeting in July, or as
25 soon thereafter as circumstances will allow, to recommend to
26 the said board of education a sufficient number of teachers and
27 principals to fill the schools of the said independent district.

28 The said board of education may refuse to appoint any or all

29 of the persons so recommended and may require the said super-
30 intendent in said district, to recommend others, but no teacher
31 and/or principal shall be employed except on the recommenda-
32 tions of the superintendent of schools: *Provided*, That in the
33 event the superintendent of schools within a reasonable time
34 after being required to do so, shall fail or refuse to recommend
35 a sufficient number of persons under this section, to fill vacan-
36 cies, then the said board of education may proceed to fill such
37 vacancies without his recommendation.

38 It shall be the duty of the superintendent of schools with the
39 approval of the said board of education, to prescribe the
40 branches to be taught in the high schools of the said district,
41 to carry out the provisions of the course of study prescribed
42 by the said board of education and to supplement the high
43 school course thus prescribed and to adapt it to the high schools
44 of the state; to prescribe the regulations for the examination
45 for graduation of pupils; to prescribe conditions for the ad-
46 mission of pupils to the high schools, and to have prepared
47 questions for the examination of such pupils; to issue certifi-
48 cates to such pupils as are deemed worthy to be admitted to
49 high schools; to keep a register of all certificates so issued; to
50 select courses of reading to be pursued by the teachers of the
51 said district; to select books for the school libraries; to acquaint
52 himself with all modern methods of public schools; and to this
53 end the said board of education may appropriate such sums of
54 money out of the building fund of the said district as may be
55 necessary to pay his traveling expenses; to prepare and have
56 printed all necessary forms to be used in the said district; to
57 make such annual report to the said board of education as it
58 shall require; to provide suitable certificates for the graduates
59 of the elementary schools and grammar schools of the said
60 district and diplomas for the graduates of the high schools
61 and prescribe the manner and circumstances under which the
62 same may be conferred; and to arrange with other schools and
63 colleges for recognition for the work done in the said district.

Sec. 27. No pupil shall be entitled to enter high school, or
2 high schools of the said district, until the superintendent of
3 the said schools shall have satisfied himself that the said pupil
4 has made due proficiency in the grades of the grammar schools
5 of the said district. Pupils who are nonresidents of the said

6 independent district may be allowed to attend the schools of
7 the said independent district upon payment of such tuition as
8 is provided by the general school law of the state or as the said
9 board of education may prescribe, provided they meet the dis-
10 trict school requirements.

Sec. 28. Every person who has legal or actual charge of a
2 child or children not less than seven nor more than fourteen
3 years of age within said independent district shall cause such
4 child or children each year to attend a free day school of said
5 independent district for the full school term: *Provided, how-*
6 *ever,* That such person shall be exempt from the foregoing re-
7 quirements for any of the following causes:

8 (a) Instruction for a time equal to that required by this
9 act in a private, parochial or other school approved by the board
10 of education of Cross Creek independent district. The princi-
11 pal or other person in control of such private, parochial or
12 other approved school shall upon the request of the said board
13 of education of said district, furnish to the said board such
14 information as it may require with regard to the attendance
15 and instruction of pupils between the ages of seven and four-
16 teen years enrolled therein;

17 (b) Instruction for a time equal to that required by this act
18 in the home of such child or children or elsewhere by a person
19 or persons who are, in the judgment of the said board of edu-
20 cation, qualified to give instruction in the subjects required to
21 be taught in the free elementary schools of this state. The
22 person or persons giving such instructions shall, upon the re-
23 quest of the said board of education, furnish to the said board
24 such information as it may require with regard to the attend-
25 ance and instruction of pupils between the ages of seven and
26 fourteen years receiving such instructions;

27 (c) Physical or mental incapacity for school attendance and
28 the performance of school work;

29 (d) Death or serious illness in the immediate family of the
30 pupil;

31 (e) Extreme destitution of parents or other person or per-
32 sons in legal or actual charge of a child or children. Exemp-
33 tion for this cause shall not be allowed when such destitution
34 is relieved through public or private means;

35 (f) Conditions rendering school attendance impossible or
36 rendering it hazardous to the pupil's life, health or safety;

37 (g) Residence of the pupil at a distance of more than two
38 miles from the nearest school by the shortest practicable road
39 or path, unless free transportation to and from school is pro-
40 vided for such pupil;

41 (h) Observance of regular church ordinances;

42 (i) Other causes that are accepted as valid by the superin-
43 tendent of the aforesaid independent school district.

44 Any person who, after due notice has been served upon him
45 as hereinafter provided, shall fail to cause a child or children
46 in his legal or actual charge to attend school as hereinbefore
47 provided shall be guilty of a misdemeanor, and shall, upon
48 conviction thereof, be fined not less than three nor more than
49 twenty dollars, together with the costs of prosecution, or con-
50 fined in jail not less than five nor more than twenty days. Each
51 day a child is out of school contrary to the provisions of this
52 article shall constitute a separate offense. Justices of the peace
53 shall have jurisdiction of offenses under this section.

54 Whenever a person accused of violating any of the provisions
55 of this section has been tried and acquitted, the costs of prose-
56 cution shall be paid by the said board of education of Cross
57 Creek independent district, out of the building fund: *Provided,*
58 *however,* That if any person against whom such proceedings
59 shall be instituted shall satisfactorily prove in the course of
60 such proceedings that he has made all proper efforts to compel
61 such child or children to attend a school as hereinbefore pro-
62 vided, and that because of the disobedience of such child he
63 has been unable to do so, such fact shall constitute a defense
64 to such proceedings. Thereupon the attendance officer shall
65 take such proper proceedings before the proper court to have
66 such child adjudged incorrigible and committed to the place
67 designated for incorrigible children.

Sec. 29. The said board of education shall, at its first meet-
2 ing, or as soon thereafter as practicable, appoint one or more
3 attendance officers, who shall qualify as such and shall enforce
4 the provisions of section twenty-eight, in the aforesaid inde-
5 pendent school district. Each officer so appointed shall use due
6 diligence to ascertain any violations of this law in said section
7 twenty-eight, and when, from personal knowledge or by report
8 or complaint from any resident or teacher of the said district
9 under his supervision, he believes that any child subject to the
10 provisions hereof has been absent from school contrary to the

11 provisions of section twenty-eight, he shall immediately give
12 written notice to the parent, guardian or custodian of such
13 child that the attendance of said child at school is required, and
14 if the parent, guardian or custodian of such child does not
15 immediately comply with the provisions of section twenty-eight,
16 then such attendance officer shall make complaint against such
17 parent, guardian or custodian before a justice of the peace of
18 the county: *Provided*, That for subsequent offenses in any
19 school year no such notice shall be required. When any doubt
20 exists as to the age of a child absent from school, the attendance
21 officer shall have authority to require a properly attested birth
22 certificate or an affidavit from the parent, guardian, or cus-
23 todian of such child, stating the age of such. The attendance
24 officer shall, in the performance of his duties as such officer
25 have authority to visit and enter any office, factory, or business
26 house employing children; he shall also have the authority to
27 arrest without warrant any child absent from school in viola-
28 tion of the provisions of section twenty-eight, and to place such
29 child in the school in which such child is or should be enrolled.
30 The attendance officer shall be paid monthly at such rate per
31 diem for the time actually spent in the performance of his
32 duties as the said board may determine; but in no case shall
33 payment for any month's services be made until the attendance
34 officer has filed with the secretary of the said independent school
35 district the statement required by said board, together with a
36 sworn statement of the number of truancy cases investigated
37 and the time actually spent in performing such duties. When
38 the attendance officer has faithfully performed his duties and
39 filed the statement required, the said board of education, if
40 satisfied that the same is just and correct, shall issue to him
41 an order on the sheriff of Brooke county, West Virginia, for
42 the amount of his account, payable out of the building fund
43 of said independent school district.

Sec. 30. Any person who induces or attempts to induce any
2 child unlawfully to absent himself from school, or who harbors
3 or employs any child of compulsory school age while the school
4 which he is required to attend is in session, or employs such
5 child within the term of school, without the written permis-
6 sion of the superintendent, shall be guilty of a misdemeanor,
7 and, upon conviction thereof, shall be fined not less than

8 twenty-five nor more than fifty dollars, and may be confined
9 in jail not less than five nor more than thirty days.

Sec. 31. All fines collected under the provisions of section
2 thirty, shall be paid over at once by the justice of the peace
3 to the sheriff of said Brooke county, and by him credited to the
4 building fund of the said independent school district; and
5 every attendance officer shall make to the secretary of said
6 independent school district and to the sheriff of the said county
7 of Brooke, an itemized statement on the last day of each month
8 of all fines imposed as provided herein.

Sec. 32. Every child over fourteen and under sixteen years
2 of age, within the aforesaid independent school district, who
3 is not engaged in some regular employment or business for at
4 least six hours per day, or who has not received written per-
5 mission from the superintendent for such independent school
6 district, to engage in profitable employment at home, shall at-
7 tend a public day school or other day school approved by the
8 said board of education of Cross Creek independent school dis-
9 trict, during the entire time the public schools are in session,
10 subject to such exemptions as are provided in section twenty-
11 eight, of this act, except that no child over fourteen and under
12 sixteen years of age shall be exempt from school attendance
13 as herein required for the reason that he has completed an
14 eight-year's course of study in the elementary and grammar
15 schools or junior high schools of the said independent school
16 district, or any other district or subdivision, if a high school
17 or other school of advanced grades is provided within two miles
18 of his home.

19 Any person who, after due notice has been served upon him
20 as provided in section twenty-nine, of this act, shall fail to cause
21 any such child in his legal or actual charge to attend school
22 as hereinbefore provided shall be guilty of a misdemeanor, and
23 shall upon conviction thereof, be punished as provided in sec-
24 tion thirty, of this act. Justices of the peace shall have juris-
25 diction of offenses under this section.

Sec. 33. If any person or persons shall mar, deface, or
2 otherwise injure any schoolhouse, outbuilding, fence, furniture,
3 or other property of the said board of education of Cross Creek
4 independent school district, the person or persons so offending
5 shall be liable to prosecution before any justice of the peace
6 in the said independent district, and upon conviction shall be

7 subject to a fine of not less than five dollars nor more than
8 one hundred dollars, and cost of prosecution; and the person
9 convicted shall also be liable for full amount of the damage.

10 It shall be the duty of the board of education of Cross Creek
11 independent school district, to ascertain if possible by whom
12 such an offense was committed, and when satisfied thereof to
13 cause the party or parties to be arrested, tried for the offense,
14 in the name and on the behalf of the said board of education of
15 Cross Creek independent school district; and all fines and
16 damages collected, by virtue of this section, shall be paid in to
17 the sheriff of Brooke county, West Virginia, to the credit of
18 the building fund of the said independent district.

Sec. 34. All provisions of the general school law of the
2 state, and all acts heretofore existing, which are in any manner
3 inconsistent and/or in conflict with any of the provisions of
4 this act shall be void within the said independent school dis-
5 trict; otherwise the said general school law shall remain in full
6 force and effect in the said independent school district, as else-
7 where in the state.

Sec. 35. *Provided, however,* That this act shall not be
2 effective unless and until the same shall have been first sub-
3 mitted to the voters of Cross Creek district of Brooke county,
4 at a special election called for that purpose and adopted by a
5 majority of the votes cast for and against same at said election.
6 Said election shall be called by the Cross Creek board of edu-
7 cation in the said district of Cross Creek, Brooke county, at
8 a time designated by the said Cross Creek district board of
9 education after the passage of this act by the legislature of
10 West Virginia; notice of which election shall be published at
11 least once a week for two weeks prior to the date of the election,
12 in the Follansbee Review, in the city of Follansbee, county of
13 Brooke, State of West Virginia, or in some other newspaper
14 published in Brooke county, West Virginia. Said election shall
15 be held and conducted in all respects as general elections are
16 now held and conducted under the statutes of this state. The
17 board of education of Cross Creek district, shall designate as
18 voting places for such election the voting precincts in such dis-
19 trict as established for, and where the general election was
20 held, in the year one thousand nine hundred thirty-two. The
21 said Cross Creek district board of education shall appoint com-

22 missioners and poll clerks to conduct the election. All the ex-
23 penses of said election shall be paid by the Cross Creek district
24 board of education.

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

27 Cross Creek School District Election

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

29 For independent district.

30 Against independent district.

31 It is further provided, that the board of education shall ten
32 days before the said date fixed for the said election, post upon
33 each door of the respective voting precincts aforesaid, the same
34 notice as provided for publication in the newspaper in said dis-
35 trict.

36 Said ballots and the necessary ballot boxes, poll books and all
37 other appliances required by law necessary for holding the said
38 election shall be furnished and supplied by the said Cross Creek
39 district board of education. Said board shall also perform the
40 duties, and be subject to all the penalties prescribed by law,
41 as ballot commissioners.

42 If a majority of votes cast at such election be in favor of the
43 independent school district, the said Cross Creek school district
44 of Brooke county, West Virginia shall, after the results of such
45 election is ascertained and declared, be known as the "Cross
46 Creek independent school district," as is herein provided.

CHAPTER 107

(Senate Bill No. 165—By Mr. Abbot)

AN ACT to amend and reenact section one, chapter twenty-five, acts of the legislature of West Virginia, one thousand nine hundred eleven, as last amended and reenacted by section one, chapter ninety-seven, acts of the legislature, one thousand nine hundred twenty-three, and section two, chapter twenty-five, acts of the legislature of West Virginia, one thousand nine

hundred eleven, relating to the establishment of a high school in Clay county and the management thereof.

[Passed March 8, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Boards of education of Clay county high school, number and terms, county superintendent ex officio member and president; qualifi-

SEC.

2. Powers of board.

Be it enacted by the Legislature of West Virginia:

That section one, chapter twenty-five, acts of the legislature of West Virginia, one thousand nine hundred eleven, as last amended and reenacted by section one, chapter ninety-seven, acts of the legislature of West Virginia, one thousand nine hundred twenty-three, and section two, chapter twenty-five, acts of the legislature of West Virginia, one thousand nine hundred eleven, be amended and reenacted 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 and near the town of Clay formerly the town of Henry, in said county, which shall be known as the Clay county high school, the site of which is to be selected by the board of directors of said school, which board of directors shall consist of the following members: The present elective member whose term expires on the thirtieth day of June, one thousand nine hundred thirty-three, and whose successor was elected at the general election held in one thousand nine hundred thirty-two, and shall be elected every four years thereafter, and whose term of office shall commence on the first day of July, one thousand nine hundred thirty-three, and continue for four years and until his successor is elected and qualified. The county superintendent of schools shall be ex officio a member and president of said board of directors; and the other member of said board of directors shall, on or as soon as practicable after the fourth day of March, one thousand nine hundred thirty-three, be appointed by the state superintendent of schools of this state for a term of four years, beginning on the fifteenth day of March, one thousand nine hundred thirty-three, and on or after the fourth day of March every four years thereafter his successor shall be so appointed, which said member shall be a resident and taxpayer of said county and have at least one thousand dollars taxable property. In case of a vacancy of said elective member

26 of said board of directors such vacancy shall be filled by said
27 county superintendent of schools until the next general election.

Sec. 2. Said board of directors, as hereinbefore constituted,
2 shall have full power and authority to make such rules and
3 regulations as it may deem proper and necessary for the man-
4 agement and control of said school; to employ, between the first
5 of April and the thirtieth day of June, one thousand nine hun-
6 dred thirty-three, and each succeeding year thereafter, neces-
7 sary teachers for said school and to fix the salaries of the same;
8 to establish a graded course of study and grant diplomas upon
9 graduation of pupils, and to perform such other acts as are
10 necessary and essential to the welfare and maintenance of said
11 high school; and shall elect a secretary and prescribe the duties
12 and compensation of same.

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

CHAPTER 108

(House Bill No. 360—By Mr. Jarvis)

AN ACT to amend and reenact section four, chapter one hundred eleven of the acts of the legislature of West Virginia, one thousand nine hundred fifteen, as amended and reenacted by section four, chapter twenty-four of the acts of the legislature of West Virginia, one thousand nine hundred twenty-one, relating to establishing a high school in Calhoun county.

[Passed February 24, 1933; in effect from passage. Approved by the Governor.]

Sec.

4. Board of directors, Calhoun county
high school, corporate powers

Sec.

and duties; compensation of
members.

Be it enacted by the Legislature of West Virginia:

That section four, chapter one hundred eleven of the acts of the legislature of West Virginia, one thousand nine hundred fifteen, as amended and reenacted by section four, chapter twenty-four of the acts of the legislature of West Virginia, one thousand nine hundred twenty-one, be and the same is hereby amended and reenacted to read as follows:

Section 4. Said board of directors shall be a corporation
2 and as such may contract and be contracted with, sue and be

3 sued, and is hereby empowered and authorized to lay annually
 4 such levies as are provided by general law for new building
 5 and improvement fund purposes, and for the purpose of paying
 6 the salaries of the principal, teachers and other employees for
 7 said high school, and for the maintenance, equipment and re-
 8 pairs of said high school; and said board shall have full power
 9 to employ teachers and other necessary employees for said
 10 school, fix their compensation and prescribe and enforce rules
 11 and regulations for the control and operation of said school.

12 For their services, each of the members of said board of
 13 directors shall be paid, out of the money raised for the use of
 14 said school, the sum of five dollars per day for the time actually
 15 and necessarily spent by them in the discharge of their duties
 16 as such board of directors. But they shall not receive pay for
 17 more than ten days for any one year.

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

CHAPTER 109

(House Bill No. 513—By Mr. Lester)

AN ACT creating and establishing the independent school district of Butler in the county of Wayne and state of West Virginia; establishing the boundaries of said independent district and providing for a board of education of said independent district and rules and regulations for the establishment and operation and maintenance of schools in said independent school district; amending and reenacting chapter one hundred eight of the acts of the legislature of West Virginia, one thousand nine hundred twenty-nine; amending and reenacting chapter ninety-eight of the acts of the legislature of West Virginia, one thousand nine hundred thirty-one, relating to the Butler district high school in the district of Butler in the county of Wayne and state of West Virginia.

[Passed March 11, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.

1. Amending former acts.
2. Creating independent school district of Butler, Wayne county; boundaries.
- 3(a). Board of education, number, elections and terms; vacancy filled by state superintendent.

Sec.

- 3(b). Election precincts, registration of voters, election officials and conduct of elections; contested elections.
- 3(c). Meeting of board to adopt, correct and complete registration list; contents, posting and pub-

SEC.

- lication of notice of election; appointment and compensation of elective officials; publication of ballot and election officials; meeting to complete registration; place of meeting; canvassing board.
4. Form and filing of oath of members of board; nominating conventions.
 5. Election and oath of secretary.
 6. Duties and removal of secretary; levies by boards; secretary pro tempore.
 7. Duties of president; president pro tempore.
 8. Stated and special meetings of board; notice of special meetings.
 9. Corporate and other powers of board.
 10. Enumeration of school youth.
 11. Apportionment of school money by Auditor.
 12. Duty of board to provide school-houses, furniture, etc.
 13. Estimates and levies by board; additional levy, if necessary for

SEC.

- eight months minimum term; elections for bond issues.
14. Collection and disbursement of levies.
 15. Annual settlement with board by sheriff.
 16. Establishment of graded and junior high schools; state adopted texts to be used.
 17. Removal of teachers.
 18. Appointment, salaries and qualifications of teachers.
 19. Salaries of board members.
 20. Property bond issues and contract of magisterial district board of education transferred to independent district board.
 21. General school law, inconsistent with this act, void in district; if part of act unconstitutional remainder not affected.
 22. Special election on adoption or rejection of act; publication of notice; registration of voters, election officials and form of ballot; declaration of result; contest or appeal.
 23. Powers and duties of county superintendent in independent district.

Be it enacted by the Legislature of West Virginia:

Section 1. That chapter one hundred eight of the acts of the 2 legislature of West Virginia, one thousand nine hundred 3 twenty-nine, be amended and reenacted; and reenacting chap- 4 ter ninety-eight of the acts of one thousand nine hundred 5 thirty-one, relating to the Butler district high school in the 6 district of Butler in the county of Wayne and state of West 7 Virginia.

Sec. 2. The magisterial district of Butler, Wayne county, 2 shall constitute the independent district to be known as the 3 "independent school district of Butler."

Sec. 3(a). The board of education of the independent school 2 district of Butler shall be composed of two commissioners and 3 a president of the board whose terms of office shall be six 4 years. The board of education of Butler district as now con- 5 stituted shall be and remain the board of education of the in- 6 dependent school district of Butler until July first, one thou- 7 sand nine hundred thirty-three, when the member elected No- 8 vember eight, one thousand nine hundred thirty-two shall be a 9 member thereof. There shall be elected by the voters 10 of said independent district at a special election on the 11 second Tuesday in May, one thousand nine hundred thirty- 12 five, in the manner prescribed by the general school law, 13 for the election of school officers, one commissioner who 14 shall serve for a term of six years and a president who

14-a shall serve for a term of four years, and on the sec-
14-b ond Tuesday in May, one thousand nine hundred thirty-seven,
15 at a similar special election, one commissioner shall be elected
16 for a term of six years, the ballot designating the term of
17 service of each member which term shall begin on the first
18 day of July following their election. There shall be elected
19 by the voters of said independent district at said special
20 election on the second Tuesday in May, one thousand nine
21 hundred thirty-seven, in the manner prescribed by the general
22 school law for the election of school officers, a commissioner,
23 whose term shall expire on July first, one thousand nine hun-
24 dred forty-one, which term shall begin on the first day of July
25 following the election. Regularly every two years thereafter,
26 on the second Tuesday in May, there shall be elected one com-
27 missioner or president, as the case may be, whose term of office
28 shall commence on the first of July following their election
29 and continue for six years until his successor is elected and
30 qualified: *Provided, however,* That should a vacancy occur
31 in the office of commissioner or president of said independent
32 board of education by death, resignation or otherwise, the
33 vacancy shall be filled by appointment by the state superin-
34 tendent of free schools until the next school election in said
35 district at which election the vacancy shall be filled by the
36 voters of said independent district for the unexpired term.
37 The state superintendent shall appoint a qualified person of
38 the political party in which the vacancy occurred;

39 (b) The election precincts designated by the county court
40 for general elections in the independent school district of
41 Butler shall constitute the school election precincts of said
42 independent district: *Provided,* That the county court shall
43 have sole jurisdiction and authority in designating school elec-
44 tion precincts in said independent school district. The board
45 of education of said independent school district shall have
46 final and complete authority and jurisdiction in furnishing
47 a registration of voters, in the appointment of commissioners of
48 election and poll clerks, in the appointment of registrars and
49 ballot commissioners, in canvassing and certifying the election
50 returns, in hearing and determining contested elections, in
51 ascertaining and declaring the results of elections, in the
52 furnishing and delivery of election supplies and all other mat-
53 ters of any kind pertaining to the conducting of school elec-

54 tions, except the said school elections shall be conducted in a
55 manner consistent with the general provisions of law and in
56 accordance with the general election law of West Virginia
57 so far as the same in either case may be applicable or prac-
58 ticable;

59 (c) The board of education of said independent district
60 shall convene in regular session on the first Tuesday in April
61 preceding the regular school election to be held in said dis-
62 trict for the purpose of hearing any and all matters as to the
63 registration of voters, and said board of education, when so
64 sitting, shall adopt, as official registration of voters for the
65 ensuing regular school election, a list of voters certified and
66 furnished by the clerk of the county court of Wayne county of
67 the registration of the voters of the respective precincts of the
68 said independent district as adopted by the county court for
69 the last preceding general election held in the aforesaid three
70 precincts of said independent school district. And said board
71 of education while so sitting shall amend, correct and complete
72 the aforesaid certified registration of voters as furnished by
73 the clerk of the county court in accordance with and under
74 the general laws of the state of West Virginia. And at the
75 time of such sitting of said independent board of education,
76 the aforesaid books of registration shall be open for public
77 inspection and they shall register in the manner provided by
78 law, all qualified voters who have not theretofore been regis-
79 tered and complete and finish the registration of voters, and at
80 the regular meeting on the first Tuesday in April as aforesaid,
81 the board of education of said independent district shall pass
82 and cause to be spread upon the minutes, a resolution calling
83 and ordering the regular school election and containing the
84 many items of information pertaining to the purpose of holding
85 the school election and the terms of office to be filled, the time
86 and place of holding the election, the time and method of mak-
87 ing nominations, the time of the final sitting of the board to
88 complete and certify the registration of voters and such other
89 items as the board may deem necessary and practical; said
90 proclamation shall be posted on the front door of the high
91 school building and at each voting precinct, at least three
92 weeks previous to the day of the ensuing regular school elec-
93 tion, and the same shall be published in two newspapers of

94 general circulation in Wayne county for at least two consec-
95 tive weeks previous to the date of said election, the last pub-
96 lication to be completed at least one week before the date of the
97 election. At this meeting said board of education shall ap-
98 point ballot commissioners, commissioners of election, poll
99 clerks and all other officers necessary for conducting the en-
100 suing regular school election: *Provided*, That the ballot com-
101 missioners, who shall be two in number, shall be one each from
102 the dominant political parties in said independent district,
103 who shall receive for their services as such ballot commissioner,
104 a fee of five dollars each: *Provided further*, That there shall
105 be appointed five election officers at each election precinct;
106 three of whom shall be designated and serve as commissioners
107 of election and two as poll clerks of said election. The politi-
108 cal party which has the majority of the members of said in-
109 dependent board of education shall have the right of the ma-
110 jority of the election officers of such election board and said
111 board of education shall designate not more than two commis-
112 sioners and one clerk for each election board in each precinct
113 from the dominant political party and one commissioner and
114 and one clerk from the political party having the minority
115 member of the board of education; and in the event that the
116 members of said board of education, are all members of one
117 political party, the minority representation on said election
118 board shall be qualified voters of the party which cast the
119 next highest number of votes in said independent district at
120 the last preceding general election. The ballot commissioners
121 and election officers herein provided for shall have the qualifi-
122 cations of registered voters in said independent school district,
123 and shall be definitely recognized as members of some political
124 party. The compensation of election officers is fixed at the
125 sum of three dollars. The secretary of the board of education
126 hereinafter provided for shall serve as a member of the board
127 of ballot commissioners and shall be chairman of said board
128 of ballot commissioners. The said board of ballot commis-
129 sioners shall prepare the form and arrangement of ballot and
130 provide printed ballots for said ensuing regular school elec-
131 tions.

132 The board of ballot commissioners shall cause the ballots
133 which are to be used in the ensuing regular school election to
134 be published twice in two newspapers in Wayne county of op-

135 posite politics, the second publication being the week before
136 the day of said school election. The board of education of said
137 independent school district shall publish twice in two news-
138 papers of general circulation and of opposite politics in Wayne
139 county a certified list of the election officers of said ensuing
140 school election, the last publication being the week immedi-
141-150 ately preceding the holding of said election.

151 The board of education of said independent school district
152 shall convene in regular or special session from nine o'clock
153 a. m. until five o'clock p. m. on the Tuesday next preceding
154 and any every regular school election held in said district for
155 the purpose of further amending, correcting, completing and
156 certifying the aforesaid registrations of the qualified voters
157 for the ensuing regular school election and if at said meeting
158 the said board of education is satisfied that persons have been
159 registered who are not entitled to vote, shall on notice to said
160 persons and in the manner provided by law, cause their names
161 to be stricken from the aforesaid list of qualified voters; but
162 no voter shall be entitled to register, except upon a certificate
163 of transfer after the adjournment of the board; and the said
164 board of education shall upon the arrival of five o'clock p. m.
165 certify the aforesaid register lists as the official registration
166 of voters for the ensuing regular school election and then ad-
167 journ. No person shall be allowed to vote at any regular
168 school election in said independent school district who is not
169 at the time of the election an actual bona fide resident of the
170 election precinct in which he offers to vote and has been reg-
171 istered as a voter for such election as required by law.

172 All the sittings of said board of education detailed above
173 shall take place at the official office of said board of educa-
174 tion in the high school building in said independent school dis-
175 trict. The board of education of said independent school district
176 shall convene as a canvassing board at the regular time and
177 meeting place on the fifth day (Sunday excepted) after each
178 regular school election held in said district. The canvassing
179 board shall have the sole authority and jurisdiction in ascer-
180 taining, declaring, recording and certifying the result of any
181 and every regular school election in said independent school
182 district. An appeal as provided by law from the decision of
183 said board to the circuit court of Wayne county is herein

184 provided for. Said board of canvassers shall certify the re-
185 sults of said election to the clerk of the county court of Wayne
186 county, who shall record the same in the well bound book
187 kept in his office for that purpose. The board of canvassers
188 shall issue and deliver to each candidate voted on in said elec-
189 tion, a certificate showing the total vote cast in said election
190 for each office.

Sec. 4. Before entering upon their duties as members of the
2 board of education of independent school district of Butler,
3 each of the commissioners and the president shall be required to
4 qualify by taking and subscribing to the following oath: "I,
5 A....., B....., do solemnly swear (or affirm),
6 that I will faithfully perform the duties of commissioner (or
7 president) of the board of education of the independent school
8 district of Butler, during the term for which I was elected (or
9 appointed), to the best of my ability, according to law, so help
10 me God."

11 The secretary of the board of education, or any notary public
12 of the county of Wayne, is authorized to administer said oath,
13 a copy of which shall be kept by him upon the files of his office.
14 Nominations for the office of the commissioner and president of
15 said board of education shall be made by party conventions by
16 the two opposing political parties which at the last preceding
17 general election held in November at the voting places in the
18 several precincts in said independent school district cast the
19 highest and next highest number of votes and shall be filed and
20 duly certified with the secretary of the board of education at
21 least twenty days prior to said regular school election. Said
22 conventions shall be held in said independent school district on
23 the second Tuesday in April at the hour of one o'clock p. m. at
24 such place or places as may be designated by the board of edu-
25 cation of said district. The call for said conventions shall be
26 made by said board of education at least thirty days prior to
27 the day of holding said conventions, which call shall be pub-
28 lished in two newspapers of opposite politics of general circula-
29 tion in said district at least two weeks prior to the day of hold-
30 ing said conventions. The temporary chairman of said
31 conventions shall be named by the board of education in the
32 proclamation calling for the holding of said conventions who
33 shall be members of the political party holding the said con-

34 vention. Said convention shall be called to order by the tempo-
34-a rary chairman so designated and shall be conducted and held
35 in accordance with rules and regulation adopted by said board
36 of education and the laws of the State of West Virginia. The
37 certificate of nomination for the office of school commissioner
38 and president of the board as aforesaid shall designate the
39 term of office of each person nominated and shall be signed by
40 the chairman and secretary of said convention and authenti-
41 cated by the official signature of a notary public. This certifi-
42 cate shall be executed in triplicate and one copy shall be filed
43 with the clerk of the county court of Wayne county and re-
44 corded by him in the records of primaries and elections in the
45 well-bound book kept in his office for that purpose. One copy
46 shall be delivered in the manner specified above to the secretary
47 of the board of education.

Sec. 5. The board of education of said district shall meet
2 annually on the first Monday in July at their regular meeting
3 place and shall elect a secretary who shall serve during will
4 and pleasure of the board. Before entering upon the duties
5 of his office the secretary shall take the oath as prescribed by
6 law.

Sec. 6. The secretary shall record in a book, provided for
2 that purpose, all the official acts and proceedings of the board
3 which shall be a public record, open to the inspection of all
4 persons interested therein. He shall preserve in his office at
5 the junior high school building, all papers containing evidence
6 of title, contracts and obligations; and in general shall record
7 and keep on file in his office all such papers and documents as
8 may be required by any of the provisions of this act or by any
9 order of the board of education. He may be removed by the
10 board of education of the independent school district of Butler
11 at any regular or special meeting. Any vacancy in this office
12 shall be filled by the board for the unexpired term. All levies
13 for any purpose shall be levied in accordance with the general
14 school law. The rate of school levy in said district may include
15 the total amount available after the specific levy for county and
16 state purposes as provided by law has been allowed. When the
17 board of education has laid the levies it shall be the duty of
18 the secretary to report the matter thereof to the county super-

19 intendent and other county and state officials, such facts in his
20 possession as may be required by the general school law of the
21 state. For his service, he may receive such compensation as
22 provided by the general school law of the state. In his absence
23 the board may appoint a secretary pro tempore.

Sec. 7. The president of the board of education shall per-
2 form such duties as usually devolve upon the presiding officer
3 of such a deliberate body, except that he shall have a vote upon
4 each and every question as any other commissioner, but he shall
5 have but one vote only upon one question. In his absence,
6 the board may choose a president pro tempore from among
7 their number. He shall perform all the duties prescribed by
8 law for a president of the board of education of magisterial
9 school district.

Sec. 8. The board of education of the independent school
2 district of Butler shall hold stated meetings at such times and
3 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
6 president, or at the request of any two members by the secre-
7 tary. No business may be transacted at a special meeting, ex-
8 cept that mentioned in the call for such meeting, which call
9 shall be in writing and shall be recorded by the secretary in the
10 record of proceedings of said meeting: *Provided*, That all the
11 members shall have had notice of the place and purpose of any
12 special meeting called by the president or secretary herein pro-
13 vided: *Provided further*, That a concurrence of two members
14 of said board of education shall be required to elect teachers
15 and to decide all questions involving the expenditures of money.

Sec. 9. The board of education of the independent school
2 district of Butler shall be a body corporate in law; and as such
3 may purchase, hold, sell or convey real or personal property
4 for the purpose of education within the district; may be a
5 party to suits and contracts and do other common corporate
6 acts. They shall have the management of, and be vested with
7 the title to, all real and personal property, for the use of public
8 schools within the district and shall manage and dispose of the
9 same as in their opinion will best serve the interests of the
10 district. The board of education shall have the 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, and not in violation of
17 chapter one hundred eight of the acts of the legislature of one
18 thousand nine hundred twenty-nine, and chapter ninety-eight
19 of the acts of the legislature of one thousand nine hundred
20 thirty-one.

Sec. 10. Annually, on or before April first, the board of
2 education shall cause to be taken an enumeration of all the
3 youth of the district, noting age and color, according to the
4 general school law. The secretary shall report to the county
5 superintendent the result of said enumeration of youth, at
6 such time as may be required by law.

Sec. 11. The state superintendent of schools in his report
2 to the auditor, shall specify separately the result of the enumer-
3 ation of youth in the independent school district of Butler and
4 the rest of Wayne county, and the auditor, in apportioning
5 money for school purposes, shall apportion to the independent
6 school district of Butler and to the rest of Wayne county sep-
7 arately, according to their respective numbers of youth, as shown
8 by the list furnished by the state superintendent of schools,
9 and the said superintendent shall draw his requisition upon the
10 auditor in favor of the sheriff of Wayne county for such
11 amount as the district is entitled to receive, and at the same
12 time notify the secretary of the board of education of the
13 amount.

Sec. 12. It shall be the duty of the said board of education
2 to provide by purchase, condemnation, leasing, building, or
3 otherwise, school houses and grounds, furniture, fixtures and
4 appendages, and keep the same in good order and repair; and
5 to supply the said school houses with fuel and other things nec-
6 essary for their comfort and convenience.

Sec. 13. It shall be the duty of the board of education of
2 the independent school district of Butler, annually, at the same
3 time and in the same manner that is 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 and
6 laying of school levies by the boards of education of the various
7 school districts within the state for the support of the free schools
8 therein, to ascertain and to make such estimates of the amounts

9 necessary for the support of the schools within the said inde-
10 pendent school district and on the property located in the
11 said independent district to determine, fix, and lay such levies
12 for the support of the schools therein. It shall be the duty of
13 the board of education of the said independent school district
14 of Butler, annually, at such meeting, to levy as many cents on
15 each one hundred dollars' valuation of the taxable property
16 of the said independent school district, according to the last as-
17 sessment thereof, as will produce the amounts shown by the esti-
18 mate of said board to be necessary to be levied for the mainte-
19 nance, building, and teachers' fund purposes; to levy in like
20 manner the amounts necessary to continue the schools in session
21 in the said independent school district for a minimum term of
22 eight months in elementary school and nine months in the junior
23 high schools; and to levy and provide sufficient funds for all
24 purposes to keep said schools in session for the full minimum
25 term of eight and nine months as herein provided. And the
26 board of education of said independent district is hereby
27 authorized and empowered to lay a levy in addition to the
28 levies authorized by the general school law of the state, if the
29 same shall be required, sufficient for all purposes to conduct
30 the schools of the said independent school district for the full
31 minimum term of eight months as aforesaid. For the purpose
32 or purposes mentioned in this act and for the purpose of paying
33 teachers and other school officers, the interest and sinking funds
34 on bonds, and any other legal obligations which are now owed
35 by the independent school district of Butler or may hereafter
36 be incurred by it, the said board of education shall lay an-
37 nually such levies in the manner that is now provided or that
38 may hereafter be provided by the general school law of the
39 state. Elections for bond issues shall likewise be conducted in
40 accordance with the general school law.

Sec. 14. The levies made under the provisions of this act
2 shall be collected and disbursed as now provided by law. The
3 board of education shall not, during any one year, incur any
4 expense that shall exceed the amount of available funds re-
5 ceived for school purposes during that year.

Sec. 15. The sheriff shall annually at such time and in such
2 manner as required by law make settlement with the board of
3 education.

Sec. 16. The said board of education shall have power to

2 establish within the district, such graded schools, including
3 junior high schools, of such grade, as may, in their judgment,
4 be best for the interests of the district. The branches and text-
5 books to be taught in the schools within the district shall be the
6 state-adopted texts. The said junior high schools shall be open
7 to all pupils in the district, but no pupil shall be entitled to
8 admittance to said junior high schools until the principal shall
9 have been satisfied that the pupil shall have made due pro-
10 ficiency in the branches taught in the other schools of the dis-
11 trict.

Sec. 17. Teachers shall be subject, in all respects, to the
2 rules and regulations adopted by the board of education, and
3 they may be removed by the board for incompetency, immoral
4 conduct, or willful violation of the rules of the board, upon
5 complaint of any member of the board.

Sec. 18. The board of education shall in accordance with the
2 general school law, appoint all teachers for the public schools
3 of any grade or junior high school within the district and fix
4 their salaries: *Provided*, That in no case shall the salaries of
5 teachers and principals be below the minimum salary set by
6 this state: *Provided further*, That no person shall be employed
7 to teach in any public school of the district who shall not first
8 have obtained from the state authorities a certificate of quali-
9 fications to teach a school of the grade for which the appoint-
10 ment is made.

Sec. 19. The salary of the commissioners and president of
2 the independent school district board shall be regulated and
3 fixed by the general school law of the State of West Virginia.

Sec. 20. All school houses, school house sites and all other
2 property of whatsoever description of the board of education of
3 the magisterial school district of Butler shall by the passage
4 of this act and its enactment into law, become the property of
5 the independent school district of Butler and all departments
6 of the board of education of the magisterial school district of
7 Butler, of whatsoever description, including bond issues of said
8 magisterial school district of Butler, shall be assumed by and
9 are hereby made the obligations of the independent school dis-
10 trict of Butler. All contracts between the board of education
11 of Butler magisterial school districts employing teachers for
12 the school year one thousand nine hundred thirty-three and one
13 thousand nine hundred thirty-four are hereby transferred, set

14. over and perpetuated as legal contracts of the board of educa-
15 tion of the independent school district of Butler.

Sec. 21. All provisions of the general school law of the state
2 and all laws and acts and parts of acts heretofore existing which
3 are in any manner inconsistent with the provisions of this act
4 are hereby repealed and shall be void within the said inde-
5 pendent school district; otherwise the said general school law
6 shall remain in full force and effect in said independent school
7 district as elsewhere in the state. If any section or part of any
8 section of this act shall be declared unconstitutional it shall not
9 affect the other sections of this act.

Sec. 22. This act shall not become a law or be in full force
2 and effect until the qualified voters residing in Butler school
3 magisterial district by a majority of the votes cast at a special
4 election to be held on the twenty-third day of May, one thou-
5 sand nine hundred thirty-three, declare in favor thereof. On
6 the said twenty-third day of May, one thousand nine hundred
7 thirty-three, it shall be the duty of the board of education of
8 Butler school magisterial district, to submit to the legal voters
9 of Butler school magisterial district, the question of the adop-
10 tion or rejection of the provisions of this act. It shall be the
11 duties of the board of education of Butler school magisterial
12 district to meet in special or regular session on the fourth
13 Tuesday in April, one thousand nine hundred thirty-three, for
14 the purpose of calling said special election. Notices thereof
15 shall be published once a week for two successive weeks in two
16 newspapers of opposite politics of general circulation in said
17 district, the last notice being published at least one week pre-
18 ceding the day of said special election. It shall be the duties
19 of the board of education of Butler school magisterial district
20 to secure the registration of voters properly certified by the
21 county clerk, taken for the last general election held in Novem-
22 ber last, and the same shall be accepted as proper registration
23 of voters entitled to vote after the same has been corrected in
24 the manner provided by law. The present voting places in
25 said Butler district shall be the voting places for the special
26 election and single election boards to have charge of the polls
27 shall be appointed in the following manner: At the special
28 meeting of the board of education on the fourth Tuesday in
29 April, the board of education of Butler school magisterial dis-

30 trict shall appoint as election officers, persons having qualifica-
31 tions of voters from the two dominant political parties in said
32 magisterial district. There shall be appointed three election
33 commissioners, two from the dominant political party and one
34 from the second dominant party in the district, and one poll
35 clerk each from the two dominant political parties for each
36 precinct. A list of these election officers shall be published
37 along with the notices of election as provide above. Necessary
38 booths, ballot boxes, poll books and other appliances required
39 by law and necessary for the holding of such elections shall be
40 furnished by the county court of Wayne county. The ballots
41 shall be made up as required by law by the ballot commissioners
42 of Wayne county. The expense of said election shall be paid
43 by the board of education of Butler school magisterial district
44 and shall be such sum or sums as fixed by the general election
45 law of the state. The ballot to be voted in said election shall
46 be on plain, white paper and in the following form :

47 School District Election.

47-a (Indicate how you desire to vote by cross in square)

48 For independent school district.

49 Against independent school district.

50 If a majority of votes cast at said election be for independent
51 school district, then this act shall be binding and in full force
52 as of June first, one thousand nine hundred thirty-three, other-
53 wise this act shall be void.

54 The district school board shall meet on the fifth day (Sunday
55 excepted) after said special election as a board of canvassers,
56 to canvass, ascertain and declare the result of said special elec-
57 tion. Any contest or appeal from the board of canvassers shall
58 be to the circuit court of Wayne county.

Sec 23. That the county superintendent of Wayne county
2 shall exercise the powers, duties and authority in said inde-
3 pendent district as provided by chapter eighteen of the code
4 of West Virginia, one thousand nine hundred thirty-one.

CHAPTER 110

(House Bill No. 563—By Mr. Jarvis)

AN ACT to amend chapter one hundred eleven of the acts of the legislature of West Virginia, one thousand nine hundred fifteen, relating to a county high school in Calhoun county, West Virginia, by adding a new section thereto designated and numbered as section six; providing for constructing, erecting, equipping, maintaining and operating a gymnasium or auditorium, or both, for said county high school by authorizing, empowering and vesting the board of directors of the Calhoun county high school with all the rights, duties and powers conferred by law on the West Virginia board of control for constructing, erecting, equipping, maintaining and operating dormitories, homes or refectories at the various state educational institutions; providing for the issuance of revenue bonds of the county high school, payable solely from the earnings of such gymnasium or auditorium, or both, to pay the cost thereof; providing for the collection of rents, fees and charges; and providing that no debt of said county or school district payable by taxes or assessments shall be incurred in the exercise of any of the powers hereby granted.

[Passed March 11, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.

6(a). Board of directors of Calhoun county high school authorized to construct and maintain a gymnasium or auditorium and vested with same powers in relation thereto as conferred on state board of control for erecting and maintaining dormitories, etc.

Sec.

6(b). Board to issue revenue bonds to pay cost; bonds payable solely from earnings of gymnasium or dormitory.
 6(c). Board to fix and collect rents, etc., for payment of bonds and interest.
 6(d). Board not authorized to incur debt payable from tax levy; project to be self-liquidating.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred eleven of the acts of the legislature of West Virginia, one thousand nine hundred fifteen be, and the same is hereby amended by the addition of a new section thereto designated and numbered section six, to read as follows:

Section 6. (a) The board of directors of the Calhoun county high school is hereby authorized to provide, construct, erect, equip, maintain and operate a gymnasium or auditorium, or both, and for that purpose the said board of directors is hereby

5 vested and empowered with all the rights, duties and powers
6 conferred by law on the West Virginia board of control, a public
7 corporation, for constructing, erecting, equipping, maintaining
8 and operating dormitories, homes or refectories;

9 (b) The said board of directors may pay the cost of such
10 gymnasium or auditorium, or both, out of the proceeds of reve-
11 nue bonds, which the said board of directors is hereby author-
12 ized to issue and sell in the same manner and under the same
13 terms and conditions provided by law for the issuance of reve-
14 nue bonds by the said West Virginia board of control, but said
15 bonds are payable solely from the earnings of such gymnasium
16 or auditorium, or both;

17 (c) The said board of directors is authorized to fix, charge
18 and collect rents, fees and charges for the use and maintenance
19 of said gymnasium or auditorium, or both, in the same manner
20 provided by law for the West Virginia board of control to fix,
21 charge and collect rents, fees, and charges, for the payment of
22 the principal and interest on the revenue bonds issued by said
23 board of directors and to maintain and operate said gymnasium
24 or auditorium, or both;

25 (d) Nothing herein shall be so construed or interpreted as to
26 authorize said board of directors to authorize or permit the in-
27 curring of a debt payable by the levying of taxes or assessment
28 on property situate in said county, but said gymnasium or audi-
29 torium, or both, are of the character commonly known as a self-
30 liquidating project.

CHAPTER 111

(House Bill No. 398—By Mr. Hyre)

AN ACT providing for and empowering the board of education of
the Upshur county high school to transfer funds from the new
building and improvement fund to the teachers' and mainte-
nance funds and to be used therein interchangeably.

[Passed March 9, 1933; in effect from passage. Became a law without the approval
of the Governor.]

SEC.

1. Board of education of Upshur
county high school authorized to
transfer nine thousand, one hun-
dred forty-three dollars, six

SEC.

cents from new building and im-
provement fund to teachers' and
maintenance fund.

Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of the Upshur coun-

2 ty high school be, and it is hereby, authorized and empowered
 3 to transfer to the teachers' and maintenance funds of the Up-
 4 shur county high school and to be used interchangeably in said
 5 funds the sum of nine thousand one hundred forty-three
 6 dollars six cents remaining in the new building and improve-
 7 ment fund and unused from the levies laid by the board of
 8 education of said Upshur county high school in pursuance of
 9 provisions in section four, chapter eighty-six of the acts of the
 10 legislature of the State of West Virginia, one thousand nine
 11 hundred twenty-three.

CHAPTER 112

(House Bill No. 516—By Mr. Poling)

AN ACT to repeal chapter one hundred seventeen, acts of the legislature of West Virginia, one thousand nine hundred twenty-five, and to continue in office until January first, one thousand nine hundred thirty-five, the officers elected thereunder.

[Passed March 8, 1933; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.

1. Act repealed.
2. Terms of present commissioners of county court, Barbour county.

SEC.

3. Only three commissioners to be elected in one thousand nine hundred thirty-four; terms.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred seventeen, acts of the legislature of West Virginia, one thousand nine hundred twenty-five, be amended to continue in office until January first, one thousand nine hundred thirty-five, the officers elected thereunder.

Section 1. Chapter one hundred seventeen, acts of the 2 legislature of West Virginia, one thousand nine hundred twenty- 3 five, is hereby repealed.

Sec. 2. The commissioners of the county court elected under 2 and by virtue of chapter one hundred seventeen, acts of 3 the legislature of West Virginia, one thousand nine hundred 4 twenty-five, and now in office, shall continue in office until Jan- 5 uary first, one thousand nine hundred thirty-five, unless other- 6 wise removed by law; and shall be governed in all respects by 7 chapter seven of the code of West Virginia, one thousand nine

8 hundred thirty-one, and all other laws applicable to county
9 courts.

Sec. 3. At the general election to be held in the year one
2 thousand nine hundred thirty-four, there shall be elected by the
3 voters of said county three commissioners, whose term of office
4 shall commence on the first day of January next after their
5 election, one of whom shall hold his office for the term of two
6 years, one for four years, and one for six years. At each suc-
7 ceeding election thereafter they shall be elected as now provided
8 by law.

CHAPTER 113

(House Bill No. 512—By Mr. Carrico)

AN ACT to reform, alter and modify the county court of the county
of Preston, so as to make the same consist of three commis-
sioners, in all respects as provided by section twenty-two, arti-
cle eight of the constitution.

[Passed March 2, 1933; in effect ninety days from passage. Became a law without
the approval of the Governor.]

Sec.

1. After January first, one thousand
nine hundred thirty-seven, county
court to consist of three commis-
sioners and to be governed by
constitution and general laws re-
lating to county courts.
2. Terms and qualifications of mem-
bers of court elected in one thou-

Sec.

3. Meetings of new court.
4. At general election in one thou-
sand nine hundred thirty-four
act submitted to vote; notice;
form of ballot.
5. Adoption or rejection of act.
6. Act repealed.

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 thirty-seven, the county court of the
3 county of Preston shall be composed of three commissioners,
4 and shall be in all respects such county court, with such powers,
5 duties and responsibilities as is provided for under sections
6 twenty-two, twenty-three and twenty-four, article eight of the
7 constitution of this state, and all of the provisions of the con-
8 stitution and general laws of this state, relating to county courts
9 consisting of three commissioners shall apply to said county
10 court.

Sec. 2. At the general election in one thousand nine hundred
2 thirty-six, there shall be elected three commissioners of said
3 county court, no two of whom shall be residents of the same

4 magisterial district. The term of office for said commissioners
5 shall be six years, except that at the first meeting of said com-
6 missioners they shall designate by lot, or otherwise in such man-
7 ner as they may determine, one of their number who shall hold
8 his office for the term of two years, one for four years and one
9 for six years, so that one commissioner shall be elected every
10 two years.

Sec. 3. The first meeting of the county court herein provided
2 for shall be held on the first Monday in January, one thou-
3 sand nine hundred thirty-seven, or as soon thereafter as may
4 be, at which time they shall elect one of their number presi-
5 dent of their court. Subsequent meetings of said court shall
6 be held at such times as may be designated by said court and
7 as provided by general law.

Sec. 4. At the general election in one thousand nine hundred
2 thirty-four, the question of the adoption of such court as is
3 provided by this act shall be submitted to the voters of the
4 county of Preston voting at such election. Notice of such
5 election shall be given by the publication of this act in each
6 weekly newspaper published in said county once in each week
7 for two successive weeks. Those voting for the establishment
8 of such court shall have written or printed on their ballots
9 the words "For modification of the county court," and those
10 voting against it shall have written or printed on their bal-
11 lots the words "Against modification of the county court."

Sec. 5. If a majority of the votes cast upon the question
2 be for modification of the county court, this act shall be and
3 remain in full force and effect; but if a majority of said votes
4 be against modification of said county court, said act shall be
5 of no further force and effect.

Sec. 6. So much and such parts of chapter ten, of the acts
2 of the legislature of West Virginia, one thousand eight hundred
3 eighty-seven, as are inconsistent herewith, are hereby repealed.

CHAPTER 114

(House Bill No. 467—By Mr. Carrico, by request)

AN ACT to authorize the town of Kingwood, in the county of Pres-
ton, to erect an armory in said town to be used for military

and other purposes, and to borrow the money for building the same, in an amount not to exceed fifteen thousand dollars from the reconstruction finance corporation, and to give a lien or liens to secure the same upon the lot upon which said armory will be erected and the building itself to be erected thereon, with the proviso that said money shall not be repaid from taxation proceeds.

[Passed March 9, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.

- 1(1). Town of Kingwood authorized to build an armory.
 1(2). Authorized to borrow not to exceed fifteen thousand dollars from reconstruction finance corporation to build same.
 1(3). Authorized to give lien on lot and armory; no part of money

Sec.

- borrowed, or interest on same, to be paid from any tax levy of the town.
 1(4). Town, through its council, authorized to do all things necessary to carry out provisions of act.

Be it enacted by the Legislature of West Virginia:

Section 1. (1) That the town of Kingwood, in the county
 2 of Preston, be authorized to build an armory in said town, to
 3 be used for military and other purposes, and to undertake and
 4 do all actions necessary to so build such armory building;
 5 (2) That the said town of Kingwood be, and it is hereby,
 6 empowered to borrow a sum of money, not to exceed fifteen
 7 thousand dollars, upon appropriate action by its counsel, of the
 8 reconstruction finance corporation, for the building and erec-
 9 tion of said armory building;
 10 (3) That the said town of Kingwood be, and it is hereby,
 11 empowered to give a lien, or liens, upon appropriate action by
 12 its council, upon the lot upon which said armory building is to
 13 be erected and upon the armory building erected thereon, but
 14 with the proviso and understanding that no part of such sum,
 15 so borrowed, shall ever be paid, nor any interest thereon, from
 16 the proceeds of any taxes laid or levied by said town;
 17 (4) That the said town of Kingwood be, and it is hereby
 18 empowered, upon appropriate action by its council, to under-
 19 take and do all things necessary to carry out the preceding
 20 sections of this act.

CHAPTER 115

(House Bill No. 342—By Mr. Matthews)

AN ACT authorizing the sale and transfer to Electro Metallurgical Company, its successors and assigns, by New-Kanawha Power Company, of certain permits, rights, powers and authority granted to it by the public service commission under and by virtue of chapter seventeen, acts of the legislature of West Virginia, one thousand nine hundred fifteen, amending such permits, and providing for the payment of the obligations and liabilities of the said New-Kanawha Power Company.

[Passed March 10, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.

1. Sale and transfer by Electro Metallurgical Company of permits, rights, etc., granted it by public service commission to New-Kanawha Power Company, authorized.
2. Amendment of permits, when transferred.
- 2(a). Right of eminent domain revoked.
- 2(b). Annual charge, computation and collection of.
- 2(c). Surrender, renewal or termination of permits; taking over by state of property and rights of bolder of permits; appraisalment; appeal to circuit court and trial de novo; appeal to supreme

Sec.

- court of appeals; transferee to file sworn, itemized statement of cost of project with public service commission.
- 2(d). Transferee, because of transfer of permits, etc., not to be deemed a public service corporation.
 3. Electro Metallurgical Company to pay all present and future judgments on account of torts of, or rendered upon attachments or suggestions against, New-Kanawha Power Company in connection with work done for or by said Power Company or in connection with construction by it of hydro-electric plant on New river, in Fayette county.

Be it enacted by the Legislature of West Virginia:

Section 1. That the sale and transfer to Electro Metallurgical Company, a West Virginia corporation, its successors and assigns, by New-Kanawha Power Company, a West Virginia corporation, of the permits, together with the rights, powers and authority appurtenant thereto or in anywise thereunto belonging, granted to it by the public service commission under and by virtue of chapter seventeen, acts of the legislature of West Virginia, one thousand nine hundred fifteen, and as set forth in orders of the public service commission made and entered by it in certain cases identified by it in its official records as case number one thousand eight hundred sixty-three and case number one thousand eight hundred sixty-four, and consolidated as one project and identified as said case number one thousand eight hundred sixty-four, and popularly known as the Hawks Nest-Gauley Junction project, and of properties heretofore acquired by New-Kanawha Power Company, be and hereby are authorized.

Sec. 2. That upon the transfer of the said permits by New-
2 Kanawha Power Company, said permits so transferred shall be
3 and hereby are amended in the following manner and the trans-
4 feree of said permits shall by accepting a transfer thereof have
5 agreed to accept such permits as so amended, to-wit:

6 (a) All rights of eminent domain granted under said permits
7 are revoked;

8 (b) In lieu of the annual royalty provided for by section
9 twenty-three, chapter seventeen, acts of the legislature, one thou-
10 sand nine hundred fifteen, there shall be payable during the
11 term of the said permits and subsequent operation thereunder,
12 as herein provided for, an annual charge computed at the rate
13 of ten dollars for each one hundred horsepower of water wheel
14 capacity of the said project, which capacity shall be calculated
15 as the product of: (1) The average stream flow in cubic feet
16 per second at the intake; (2) the average static head in feet;
17 (3) the factor eight one-hundredths. Such charge shall become
18 payable beginning with the calendar year following the starting
19 of operation of the said project and shall be made to the state
20 tax commissioner annually thereafter prior to March one. If
21 such charge shall not be paid when due hereunder, the state tax
22 commissioner shall proceed to collect the same by any appro-
23 priate remedy, with a penalty of ten percentum added thereto.
24 Such charge shall be a lien in favor of the state on all property
25 of the said project superior to all other liens thereon except
26 liens for taxes due the state or some subdivision thereof. All
27 such charges and penalties collected by the state tax commis-
28 sioner shall be paid by him into the state treasury;

29 (c) From and after the expiration of the term of the said per-
30 mits, the holder thereof may operate thereunder until said per-
31 mits shall be surrendered by the holder thereof by filing written
32 notice of such surrender with the public service commission, or
33 shall be lawfully renewed or the properties covered by said per-
34 mits shall be purchased by the state as hereinafter provided or
35 until said permits shall be otherwise terminated by due process
36 of law.

37 Upon not less than one year's notice in writing from the public
38 service commission, and upon due authorization by the legisla-
39 ture of the state, and after payment as hereinafter provided, the
40 state shall have the right upon or after the expiration of the said

41 permits, to take over at fair value thereof and thereafter main-
42 tain and operate all of the property and rights of the holder of
43 the said permits appurtenant or accessory and valuable and
44 serviceable to the project which is the subject of the said permits.
45 The state may assume all the contracts for electric energy and
46 power entered into by the holder of the said permits and relating
47 to the property and rights so taken by the state, provided such
48 contracts have been approved by the public service commission
49 and shall not extend for more than ten years beyond the date of
50 expiration of said permits. The fair value of such property and
51 rights to be taken over by the state shall be determined by a
52 board of appraisers, of whom one appraiser shall be selected by
53 the public service commission and one by the holder of the said
54 permits, and in case of disagreement the two thus selected shall
55 select a third; if, in the event of such disagreement, the said two
56 appraisers are likewise unable to agree in selecting a third ap-
57 praiser, then upon application of either appraiser, after thirty
58 days' notice to the other appraiser the supreme court of appeals
59 shall appoint the third appraiser: *Provided*, That if the supreme
60 court of appeals shall refuse or fail to appoint the third ap-
61 praiser, then upon application of either appraiser after thirty
62 days' notice to the other appraiser, the governor shall appoint
63 the third appraiser. If either the public service commission or
64 the holder of the said permits shall fail or refuse to appoint its
65 appraiser as aforesaid, then after thirty days' notice by the
66 other appraiser, or by the public service commission or the holder
67 of the said permits, as the case may be, the governor shall ap-
68 point said second appraiser. The determination of the majority
69 of the said appraisers shall be considered prima facie the just
70 compensation therefor: *Provided, however*, That the said com-
71 pensation to be paid by the state shall not exceed the true and
72 actual cost of said property. In making such determination the
73 board of appraisers shall make no allowance for unreasonable
74 costs of financing, for promoters' profits, or for the value of the
75 said permits or of any franchise, rights or privilege granted by
76 the state or any political subdivision thereof or any intangible
77 values arising therefrom. From the decision of the appraisers
78 determining the fair value of such property and rights to be
79 acquired by the state and the amount of the severance damages

80 as aforesaid, either the public service commission or the holder
81 of the said permits may, within ninety days after notice of such
82 determination, appeal to the circuit court of Kanawha county,
83 and may appeal from the decision of said circuit court to the
84 supreme court of appeals within ninety days from the time the
85 decision of the circuit court is rendered. Such appeals shall be
86 by petition and shall be allowed as a matter of right. The hear-
87 ing before the circuit court shall be as a trial de novo: *Provided,*
88 *however,* That the original record before the appraisers, duly
89 certified by them, or by any two of them, shall be received in
90 evidence and used in connection with any additional evidence
91 offered by either party. After hearing, the circuit court shall fix
92 and determine the fair value of such property and rights and the
93 amount of severance damages as aforesaid and enter its order
94 and judgment accordingly. In case of appeal to the supreme
95 court of appeals the same shall be upon the record in the circuit
96 court in the usual manner, and that court shall enter such judg-
97 ment or order as the circuit court should have entered.

98 The said transferee shall, within six months after the com-
99 pletion of the said project, file with the public service commis-
100 sion, a sworn, itemized statement, showing the true and actual
101 costs thereof, such statement of costs to be subject to the
102 approval of the said commission.

103 (d) The transferee of the said permits shall not, because of
104 the acquisition or ownership thereof or operation thereunder,
105 be deemed to be a public service corporation, or be subject to
106 the laws of the state with respect to public service corporations
107 or the jurisdiction of the public service commission with respect
108 to any matter other than measures for the safety of the public
109 and for the protection of all public and private rights in the
110 waters of the state, in connection with the construction, opera-
111 tion and maintenance of structures to be used in the exercise of
112 said permits.

Sec. 3. That the sale and transfer of the said permits, to-
2 gether with all the rights, powers and authority appurtenant
3 thereto, to the Electro Metallurgical Company is hereby author-
4 ized on condition that the said Electro Metallurgical Company,
5 or its successors or assigns, shall pay all present and future
6 judgments, if any, rendered against the said New-Kanawha
7 Power Company on account of any torts or claims arising from

8 and in any wise growing out of any work done for, or by, the
 9 said New-Kanawha Power Company, and upon the further con-
 10 dition that the said Electro Metallurgical Company, its succes-
 11 sors or assigns, shall pay all judgments, if any, which may be
 12 rendered against the said New-Kanawha Power Company upon
 13 any attachments or suggestions which have been or may here-
 14 after be issued and served upon the said New-Kanawha Power
 15 Company in connection with the construction of the hydro-
 16 electric plant development on New River in Fayette county.

CHAPTER 116

(House Bill No. 384—By Mr. Hyre)

AN ACT to incorporate the city of Buckhannon, in the county of Upshur, to fix its corporate limits, to divide the same into wards, and to describe and define the powers, rights and duties of said city of Buckhannon, and of the officers and citizens of same; to repeal chapter fifteen of the acts of the legislature of West Virginia, one thousand nine hundred nineteen (municipal charters), and all acts amendatory thereof; and to repeal all other acts or parts of acts inconsistent or in conflict herewith, said bill to be known as the "Charter of the City of Buckhannon."

[Passed March 9, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. City of Buckhannon a municipal corporation; powers.
2. Corporate limits.
3. Number and boundaries of wards.
4. Change in number and boundaries of wards.
5. Powers of council; bond issues for waterworks, etc.
6. Oaths and bonds of officers.
7. Salaries of officers.
8. Legislative powers of council.
9. Filling vacancy in office.
10. Council to determine its rules of procedure; penalty for nonattendance by councilman.
11. Regular, adjourned and special meetings of council; executive sessions.
12. Quorum of council; ayes and noes on ordinances and money expenditures.
13. Minutes; ayes and noes.
14. Presiding officer at council meetings.
15. Ordinances in force and officers in power at passage of act to continue.

SEC.

16. Ordinances; title; effective date; emergency.
17. Ordinances as prima facie evidence.
18. Mayor as police court judge.
19. Jurisdiction of police court.
20. Enforcement of ordinances; fines; costs.
21. Street work to pay fine and costs.
22. Disposition of fines.
23. Style of process of police court.
24. Appeals from police to circuit court.
25. Of whom council constituted.
26. Appointive officers; removal; compensation.
27. Eligibility to elective office.
28. Eligibility of voters.
29. Registration of voters.
30. Number and terms of elective officers; terms if councilmen are elected by wards.
31. Referendum elections as to officers and boundaries.
32. How elections conducted, returned, etc.
33. Form of declaration and certificate of candidacy; fees; form, validity and counting of ballots.

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| 34. Publication of election proclamation; ballots and election officials; elections, how conducted and returned; how election laws of state apply to municipality. | 53. Lien of city taxes, fines, penalties and assessment; how enforced. |
| 35. How tie vote for elective officer decided. | 54. Licenses and license taxes; revocation of license; penalty for doing business without required license. |
| 36. Procedure in contested elections. | 55. Condemnation proceedings by council. |
| 37. Filling vacancy when ineligible officer elected. | 56. Bond issues for improvements or refunding to be submitted to voters. |
| 38. Procedure for removal of elective officers. | 57. When competitive bids for contracts required; procedure. |
| 39. What officers may be appointed by council. | 58. Limitation on indebtedness; penalty for violation. |
| 40. Powers and duties of mayor; as police judge; when recorder acts as mayor; mayor's docket; appointment of standing committees by. | 59. Claims against city; how collected; when barred. |
| 41. Powers and duties of recorder. | 60. Illegal payment of demands against city. |
| 42. Powers and duties of treasurer; collection of taxes; deposit of funds; lien of and distraint for taxes; bond; compensation. | 61. Police power of city officials and city police. |
| 43. Qualifications, powers, duties and compensation of city attorney. | 62. Fiscal year. |
| 44. Qualifications, powers and duties of city engineer. | 63. Contents and publication of financial statement; penalty for failure. |
| 45. Duties of street commissioner. | 64. Article nine, chapter eight of code of West Virginia to apply to city. |
| 46. Qualifications, powers and duties of city physician. | 65. Public utility franchises. |
| 47. Duties of chief of police. | 66. Penalty for polluting city's water supply. |
| 48. Duties of chief of fire department. | 67. Licensing and regulations of motor vehicles. |
| 49. Duties and compensation of assessor. | 68. How notices, warrants, etc., served. |
| 50. Method of disbursing city funds. | 69. Special assessments for removing snow, rubbish and noxious weeds. |
| 51. Annual and special levies, amounts; capitation and dog tax, amounts; special levies for bonded indebtedness. | 70. Method and cost of laying sidewalks, curbs and gutters; lien of assessment against property owner. |
| 52. County assessor to furnish assessment to recorder; correction of assessments. | 71. Act to be liberally construed: when special benefit assessments conclusive. |
| | 72. Former acts repealed. |

Be it enacted by the Legislature of West Virginia:

Section 1. That the inhabitants of so much of the county 2 of Upshur, in the State of West Virginia, as lies within the 3 boundary prescribed by section two of this act, be and they 4 are hereby constituted to remain and continue a municipal 5 corporation by the name of "the city of Buckhannon," by 6 which name they shall have perpetual succession and a com- 7 mon seal, and by which name they may sue and be sued, plead 8 and be impleaded, contract and be contracted with, answer 9 and be answered unto, and may purchase, take, receive, hold 10 and use goods and chattels, lands and tenements, and choses in 11 action, goods or any interest, right or estate thereto, for the 12 proper use of said city, and the same may grant, sell, convey, 13 and assign, let, pledge, mortgage, charge and encumber, in 14 any case and in any manner in which it would be lawful for a 15 private individual so to do, except where such power may be 16 limited by law, and generally shall have all the rights, fran-

17 chises, capacities and powers conferred herein, and by the
18 laws of this state upon municipal corporations not inconsistent
19 with the provisions of this act.

Sec. 2. The corporate limits and boundaries of the city of
2 Buckhannon shall be as follows: Beginning at a stake, where
3 a white oak formerly stood in a field of P. F. Pinnell's heirs,
4 and running thence south twenty-six degrees, ten minutes
5 east, four thousand one hundred ninety-three feet to a white
6 oak, corner to lands of Montreville Regers heirs; thence south
7 thirty-seven degrees, fifty minutes east, one thousand six hun-
8 dred sixty-four feet to a stake on the east side of Kanawha
9 street extended, the southwest corner to the Buckhannon Im-
10 provement Company's addition to the town of Buckhannon;
11 thence with the south line of the same south sixty-seven degrees
12 east one thousand one hundred forty-nine feet to the west
13 bank of the Buckhannon river, thence down said river north
14 thirty-five degrees east seven hundred eighty-two feet to the
15 corporation line of South Buckhannon; thence south fifty-six
16 degrees fifty-four minutes east one hundred eighty-nine feet,
17 crossing the river to a stake thirty feet east of the bank there-
18 of; thence with the lines of the South Buckhannon Corpora-
19 tion, as surveyed in one thousand nine hundred eleven, north
20 thirty-six and one-half degrees east four hundred four feet to
21 a stake on the bank of the river; north fifty-three and one-half
22 degrees east, four hundred twenty-nine feet to a stake, north
23 forty-eight and one-half degrees east three hundred and
24 ninety-six feet to a stake, one hundred fifty feet from the
25 forks of the road leading to Little Sand run; north twenty-
26 seven and one-half degrees east, eight hundred ninety-one feet
27 to a stake in the road; north thirty-three degrees east three
28 hundred sixty-three feet to a stake; north twenty-five and one-
29 half degrees east four hundred ninety-five feet to a stake;
30 north sixteen degrees west five hundred ninety-four feet to a
31 stake; north sixty-one and one-half degrees east one hundred
32 forty-eight and one-half feet to a stake; north fifty and one-
33 half degrees east three hundred thirty feet to a stake; north
34 thirty-nine degrees east two hundred sixty-four feet to a stake;
35 north thirty-nine degrees east two hundred sixty-four feet
36 to a stake on the east bank of the river; thence north thirty-
37 two and one-half degrees west two hundred sixty-four feet,

38 crossing the river to a stake on the west bank thereof; thence
39 down the river ten and one-half degrees east one thousand
40 four hundred nineteen feet to a stake; thence north seventeen
41 degrees west one hundred sixty-five feet to a stake; thence
42 north sixty-seven and three-fourths degrees west one thousand
43 one hundred seventy-five and one-half feet to a stake on the
44 west bank of the river, a corner to the corporations of Buck-
45 hannon and South Buckhannon, where a sycamore was for-
46 merly called for; thence with the lines of the corporation of
47 the town of Buckhannon, as surveyed in the year one thou-
48 sand eight hundred eighty-three, and by the bearings of that
49 date east nine hundred fifty-seven feet, crossing the river
50 to a sycamore at the forks of the Staunton and Parkersburg
51 turnpike and the old Crites mill road, thence north thirty-
52 seven and one-half degrees east seven hundred twenty-
53 six feet to a spruce on the bank of the river; thence,
54 by December, one thousand nine hundred eighteen, magnetic
55 bearing north sixty-nine and one-half degrees, west five hun-
56 dred eight feet, crossing the river to a stake, being the south-
57 east corner to the Hudkins addition to the town of Buckhannon
58 as surveyed and platted by W. G. L. Totten, said stake being
59 in the line extended with the east side of Seventh street; thence
60 with Seventh street to Morton avenue; thence with the south
61 side of Morton avenue north seventy-one degrees west two
62 thousand eight hundred twenty-eight feet to the southwest
63 corner of Morton avenue and First street; thence north eighty-
64 nine and one-half degrees west with the south side of the
65 county road four hundred ninety-one feet; thence with the
66 south side of said road as follows: South seventy-four degrees
67 twenty-five minutes west six hundred seventy-six feet; south
68 forty-two and one-half degrees west three hundred two feet,
69 south forty-eight and one-fourth degrees west two hundred
70 thirty-three feet; south seventy-five and one-fourth degrees
71 west eighty feet; north seventy-five and three-fourths degrees
72 west, five hundred fifty-eight feet to the east side of Buck-
73 hannon and Clarksburg turnpike; thence with the south side
74 of the same south zero degree fifteen minutes west eight hun-
75 dred thirty feet to the south side of Finks run at the bridge;
76 thence in the general direction of Finks run, south seventy-two
77 and one-fourth degrees west eight hundred forty-one feet to

78 the northeast corner of the railroad bridge across Finks run ;
 79 thence south fourteen and three-fourths degrees west two thou-
 80 sand two hundred feet to the beginning.

Ward Boundaries.

Sec. 3. The said city of Buckhannon shall consist of five
 2 wards, which shall be bounded as follows:

3 *First Ward*—All that portion of the city bounded on the
 4 north by the Buckhannon river and Finks run ; on the east by
 5 the center line of Florida street to Madison street ; on the south
 6 by the center line of Madison street to Kanawha street ; thence
 7 center line South Kanawha street to Lincoln street ; thence
 8 center line of Lincoln street to corporation line ; on the west
 9 by the corporation line.

10 *Second Ward*—All that portion of the city bounded on the
 11 north and east by the center line of South Florida street to
 12 College avenue ; on the east and south by the center line of
 13 College avenue to the corporation line ; on the west by the
 14 corporation line to Lincoln street ; thence with the center line
 15 of Lincoln street to Kanawha street ; thence with the center line
 16 of Kanawha street to Madison street ; thence with the center
 17 line of Madison street to South Florida street to the be-
 18 ginning.

19 *Third Ward*—All that portion of the city bounded on the
 20 north and east by the Buckhannon river, on the south and west
 21 with the center line of Florida street, extending from Buck-
 22 hannon river bridge at Star Mill to swinging bridge crossing
 23 from Buckhannon to the village of Vicksburg.

24 *Fourth Ward*—All that portion of the city bounded on the
 25 north by the center line of South Florida street ; on the east
 26 by the Buckhannon river ; on the south and west by the city
 27 boundary line to the north side of College avenue extended ;
 28 from this point with the north side of College avenue to the
 29 beginning.

30 *Fifth Ward*—All the remainder of the city, including that
 31 portion known as the Island and that portion known as North
 32 Buckhannon.

Council May Change Boundaries of Wards

Sec. 4. At any time after the passage of this act the city

2 council may by ordinance modify and change the boundaries
3 and increase or decrease the number of wards.

Powers of Council

Sec. 5. The council of said city shall have and are hereby
2 granted power to have the said city surveyed; to open, vacate,
2-a broaden, change grade of, grade and pave streets, sidewalks
3 and gutters for public use, and to alter, improve, embellish,
4 ornament and light the same, and to construct and maintain
5 public sewers and laterals, and shall in all cases, except as to
6 lighting, have power and authority to assess upon and collect
7 from the property benefited thereby all, or such part of the
8 expense thereof as shall be fixed by ordinance; to have con-
9 trol of all streets, avenues, roads, alleys and grounds for pub-
10 lic use in said city, and to regulate the use thereof and driving
11 thereon, and to have the same kept in good order and free
12 from obstruction, pollution or litter on or over them, but the
13 said county shall be chargeable with the construction and
14 maintenance of all bridges within the said city; to change the
15 name of any street, avenue or road within said city and to
16 cause the numbering of houses on any street, avenue or road
17 therein; to regulate and determine the width of streets, side-
18 walks, roads and alleys, to order and direct the curbing and
19 paving of sidewalks and footways for public use in said city,
20 to be done and kept clean and in good order by the owners
21 of adjacent property; to restrain and punish the abuse of
22 animals; to restrain and punish vagrants, mendicants, beggars,
23 tramps, prostitutes, drunken or disorderly persons within the
24 city and provide for their arrest and manner of punishment;
25 to prohibit by ordinance the bringing into the city of any
26 person or animal afflicted with contagious or infectious disease,
27 and to punish any violator of said ordinance who knows or has
28 reason to believe such person or animal to be so afflicted; to
29 control and suppress disorderly houses of prostitution or ill
30 fame, houses of assignation, and gaming houses or any part
31 thereof, and to punish gaming; to prohibit within said city or
32 within three miles thereof slaughter houses, soap or glue
33 factories and houses of like kind; to control the construction
34 and repair of all houses, basements, walls, culverts and sew-
35 ers, and to prescribe and enforce all reasonable regulations
36 affecting the construction of the same, and to require permits

37 to be obtained for such buildings and structures, and plans
38 and specifications thereof to be first submitted to the city
39 council; to control the opening and construction of ditches,
40 drains, sewers, cesspools and gutters, and to deepen, widen
41 and clear the same of stagnant water or filth, and to prevent
42 obstructions therein, and to determine at whose expense the
43 same shall be done; and to build and maintain fire station
44 houses, police stations and police courts, and to regulate the
45 management thereof; to acquire, lay off, appropriate and con-
46 trol public grounds, squares and parks, either within or with-
47 out the city limits as herein defined; to purchase, sell, lease
48 or contract for and take care of all public buildings, and struc-
49 tures and real estate, including libraries and hospitals, deemed
50 proper for use of such city; and, for the protection of the pub-
51 lic, to cause the removal of unsafe walls or buildings, and the
52 filling of excavations; to prevent injury or annoyance to the
53 business of individuals from anything dangerous, offensive or
54 unwholesome; to define, prohibit, abate, suppress and prevent
55 all things detrimental to the health, morals, comfort, safety,
56 convenience and welfare of the inhabitants of the city, and
57 all nuisances and causes thereof, and to that end and there-
58 about to summon witnesses and hear testimony; to declare and
59 enforce quarantine against the introduction of any contagious
60 or infectious disease prevailing in any other state, county or
61 place, and of any and all persons and things likely to spread
62 such contagion or infection; to regulate the keeping of gunpow-
63 der and other combustible or dangerous articles; to regulate, re-
64 strain or prohibit the use of firecrackers, or other explosives, or
65 fireworks, and all noises or performances which may be danger-
66 ous, annoying to persons or tend to frighten horses or other
67 animals; to provide and maintain proper places for the burial
68 of the dead and to regulate interments therein upon such
69 terms and conditions as to price and otherwise as may be de-
70 termined; to provide for shade and ornamental trees and the
71 protection of the same; to provide for the making of division
72 fences; to make proper regulation for guarding against danger
73 or damage from fire; to provide for the poor of the city,
74 and to that end may contract with the proper authorities of
75 Upshur county to keep and maintain the poor, or any num-
76 ber thereof, upon terms to be agreed upon; but, until the

77 said city shall assume the maintenance and support of such
78 poor by proper ordinance or resolution of the council, the
79 poor of said city are to be maintained and supported by the said
80 county of Upshur under the general provision of law relating
81 thereto; to make suitable and proper regulations in regard to
82 the use of the streets and alleys for street cars, railroad engines
83 and cars, and to regulate the running and operation of the
84 same so as to prevent injury, inconvenience or annoyance to
85 the public; to prohibit prize fighting, cock and dog fighting;
86 to license, tax, regulate or prohibit theaters, circuses, the ex-
87 hibition of showmen and shows of any kind and the exhibition
88 of natural or artificial curiosities, caravans, menageries, pic-
89 tures, motion pictures and musical exhibitions and perform-
90 ances; to regulate the construction, height and material used in
91 all buildings, and the maintenance and occupancy thereof; to
92 regulate and control the use, for whatever purpose, of the
93 streets and other public places; to create, establish, abolish and
94 organize employments and fix the compensation of all em-
95 ployees; to organize and maintain fire companies and to pro-
96 vide necessary apparatus, engines and implements for the
97 same; to regulate and control the kind and manner of plumb-
98 ing and electric wiring for the protection of the health and
99 safety of said city; to levy taxes on persons, property and
100 licenses; to license and tax dogs and other animals, and reg-
101 ulate, restrain and prohibit them and all other animals and
102 fowls from running at large; to assess, levy and collect taxes
103 for general and special purposes upon all the subjects or ob-
104 jects which the city may lawfully tax; to levy and collect as-
105 sessments for local improvements; to borrow money on the
106 faith and credit of the city by the issue and sale of bonds in the
107 manner prescribed by law; to appropriate the money of the
108 city for all lawful purposes; to create, provide for, regulate
109 and maintain all things in the nature of public works and im-
110 provements; to adopt rules for the transaction of business and
111 for its own regulation and government; to promote the general
112 welfare of the city and to protect the persons and property of
113 citizens therein; to regulate and provide for the weighing of
114 produce and other articles sold in said city and to regulate the
115 transportation thereof and other things through the streets;
116 to have the sole and exclusive right to grant, refuse or revoke

117 any and all licenses for the carrying on of any business within
118 said city on which the state exacts a license tax; to establish
119 and regulate markets and to prescribe the time for holding the
120 same, and what shall be sold in such markets and to acquire
121 and hold property for market purposes; to regulate the sale
122 and distribution of foodstuffs; to regulate or prohibit the plac-
123 ing of signs, billboards, posters and advertisements in, on or
124 over the streets, alleys, sidewalks and public grounds of said
125 city; to preserve and protect the peace, order, safety and health
126 of the city and its inhabitants, including the right to regulate
127 the sale and use of cocaine, morphine, opium, and poisonous
128 drugs; to make, enforce and provide local police, sanitary and
129 other regulations, and fully exercise all lawful police powers;
130 to appoint and fix the place of holding city elections; to erect,
131 own, lease, authorize or prohibit the erection of gas works,
132 telephone plant or electric light works in or near the city, and
133 to operate the same and sell the products or services thereof,
134 and to do any and all things necessary and incidental to the
135 conduct of such business; to provide for the purity of milk,
136 meats and provisions offered for sale in said city, and to that
137 end provide for a system of inspecting the same and making
138 and enforcing rules for the regulation of their sale, and to
139 prohibit the sale of any unwholesome or tainted milk, meats,
140 fish, fruits, vegetables, or the sale of milk containing water or
141 other things not constituting a part of pure milk; to provide
142 for inspecting dairies and slaughter houses, whether in or out-
143 side of the city, where the milk and meat therefrom are offered
144 for sale within said city; to prescribe and enforce ordinances
145 and rules for the purpose of protecting the health, property,
146 lives, decency, morality and good order of the city and its in-
147 habitants, and to protect places of divine worship in and about
148 the premises where held, and to punish violations of said
149 ordinances even if the offense under and against the same shall
150 constitute offenses under the law of the State of West Virginia
151 or the common law; to provide for the employment and safe-
152 keeping of persons who may be committed in default of the
153 payment of fines, penalties or costs under this act, who are
154 otherwise unable or fail to discharge the same, by putting them
155 to work for the benefit of the city upon the streets or other
156 places provided by said city, and use such means to prevent

157 their escape while at work as the council may deem expedient;
158 and the council may fix a reasonable rate per day as wages
159 to be allowed such person until the fine and costs against him
160 are thereby discharged; to compel the attendance at public
161 meetings of the members of the council; to prevent any person,
162 association or corporation from polluting in any manner any
163 pond, lake, basin, reservoir, stream, spring, creeks or other
164 body of water from which the city shall take water to be used
165 for domestic purposes by the inhabitants thereof, or from
166 casting into any such body of water, or on the bank thereof or
167 in such proximity thereto that the same may enter therein, any
168 filthy, unwholesome, or obnoxious substance, object, or liquid,
169 or anything whatsoever injurious to the health of the people
170 of the city, or which impairs its value for the ordinary pur-
171 poses of life, or which shall render the water offensive to taste
172 or smell, or that is naturally calculated to excite disgust in
173 those using such water for the ordinary purposes of life; to
174 exercise all other powers that now are or hereafter may be
175 granted to municipalities by the constitution or laws of the
176 State of West Virginia; and all such powers, whether expressed
177 or implied, shall be exercised and enforced in the manner pre-
178 scribed by this charter, or when not prescribed herein, in such
179 manner as shall be provided by the ordinances or resolutions of
180 the council.

181 The city of Buckhannon shall have power and authority,
182 within and without its territorial limits, to construct, condemn
183 and make additions thereto, maintain and conduct and operate
184 water works, light plants, power plants, heating plants, and in-
185 cinerating plants, and do everything required therefor, for the
186 use of the said city and the inhabitants thereof, and may en-
187 force such purchases by proceeding at law or in equity by the
188 right of eminent domain, and by condemnation; but the moneys
189 necessary for the purchase and construction of such works,
190 plants, or system of works and plants shall be derived from the
191 issuance and sale of the bonds of said city approved by three-
192 fifths of the qualified voters of the said city voting for and
193 against the same, at any special election called and held for the
194 purpose. The ordinance of the said city submitting such bond
195 issue to a vote shall specify the purpose and amount for which
196 said bonds are to be issued and sold, said amount being limited

197 only by the constitution and laws of the State of West Vir-
198 ginia, and the other provisions of this charter: *Provided*, That
199 the power to condemn may be exercised for the purpose of
200 acquiring such utilities now existing and operating under
201 franchises granted by the said city, the town of Buckhannon,
202 or the town of South Buckhannon, under the terms of the
203 franchises, or under the rights of eminent domain, at the elec-
204 tion of the city: *Provided further*, That such utilities now ex-
205 isting shall not be acquired or purchased by said city except
206 on ordinance of the said city submitted at a special election and
207 approved by three-fifths of the qualified voters of the said city
208 voting for and against the same, authorizing such purchase and
209 the issuance and sale of bonds in payment of same, and such
210 ordinance shall specify in detail the property and rights to be
211 acquired and the price to be paid for the same.

212 The enumeration of particular powers of this charter shall
213 not be held or deemed to be exclusive, but in addition to the
214 powers enumerated herein, implied thereby, or appropriate to
215 the exercise thereof, the council shall have and exercise all
216 other powers, which under the constitution and laws of the State
217 of West Virginia it would be competent for this charter spe-
218 cifically to enumerate.

219 The council shall provide for the enforcement of all ordi-
220 nances by reasonable and proper penalties, consisting of fines
221 or imprisonment, or fines and imprisonment, with suitable rules
222 and regulations for the enforcement of such penalties. For all
223 such purposes the jurisdiction of the city shall, when necessary,
224 extend for one mile beyond the corporate limits of said city.
225 In order to prevent the pollution of the waters from which the
226 people of the city take water for domestic uses, the jurisdiction
227 of the city shall be coextensive with the location and extent
228 of the waters from which such supply is taken, and each day
229 such act of pollution of the water continues may be deemed a
230 separate offense: *Provided, however*, That in no event shall im-
231 prisonment for a longer period than sixty days or a greater
232 fine than one hundred dollars, or both, be imposed for any one
233 offense.

Oath of Officers and Bonds.

Sec. 6. 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 that they will truly, faithfully, and impartially, to
6 the best of their ability, discharge the duties of their respective
7 offices so long as they continue therein. Said oath or affirma-
8 tion may be taken before any person authorized to administer
9 oaths under the laws in force at the time the same is taken,
10 or before the mayor or recorder of said city; but in any event
11 a copy of said oath of said officer shall be filed with the recorder,
12 and copy filed with county clerk: *Provided further*, That be-
13 fore entering upon their duties, the mayor and recorder shall be
14 required to give bond in the penalty of one thousand dollars
15 each: *And provided further*, That all regular police officers of
16 the city of Buckhannon, except extra policemen serving less
17 than one month at a time, appointed under the provisions of
18 this act, shall be required to give bond in the amount of three
19 thousand five hundred dollars, payable to the city of Buckhan-
20 non, which shall be approved by the council and when approved
21 and accepted shall be recorded by the city recorder in the minute
22 record book, kept by him at his office, and shall be open to public
23 inspection. The city recorder shall be the custodian of all
24 bonds. The said bonds shall in all respects comply with the state
25 laws relating to the bonds of public officials.

Compensation Elective Officers.

Sec. 7. The compensation of the mayor, recorder and council-
2 men shall be fixed by the council at their first meeting held in
3 the fiscal year: *Provided, however*, That the salary of the
4 mayor shall not exceed the sum of six hundred dollars per year,
5 the salary of the recorder shall not exceed three hundred sixty
6 dollars per year, and the salary of councilmen shall not exceed
7 one hundred eighty dollars per year. The salary of all appoin-
8 tive officers shall be fixed by the council when appointments are
9 made.

Legislative Department: Duties.

Sec. 8. The legislative powers of the city are hereby vested in
2 a council composed of mayor, recorder and five councilmen.
3 Said council shall have power to enact all ordinances for the
4 city, not in conflict with this charter or the constitution and
5 laws of this state, the intention being that the said council shall

6 be vested with the power and charged with the duty of enacting
7 and adopting all laws and ordinances not inconsistent with this
8 charter, the statutes of this state and constitution thereof,
9 touching every subject and matter of local or general application
10 within the boundaries of the city or within one mile thereof;
11 within the purview of the local government instituted by this
12 charter and within the powers granted and conferred by the con-
13 stitution and laws of the State of West Virginia.

Vacancy: How Filled.

Sec. 9. Whenever a vacancy from any cause shall occur in the
2 office of mayor, the recorder shall become the mayor of said
3 city, and shall serve as such until the next city election or until
4 his successor is elected and qualified, and in the case of a
5 vacancy in the office of recorder or councilmen the remaining
6 council shall, by a majority vote, fill such vacancy.

Rules of Procedure.

Sec. 10. The council shall determine its own rules of pro-
2 cedure, may punish its members for disorderly conduct and com-
3 pel their attendance at its meetings: *Provided*, That any council-
4 man who shall fail to attend at least one regular meeting in any
5 month of the council shall forfeit his salary as such councilman
6 for said month unless said councilman shall be excused from said
7 attendance by unanimous vote of the council on account of sick-
8 ness, physical disability or other cause: *And provided further*,
9 That any councilman who shall from any cause, fail or refuse to
10 perform the duties of his position, including attendance at the
11 meetings of the council, for a period of two months shall lose
12 his office and the same shall be declared vacant by the remain-
13 ing councilmen and said vacancy filled as herein provided.

Public Meetings and Special Meetings of Council.

Sec. 11. The regular meetings of the council shall be publicly
2 held in the council chamber on the first and third Thursdays of
3 each month, or at other designated times fixed by ordinance or
4 resolution and at such hour as shall be designated by ordinance
5 or resolution of the council. Adjourned meetings may be held,
6 special meetings called by the mayor or a majority of the council,
7 on such date, or at such time as they may deem necessary or
8 circumstances demand, by a verbal or written notice served upon

9 the mayor, recorder or members of the council, stating the pur-
10 pose of the meeting. Executive sessions may be held at the dis-
11 cretion of the council.

Quorum

Sec. 12. Four members of the council shall constitute a
2 quorum and the affirmative vote of a majority of the members
3 present, shall be necessary to adopt any motion, resolution or
4 ordinance, or pass any measure, unless a greater number is
5 provided for by this charter. Upon every motion involving the
6 expenditure of money and for the letting of any public contract,
7 and on all ordinances, the ayes and noes shall be taken and
8 recorded, and every ordinance shall be reduced to writing and
9 read before a vote is taken thereon. The chairman of the council
10 shall have a vote on all questions, but shall have no veto power.
11 Every resolution or ordinance passed by the council shall be
12 signed by the mayor or acting mayor, attested by the recorder,
13 or acting recorder, and recorded before the same shall be in
14 force.

Minutes: Ayes and Noes.

Sec. 13. At each regular meeting of the council the proceed-
2 ings of the last regular meeting and subsequent special meetings
3 shall be read, and corrected if erroneous, and signed by the
4 mayor and recorder. Upon the call of any member the ayes and
5 noes on any question shall be taken and recorded by the recorder
6 in the minute book. The call of members for such vote shall be
7 made alphabetically.

8 Every resolution or ordinance passed by the council shall be
9 signed by the mayor, attested by the recorder, and recorded
10 before the same shall be in force.

Presiding Officer.

Sec. 14. The mayor, or in his absence the recorder, shall pre-
2 side at the meetings of said council, or in their absence the coun-
3 cil shall elect a chairman.

Powers to Adopt Present Ordinances.

Sec. 15. All ordinances, by-laws, resolutions and rules of the
2 city of Buckhannon 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 Buckhannon, as established by this act, until the same are
6 amended or repealed by the council of said city, and the officers
7 elected at the last election in the city of Buckhannon, shall re-
8 main in office until their successors under this act are elected and
9 qualified as hereinbefore provided, and after this act takes effect,
10 shall have jurisdiction over all the territory embraced in the
11 boundaries 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 Buckhannon, as though the same had been created under this
16 charter.

Ordinances.

Sec. 16. Every ordinance shall embrace but one subject, which
2 shall be clearly expressed in the title. Provided that its subject
3 matter be embraced in any ordinance contrary to the provisions
4 of this section, such ordinance shall be void only as to so much
5 of the ordinance as may not be clearly expressed in the title
6 thereof; such subject may be omitted when ordinances are pub-
7 lished in book form.

8 All ordinances passed by the council, except emergency ordi-
9 nances, shall take effect and become valid and binding at the
10 expiration of thirty days from the date of their passage, unless
11 otherwise provided in this charter.

12 The council by unanimous vote, may pass an emergency ordi-
13 nance when the public peace, public health or public safety shall
14 in the judgment of the council demand it. Every emergency
15 ordinance must as a part of the title, contain the words: "And
16 declaring an emergency," and every such ordinance shall pro-
17 vide that such ordinance shall take effect and be in full force
18 immediately upon its passage.

Ordinances Admitted as Prima Facie Evidence in Judicial Proceedings.

Sec. 17. All ordinances or codes of ordinances adopted by the
2 authority of the council shall, in all judicial proceedings in all
3 courts, be admitted as prima facie evidence, and in any such
4 proceedings it shall not be necessary to plead the entire ordi-

5 nance or section, but only such parts thereof as are admitted in
6 evidence.

Judicial Department: Police Court.

Sec. 18. The judicial power of the city of Buckhannon shall
2 be vested in a police court, which court is hereby created, and
3 the mayor shall be the judge of said court. All trials shall be
4 before said mayor without a jury.

Jurisdiction of Said Court.

Sec. 19. The police court shall have original and exclusive
2 jurisdiction to hear and determine all offenses against the ordi-
3 nances or the charter of the city of Buckhannon; and enforce
4 the collection of all licenses, fees, rents, taxes, assessments, or
5 other revenues required by ordinances except such actions and
6 proceedings as fall within the exclusive jurisdiction of other
7 courts under the provisions of the constitution and laws of this
8 state.

Enforcement of Ordinances.

Sec. 20. The ordinances of the city of Buckhannon shall be
2 enforced by the imposition of fines, forfeitures or penalties,
3 against any person violating such ordinances or any of them;
4 and the council shall prescribe in each particular ordinance made
5 for that purpose, the minimum and maximum fine for the in-
6 fraction thereof, which maximum shall not exceed one hundred
7 dollars, exclusive of costs, for any one specific offense. The same
8 costs shall be taxed in each criminal case tried in the police court
9 as is provided by law to be taxed by justices of the peace, except
10 that in every contested criminal case, the mayor may also tax an
11 attorney fee of not exceeding five dollars, to be paid to the city
12 prosecutor for his services in said case, if a conviction be had
13 in said case.

Fines and Costs: Prisoners May Be Worked on Streets.

Sec. 21. The mayor may provide in all judgments of convic-
2 tion for the violation of any ordinance of the city a fine, and
3 that the person against whom said fine is assessed shall be im-
4 prisoned until the fine and costs of prosecution shall be paid,
5 but not to exceed ten days. Any person committed for the non-
6 payment of fine and costs, while in custody, may be compelled
7 to work on the streets, alleys, public grounds or works until such

8 fine and costs are paid, allowing one dollar fifty cents per day
9 for the work of said prisoner to apply on said fine and costs.

Collection of Fines: Disposition of Same.

Sec. 22. All fines, penalties, forfeitures and collections of
2 every kind made by the mayor shall be the property of the city
3 and shall be deposited with the city treasurer within sixty days
4 after the collection thereof, to be by him applied to the proper
5 fund of the city as may by ordinance be required.

Style of Process.

Sec. 23. The style of process of the police court shall run in
2 the name of the city of Buckhannon.

Appeals to Higher Courts.

Sec. 24. Appeals from the police court shall lie to the circuit
2 court or criminal court of Upshur county, as is now or may be
3 provided by statute of this state, governing appeals from police
4 courts to circuit or criminal courts.

Elective Officers: City Council: Who Shall Vote.

Sec. 25. The municipal authorities of the said city of Buck-
2 hannon shall consist of a mayor, recorder, and five councilmen,
3 who shall constitute the council of the said city, and who shall
4 be entitled to vote on all proceedings.

Appointive Officers: Removal and Compensation.

Sec. 26. The council shall appoint a city treasurer, chief of
2 police, and such additional police officers as they may deem
3 proper; a city attorney, chief of the fire department, assistant
4 chief of the fire department, city engineer, city physician, city
5 assessor, street commissioner and such additional street labor
6 that is necessary to repair and maintain the streets of said city,
7 and such other officers as may be provided for by ordinance of
8 the city council or by this act. Such officers shall hold their
9 respective offices during the pleasure of the council, and may be
10 removed therefrom by the majority vote of the council at any
11 time with or without cause. Such officers shall receive such
12 compensation as the council may prescribe by ordinance or reso-
13 lution, unless said compensation be fixed by this act.

Eligibility to Elective Office.

Sec. 27. No person shall be eligible to be elected to the office

2 of mayor, recorder or councilman, unless at the time of his elec-
3 tion he is legally entitled to vote in the city election for member
4 of the common council; and he was for the preceding year
5 assessed with taxes upon real or personal property and shall not
6 be delinquent for city tax.

Eligible to Vote.

Sec. 28. Each resident of the city of Buckhannon who is a
2 citizen of the United States and who has resided in the State of
3 West Virginia for at least one year and in the city of Buck-
4 hannon for at least sixty days, and who is a bona fide resident
5 of the city, shall be qualified to vote: *Provided*, That no person
6 shall be deemed a bona fide resident who is residing within the
7 city limits for any temporary purpose and expects to remove
8 from the city after said purpose shall have been accomplished,
9 and no person who is a minor, or of unsound mind, or a pauper,
10 or who is under conviction of treason, or bribery in an election,
11 or who may otherwise be legally disqualified from voting in this
12 state, shall be permitted to vote therein.

Registration of Voters.

Sec. 29. The city council under the provision of this act may
2 provide by ordinance for the registration of all persons entitled
3 to vote at each subsequent municipal election, and the city coun-
4 cil upon passing such registration ordinance shall appoint the
5 registrars, specify the time for making the registration, and
6 cause all persons entitled to vote in the city to be registered.
7 The laws in force in the State of West Virginia for registering
8 persons who are entitled to vote at a general election held in the
9 state shall insofar as applicable govern the registration of per-
10 sons entitled to vote at municipal elections, and the duties im-
11 posed by the general laws of the state upon county courts and
12 the clerks thereof shall be discharged respectively by the city
13 council and the recorder, except the fee paid for registering the
14 voters shall be fixed by the council.

Elections.

Sec. 30. On the first Tuesday of June, one thousand nine
2 hundred thirty-three, there shall be elected by the qualified
3 voters of said city a mayor, recorder, and five councilmen. The
4 term of office of the mayor and councilmen of the first, third and

5 fifth wards shall be for a period of two years, and the term of
6 office for the said recorder and councilmen of the second and
7 fourth wards shall be for a term of one year, and after the first
8 said election held hereunder the term of office of all officers shall
9 be for a term of two years: *Provided, however,* That the voters
10 of the city shall by a separate ballot determine at this election
11 whether at future elections the councilmen of the city shall be
12 elected by the qualified voters of the entire city, or by the quali-
13 fied voters of their respective wards.

14 The form of the ballot for such proposition shall be:

15 For election of councilmen by the voters of their respec-
16 tive wards.

17 Against election of councilmen by the voters of their re-
18 spective wards.

19 If at such election the proposition carried by a majority vote
20 then said section thirty as set out above shall be amended and
21 shall read as follows:

22 On the first Tuesday of June, one thousand nine hundred
23 thirty-three, there shall be elected by the qualified voters of said
24 city a mayor, recorder, and five councilmen. The term of office
25 of the said mayor and councilmen of the first, third and fifth
26 wards shall be for a period of two years and the term of office
27 for the said recorder and councilmen of the second and fourth
28 wards shall be for a term of one year, and after the first said
29 election held hereunder the term of office of all officers shall be
30 for a term of two years, and after said first election the mayor
31 and recorder shall be elected by the qualified voters of the city
32 and the councilmen by the qualified voters of their respective
33 wards. And the said section so amended shall be a part of the
34 charter of said city and shall stand in lieu of section thirty as
35 written above.

Elections.

Sec. 31. The council may by ordinance approved at a referen-
2 dum election called for the purpose, and held not less than
3 ninety days before any regular municipal election, change the
4 boundaries of the city, the number of officers, the length of their
5 term and the manner of their election, except that municipal
6 elections shall always be without political party designation and

7 nonpartisan. When an election is held for the purpose of annex-
8 ing additional territory to the city, the qualified voters of the
9 territory that it is sought to annex shall also vote upon the
10 proposition, and it shall be necessary that a majority of the total
11 vote cast within or without the city be cast for the proposition.
12 In the absence of other municipal authority to act for the resi-
13 dents outside of the city of Buckhannon, the county court shall
14 appoint the necessary election officers, cause all necessary ar-
15 rangements to be made for the holding of said elections and the
16 return of the results of same to the council of the city of Buck-
17 hannon, who shall act as a canvassing board to ascertain the
18 aggregate results of the said election both within and without
19 the city. The costs of the election shall be borne by the city of
20 Buckhannon, except that where another municipal corporation
21 participates in the election, it shall bear such part of the total
22 cost as shall have been incurred within its boundaries.

Sec. 32. The annual election shall be held on the first Tuesday
2 in June of each year at the regular city voting places within the
3 city and at such other voting places as the council by ordinance
4 may provide. Said annual elections and all special elections shall
5 be held under the supervision of the council and officials of the
6 city and be conducted, certified, returned and finally determined
7 in accordance with the provisions of this act and the laws and
8 ordinances, or such parts thereof, as are now in effect or may
9 hereafter be provided by ordinance not inconsistent with the
10 provisions of this act, and the nominations of candidates for such
11 elections shall be certified to the recorder of said city who shall
12 prepare the ballots therefor.

Municipal Elections.

Sec. 33. (a). Municipal elections under this act shall be con-
2 ducted as follows: Any person eligible to office may become a
3 candidate and have his name placed upon the ballot, upon his
4 own motion, by filing with the city recorder a declaration of his
5 candidacy and a certificate of his eligibility, duly acknowledged
6 by him, within thirty days next preceding the day of the elec-
7 tion. Said declaration and certificate shall be accompanied by
8 an announcement fee as follows: If a candidate for mayor,
9 the fee shall be ten dollars; if a candidate for recorder, the fee
10 shall be seven dollars fifty cents; and if a candidate for council-

11 man, the fee shall be five dollars; which fee shall be paid to the
 12 recorder, who shall pay the same over to the treasurer of the
 13 city. The names of all candidates for elective offices of the city
 14 shall appear on one ballot at the election held in June, one
 15 thousand nine hundred thirty-three, having seven columns, one
 16 for mayor; one for recorder, and one for each ward within the
 17 city, and thereafter the ballot shall have a column for each
 18 office for the candidates to be elected at said election, and said
 19 ballot shall be without party emblem or designation. The whole
 20 number of ballots to be printed for the election of mayor, re-
 21 corder and councilmen, mayor and councilmen, or recorder and
 22 councilmen, as the case may be, shall be divided by the greatest
 23 number of candidates for any one office and the quotient so ob-
 24 tained shall be the number of ballots in each series of ballots to
 25 be printed.

26 The form of the declaration of candidacy and certificate of
 27 eligibility of candidates shall be substantially as follows:

28 I,.....hereby certify that I am a candidate
 29 for the office of.....and desire my name
 30 printed on the official ballot to be voted for at the city election
 31 to be held on the.....day of.....19...; that I am a
 32 qualified voter of the city of Buckhannon, county of Upshur,
 33 State of West Virginia; that I reside in ward No....., in
 34 said city; and that my residence number is.....
 35 in said city; that I am eligible to hold the said office; and that I
 36 am a candidate for said office in good faith.

37
 38 Signature of candidate.

39 Subscribed to and acknowledged before the undersigned
 40 authority by.....this....day of
 41....., 19....

42
 43 Mayor, recorder or notary public.

44 (b) The names of candidates shall be arranged in alphabetical
 45 order in each column, and the first series of ballots printed. The
 46 first name in the column shall be placed last therein and the
 47 next series of ballots printed and this process shall be repeated
 48 until each name in each column shall have been first. These
 49 ballots shall then be combined into tablets in the order of the
 50 series with no two of the same series together.

51 (c) The ballot to be used for the election of officers shall be in
52 the form as follows:

Mayor	<input type="checkbox"/>	<input type="checkbox"/>
Recorder	<input type="checkbox"/>	<input type="checkbox"/>
Councilman, First Ward	<input type="checkbox"/>	<input type="checkbox"/>
Councilman, Second Ward	<input type="checkbox"/>	<input type="checkbox"/>
Councilman, Third Ward	<input type="checkbox"/>	<input type="checkbox"/>
Councilman, Fourth Ward	<input type="checkbox"/>	<input type="checkbox"/>
Councilman, Fifth Ward	<input type="checkbox"/>	<input type="checkbox"/>

Direction to Voter.

76 Vote for only one candidate in each column by putting a cross
77 mark in the square opposite the name of the candidate for whom
78 you desire to vote. Do not mark more than one candidate in each
79 column. If you spoil this ballot, tear it across and hand to the
80 election officer in charge and he will give you another.

81 (d) A valid ballot shall be one on which the voter has clearly
82 expressed his choice of one or more candidates. If a voter
83 express the same choice for more than one candidate in any
84 column his vote, as to that column, shall be void.

85 (e) The candidate in each column receiving the highest num-
86 ber of votes cast for the office for which he is a candidate, in-
87 dicated by such column, shall be declared elected. During the
88 counting of the votes all ballots or votes not counted shall be
89 marked by the election commissioners of each precinct with the
90 words "not counted" written upon the ballot or opposite the
91 vote not counted, together with a statement with the reasons
92 for not counting, and the total number of invalid ballots marked
93 thus and not counted shall be ascertained by them at the con-
94 clusion of the counting, and be shown upon the precinct return
95 certificate and subtracted from the total number of ballots taken
96 from the ballot box.

Sec. 34. At least six weeks before any city election the mayor
2 shall issue his proclamation calling the same, which shall be
3 published in one or more newspapers published in said city for
4 one week. At least fifteen days before the day of an election the
5 city council shall prepare the ballots for such election, and shall
6 select three commissioners and two poll clerks for each voting
7-8 place, and may provide for a counting board for each voting
9 place. The commissioners and poll clerks shall be qualified
10 voters of the city and have such other qualifications as provided
11 by general laws of the state for such officers at state, county, and
12 district elections. The council shall, by ordinance, provide
13 such additional regulations in conformity with the provisions of
14 this act and the general law of the state as are necessary for the
15 proper conduct of elections. Elections under this act shall be
16 conducted, returned and the results thereof ascertained and
17 declared in the manner prescribed by the constitution and laws
18 of the state, insofar as said laws are not inconsistent with this

19 act, and all penalties prescribed by said laws of the state insofar
20 as consistent, shall be applicable unto this act.

21 The duties required by the clerk of the circuit and county
22 courts under the election laws of West Virginia, shall be per-
23 formed by the recorder of said city. The duties required of
24 commissioners of the county court under the provisions of said
25 laws shall be performed by the council of said city. The duties
26 required of the sheriff under the provisions of said laws shall
27 be performed by the chief of police of said city, and the duties
28 required of any constable under the provision of said laws shall
29 be performed by any member of the police force, or member of
30 the council, of said city. Whenever the word "county" appears
31 in said laws, the same shall be taken to refer to the city of Buck-
32 hannon, and whenever the words "election precinct" appears
33 in said laws, the same shall be taken to refer to the election
34 precinct or precincts for the municipal election, and whenever
35 the word "court house" shall appear in said laws as designating
36 the place of meeting of election officers, the same shall be taken
37 to refer to the council chamber.

Tie Vote, Elective Officers: How Decided.

Sec. 35. Whenever two or more persons receive an equal num-
2 ber of votes for mayor, recorder or councilman, such tie votes
3 shall be decided by the council in existence at the time the elec-
4 tion is held, by placing their names in a hat and some member
5 designated by the mayor shall withdraw one name therefrom;
6 the person whose name is withdrawn shall be declared elected.

Contested Elections.

Sec. 36. All contested elections shall be heard and determined
2 by the council in existence at the time the election is held, and
3 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 in their proceedings in such cases shall, as nearly as
6 practicable, conform with like proceedings of the county court.

Proceedings When Elected Officer Ineligible.

Sec. 37. If any person elected to any office shall not be eli-
2 gible thereto under the provisions of this act, or shall fail to
3 qualify as herein required, the council shall declare his said
4 office vacant and proceed to fill the vacancy as set out in section
5 nine of this act.

Removal of Elective Officers.

Sec. 38. Any elective officers may be removed at any time by
2 the circuit court of Upshur county, West Virginia on any
3 ground or cause for which a member of the county court of the
4 county or other county officer may be removed, unless other-
5 wise provided in this act. The proceedings for the removal of
6 an elective officer shall conform in all respects with the proceed-
7 ings to remove a county officer. On hearing of any such pro-
8 ceeding no person called as a witness shall be excused from
9 answering any question or giving any testimony because the
10 answer or testimony might incriminate or tend to incriminate
11 him, or render him liable to prosecution for an offense. But no
12 witness called to testify in any such proceeding shall thereafter
13 be prosecuted in any court in the state for any act concerning
14 which he is required to testify or disclose by his testimony.
15 Any person who shall be removed from office under the pro-
16 visions of this section shall not thereafter hold any office or
17 employment in the city of Buckhannon.

Power to Appoint Officers by the Council.

Sec. 39. The council shall have authority to provide by ordin-
2 ance for the appointment of such officers as shall be necessary
3 and proper, to carry into full force and authority the power,
4 capacity, jurisdiction and duties of said city, which are or shall
5 be vested therein, or in the council, or in the mayor, recorder
6 or 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.

Mayor: His Powers and Duties.

Sec. 40. The mayor shall be the chief executive officer of the
2 city and chairman of the city council and when present shall
3 preside at all the meetings of the council; and in addition to
4 all other duties imposed upon him by state and municipal laws
5 and the council, shall indorse the approval of all officials bonds
6 when same shall be approved by the council, sign all warrants
7 and orders drawn upon the treasurer for money, sign all bonds,
8 contracts, conveyances and other written obligations of the city,
9 and all ordinances passed by the council, and shall cause each of

10 the above enumerated writings to be attested by the recorder,
11 under the seal of the city.

12 The mayor shall have supervision of the health department,
13 and department of sanitation; he shall also have charge and be
14 superintendent of the department of public affairs which shall
15 include water works, parks, libraries, cemeteries, public service
16 corporations operating under city franchise; the opening, grad-
17 ing, paving, lighting, cleaning, repairing and sprinkling of
18 streets, sewer and viaduct construction, sidewalks and crossings,
19 and the city engineering department; he shall be the head of the
20 department of peace and safety, and he shall have supervision
21 and control of the fire department and police department. He
22 shall see, except as may be herein otherwise provided, that the
23 laws and ordinances of the city and the resolutions and orders of
24 the council are enforced; that the peace and good order of the
25 city are preserved; and that the persons and property therein
26 are protected. He shall have the power to discharge or suspend
27 any member of the police force, the chief or assistant chief of
28 the fire department: *Provided, however,* That the council may
29 reinstate any member discharged or suspended by an affirmative
30 vote of a majority of all the members of the council.

31 The judicial power of the city of Buckhannon shall be vested
32 in a police court, which court is hereby created, and the mayor
33 shall be the judge of said court. All cases shall be tried by the
34 mayor without a jury.

35 The police court may provide in all judgements of conviction
36 for the violation of any ordinance of the city a fine and jail
37 sentence, and that the person against whom said fine is assessed
38 shall be imprisoned not to exceed ten days for the payment of
39 the fine and sixty days for the jail sentence. And any person
40 committed for the nonpayment of fine and costs, while in
41 custody, may be compelled to work on the streets, alleys, public
42 grounds or works until such fine and costs are paid, allowing one
43 dollar fifty cents per day for the work of said prisoner to apply
44 on said fine and costs.

45 All fines, penalties, forfeitures and collections of every kind
46 made by the mayor shall be the property of the city and shall
47 be deposited with the treasurer of the city within sixty days
48 after the collection thereof, to be by him applied to the proper
49 fund of the city as may by ordinance be required.

50 He shall also perform such other duties as may be prescribed
51 by the council from time to time by ordinances and resolutions
52 not inconsistent herewith.

53 In case of absence, sickness, or inability of the mayor to per-
54 form the duties of his office, the recorder shall act as mayor and
55 be empowered to enforce all rules and regulations pertaining to
56 the office of mayor.

57 The mayor shall keep a well bound and indexed book to be
58 denominated the "mayor's docket" in his office, in which he
59 shall note each case brought or tried by him, together with the
60 proceedings therein, including a statement of complaint, the
61 summons, the return, the fact of appearance or nonappearance,
62 the defense, the hearing, the judgment, the costs, and in case
63 the judgment be one of conviction, the action taken to enforce
64 the same; the record of such case shall be signed by the mayor
65 or other person acting in his stead; and the original papers
66 thereof, if no appeal be taken, shall be kept together and pre-
67 served in his office.

68 The mayor shall have the power to issue an execution for any
69 fine and cost imposed by him, for the violation of any ordinance,
70 or he may at the time of rendering judgment therefor, or at
71 any time thereafter and before satisfaction of such judgment,
72 by his order in writing, require the immediate payment thereof,
73 and in default of such payment he may cause the person so in
74 default to be apprehended and brought before him, and com-
75 mit him to the city jail or the jail of Upshur county, until the
76 fine and costs are fully paid but not to exceed seventy days.

77 The mayor may be ex officio a justice and conservator of the
78 peace within the city, and shall, within the same, have, and
79 exercise all powers, and perform all duties vested by law in a
80 justice of the peace, except that he shall have no jurisdiction in
81 civil cases or causes of action arising out of the corporate limits
82 of the city.

83 The mayor shall have power to appoint the following standing
84 committees: Finance; ordinance; fire department; streets,
85 alleys and sewers; building; street lighting; cemetery; and
86 board of health.

87 The committee shall consist of three men, the first being named
88 shall be the chairman.

Recorder: His Duties and Powers.

Sec. 41. It shall be the duty of the recorder to keep the record of the proceedings of the council. He shall enter in a separate volume all ordinances of a general nature, and carefully index the same. He shall enter in the municipal assessment docket all special assessments made for public improvements, showing the name of the owner of the property, the particular property on which the assessment is levied, the date of entry, and the minute book and page showing the entry of the ordinance or resolution creating the assessment, and the maturing time of the assessment. When and as the installments upon principal and interest on each assessment shall be paid, he shall enter such payments showing the amount paid upon principal, the amount of interest, and penalty, if any, under the heading and in the account of such special assessment. When special assessment, principal, and interest, and penalty, if any, imposed shall have been paid in full he shall make an entry in red ink on the face of the amount showing that the special assessment is fully satisfied and paid and shall issue a release deed and have executed by the mayor and deliver same to the persons paying the same. In the absence from the city, or in case of sickness, of the mayor, or during any vacancy in the office of mayor, the recorder shall perform the duties of the mayor and be invested with all his powers.

He shall have charge of all bond issues, assessments, and printing. He shall be the purchasing agent for the city, subject to the direction of the council, and shall perform such other duties as usually devolve upon a city recorder, not inconsistent herewith, as the council may from time to time prescribe.

He shall prepare and cause to be served all notices required to be given to any person, firm or corporation, and after proper service and return thereof of any notice, he shall file and preserve the same.

He shall file in convenient form so as to be readily accessible all correspondence carried on by the city or by any department thereof, and as custodian of all the books, records, and proceedings of the council, he shall make and certify copies thereof whenever required, and affix the corporate seal of the city to any paper required to be sealed and to any certified copy of any paper, order, or proceeding which he may make.

40 A copy of any record, paper, entry, order, ordinance, resolu-
41 tion or proceeding made by the council or by the police court
42 judge when properly certified under the seal of the city shall be
43 admissible as evidence in any court in the state in any proceeding
44 in which the original paper or record, if present, would be
45 admissible.

46 In preparing for and holding city elections, the duties required
47 by the clerks of the circuit and county court under the election
48 laws of West Virginia, shall be performed by the city recorder.
49 The duties of preparing and publishing the annual financial
50 statement of the city as provided for in another section of this
51 charter shall be performed by the city recorder, for which he
52 shall be paid a reasonable compensation.

Treasurer's Duties and Powers.

Sec. 42. 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, make out the tax tickets and receipt to the coun-
4 cil for the entire amount of city taxes extended thereon, and it
5 shall be his duty to collect from the persons or corporations the
6 entire amount of the taxes with which they are severally charg-
7 ed therein, and may proceed to collect the same at any time
8 after the first day of August, and may enforce the payment
9 thereof by levy upon the personal property and sale thereof.
10 All taxes assessed on both real and personal property by the
11 city of Buckhannon, beginning with taxes assessed for the year
12 one thousand nine hundred thirty-two, shall be collected by the
13 city treasurer and may be paid in equal installments; the first
14 installment shall be paid on or before November first of the
15 year in which the assessment is made; the second installments
16 shall be paid on or before the first day of the following May.
17 All taxes paid on or before the date such taxes are payable, in-
18 cluding both first and second installments, shall be subject to a
19 discount of two and one-half percent. If the first installment
20 is not paid before December first of the year, interest at the
21 rate of nine percentum per annum shall be added from said
22 December first until paid; if the second installment is not paid
23 before June first, interest at the rate of nine percentum shall
24 be added from said June first until paid. The treasurer shall
25 on the first day of December and the first day of June following

26 the year for which the taxes were levied proceed immediately
27 to collect the taxes then due.

28 It shall be the duty of the city treasurer to keep all funds of
29 the city in some bank or banks within said city, which shall pay
30 interest on such deposits and on the average daily balances of
31 such funds of the per cent equal at least to that paid by state
32 depositories on all funds of the State of West Virginia and in
33 the same manner and at the same time. The said bank shall
34 also deposit with the city a bond or sufficient security to cover
35 an equal amount of the city's money in said bank. If no bank
36 within said city is willing at any time to receive deposits of the
37 treasurer and pay such interest thereon, and secure the deposits
38 by a bond or security, the treasurer shall report this fact to the
39 council, whereupon the council shall designate the bank or banks
40 in which he shall deposit said funds for the time being and until
41 some bank in said city will receive such deposits on such terms.

42 Said taxes shall be a lien upon the property upon which they
43 are assessed from the time the assessor's books are completed,
44 verified and returned to the city council, and he shall write the
45 word "paid" opposite the name of each person who pays the
46 taxes against him, and shall also give to the person paying such
47 taxes a receipt therefor: *Provided, however,* That the said
48 treasurer may distrain at any time for any taxes assessed
49 against a person who is about to remove or who has removed
50 from said city, after such taxes are assessed, and the books re-
51 turned as aforesaid. He shall also receive such other moneys of
52 the city as he is authorized by this act to receive, and also all
53 moneys ordered by the council to be paid to him, giving receipt
54 therefor to the persons paying the same, and shall keep an ac-
55 curate, itemized account of all money received by him. His
56 books shall, at all times, be open for the inspection of the mayor,
57 council, city recorder and to any taxpayer of the city. He shall
58 also make up monthly statements of the money received by him
59 and the amount paid out by him and to whom, showing the
60 amounts in his hands from all sources, and shall file the same
61 with the council not later than first regular meeting of the suc-
62 ceeding month. He shall pay out the money in his hands upon
63 the order of the city council, upon orders signed by the mayor
64 and the recorder. He shall, on or before the expiration of term
65 of office of the mayor, and at such other times as the council may

66 require, present to the council a full and complete statement of
67 all the moneys, with which he is chargeable, or that have been
68 received by him and not previously accounted for, and shall at
69 the same time, in like manner, furnish a complete statement, by
70 separate items, of all disbursements made by him during such
71 period, with his vouchers evidencing the same. He shall receive
72 street paving assessments, all taxes and licenses and receipt to
73 the person paying the same by endorsement upon the permit
74 granted by order of the council, or mayor as the case may be.
75 He shall, upon the expiration of his term of office, turn over to
76 the council all books and other possessions belonging to the city,
77 except the money in his hands, which he shall turn over to his
78 successor, upon the order of the council, as hereinbefore pro-
79 vided; and shall before entering upon the duties of office, execute
80 a bond with good security, payable to said city in a penalty of
81 not less than ten thousand dollars nor more than twenty thou-
82 sand dollars, conditioned that he will faithfully discharge the
83 duties of his office and account for and pay over as required
84 by law and the orders, ordinances, rules and regulations of the
85 council of said city, all money which shall come into his hands
86 which bond shall be subject to the approval of the council. He
87 shall be chargeable with all the city taxes, levies and assessments
88 and money of the city, which shall come into his hands and
89 shall account therefor.

90 The city treasurer shall receive such compensation as shall be
91 fixed by the council by ordinance or resolution, and the salary
92 so fixed shall include the compensation for making out tax tickets
93 and such other duties as the council shall prescribe: *Provided,*
94 That such compensation shall at no time exceed two per cent
95 upon the taxes collected by such treasurer.

City Attorney: Duties and Compensation.

Sec. 43. The city attorney shall be a member of the bar of
2 Upshur county in good standing and shall perform and dis-
3 charge all duties and exercise all powers which shall be con-
4 ferred upon him by any ordinance or resolution of the city
5 council, and in addition he shall exercise the following powers:

6 (a) Be the legal adviser of and attorney and counsel for
7 the city and for all administrative officers thereof, in respect
8 to their official duties;

9 (b) Prosecute and defend all suits for or against the city
10 and prepare all contracts, bonds and other writings in which
11 the city is concerned, and endorse on each his approval of the
12 form and correctness thereof;

13 (c) Be prosecuting attorney of the police court and prose-
14 cute all cases brought before such court, and perform the same
15 duties so far as they are applicable thereto as are required of
16 the prosecuting attorney of the county: *Provided, however,* That
17 it shall be necessary for said city attorney to appear in criminal
18 cases only when so requested by the mayor, or other proper
19 authority;

20 (d) The city council and all administrative officers of the
21 city may require the opinion of the city attorney upon any
22 question of law involving their respective powers and duties,
23 and he shall furnish the same in writing when so requested;

24 (e) Be present at all regular meetings and special meetings
25 of the city council to advise the mayor and council on legal
26 questions arising and to advise the city recorder in the prepara-
27 tion of resolutions and ordinances, and perform such other
28 services relating to his profession as may be required by the
29 council;

30 (f) The city attorney shall receive for his services an annual
31 retainer fee not to exceed three hundred dollars, said fee to be
32 fixed by the council payable out of the city treasury.

City Engineer: Duties.

Sec. 44. The city engineer shall be a competent civil and
2 mechanical engineer and shall discharge all duties and exercise
3 all powers which shall be conferred upon him by any ordinance
4 or resolution of the city council, and in addition he shall exer-
5 cise the following powers:

6 (a) Make surveys and fix grades when required by the city
7 council or mayor; prepare plans, plats and specifications of all
8 improvements which may be undertaken when required; and
9 inspect all work done by any contractor for the city while the
10 work is being performed;

11 (b) Supervise the construction of all buildings, the erection
12 of which is controlled or regulated by the city;

13 (c) Furnish to any resident any street or sewer grade when-
14 ever required on such terms as the council shall prescribe;

15 (d) Make complete maps of all streets, alleys, lanes, parks
16 and public property owned by the city and keep the same on
17 file in the city office and furnish a copy thereof to the mayor.
18 He may make recommendations as to the kind of improvements
19 required or suitable for any street, alley, lane, or locality in the
20 city;

21 (e) He shall also perform such other duties as may be pre-
22 scribed by the council from time to time by ordinances and
23 resolutions not inconsistent herewith.

Street Commissioner: Duties.

Sec. 45. The street commissioner shall have general supervi-
2 sion and control of the trucks, road machines, graders and all
3 property and machinery of the city to be used for maintaining
4 and upkeep of the city streets.

5 (a) General supervision of the work of repairing and keep-
6 ing in repair all pavements, sidewalks, curbs and sewers in the
7 city;

8 (b) General supervision over the men employed by the city
9 to work in the street department and shall keep an accurate
10 statement of their time at work and file same with the recorder
11 of the city, signed by him;

12 (c) He shall also perform such other duties as may be
13 prescribed by the council from time to time by ordinance or
14 resolutions not inconsistent herewith.

City Physician: Duties and Powers.

Sec. 46. The city physician shall be a member of the medical
2 profession in good standing and shall discharge all duties and
3 exercise all powers which shall be conferred upon him by any
4 ordinance or resolution of the city council; and, in addition, he
5 shall exercise the following powers:

6 (a) See that all property and premises within the city are
7 kept clean and free from unsightly or obnoxious rubbish and
8 in a thoroughly sanitary condition;

9 (b) See that all ponds, cesspools and swamps within or
10 adjacent to the city are drained, cleaned and rendered sanitary
11 so as not to injuriously affect the inhabitants of the city;

12 (c) Institute before the police court judge all proceedings
13 and prosecutions necessary to enforce all laws, ordinances and

14 regulations relating to the preservation and promotion of the
15 public health and necessary to make the city sanitary, and to
16 prevent and restrict diseases, and in so doing, he shall have the
17 assistance of the city attorney;

18 (d) Institute and prosecute proceedings before the city coun-
19 cil for the supervision, prevention or abatement of nuisances,
20 and in so doing, he shall have the assistance of the city attorney;

21 (e) Provide for the sanitary inspection and supervision of
22 the production, transportation, storage and sale of food and
23 foodstuffs, the regulation and inspection of weights and meas-
24 ures, and the collection and disposal of all waste and garbage;

25 (f) In time of epidemic or threatened epidemic, he shall
26 enforce such quarantine and isolation rules and regulations as
27 are appropriate for the emergency;

28 (g) Provide for study and research into cases of poverty,
29 delinquency, crime and disease. He shall by lectures, public
30 instructions and otherwise instruct and educate the people of
31 the community in matters affecting the public welfare which
32 relate to sanitation, cleanliness, and how to avoid insofar as
33 possible sickness and disease;

34 (h) Instruct the least informed and most ignorant members
35 of the community how best to avoid and to cure all venereal
36 diseases, and afford them all assistance required in carrying
37 out such instructions;

38 (i) Supervise the discharge of all obligations of the city
39 under any law of the United States of America or of the State
40 of West Virginia to treat and care for persons addicted to the
41 use of drugs.

Chief of Police.

Sec. 47. The chief of police shall discharge such duties as
2 may be required of him by ordinance or resolution of the council
3 and shall act under the orders of the mayor in administering
4 the police department.

Chief of Fire Department: Duties.

Sec. 48. The chief of the fire department shall have general
2 supervision and control of the property and appliances of the
3 city to be used for the prevention and extinguishment of fires.
4 He shall be under the direction, authority and subject to the

5 orders of the mayor at all times in the administration of the
6 fire department. He shall make such inspections as may be re-
7 quired of buildings and property throughout the city in rela-
8 tion to the matter of fire risks.

9 He shall, under the direction of the mayor, discharge all the
10 duties which may be imposed upon him by any ordinance or
11 resolution adopted or passed by the city council.

Assessor: Duties.

Sec. 49. The council may appoint a city assessor each year
2 and prescribe his duties and fix his compensation by resolution
3 or ordinance.

Moneys and How Expended.

Sec. 50. 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 or her except as the same shall have been approved by the coun-
4 cil and upon an order signed by the mayor and recorder, and
5 not otherwise, except at the expiration of his or her term of
6 office upon order of the council, signed by the mayor and re-
7 corder, he or she shall pay over to his successor all the money
8 remaining in his hands.

*Levies Annual or Special, Poll Tax, License Tax on Animals,
Annual Levy, Special Levies for Outstanding
Indebtedness.*

Sec. 51. The council shall lay an annual levy or an addi-
2 tional or special levy each year and may include a poll tax of
3 not exceeding two dollars each year upon each male citizen over
4 the age of twenty-one years, who is not exempted from paying
5 poll tax under the laws of the State of West Virginia, and the
6 said council may also impose a tax of one dollar per annum upon
7 each male dog, and two dollars per annum upon each female
8 dog owned by any resident of the city and collect the same from
9 the said owners of such animals, as other taxes are collected,
10 and prescribe such rules, regulations and penalties governing
11 the payment of said tax on animals as they may deem reason-
12 able. The general annual levy upon the taxable property within
13 the corporate limits of said city shall not exceed the sum of
14 fifty-five cents upon each one hundred dollars' assessed valua-

15 tion. But in addition to said levy above mentioned and in ad-
16 dition to any levies provided by the general law, the council
17 of said city, are empowered to and shall lay a special levy not
18 to exceed fifteen cents on each one hundred dollars' valua-
19 tion of the property in said city for the purpose of creating
20 a sinking fund with which to pay off the principal of the pres-
21 ent outstanding bonded indebtedness of said city when the same
22 becomes due and of retiring the bonds so outstanding in accord-
23 ance with the provision thereof, and for the further purpose
24 of paying annually when due, the interest coupons of the said
25 present outstanding bonded indebtedness of the said city,
26 which said special levy shall be continued annually by the coun-
27 cil for as many years as it may be necessary to pay off the
28 present and any future bonded indebtedness and the interest
29 coupons that may become due thereon. The above mentioned
30 special sinking fund levy shall be used for no other purpose
31 except as set out above.

*Certificate by County Assessor to Recorder of Assessment;
Rate of Levy; Correction of Erroneous Assessment.*

Sec. 52. The officer whose duty it is to make out the land
2 and personal property assessment books for the county court of
3 Upshur county, shall annually, not later than the twentieth day
4 of July, furnish to the city recorder of the city of Buckhannon,
5 a certified statement showing in separate amounts the aggregate
6 value of all the personal property, and the aggregate value of
7 all the real estate and the aggregate value of all property
8 assessed by the board of public works, or other board in lieu
9 thereof, in said city, as ascertained from said land and personal
10 property books, and from the assessments furnished by the state
11 auditor to the county clerk showing the value of the property
12 assessed in said city by the board of public works for the cur-
13 rent year. The statement so furnished shall be laid by the city
14 recorder before the council at its next meeting (not later than
15 the first day of August), and shall be taken by the said council
16 as the proper valuation of all property in said city liable for
17 taxation for municipal purposes for the current fiscal year, and
18 as soon as rate shall have been determined upon, the city re-
19 corder shall furnish the officer whose duty it is to make out
20 land and personal property books, a certified copy of said order

21 fixing the rate of such levy; and such officer shall make and
22 furnish to the city copies of those portions of the land and
23 personal property books of the county of Upshur showing all
24 persons and property assessed within the city of Buckhannon,
25 and shall extend against said property and persons the amount
26 of taxes thereon based upon said levy, for which said officer
27 shall be paid by the city of Buckhannon, such compensation
28 as may be fixed by ordinance.

29 In case there has been made an erroneous or improper assess-
30 ment, evidence, submitted to the council of the correction of
31 such assessment upon the county's books, or the granting of an
32 exoneration or abatement by the county court, shall be taken
33 as the basis for the correction of the city's books and the grant-
34 ing by the council of the proper abatement or exoneration.

Liens for Assessments, Taxes, Etc.

Sec. 53. There shall be a lien on all real estate within the
2 said city for the city taxes assessed thereon, and for all fines
3 and penalties assessed against or imposed upon the owners
4 thereof, by the authorities of said city, including expenses for
5 making, maintaining, and repairing, paving and macadamizing
6 sidewalks, drains, gutters and streets, otherwise improving
7 from the time work is begun, which shall have priority over all
8 the other liens except taxes due the United States and the lien
9 for taxes due the state, and county and district, and such lien
10 may be enforced by the council in the manner provided by law
11 for the enforcement of the lien for county taxes. And the laws
12 of the State of West Virginia in relation to delinquent taxes,
13 and the sale of property therefor, are hereby and in all respects
14 adopted as to all proceedings in relation to taxes for city pur-
15 poses delinquent in said city. And the powers and duties con-
16 ferred by the laws of said state upon county courts and their
17 clerks and sheriffs in regard to delinquent taxes and their col-
18 lection, are hereby in all things conferred upon said city council,
19 its recorder and other city officials, insofar as the same may
20 be directly or by implication applicable in the collection of de-
21 linquent taxes due said city.

License, License Tax, Etc.

Sec. 54. 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 treasurer before the delivery thereof to the persons
5 applying therefor, which tax shall include the same fees for the
6 issuing of such license as are charged for similar services by
7 state and county officers, which fees shall be paid to the city
8 recorder.

9 The council may revoke any license for a breach of any of the
10 conditions, or for other good causes shown, but the person hold-
11 ing such license must first have reasonable notice of the time
12 and place of hearing and adjudicating the matter as well as the
13 cause alleged; and shall be entitled to be heard in person or
14 by counsel, in opposition to such revocation. The term for
15 which licenses provided for in this charter shall be granted and
16 be governed by the general law providing for state licenses.

17 The mayor may prescribe, impose and enforce a fine, upon
18 any person carrying on or attempting to carry on any business
19 or doing anything for which a city license may by ordinance be
20 required, without first obtaining a city license therefor and
21 paying the city license tax thereon. For the purpose of en-
22 forcing the provisions of this section the city shall have police
23 jurisdiction for one mile beyond the corporate limits of the
24 city.

Condemnation.

Sec. 55. 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 proceedings
6 shall conform to the provisions of the general law of West Vir-
7 ginia and the expenses thereof shall be borne by the city, except
8 in cases where it is proper under said chapter to charge said
9 expenses or any part thereof against the defendant.

Improvement Bonds.

Sec. 56. The council of said city shall have the right to bond
2 the city for the purpose of paving the said streets, or for other
3 permanent improvements or for the purpose of taking up, pay-
4 ing off or refunding any already outstanding city bonds or items
5 of indebtedness, whenever the council thereof may deem the

6 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 there-
9 in according to the last assessment next preceding said date.
10 The said council shall provide a fund for the payment of the
11 interest annually on the said indebtedness so created, and to
12 pay the principal thereof within and not exceeding thirty-four
13 years: *Provided*, That no debt shall be contracted hereunder,
14 unless all questions connected with the same be first submitted
15 to a vote of the qualified voters of said city, and have received
16 three-fifths of all the votes cast for and against the same.

Contracts of Public Improvements, Etc.

Sec. 57. All contracts pertaining to public improvements,
2 maintenance of public property, public printing, purchase of
3 supplies and all other contracts whatsoever, involving an out-
4 lay of as much as five hundred dollars, shall be made by the
5 council and shall be based upon specifications provided for the
6 competitive bids. Such competitive bids shall be sealed and one
7 copy of each bid shall be filed with the recorder of the city.
8 Each bidder shall accompany his bid with a sworn statement, in
9 writing, that the bidder has not directly, nor indirectly, entered
10 into any agreement, express or implied, with any other bidder
11 or bidders, having for its object the control or amount of such
12 bids, or limiting the bids or bidders, parceling or farming out
13 to any bidder or bidders or other persons, or any part of the
14 contract or any part of the subject matter of the bid or the
15 parts thereof. No bidder shall divulge said sealed bid to any
16 person whatever except those having a partnership or other
17 financial interest with him in said bid, until after said sealed
18 bids are opened. The violation of any of the foregoing provi-
19 sions on the part of the bidder shall, at the election of the
20 council, make void any contract made by him with said city
21 based upon such bid. The awarding of a contract upon a suc-
22 cessful bid shall give the bidder no right of action or claim
23 against the city upon such contract until the same shall have
24 been reduced to writing and duly signed by the contracting
25 parties. All bids filed with the recorder of the council shall be
26 opened in the presence of the council two days before the con-
27 tract shall be entered into upon any such bids. The council

28 shall consider the bids and may reject any and all bids and
29 ask other bids, or may enter into a contract with the party
30 offering the lowest and best bid, or may have such work done
31 under the supervision of the proper department and keep ac-
32 count of the expense thereof. Pending acceptance of bids, the
33 plans and specifications and profiles shall remain on file in the
34 office of the recorder subject to the inspection of any person.
35 For safeguarding the interests of the city, the council shall
36 make such regulations providing for the filing of the estimates
37 furnished them by the city engineer, or other persons making
38 such estimates of cost, as they may deem best. The council
39 shall have power to require all bidders to make such bonds or
40 cash deposits as they may deem proper to secure the perform-
41 ance of the contract awarded.

Limitation on Indebtedness, Penalty for Violation.

Sec. 58. 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
4 the available assets of the said city for the current year; and
5 if the said council shall create such indebtedness or issue orders
6 on 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 the money applicable thereto, and the same may be recovered
12 in any court having jurisdiction thereof. Any councilman vio-
13 lating the provisions of this section shall be deemed guilty of
14 malfeasance in office, and may be removed as such councilman
15 in pursuance of section fifteen of this act: *Provided, however,*
16 *That this shall not be applicable to such members who have*
17 *voted against said excess: And provided further, That the vote*
18 *of each member of the council shall be recorded.*

Claims Against the City.

Sec. 59. Every claim against the city must be approved by
2 the officer in whose department it originated, and be filed with
3 the recorder of the city in writing, with a full account of all
4 items thereof, and must be subscribed by the claimant or his

5 agent or attorney, who, on oath, shall declare that the same is
6 correct, just, due and unpaid, and no claim or demand shall
7 be allowed or suit filed thereon unless so prepared and filed,
8 and unless suit shall be filed upon such claim within twelve
9 months after the same shall have been so filed with the recorder
10 of the city as above provided, such claims shall be forever
11 barred, and upon all suits filed to enforce such claims such bar
12 shall be pleaded.

Payments of Demands Unauthorized.

Sec. 60. Every officer who shall knowingly prove, allow or
2 pay any demand upon the treasury of the city not authorized
3 by law, ordinance or this act, shall be liable to the city individ-
4 ually and on his official bond for the amount of the demand so
5 illegally approved, allowed or paid.

Conservators of the Peace.

Sec. 61. The mayor, recorder and councilmen of the city of
2 Buckhannon shall each be a public conservator of the peace,
3 and said officers and each member of the police department, in
4 addition to the power of enforcing ordinances of the city and
5 in aid of such powers, shall have the same police powers as are
6 given to a constable in making arrests and preserving the peace
7 and safety over territory outside of the city, but under its con-
8 trol, as may be conferred by the laws of the state and the pro-
9 visions of this act.

Fiscal Year.

Sec. 62. The fiscal year of the city shall commence on the
2 first day of July each year and shall end on the thirtieth day
3 of June next following.

Publication of Financial Statement.

Sec. 63. The city of Buckhannon shall cause to be published
2 in two newspapers of opposite politics, if there be such published
3 therein, at a compensation not to exceed the rate provided by
4 the law for like publications, for one issue, or, to be published
5 in pamphlet form not less than one hundred copies of a sworn
6 statement of the financial condition of such corporation. Such
7 statement shall contain an itemized statement of the receipts
8 and expenditures of the city, showing the source from which

9 all money was derived, and the name of the person to whom an
10 order was issued, showing the total amount issued to him, ar-
11 ranging the same under distinct departments, showing the pur-
12 pose for which any debt was contracted and the amount of
13 money in the treasury at the end of the preceding administra-
14 tion and the debts contracted by it.

15 Such statement shall be prepared by the city every twelve
16 months and then shall be printed according to the provisions
17 of this section. Either method of making the report shall be
18 sworn to by the recorder.

19 If a city council fail or refuse to perform the duties herein-
20 before named, every member of such council and the recorder
21 thereof concurring in such refusal shall be guilty of a mis-
22 demeanor, and, upon conviction thereof, shall be fined not less
23 than ten nor more than one hundred dollars.

24 If any of the provisions in this section are violated, it shall
25 be the duty of the prosecuting attorney of Upshur county to
26 immediately present the evidence thereof to the grand jury if
27 in session, and if not in session, he shall cause such violation
28 to be investigated by the next succeeding grand jury.

Sewerage and Paving.

Sec. 64. All provisions of sections one, two, three, four, five,
2 six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen,
3 fifteen, sixteen, seventeen and eighteen, article nine, chapter
4 eight of the code of West Virginia, one thousand nine hundred
5 thirty-one, not inconsistent herewith, are hereby made parts of
6 this chapter as though set forth herein in detail, and the council,
7 by a majority vote of their members, shall have power to enforce
8 the same in said city; they shall adopt all such ordinances and
9 resolutions as may be necessary to put said provisions into
10 effect.

Public Utility Franchises.

Sec. 65. The city council may by ordinance grant permission
2 to any individual, firm or corporation to construct and operate
3 a public utility in, over and under the streets, alleys and pub-
4 lic grounds of the city under the provisions of law applicable
5 thereto; but no franchise shall be considered an emergency
6 measure. It may by ordinance renew any franchise to construct

7 and operate a public utility in, over and under the streets, alleys
8 and public grounds of the city, or may grant to any individual,
9 firm or corporation operating a public utility the right to ex-
10 tend the appliances and service of such utility; but the right to
11 use and maintain any such extension shall expire with the ori-
12 ginal grant to the utility or of any renewal thereof. It shall
13 control the distribution of space in, over or across all streets or
14 public grounds occupied by public utility fixtures. All rights
15 hereafter granted for the construction and operation of public
16 utilities shall be subject to the continuing right of the council
17 to require such reconstruction, relocation, change or discontinu-
18 ance of fixtures and appliances used by the utility in such
19 streets, alleys or public grounds, as the council may deem neces-
20 sary for the public convenience: *Provided*, That no franchise
21 shall be granted for a period exceeding fifty years, and no re-
22 newal thereof shall exceed a like period.

Pollution of Water Supply of the City.

Sec. 66. In order to preserve the health and insure the com-
2 fort of the inhabitants of the city of Buckhannon by preventing
3 the pollution of the water and water supply of the city for
4 domestic use, it shall be unlawful for any person, firm, or cor-
5 poration to deposit, discharge, throw or cause to be thrown into
6 the Buckhannon river above the water station of the city, or into
7 any tributary brook or stream which falls or flows into said
8 river above said point, any dead carcass of any animal, fowl, or
9 fish, any sewage or sewage effluent, or the content of any privy
10 or privy vault, or any offal from any slaughter house or butcher
11 establishment, or any spoiled fish, meat, cheese, lard, molasses,
12 grain or any obnoxious vegetable, mineral or animal substance, or
13 any tins in which foods or liquids have been preserved, or any
14 crude oil, refined oil, petroleum, or any compound or mixture of
15 oil or filth from any oil well, oil tank, oil vat or place of deposit
16 of crude or refined oil, or any other vegetable, mineral or animal
17 substances, or waters charged and polluted with minerals, or
18 combination of two or more of such substance, which of itself
19 or in connection with other matter will or might corrupt, pollute,
20 or impair the quality of the water in said river and streams; or
21 to throw or deposit, cause to be thrown or deposited, or permit
22 to be thrown or deposited upon any premises owned by him or
23 them, upon or near to the margin of said river, creeks, and

24 streams, in such proximity as to permit the obnoxious substances
25 to be washed or carried into said river or streams by rains, flood-
26 ing and drainage; but all liquid substances, the discharge of
27 which into said stream or streams is prohibited, shall be dis-
28 charged or deposited in the fields at a distance from the margin
29 of any said streams so that they will be thoroughly filtered and
30 cleansed before reaching the streams.

31 Any person convicted of violating any of the provisions of
32 this section by a court of competent jurisdiction shall be fined
33 not more than one thousand dollars and imprisoned in the
34 county jail of the county for not more than one year.

Motor Vehicles.

Sec. 67. The city council shall have power to license and regu-
2 late by ordinance all taxicabs, automobiles and vehicles of like
3 motive power engaged in the transportation of passengers or
4 freight for hire over the streets and alleys of the city, and may
5 require bond from the owners thereof for their faithful com-
6 pliance with all ordinances and rules and regulations made in
7 pursuance thereof; also to regulate and fix the rate of charges
8 to be made for transporting and hauling passengers and freight,
9 and to make it unlawful to charge a higher rate than the
10 maximum fixed by the council.

Services of Notices.

Sec. 68. Whenever any notice is required to be given by the
2 city or any department thereof, or any summons, warrant or
3 other process is required to be served or otherwise executed
4 under the provisions of this act, it shall be sufficient if such
5 notice, summons, warrant or other process be served or executed
6 and return thereof be made by any member of the police force
7 of said city in the same way or manner in which the laws of the
8 state provide for serving and executing notices, summons and
9 warrants by state officers, unless otherwise provided in this act.

Assessments for Removing Snow, Weeds, Etc.

Sec. 69. The city council shall have power to provide by
2 ordinance for assessing against the abutting property the cost
3 of removing from sidewalks all accumulations of snow and ice
4 and for assessing against the property the cost of removing rub-
5 bish and the cutting and removing of noxious weeds from any
6 lot or grounds in the city.

Sidewalks.

Sec. 70. The city council is hereby authorized and empowered
2 to cause to be put down a suitable sidewalk and curb of brick,
3 stone or other material along and for the footways and sidewalks
4 of the public streets and alleys of said city, and to order and
5 cause the grading, laying or relaying or repair of sidewalks and
6 gutters, of such material and width as the council may deter-
7 mine; and to require the owners or occupiers of the lot or lots
8 or parts of lots facing upon said streets and alleys to keep such
9 sidewalks clean and in good repair. The owners or occupiers
10 of the lots or fractional parts of lots abutting upon such streets
11 and alleys shall not grade or lay any such sidewalk, curb or
12 gutter, unless specially requested to do so by resolution adopted
13 by the council, and then only of the kind prescribed by the
14 council; but the city may lay such sidewalk, curb or gutter and
15 grade therefor, or may let said work by contract, and in either
16 case the total cost of said work shall be charged upon and
17 assessed against the lots or fractional parts of lots abutting upon
18 the streets and alleys so improved, or specially benefited by
19 said work, in proportion to the number of feet frontage thereon
20 of each such lot or part of lot, and shall be and remain a lien
21 thereon from the date of acceptance of the work by the city,
22 and said lien shall have priority over all other liens except those
23 for taxes due to the state, and shall be on a parity with the
24 taxes and assessments due the city, and shall bear interest from
25 the date of acceptance of the work by the city, or from the
26 completion thereof when done by the city, and shall become due
27 and payable when declared final by the council. The amount so
28 assessed against any lot, or fractional part of lot, together with
29 the interest shall also be a debt against the owner of such lot or
30 part of lot. Immediately upon completion of the work, if done
31 by the city, or upon acceptance of the work if done by contract,
32 the council shall cause the city recorder to serve a notice upon
33 the owners of each lot or fractional part of lots over which such
34 sidewalks are graded, paved, curbed or laid, shall describe such
35 lot or part of lot with reasonable certainty sufficient to identify
36 the same, and shall also state the number of feet over each lot
37 or part of lot so graded, curbed or laid with sidewalk, together
38 with the amount assessed against each owner; which notice shall
39 be served as provided for the service of notices in this act and

40 shall cite all said owners to appear before the council at a
41 regular meeting to be held within fifteen days following the
42 service of publication thereof and show cause, if any they can,
43 why such assessments should not become final. Protests against
44 said assessments shall be heard and determined and said assess-
45 ment shall become final and be recorded by the city recorder,
46 certified for collection, and the collection thereof enforced
47 against the property assessed and against the owner thereof,
48 and a certificate of said assessments certified to the clerk of the
49 county court for recordation, and recorded in all respects in
50 the same manner and with the same legal effect as provided in
51 the case of assessments for street paving or other local improve-
52 ments in this act.

Act Construed.

Sec. 71. All provisions contained in this act in respect to
2 making improvements shall be liberally construed by the council
3 and by the courts. Immaterial and technical objections shall be
4 disregarded; all special benefit assessments ascertained and not
5 contested before the council within the time specified by law
6 from the ascertainment thereof shall be deemed conclusive, and
7 in any contested case the ascertainment by the council shall be
8 conclusive.

Repeal of Former Acts.

Sec. 72. The act of the legislature of West Virginia, passed
2 February eighth, one thousand nine hundred nineteen, known as
3 senate bill number one hundred four, relating to the charter of
4 the city of Buckhannon, and being chapter fifteen of the acts
5 of one thousand nine hundred nineteen, relating to municipal
6 charters, and all acts and parts of acts inconsistent with this act
7 are hereby repealed.

CHAPTER 117

(House Bill No. 545—By Mr. Thomas)

AN ACT to amend and reenact sections nine and nine-(a), chapter four, acts of the legislature, one thousand nine hundred twenty-nine, known as the charter of the city of Charleston, and relating to the registration of voters.

[Passed March 9, 1933: in effect from passage. Became a law without the approval of the Governor.]

SEC.

9. Voting precincts same in city as in county elections; county clerk to preserve registration books of general state and county elections for city precincts; originals, when corrected, to be used in regular and special city elections; method and time of correcting books by county court; transfers by clerk; challengers.

SEC.

9-(a). No special registrars to be appointed for municipal election or primary; no additional compensation to county court or clerk; delivery of corrected books to city clerk; penalty for altering books after delivery to city clerk; return of books to county clerk.

Be it enacted by the Legislature of West Virginia:

That sections nine and nine-(a), chapter four, acts of the legislature of West Virginia, one thousand nine hundred twenty-nine, be amended and reenacted to read as follows:

Section 9. Voting precincts in the several wards for the 2 city election shall be the same as to boundaries as those fixed 3 by the county court for all state and county elections. The 4 county clerk of Kanawha county shall carefully preserve in his 5 office, registration books of each general state and county elec- 6 tion for all of the precincts of the city of Charleston, and the 7 original of said books shall be used as the registration for all 8 regular and special city elections, with such corrections as are 9 herein provided for. Said registration books shall never be out 10 of the possession and control of the county court of Kanawha 11 county, or the clerk thereof, except as hereinafter provided: 12 The county court of Kanawha county shall sit on the three 13 last Saturdays and the last Monday next preceding any regular 14 election or primary in said city of Charleston for the purpose of 15 registering voters who have not been already registered in the 16 various precincts, and for transferring voters from one pre- 17 cinct to another which shall be done, upon a proper showing, by 18 striking the name of the voter from the registration book in 19-20 which it appears, and placing the same upon the registra-

21 tion book of the precinct in which the voter is entitled to vote,
22 and no other way, and for striking off the name of any voter
23 from the registration books when it shall be shown to the satis-
24 faction of said court that such person is no longer a voter in
25 said city, and said court shall also strike from such registration
26 books the name of any person known or proved to them to be
27 dead. It shall be the duty of the clerk of said city to give
28 notice of the time and place of the sitting of said court by pub-
29 lication in two newspapers of opposite politics printed and cir-
30 culated in said city, once a week for four successive weeks be-
31 fore any such municipal election or primary. The clerk of the
32 county court of Kanawha county shall transfer on the registra-
33 tion books the names of such voters as present themselves to
34 him, in person, during such days preceding any municipal elec-
35 tion after the first Saturday on which the county court sits, as
36 above provided. The two major political parties, through the
37 chairman of their respective municipal executive committees,
38 may appoint challengers to be present at the office of the clerk
39 of said county court on the days when the said clerk is herein
40 authorized to make transfers, but said clerk's decision in the
41 matter shall control.

Sec. 9-(a). No special registrars shall be appointed for any
2 municipal election or primary and the county court of Kanawha
3 county and the clerk thereof shall receive nothing for their
4 services as required by this and the last preceding section.

5 On the day prior to any municipal election or primary the
6 clerk of said county court shall deliver to the city clerk of said
7 city of Charleston all original registration books used in the
8 last general county and state election, as corrected by the
9 county court of said county, and the clerk of said city shall
10 send the same to the various precincts of said city, as provided
11 by law. After said registration books are delivered to said
12 clerk of said city, no person shall add to the same any name,
13 nor erase therefrom any name, and any person found guilty of
14 either adding or erasing one or more names shall be guilty of a
15 felony and confined in the penitentiary not less than one, nor
16 more than five years. As soon as may be possible after the
17 holding of any such municipal election or primary said origi-
18 nal registration books shall be returned by the clerk of said

19 city to the clerk of the county court of Kanawha county, West
20 Virginia, who shall carefully preserve all of said registration
21 books for such use as is required by law.

22 All acts or parts of acts inconsistent herewith are hereby re-
23 pealed.

CHAPTER 118

(House Bill No. 541—By Mr. Thomas)

AN ACT to amend and reenact section four, chapter seven, acts of the legislature of West Virginia, one thousand nine hundred twenty-one; and section thirty-five, chapter seven, acts of the legislature, one thousand nine hundred twenty-one, as amended and reenacted by chapter thirteen, acts of the legislature, one thousand nine hundred twenty-nine, known as the "Charter of the City of Dunbar," all relating to and becoming part of the charter of the city of Dunbar, and its elective officers and fixing their salaries and duties.

[Passed March 9, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.

4. Number and property qualifications of elective officers; what officers mayor, when authorized by council, may appoint; salaries to be fixed by council.

35. Qualifications of mayor and city clerk; mayor's salary and appointive and removal power; terms of appointive officers;

SEC.

duties of mayor; additional compensation of mayor while acting as police judge and manager; duties of city solicitor; duties and salary of city clerk; terms of elective officers; salary part of act to be submitted to voters at next city election.

Be it enacted by the Legislature of West Virginia:

That section four, chapter seven, acts of the legislature, one thousand nine hundred twenty-one; and section thirty-five, chapter seven, acts of the legislature, one thousand nine hundred twenty-one, as amended and reenacted by chapter thirteen, acts of the legislature, one thousand nine hundred twenty-nine, known as the "Charter of the City of Dunbar," all relating to and becoming part of the charter of the city of Dunbar, and its elective officers and fixing their salaries and duties, be amended and reenacted to read as follows:

Section 4. The municipal authorities of the city of Dunbar 2 shall consist of a mayor; a city clerk, who shall also be city 3 treasurer; and six councilmen, who shall be elected by the

4 qualified voters of such city, and such officers shall, for the as-
5 sessment year preceding their respective elections as hereinafter
6 provided, have been assessed with and paid taxes in the city
7 of Dunbar upon a valuation of at least five hundred dollars'
8 worth of real estate or personal property therein, and any
9 person elected to any one of such offices who has not been as-
10 sessed with and paid taxes on such amount of property shall not
11 qualify or enter upon the performance of the duties thereof,
12 but such office shall thereby become vacant and shall be filled by
13 a qualified person, as provided herein for other vacancies.

14 In addition to the municipal authorities mentioned in this
15 section above, the city may have a police judge, manager, city
16 auditor, health commissioner, building inspector, lockup keeper,
17 humane officer or officers, and such number of policemen as
18 council by ordinance or resolution may direct.

19 The officers named in this section, other than the mayor,
20 clerk, and councilmen, may be appointed by the mayor, with
21 the consent of council, but none of such officers shall be ap-
22 pointed until council shall, by majority of the full member-
23 ship thereof, authorize the filling of such office. All of the
24 officers named in this and the preceding section shall be paid
25 proper salaries, which shall be fixed by the council, except as
26 herein otherwise provided, and such salaries shall be within the
27 limits provided for by this act.

Sec. 35. Only citizens possessing the qualifications herein-
2 before prescribed for councilmen shall be eligible to be elected
3 to the office of mayor or city clerk, and the mayor and city clerk,
4 respectively, when elected, shall continue to be residents of the
5 city of Dunbar during their entire term of office.

6 The mayor's salary shall be two hundred fifty dollars per
7 annum, except as hereinafter provided.

8 The mayor may appoint the police judge, city solicitor, the
9 chief of police and all policemen, humane officer or officers,
10 building inspector, engineer, health commissioner, lockup
11 keeper, and the chief of the fire department; and these appoint-
12 ments shall require confirmation by the council. The mayor
13 shall have the full and complete power of the removal thereof
14 subject to appeal to the council. The mayor may appoint the
15 manager by and with the advice and consent of the council.

16 The mayor shall appoint or employ such persons as the ordi-

17 nances of the city shall require or the council may authorize by
18 proper resolution. All such officers shall be appointed for a
19 term of two years and until their successors are appointed and
20 qualified, unless they are removed in the way and manner in
21 this act provided.

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

24 It shall be the duty of the mayor to see that all of the laws
25 and ordinances of the city are enforced and he shall have a
26 general oversight of the peace, health and good order of the
27 city. He shall discharge the functions assigned by this act to
28 the police judge and city manager until these officers are ap-
29 pointed, for which services in discharging the functions of
30 either police judge or city manager, or of both of them, he
31 shall be compensated in addition to the salary hereinbefore
32 provided in such sum as shall be fixed by council, not to exceed
33 the sum of two hundred fifty dollars per annum.

34 The duties of the city solicitor shall be to attend the sessions
35 of the council, and to prosecute all suits in behalf of the city,
36 and to defend all suits against the city, to advise the council
37 and all of the departments of the city, and in general to look
38 after the interests of the city when it shall need legal advice,
39 for which he shall receive a salary to be fixed by council.

40 All fees of every kind collected by an officer or employee, in-
41 cluding the police judge, when acting as a justice, shall be paid
42 to the city clerk.

43 The duties of the city clerk, in addition to those provided by
44 this act, shall be to perform all the duties now required of the
45 city treasurer and city collector and these offices are hereby
46 abolished. He shall maintain an office in the business section of
47 the city, open at all reasonable business hours, with some com-
48 petent person in charge. His salary shall be twelve hundred
49 dollars per annum.

50 The mayor and city clerk shall be elected each for a term of
51 two years or until their successors shall have been elected and
52 qualified, and the councilmen shall be elected in the manner and
53 method, and for the terms as provided in chapter thirteen, acts
54 of the legislature of West Virginia (municipal charters), regu-
55 lar session one thousand nine hundred twenty-nine, all to serve
56 until their successors shall have been elected and qualified.

57 *Provided, however,* That before this act fixing the salaries of
58 the mayor and city clerk shall take effect it shall be submitted
59 to the voters of said city at the regular city election to be held
60 in the year one thousand nine hundred thirty-three. The
61 mayor of said city shall issue a proclamation setting the date of
62 such election and the object of such election, and further stat-
63 ing that a copy of said act is on file in the office of the city
64 clerk and open to the inspection of all persons interested, but
65 it shall not be necessary for said proclamation to have therein
66 contained a copy of this act. Such proclamation shall be pub-
67 lished in some newspaper of general circulation in said city at
68 least once a week for two successive weeks, and posted in each
69 of said precincts for ten days preceding said election. Said
70 election shall be conducted by the officers appointed to hold the
71 next regular city election, and the returns canvassed and results
72 declared as in any city election in said city as now provided
73 by law. The ballots used in said election shall be printed at the
74 bottom of the ballots on which the names of the various candi-
75 dates appear to be voted for at the regular city election, and
76 shall be in substantially the following form:

77

"CITY OF DUNBAR

78

SALARY ELECTION

79 Indicate how you desire to vote by an X in the square.

80 For ratification of salary act.81 Against ratification of salary act."

82 If a majority of the votes so cast at said election are for
83 the ratification of this act, certificates thereof shall be published,
84 and entered in the minute book of said council, and publica-
85 tion thereof made in the next succeeding issue of such news-
86 paper in which the said proclamation of the mayor calling said
87 election was published, and shall become effective as of July
88 first, one thousand nine hundred thirty-three. If, however, the
89 majority of the votes cast upon said election shall be against
90 the ratification of said act, then said act shall not become ef-
91 fective.

92 All acts and parts of acts in conflict and inconsistent with this
93 act are hereby repealed.

CHAPTER 119

(House Bill No. 542—By Mr. Thomas)

AN ACT to amend and reenact section eighty-eight, chapter twenty-nine, acts of the legislature of West Virginia, one thousand nine hundred twenty-five, amending and reenacting section eighty-five, chapter seven, acts of the legislature, one thousand nine hundred twenty-one, known as the "Charter of the City of Dunbar," all relating to and becoming part of the charter of the city of Dunbar, and to paving streets and alleys and providing liens therefor.

[Passed March 9, 1933; in effect from passage. Became a law without the approval of the Governor.]

<p>Sec. 88. Street paving certificates a lien: what paving assessment to include: how cost of intersections apportioned; certificates negoti-</p>	Sec.	<p>able: how paid by owner of lot assessed; what vote of council required to adopt paving ordinance.</p>
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Be it enacted by the Legislature of West Virginia:

That section eighty-eight, chapter twenty-nine, acts of the legislature, one thousand nine hundred twenty-five, amending and reenacting section eighty-five, chapter seven, acts of the legislature, one thousand nine hundred twenty-one, known as the "Charter of the City of Dunbar," all relating to and becoming part of the charter of the city of Dunbar, and to paving streets and alleys and providing liens therefor, be amended and reenacted to read as follows:

Section 88. In addition to the method provided for paving streets, by section sixty-one of the charter of the city of Dunbar, the council may order any street, avenue, public alley, or portion thereof, to be graded and paved, repaved, or otherwise permanently improved, and the council may order the mayor and city clerk to issue a certificate for each installment of the amount of the assessment to be paid by the owner of any lot or fractional part thereof fronting on such street, avenue or alley. The amount specified in said assessment certificate shall be a lien as aforesaid in the hands of the holder thereof upon the lot or part of a lot fronting on such street, avenue, or alley, and such certificate shall draw interest from the date of said assessment and the payment may be enforced in the name of the

14 holder of said certificate by proper suit in equity in any court
15 having proper jurisdiction to enforce such lien; the council
16 shall fix the amount of such assessment, advertise for bids and do
17 all other things in connection therewith as is provided for pav-
18 ing or permanently improving any street or alley or any por-
19 tion thereof in section sixty-one, except that such assessment laid
20 under this section shall include the whole cost of such improve-
21 ment, including the cost of grading and paving squares at inter-
22 sections of streets and curbing, the cost of which intersections
23 shall be apportioned against the several properties fronting
24 upon the street or portion thereof so improved; and such certifi-
25 cates shall be issued in the same number of installments and pay-
26 able at the same time as other paving or permanent improve-
27 ments are provided to be paid for, and shall be a lien in the
28 hands of the holder thereof upon the particular lot against which
29 they are assessed in the same way and manner that assessments
30 are liens under section sixty-one of said charter. And nothing
31 contained in this act, or in the charter of the city of Dunbar
32 shall be construed as imposing a time limit upon the enforce-
33 ment by appropriate suit of any lien for public improvements,
34 heretofore or hereafter created.

35 Certificates authorized by this section may be issued, sold or
36 negotiated to the contractor doing the work, or to any other
37 person if the council deem it expedient: *Provided*, That the city
38 in issuing such certificates shall not be held as guarantor or in
39 any way liable for payment thereof, except upon the direct
40 action of the council expressed by resolution of record before
41 sale.

42 Certificates so issued shall contain a provision to the effect
43 that in the event of default in the payment of any one of said
44 certificates, when due, and said default continuing for a period
45 of sixty days, then all unpaid certificates shall become due and
46 payable and the holder of said certificates may proceed to col-
47 lect all of such unpaid certificates in the manner hereinbefore
48 provided. Certificates issued in pursuance of this section shall
49 be negotiable at any bank in the city of Dunbar.

50 The owner of the land or lot of land assessed under this sec-
51 tion may at any time anticipate and pay such assessment or cer-
52 tificate with accrued interest thereon: *Provided*, That no street,
53 avenue or alley shall be paved or otherwise permanently im-

54 proved pursuant to this section except and unless two-thirds of
 55 all the members of council present shall concur in the passage
 56 of the ordinance providing therefor, and the vote thereon shall
 57 be taken by ayes and noes, and duly entered upon the record.

CHAPTER 120

(House Bill No. 231—By Mrs. Suddarth, by request)

AN ACT to amend and reenact section nine, chapter seventy-nine,
 acts of the legislature of West Virginia, one thousand nine
 hundred thirteen, relating to and forming the charter of the
 city of Grafton.

[Passed March 10, 1933; in effect from passage. Became a law without the approval
 of the Governor.]

Sec.

9. Selection of depositories of city
 funds; bond of depository; how

Sec.

funds disbursed; depositories out-
 side of city.

Be it enacted by the Legislature of West Virginia:

That section nine, chapter seventy-nine, acts of the legislature
 of West Virginia, one thousand nine hundred thirteen, be amended
 and reenacted to read as follows:

Section 9. The commission shall annually during the month of
 2 April, or as soon thereafter as practicable, by resolution request
 3 all the banks located in the city of Grafton to respectively offer
 4 a rate of interest to be paid said city for and upon such money
 5 as may be deposited in such bank by the city for the ensuing
 6 year, and upon the incoming of such offers the commission shall
 7 cause the same to be filed or spread upon the records of its
 8 meeting at which such offer is considered, and the bank or banks
 9 offering the highest rate of interest upon such deposits shall
 10 thereupon be designated as the depository or depositories of the
 11 funds of the city for the term of one year for all money accruing
 12 to said city from all sources: *Provided, however,* That no money
 13 shall be deposited in or with the bank or banks so designated as
 14 such depository or depositories until such bank or banks shall
 15 have executed and filed a bond, with security to be approved by
 16 the commission in a sum fixed by the commission, payable to the
 17 city of Grafton and conditioned that said bank, the principal
 18 in said bond, shall faithfully perform its duties as such deposi-

19 tory and shall account for and pay over all money so received by
 20 it for and on account of the city of Grafton. If two or more
 21 banks offer an equal rate of interest, and such rate of interest
 22 be the highest offered, the said funds and money of the city
 23 shall, if the bond has been executed, be deposited in such banks
 24 in equal proportions, or as nearly so as practicable.

25 Upon the qualification by such bank or banks as such deposi-
 26 tory or depositories the city collector shall forthwith deposit in
 27 said bank or banks all money that may come into his possession
 28 for the city, and the money so deposited shall be disbursed only
 29 upon orders drawn upon such funds and signed by the mayor
 30 and the clerk of the city: *Provided further*, That in the event no
 31 bank or banks within the city of Grafton qualify as such deposi-
 32 tory or depositories, as above provided, then the commission
 33 shall designate such bank or banks outside the limits of the said
 34 city as such depository or depositories, under such regulations
 35 and qualifications as the commission shall prescribe, and cause
 36 or authorize the city collector to deposit said city funds in such
 37 depository or depositories as the commission shall designate.

CHAPTER 121

(House Bill No. 61—By Mr. Norton)

AN ACT to amend and reenact section two, chapter seventy-seven of the acts of the legislature (municipal charters), one thousand nine hundred thirty-one, as amended by chapter twenty-five of the acts of the legislature, extraordinary session, one thousand nine hundred thirty-two, relating to the charter of the city of Huntington.

[Passed February 21, 1933: in effect from passage. Approved by the Governor.]

SEC.		SEC.
2.	Corporate limits; the part of Wayne county included in corpo-	rate limits to remain part of that county.

Be it enacted by the Legislature of West Virginia:

That section two, chapter seventy-seven of the acts of the legislature (municipal charters), one thousand nine hundred thirty-one, as amended by chapter twenty-five of the acts of the legislature, extraordinary session, one thousand nine hundred thirty-two, relating to the charter of the city of Huntington, be amended and reenacted to read as follows:

Section 2. The corporate limits of the city of Huntington shall be as follows, to-wit:

3 Beginning at a point at lowwater mark of the Ohio river on
4 the south side thereof, about one mile above the mouth of the
5 Guyan river, in the west line of the Peck farm; thence south-
6 erly with the said Peck line, crossing the Ohio river hill, to the
7 east boundary line of the Eastland addition; thence with the
8 east line of said addition southerly to the west boundary line
9 of Woodland terrace; thence with the west line of same, pro-
10 duced, to the south right-of-way line of the Chesapeake and
11 Ohio railroad; thence with said right-of-way line easterly to a
12 point in the west line of Fifth street of the Altizer place, plat
13 number one; thence with the west line of said Fifth street,
14 produced, southerly crossing Guyan river to the top of the
15 south bank of said river; thence down said river with the top
16 of the bank thereof to a point in the east line of the Interna-
17 tional Nickel company's land, produced, and with said line
18 crossing said river in a northerly direction to the south right-
18-a of-way line of the Chesapeake and Ohio railroad, thence
19 with said right-of-way line westerly to Pat's branch; thence
20 down same to the easterly right-of-way line of Riverside drive
21 and with said right-of-way line southerly and easterly to a
22 point in the east line of said International Nickel company;
23 thence with said line southerly, crossing the Guyan river to
24 the top of the south bank thereof; thence down said river bank
25 to the east line of Ellwood avenue in Arlington addition as of
26 record in Cabell county court clerk's office, in map book num-
27 ber three as map number sixty-eight; thence with the east
28 line of said Ellwood avenue southerly to the south line of
29 Washington boulevard in said addition; thence in an easterly
30 direction with the southerly line of Washington boulevard con-
31 tinuing with the same to the point of juncture of Washington
32 boulevard with Arlington boulevard, and thence continuing in
33 a southerly direction with the westerly line of Arlington boule-
34 vard to a point in the line between lots numbers seven hundred
35 thirty-three and seven hundred thirty-four of said addition,
36 produced; thence easterly crossing said Arlington boulevard
37 and with said lot line to a point in Crump branch in the prop-
38 erty line between the said Arlington addition and Monel park;
39 thence up Crump branch and with the property line between

40 said additions to the north line of Norway avenue; thence leav-
41 ing said property lines and continuing up said Crump branch as
42 it meanders for a distance of about one thousand seven hun-
43 dred forty feet to what is known as the old military line;
44 thence with said line westerly, to the easterly boundary line
45 of Roland park subdivision as of record in Cabell county
46 court clerk's office in map book number three, map number
47 thirty-two; thence with the easterly line of said Roland park
48 in a southerly direction to the northerly line of Grand boule-
49 vard as shown on map of Forrest Hills subdivision number
50 one, of record in map book number two as map number two
51 hundred thirty-three; thence with the said line easterly to
52 the easterly line of J. L. Hawkins' lot, produced; thence with
53 said lot line southerly and westerly to the east line of the said
54 Roland park subdivision; thence with the easterly and south-
55 erly lines of said Roland park in a southerly and westerly di-
56 rection to a point in the east right-of-way line of a road sur-
57 vey made by the state road commission in one thousand nine
58 hundred thirty-two, known as state project number two thou-
59 sand thirty-four; thence with said road right-of-way line in a
60 northerly direction to a point in the easterly line of Fairfax
61 court at its intersection with the aforesaid old military line;
62 thence with the said military line, westerly to a point in the
63 east side of Ricketts road, at its intersection with Line street;
64 thence with the south line of Line street in a westerly direc-
65 tion to the south line of Washington boulevard; thence
66 with same westerly to the east line of Hildacrest; thence
67 with said line southeasterly to the north right-of-way line
68 of the Huntington and Hamlin pike; thence south forty-
69 five degrees no minutes west to the south bank of Four Pole
70 creek; thence down said creek with the south bank thereof,
71 to a point in the easterly exterior line of Enslow Park place;
72 thence with said line to the corner between lots numbers sev-
73 enty-four and seventy-five as shown on the Enslow park map;
74 thence with said lot line westerly about one hundred fifty feet to
75 the east line of Donald avenue; thence crossing said Donald ave-
76 nue and Enslow boulevard at their convergence to the corner
77 between lots numbers twenty-four and twenty-five in the west
78 line of Enslow boulevard; thence with said line northwesterly
79 to the lot line between lots numbers thirty-one and thirty-two;

80 thence southwesterly with said lot line to the line between lots
81 numbers forty-four and forty-five, and with same southwest-
82 erly to the east line of Ritter boulevard; thence with said line
83 northwesterly to a point in the line between lots numbers eighty-
84 five and eighty-six, produced; thence crossing said Ritter
85 boulevard westerly and with said lot line to the east line of
86 said Ritter boulevard; thence with said line northerly and
87 westerly to the line between lots numbers one hundred five and
88 one hundred six; thence with said lot line northwesterly about
89 two hundred thirty, four-tenths feet to the corner common
90 to lots numbers one hundred two, one hundred three, one hun-
91 dred five and one hundred six; thence with line between lots
92 numbers one hundred three and one hundred six westerly
93 about thirty-five feet to the westerly exterior boundary line of
94 said Enslow park place, and in the easterly line of the Tom
95 Beard land; thence with said line southerly to his southeast
96 corner; thence with said Beard's southerly line, and the same
97 produced, westerly to the west right-of-way line of the McCoy
98 road (now known as United States route number fifty-two);
99 thence with said road right-of-way, southerly, to the north
100 right-of-way line of the McCullough road; thence with said
101 right-of-way line of said McCullough road southwesterly to a
102 point at or near the Miller road in the northerly right-of-way
103 line of state road project number three thousand two hun-
104 dred eighty-seven, as surveyed by the state road commission
105 in December, one thousand nine hundred thirty-two; thence
106 with said right-of-way line paralleling the center line of said
107 road survey, including necessary revisions substantially upon
108 or near the same location, which said center line is described
109 as follows:

110 Beginning at or near station 82x33 of said road survey;
111 thence curving to the left with a radius of one thousand four
112 hundred thirty-two, thirty-nine hundredths feet, a distance of
113 four hundred seventy-eight feet, more or less to a point of tan-
114 gent at station 77x54.8; thence north fifty-one degrees thirty
115 minutes west thirty-nine hundred seventy-three ninety eight
116 hundredths feet to a point of curve at station 37x80.82; thence
117 curving to the right on a radius of five hundred seventy-
118 two ninety-six one hundredths feet, a distance of six hundred

119 fifty-nine sixty-seven one hundredths feet to a point of tangent
120 at station 31x21.15; thence

121 North fourteen degrees thirty minutes east four hundred
122 fifteen eighty-four one hundredths feet to a point of curve at
123 station 27x05.31; thence

124 Curving to the left with a radius of two thousand eight hun-
125 dred sixty-four seventy-nine one hundredths feet, a distance
126 of three hundred five thirty-one one hundredths feet to sta-
127 tion 24x00 on the said curve;

128 Thence leaving the said road right-of-way line and passing
129 through station 24 of the said center line, in a westerly di-
130 rection, to the northwest corner of the A. Blake seven and
131 sixty-five hundredths acre tract; thence with the southerly
132 line of said twelve and five tenths acre tract.

133 North seventy-six degrees four minutes west four hundred
134 seventy-four eight tenths feet to a corner in the east line of the
135 Wilburn twenty-two and forty five hundredths acre tract;
136 thence with the east line of said tract south eighty-seven degrees
137 no minutes west fifty-three feet; thence south twenty-eight de-
138 grees fifteen minutes west one hundred eighty-five feet; thence
139 south thirty-four degrees fifty minutes west one hundred sev-
140 enty feet; thence south thirty degrees thirty minutes west
141 one hundred twenty feet; thence south four degrees twenty
142 minutes west one hundred forty-two feet; thence south forty
143 degrees fifty-five minutes west two hundred sixty-six feet;
144 thence south thirty degrees no minutes west about two hun-
145 dred forty feet to the southerly side of the Hisey fork road;
146 thence with line of said road in a westerly and southerly di-
147 rection to the F. L. Whittaker line on the north side of Hisey
148 fork of Four Pole creek; thence with the westerly lines of
149 said Whittaker land crossing said creek, southerly and west-
150 erly, to the southwest corner of said Whittaker land; thence
151 with the southerly lines of said Whittaker land southerly to a
152 large white oak, a corner to the William Long land (now Mul-
153 lens) on the Porter ridge; thence with said ridge southwesterly
154 and with the said Long and Overby lines (now Mullens) to
155 the northeast corner of the Ollie Simmons land; thence with
156 the east line of the said Simmons and said Porter ridge, south-
157 erly to the northeast corner of the Sam Simmons land; thence
158 with the east line of same and said Porter ridge, southerly, to

159 the northeast corner of T. H. Reece's land; thence with the
160 north line of same and the said Porter ridge southeasterly, to
161 the southeast corner of said Reece's land; thence with the
162 east line of same, southerly, and with said Porter ridge, to a
163 locust stump, a corner to said T. H. Reece and Oliver Morrow;
163-a thence southwesterly on said Porter ridge with lines between
164 said Reece and Morrow, to the most southerly corner of said
165 Reece's land; thence leaving said Porter ridge and con-
166 tinuing with the said lines between Reece and Morrow
166-a and Bond and Childray, westerly, to the Wayne county
167 line; thence with said line northwesterly to the east line
168 of the Fred Zihlman land; thence with the east line of
169 said Zihlman, northerly to the George Fisher and John
170 Cole lands; thence with the southerly and westerly lines of
171 George Fisher (so as to include said Fisher land within the
172 city of Huntington) to the south bank of the Hisey fork of
173 Four Pole creek; thence down same to the lower line of the
174 W. H. Dixon land; thence leaving said creek, and running
175 westerly and southerly, with the west lines of said Dixon, to
176 the top of the divide between said Four Pole creek and Gimlet
177 branch; thence southerly with said Dixon's west lines to the
178 westerly lines of the Rebecca Huxham land; thence with the
179 westerly lines of same, southerly, to the Wayne county line;
180 thence with said line northwesterly to a point in the south
181 right-of-way line of the Chesapeake and Ohio railroad; thence
182 with said right-of-way line westerly, to its intersection with
183 the easterly line, produced, of a thirty-foot road in the Cam-
184 den park subdivision lying immediately east of and adjoining
185 lot number seventeen of said subdivision; thence with said
186 street line northerly, crossing the Chesapeake and Ohio rail-
187 way right-of-way to a point in the northerly line of Ohio
188 Valley Electric Railway right-of-way; thence with said north
189 right-of-way line easterly to a point in the westerly line
190 of Handley road, produced, as the said road is shown on
191 the map of Hale and Taylor subdivision; thence with
192 the said line of Handley road northerly and westerly
193 to a point in the line between lots numbers eighty-eight
194 and eighty-eight-a, produced; thence with said lot line
195 northerly about two hundred forty-two twenty-six hundredths
196 feet to the line between lots numbers fifty-two and fifty-three;

197 thence with said lot line north fourteen degrees fifty-six min-
 198 utes east about one hundred ninety-four sixty-nine hundredths
 199 feet to a point in the southerly line of Westmoreland road:
 200 thence with said road line westerly and northerly to a point in
 201 the north line of Bogie road; thence continuing on the westerly
 202 line of Westmoreland road, produced, north twelve degrees
 203 fifteen minutes west to a point in the lowwater line of the
 204 Ohio river; thence up said river with the lowwater line thereof
 205 to the beginning: *Provided*, That the part of the territory em-
 206 braced herein, which is in Wayne county, shall always remain
 207 in Wayne county.

CHAPTER 122

(Senate Bill No. 67—By Mr. Taylor, by request)

AN ACT to amend and reenact sections one, two and ten, chapter twenty-six of the acts of the legislature of West Virginia, one thousand nine hundred twenty-five, (municipal charters) creating and relating to the board of park commissioners of the city of Huntington and defining its public duties and powers.

[Passed February 7, 1933; in effect from passage. Approved by the Governor.]

Sec.

1. City of Huntington to constitute a public park district.
2. Board of park commissioners a body corporate; general powers and duties; powers to purchase and sell real estate.

Sec.

10. Board to have power of eminent domain to establish a system of public parks, etc.; what such system, etc., to include; powers of board to maintain and control such system.

Be it enacted by the Legislature of West Virginia:

That sections one, two and ten, chapter twenty-six of the acts of the legislature of West Virginia, one thousand nine hundred twenty-five (municipal charters) be amended and reenacted so as to read as follows:

Section 1. The city of Huntington in the counties of Cabell 2 and Wayne shall constitute a public park district to be known 3 as the park district of Huntington.

Sec. 2. The board of park commissioners of the city of 2 Huntington shall be a public corporate body, and as such may 3 purchase, hold, sell, or convey, real or personal property, may 4 receive any gift, grant, donation or devise; may sue and be

5 sued or contract and be contracted with, and do other public
6 corporate acts; it shall have the management of and be vested
7 with the title to all real and personal property acquired for the
8 use of the public or useful to the public in the maintenance
9 or enjoyment of all public parks, parkways, playgrounds, ath-
10 letic fields, swimming pools, cemeteries and boulevards, within
11 the district, and shall manage and dispose of the same as in
12 its opinion will best serve the purpose of this act in the interest
13 of the public.

14 *Provided, however,* That nothing herein contained shall be
15 construed as limiting the board of park commissioners from
16 going beyond its territorial limits within the state of West
17 Virginia, to lease, purchase or otherwise acquire any real
18 estate for public parks, parkways, playgrounds, athletic fields,
19 swimming pools, cemeteries and boulevards.

20 *Provided further,* That the board of park commissioners
21 shall be given the right to sell and convey only such part of
22 said real estate as it may acquire by gift or purchase which is
23 determined by said park commissioners to be of no advantage
24 or value to said park commissioners in the management and
25 maintenance of said public parks, parkways, playgrounds,
26 athletic fields, swimming pools, cemeteries and boulevards.

Sec. 10. The board of park commissioners shall have and is
2 hereby given power to acquire land for a system of public
3 parks, parkways, playgrounds, athletic fields, stadiums, swim-
4 ming pools, cemeteries, boulevards and streets, which it shall
5 determine to be necessary for said public park system, or which
6 it shall determine to be necessary to connect up such system,
7 and if the land necessary for such purposes cannot be acquired
8 by purchase, the power of eminent domain is hereby conferred
9 upon said board of park commissioners of the city of Hunting-
10 ton, and it shall institute condemnation proceedings against
11 the owner thereof under the provisions of chapter fifty-four of
12 the code of West Virginia, one thousand nine hundred thirty-
13 one. The term "system of parks, parkways, playgrounds,
14 athletic fields, boulevards and streets" as used herein shall
15 embrace any body of land of whatever shape or area, designated
16 ultimately to be used for public parks, parkways, playgrounds,
17 athletic fields, boulevards or streets, necessary to connect the
18 same within said public park system, and the board of park

19 commissioners shall agree with the municipal authorities of the
20 city of Huntington upon what parts of the streets and boulevards
21 are necessary for and are to be used as a part of the
22 public park system within its district.

23 The board of park commissioners shall have, and is hereby
24 given, the necessary authority to manage and control all public
25 parks, parkways, playgrounds, athletic fields, swimming pools,
26 stadiums, cemeteries, boulevards and streets, used as a part of
27 the public park system within its district, as a means of main-
28 taining places of beauty and recreation, promoting the health,
29 property, lives, decency and morality and good order of said
30 independent park district and its inhabitants; and by proper
31 ordinance to regulate the use thereof and driving thereon; to
32 abate, or cause to be abated, all nuisances, and to that end and
33 thereabout to summon witnesses and hear testimony, to regu-
34 late or prohibit peddling, selling, merchandising of anything
35 or of any article, goods, wares or merchandise, within said park
36 system as so designated; to regulate or prohibit the placing of
37 signs, bill boards, posters and advertisements within said park
38 system as so designated, or adjacent thereto; to have the same
39 kept in good order and free from obstruction for the use and
40 benefit of the public; to restrain and punish vagrants, mendi-
41 cants, beggars, tramps, prostitutes, or disorderly persons on
42 said public parks, parkways, playgrounds, athletic fields,
43 swimming pools, stadiums, cemeteries, boulevards and streets,
44 used as a part of said public park system; but persons arrested
45 under said ordinance shall be tried by the police judge of the
46 city of Huntington, who is hereby given jurisdiction of all
47 warrants issued under any such ordinance; to construct and
48 improve and repair public parks, boulevards, or streets, part
49 of the public park system, parkways, athletic fields, swimming
50 pools, stadiums, cemeteries, roads, bridges, culverts and sewers
51 on any grounds controlled by said board of park commission-
52 ers; to acquire, for public use, by lease or otherwise, lands
53 either within or without the city limits as they now exist or
54 such limits as may hereafter be enlarged or diminished; to
55 make contracts with the board of education, the municipal
56 authorities of the city of Huntington, the state authorities,
57 jointly or severally, for the purpose of the construction and
58 erection of a stadium to be used jointly by the school board.

59 Marshall college students and the public under such terms and
60 conditions as the said parties may deem best; to enter into a
61-62 contract with any internal improvement company for the joint
63 ownership of any bridge, to be built by the board of park com-
64 missioners and such company; but such bridge shall be a public
65 highway, and the interest of the internal improvement company
66 therein shall be only such a proportionate part thereof which
67 it may pay for; to cause any public boulevard, road, street or
68 alley which is a part of the public park system to be graded or
69 curbed or surfaced with stone, concrete or other suitable mate-
70 rials or paved or repaved between curbs with suitable mate-
71 rials, or to be graded, surfaced, resurfaced, curbed and re-
72 curbed, and paved or repaved, as aforesaid, or to be macad-
72-a amized or otherwise permanently improved or repaired in the
73 same manner and to the same extent, as similar power is con-
74 ferred upon the board of commissioners of the city of Hunting-
75 ton by sections sixty-seven, sixty-eight, sixty-nine and seventy,
76 chapter two, of the acts of the legislature one thousand nine
77 hundred nineteen; to order and cause to be constructed in any
78 public boulevard, street, alley or road, which is a part of said
79 public park system, a public sewer, either main or lateral, in the
80 same manner in which the board of commissioners of the city of
81 Huntington is authorized by section seventy-one, chapter two,
82 of the acts of the legislature, one thousand nine hundred nine-
83 teen, and the liens created under the aforementioned sections
84 are to be released and are subject to all the provisions of sec-
85 tion seventy-two, chapter two of the acts of the legislature,
86 one thousand nine hundred nineteen; to provide by contract
87 with the municipal authorities of the city of Huntington for
88 the joint construction of sewers, main or lateral, through parks,
89 parkways, cemeteries, playgrounds, athletic fields, boulevards,
90 roads, streets or alleys which are a part of the public park sys-
91 tem of the city of Huntington, to be paid for out of joint funds;
92 to provide for the construction and maintenance of a stadium
93 and swimming pools; and to provide the necessary equipment
94 for the use and enjoyment of the public parks and playgrounds
95 of said park system.

96 *Provided, however,* That in all of the enumerated powers con-
97 tained herein, it shall be the duty of the board of park com-
98 missioners of the city of Huntington to so manage and control

99 said public parks, parkways, cemeteries, playgrounds, athletic
100 fields, boulevards, roads, streets or alleys which are a part of
101 the public park system of the city of Huntington, as it may
102 deem for the good order of said park district and its inhab-
103 itants.

CHAPTER 123

(House Bill No. 243—By Mr. Tucker, by request)

AN ACT to amend and reenact sections six, ten, eleven, twenty-six, twenty-seven, thirty, thirty-six, eighty-six and ninety-three, chapter sixteen, acts of the legislature of West Virginia, one thousand nine hundred twenty-seven (municipal charters), and add thereto sections eleven-(a) and eleven-(b), relating to the charter of the city of Kenova, Wayne county, West Virginia.

[Passed March 11, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

- 6. Number and terms of elective officers.
- 10. Date of first election under act; nominations of candidates; beginning of term of office.
- 11. Elections subsequent to first; when terms of present officers cease.
- 11-(a). Appointment by council of ballot commissioners and election officials; designation of same by chairmen of municipal executive committees; when election officials appointed by board of education of Ceredo-Kenova independent district for school election.
- 11-(b). Meeting of council for registration of voters; appointment, duties and compensation of regis-

SEC.

- trars; completion and certification of registration by council.
- 25. Additional duties and powers and salary of mayor.
- 26. Duty of councilmen to attend council meetings; salary of councilmen.
- 27. Jurisdiction and powers of police judge; appeals from decision to circuit court; trial of appeals; salary of police judge.
- 30. Qualifications, duties and salary of city attorney.
- 36. Compensation of appointive officers to be fixed by council.
- 86. Qualifications and compensation of health commissioner.
- 93. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That sections six, ten, eleven, twenty-six, twenty-seven, thirty, thirty-six, eighty-six and ninety-three, chapter sixteen of the acts of the legislature of West Virginia for the year one thousand nine hundred twenty-seven (municipal charters), relating to the charter of the city of Kenova, Wayne county, West Virginia, be amended and reenacted, and that sections eleven-(a) and eleven-(b) be enacted and added to the charter of the city of Kenova, Wayne county, West Virginia, to read as follows:

Section 6. The mayor, councilmen, chief of police and police 2 judge shall be elected by the qualified voters of said city. The

3 mayor, police judge, councilmen and chief of police shall be
4 elected for the term of two years, and shall hold their respec-
5 tive offices until their successors shall have been duly elected
6 and qualified.

Sec. 10. The first election held under this act shall be held
2 on the second Tuesday in June, one thousand nine hundred
3 thirty-three. Nominations for the respective elective offices
4 provided for under this act shall be made by party conventions
5 held by the two opposite political parties which at the last
6 preceding general election held in November at the voting places
7 in the several precincts in the said city of Kenova cast the
8 highest and next highest number of votes, and certificates of
9 said nominations shall be filed with the city clerk-treasurer at
10 least twenty days prior to said election: *Provided, however,* That
11 nominations may be made by petition as provided by the gen-
12 eral laws of the state of West Virginia: *Provided further,* That
13 the nominations provided for in this act shall be made not less
14 than twenty days nor more than thirty days prior to said elec-
15 tion, and all officers provided for shall qualify according to law
16 and shall take their several offices, to which they were elected,
17 on the first day of July following their election.

Sec. 11. All regular elections for subsequent years shall be
2 held on the same day of the month as provided by this act,
3 biennially, and all the provisions herein shall apply to regular
4 elections.

5 The present mayor and all elective officers shall hold their
6 respective offices until the first day of July, one thousand nine
7 hundred thirty-three, or until their successors are elected and
8 qualified.

Sec. 11-(a). The common council of the city of Kenova shall
2 convene in special session on the third Tuesday in May next
3 preceding any special or regular municipal election, for the
4 purpose of appointing ballot commissioners and election officers
5 and transacting such other business as is necessary for the hold-
6 ing of the aforesaid election: *Provided,* That at least five days
7 before the aforesaid appointments are to be made, the clerk of
8 the city of Kenova shall notify the chairmen of the respective
9 municipal executive committees of the two opposite political
10 parties as aforesaid of such appointments: *Provided further,*
11 That if the chairman of either of the executive committees as

12 aforesaid shall designate, in writing, a member of such party as
13 one of the said commissioners or clerks having the qualifications
14 of a voter, he (or she) shall be appointed by the aforesaid com-
15 mon council: *Provided further*, That the political party which
16 cast the highest number of votes at the last preceding general
17 election as aforesaid shall have the right to the majority of the
18 election officers of each election board and may designate not
19 more than two commissioners and one clerk for each election
20 board in the several precincts in the said city of Kenova, who
21 shall be appointed as aforesaid by the common council of said
22 city: *Provided further*, That a vacancy shall be filled in the same
23 manner as an original appointment, but immediate notice shall,
24 where necessary, be deemed compliance with the aforesaid five
25 day notice provision: *Provided further*, That if the board of
26 education of the independent school district of Ceredo-Kenova
27 shall appoint the same election officers (as those appointed as
28 aforesaid by the common council) to conduct a special or regu-
29 lar school election to be held at the voting places in the several
30 election pricinets of the city of Kenova and on the same date
31 as the aforesaid municipal election, such election officers shall
32 conduct such special or regular school election in conjunction
33 with the aforesaid municipal election: *Provided further*, That
34 the necessary ballots, hallot boxes, poll books, tally sheets, and
35 other election supplies shall be furnished the aforesaid election
36 officers by the secretary of the aforesaid board of education:
37 *Provided further*, That the ballots, ballot boxes, poll books,
38 tally sheets, and all other records of said school special or regu-
39 lar election shall be returned to the secretary of the afore-
40 said board of education by one of the aforesaid commissioners
41 of election immediately after the completion of the count, tabu-
42 lation and declaration of the result of the aforesaid special or
43 regular school election as held at the voting places in the several
44 precincts of the city of Kenova. *Provided further*, That for the
45 purpose of conducting the aforesaid special or regular school
46 election, the secretary of the aforesaid board of education shall
47 furnish the aforesaid election officers a registration of the voters
48 as adopted and certified by the aforesaid board of education
49 for the aforesaid special or regular school election to be held in
50 the several election precincts of the city of Kenova, or in lieu
51 thereof an official statement by the aforesaid board of education

52 that it has adopted the same registration of voters for the en-
53 suing special or regular school election as that adopted by the
54 aforesaid common council for the ensuing special, or regular
55 municipal election: *Provided further*, That the common council
56 of the city of Kenova shall have the right to take whatever addi-
57 tional steps (mutually agreeable to the common council and the
58 board of education of the said independent school district of
59 Ceredo-Kenova) are practicable and necessary to further con-
60 solidate the aforesaid elections: *Provided further*, That the cost
61 of holding such elections shall be prorated between the said
62 board of education and the city of Kenova.

Sec. 11-(b). The common council of the city of Kenova
2 shall convene in regular or special session on the first Tuesday
3 in May next preceding any special or regular municipal elec-
4 tion to be held in said city, for the purpose of hearing matters
5 pertaining to the registration of voters; said city council, when
6 so sitting, shall adopt as the official registration of voters for
7 the ensuing special or regular municipal election a list certi-
8 fied and furnished by the clerk of the county court of the regis-
9 tration of the voters of the respective precincts in the city of
10 Kenova as adopted by the county court for the next preceding
11 general election held in the precincts of said city; at the afore-
12 said meeting, the city council shall appoint registrars, one each
13 from the two opposite political parties which at the last pre-
14 ceding general election held as aforesaid cast the highest and
15 next highest number of votes. Said registrars shall sit together
16 at each voting precinct on the second Friday and Saturday next
17 preceding the ensuing special or regular municipal election
18 for the purpose of further amending, correcting, and com-
19 pleting the aforesaid certified registration of voters as furnished
20 by the clerk of the county court. The aforesaid registrars shall
21 each receive five dollars per day for their services. The city
22 council at its regular place of meeting shall sit on Tuesday
23 next preceding any special or regular municipal election for
24 the purpose of completing and certifying the official registra-
25 tion of voters for the ensuing special or regular municipal elec-
26 tion.

Sec. 25. The mayor, in addition to any duties conferred in
2 any other section of this act, shall have the following duties: He
3 shall be the chief executive officer of the city, and shall have and

4 exercise all the rights, powers and duties conferred by this act.
5 He shall have direct supervision of the police department, and
6 all policemen, including the chief of police. He shall see that
7 the laws and ordinances of the city and resolutions and orders
8 of the common council are enforced, that the peace and good
9 order of the city are preserved, that persons and property within
10 the city are protected; he shall be presiding officer of the com-
11 mon council and a member thereof, and shall have the right to
12 vote on all questions. He shall be a conservator of the peace
13 and ex officio a justice of the peace. He shall receive an annual
14 salary of three hundred dollars per annum.

Sec. 26. It shall be the duty of all councilmen elected, ap-
2 pointed and qualified, to attend all meetings of the common
3 council; and they may be required to attend such meetings upon
4 written notice, signed by the mayor and served on them by the
5 chief of police or other policeman. The councilmen shall re-
6 ceive an annual salary of two hundred dollars per annum.

Sec. 27. The police judge shall be ex officio a justice of the
2 peace, with authority to issue warrants or other process: *Pro-*
3 *vided, however,* That he shall not exercise any civil jurisdiction
4 of such justice until he shall have given the bond required by
5 law as a justice of the peace. The police judge shall have ju-
6 risdiction of all offenses committed within the corporate limits
7 of the city of Kenova or within one mile of the corporate limits
8 thereof: *Provided, however,* That such jurisdiction shall not ex-
9 tend to the corporate limits of any adjoining incorporated city,
10 town or village. Said police judge shall likewise have jurisdic-
11 tion of any offense under the state laws, and may impose any
12 fine or imprisonment for a violation of such state law as a
13 justice of the peace is now, or may hereafter, be authorized to
14 do under the law of this state. The police judge shall have
15 jurisdiction of all offenses for violations of any city ordinances,
16 and may impose such fines and imprisonment as are authorized
17 by such ordinances and this act, and may direct that riotous
18 and disorderly persons in the city be arrested and detained
19 without issuing any warrant therefor. The police judge shall
20 have jurisdiction to commit persons charged with felony or
21 misdemeanor to jail, to take bond for their appearance before
22 the grand jury of any court having jurisdiction thereof, shall
23 have power to issue executions for all fines, penalties and costs

24 imposed by him, may require the immediate payment thereof,
25 and, in default of such payment, may commit the person so in
26 default to jail until fine, penalty and costs shall be paid or satis-
27 fied. And the person in default of the payment of fine, penalty
28 and costs, may be required to work on the streets, roads, alleys
29 or other public improvements of the city until such fine and
30 costs are paid, the person so employed to receive the sum of one
31 dollar per day for each day of ten hours he shall be employed
32 and his board and lodging. Any person sentenced to imprison-
33 ment or any person against whom a fine in excess of ten dollars
34 or more is assessed shall be allowed to appeal from the deci-
35 sion of the police judge to the circuit court of Wayne county,
36 upon execution of an appeal bond with surety deemed sufficient
37 by the police judge, and in a penalty double the fine and costs,
38 which bond shall be conditioned that the person proposing to
39 appeal will perform and satisfy any judgment which may be
40 entered against him by the circuit court of Wayne county on
41 such appeal. And in no case shall a fine of less than ten dollars
42 be assessed by the police judge, if the defendant, his agent or
43 attorney demand that such fine be made as much as ten dollars:
44 *Provided*, That if the ordinance under which such person is
45 fined does not authorize a fine of ten dollars or more as a maxi-
46 mum fine, the person, his agent or attorney may require that
47 said police judge assess the maximum fine authorized in such
48 ordinance; and the person so fined shall be entitled to an ap-
49 peal from the judgment of said police judge assessing such
50 maximum fine. If any appeal be taken as herein authorized,
51 the warrant, if any warrant there be, the transcript of the
52 judgment, the appeal bond and all other original papers of the
53 case shall be forthwith mailed to the clerk of the circuit court
54 of Wayne county, West Virginia, and the police judge shall
55 append to such papers bound together the same certificate now
56 required of justices of the peace for transcripts of appeal cases.
57 And the said circuit court of Wayne county shall proceed to
58 try the case as if upon an indictment or presentment, and may
59 render such judgment, including that of costs, as the law and
60 offense may demand. The police judge shall receive a salary,
61 of two hundred dollars per annum, and in addition thereto,
62 shall be paid for his services the same amounts as justices of the
63 peace are now paid, which amounts may be taxed as part of

64 the costs in any proceeding or trial had before said police judge.

Sec. 30. The city attorney shall be a practicing attorney at
2 law, duly admitted to practice as a resident attorney of the
3 State of West Virginia; he shall likewise be a resident of the
4 county of Wayne, State of West Virginia. The said attorney
5 shall be legal adviser and counsel for the city of Kenova, and
6 for all of its officers on matters pertaining to their respective
7 duties. He shall prosecute and defend all suits for and against
8 the city; he shall prepare all contracts, bonds and other instru-
9 ments required by the common council; he shall furnish to the
10 common council or any officer of the city, an opinion on any
11 question pertaining to the city government; he is hereby author-
12 ized and required to apply in the name of the city to any court
13 of competent jurisdiction for an order of injunction to restrain
14 any misapplication of funds of the city, the abuse of the cor-
15 porate powers of the city, and the execution or performance of
16 any illegal contract made by the city, or any contract which is
17 procured by fraud or corruption; said attorney shall prepare
18 all ordinances when required so to do by the common council,
19 and he shall do and perform any and all other things, which
20 the common council may, by ordinance or resolution require.

21 The city attorney shall receive as compensation the sum not
22 to exceed two hundred fifty dollars per annum, and he may
23 receive such other compensation for special work as may be
24 agreed upon between said city attorney and the common council.

25 The common council may, in its discretion, employ and pay
26 special counsel in any matter, not to exceed one hundred fifty
27 dollars in any calendar year.

Sec. 36. The compensation of all appointive officers as de-
2 fined in this act shall be fixed by the common council: *Provided*,
3 *however*, That the compensation of the city engineer and city
4 attorney may be paid on the basis of a yearly salary or a fee
5 system, and that the salaries of all appointive officers may be
6 changed at any time upon a majority vote of the council.

Sec. 86. The common council shall have the power to appoint
2 a health commissioner who shall be a regular practicing physi-
3 cian, and reside within the limits of the city. The compensation
4 of said commissioner shall be fixed by the council and shall not
5 be more than one hundred fifty dollars per year: *Provided*,

6 *however*, That in case of epidemic or dire distress, extra com-
 7 pensation may be allowed not to exceed one hundred dollars
 8 in any calendar year.

Sec. 93. All acts and parts of acts inconsistent herewith are
 2 hereby repealed.

CHAPTER 124

(House Bill No. 266—By Mr. Pelter)

AN ACT to amend and reenact an act of the legislature of West Virginia, passed on the eighth day of March, one thousand nine hundred twenty-nine, known as house bill number three hundred seventeen, relating to the charter of the city of Logan, and being chapter twenty of the acts of the legislature of West Virginia, one thousand nine hundred twenty-nine, relating to municipal charters.

[Passed February 21, 1933: in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. City of Logan to continue as a body corporate; enumerated and implied powers.
2. Municipal authorities to consist of a mayor and five councilmen.
3. All corporate powers to be exercised by the council.
4. Nominations for mayor and councilmen by political mass conventions; canvass of election returns; canvass of first election hereunder by present board of commissioners.
5. Dates of first and subsequent elections; beginning of terms of office; voting places.
6. Qualification of voters.
7. Registration of voters; compensation of registrars; registration for first election.
8. Oaths and salaries of elective and appointive officers; per diem of councilmen.
9. Filling vacancies in council.
10. Organization of council; mayor to preside and vote only in case of a tie vote; council to appoint city solicitor at first meeting.
11. Qualifications, duties and salary of city solicitor; amount of attorney fee to be taxed as costs in criminal prosecutions; salary of secretary to mayor; minute, ordinance and record of bonds books; transcripts as evidence.
12. Member of council to fill temporary vacancy in office of mayor.
13. Terms and qualifications of mayor and councilmen.
14. Salary, powers and duties of mayor.
15. Fees for assessment and collection of taxes.

SEC.

16. Estimates and levies by council; rate of levy; election for higher rate of levy; dog tax.
17. Liens for taxes and street improvements.
18. Licenses and license taxes; refusal or revocation of license.
19. Jurisdiction of municipal court; mayor to be municipal judge; penalties; jury trial; conviction on acquittal bar to further prosecution on same charge in other courts of Logan county; powers of municipal judge in civil and criminal cases; how expenses of maintaining persons committed to jail paid; bond of municipal judge; work on streets or roads as part of sentence; appeals to circuit court; collection of fines and costs; audit of books of and settlement by municipal judge; what police docket to show.
20. Mayor to be treasurer and tax collector; powers of distraint and sale; records of treasurer; how city funds disbursed; annual settlement by treasurer.
21. Mayor to be superintendent of streets; powers as to streets, sewers and garbage; sites for disposition of garbage.
22. Oath of office of mayor; amount, premium on and recordation of bond of mayor.
23. Settlement by mayor at expiration of term; annual audit of books; monthly reports to council of arrests and fines.
24. Removal of elective and appointive officers.
25. City to maintain its streets, etc.;

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	when city property not subject to district road levies.		of absent members; majority vote of members present to decide questions.
26.	City to maintain its poor; not subject to district or county levies to maintain the poor.	30.	Mayor to appoint chief of police and other police officers; powers and duties; appointment, except chief of police, by sheriff; additional policemen; bonds of chief and other police officers; authority to carry weapons; compensation to be fixed by council.
27.	Bond issues; purposes, limitations on amounts and vote of people on.	40.	Mayor to appoint chief of fire department and firemen; duties powers and compensation; traffic rules as to fire equipment; chief as ex officio constable.
28.	Plenary power of city as to streets, sidewalks, etc.	41.	Mayor to appoint city engineer and define duties; city authorized to erect waterworks plant or to purchase one now in use.
29.	Duty of property owner as to sidewalks; city's duty upon refusal of property owner; lien of city for work done.	42.	Determination of contested elections.
30.	Condemnation proceedings by council.	43.	Mayor to sign and acknowledge for city all deeds, etc.; compensation of election officers.
31.	Public utility franchises, length, territory included and control of by city.	44.	Councilmen, mayor and his secretary and city solicitor to hold no other office under city.
32.	Building permits and removal of unsafe buildings.	45.	No person holding lucrative office under state or county eligible as mayor.
33.	Council empowered to make needful ordinances, etc., to carry into effect powers conferred by this act or general law.	46.	When terms of present officers cease.
34.	City of Logan under this act to succeed to rights and liabilities of city under former charters.	47.	Specific and inconsistent acts repealed.
35.	Existing ordinances, etc., to remain in effect until amended or repealed.		
36.	Provisions of chapter eight of code to apply to city.		
37.	City executive committees of political parties.		
38.	Regular and special meetings of council; compelling attendance		

Be it enacted by the Legislature of West Virginia:

That the act of the legislature of West Virginia, passed March eighth, one thousand nine hundred twenty-nine, known as house bill number three hundred seventeen, relating to the charter of the city of Logan and being chapter twenty of the acts of the legislature of West Virginia of one thousand nine hundred twenty-nine, relating to municipal charters be, and the same hereby is, amended and reenacted to read as follows:

Section 1. That the inhabitants of that portion of Logan 2 county in the state of West Virginia, included within the 3 boundary lines of the present city of Logan, as such boundary 4 lines are already fixed and established by the acts of the legis- 5 lature of West Virginia, shall continue to be a body politic 6 and corporate under the name, "The City of Logan," and as 7 such shall have perpetual succession; may use a corporate seal; 8 may sue and be sued; plead and be impleaded; contract and be 9 contracted with; acquire property for municipal purposes in 10 fee simple, or lesser interest or estate, by purchase, gift, devise, 11 appropriation, lease, or lease with the privilege to purchase, 12 either within or without the city limits, subject to the rights of

13 other affected municipal corporations; may sell, lease, hold,
14 manage and control such property, and make any and all rules
15 and regulations, by ordinance or resolution which may be re-
16 quired to carry out fully all provisions of any conveyance, deed
17 or will, in relation to any gift or bequest, or the provisions of
18 any lease by which it may acquire property; after the first
19 election under this charter, may acquire, construct, own, lease
20 and operate light, heat, power and water plants, may grant
21 public franchises to be exercised within the city; may assess,
22 levy and collect taxes for general and special purposes on all
23 the subjects or objects within the boundaries which the city may
24 lawfully tax; may borrow money for permanent improvements
25 and public works on the faith and credit of the city by the
26 issue or sale of bonds or notes of the city, and in the issuance
27 and sale of said bonds the said city shall be governed by the
28 restrictions and limitations of the constitution and laws of the
29 state relating to the issuance and sale of bonds, so far as said
30 state laws are not in conflict with the provisions of this act;
31 may pave, repave, curb, grade, regrade, sewer, re sewer, or
32 otherwise permanently improve any street, alley, or roadway
33 within the city limits, and assess the entire cost thereof, exclud-
34 ing the cost of intersections with interest, or any part thereof,
35 against the owners of the abutting or benefitted properties
36 in accordance with an ordinance that shall permit the payment
37 of said assessments in annual installments and may in antici-
38 pation of the levying of said assessments, issue and sell its
39 bonds, as hereinbefore provided, to the estimated amount of the
40 cost of said improvements, and apply said assessments as same
41 are paid to the liquidation of said bonds and interest thereon;
42 may appropriate the money of the city for all lawful purposes;
43 may create, provide for, construct, regulate, and maintain all
44 things of the nature of public works and improvements; may
45 direct the laying out of lots and opening of streets and road-
46 ways; may license and regulate persons, corporations and asso-
47 ciations engaged in any business, occupation, profession or trade;
48 may define, prohibit, abate, suppress and prevent all things
49 detrimental to the health, morals, comfort, safety, convenience
50 and welfare of the inhabitants of the city, and all nuisances
51 and causes thereof; may regulate the construction, height
52 and materials used in all buildings and structures of every

53 kind, and the maintenance, occupancy and use thereof; may
54 regulate and control the use, for whatever purpose, of the
55 streets and other public places; may make and enforce local
56 police, sanitary and other regulations, and prescribe, impose
57 and enforce reasonable fines and penalties including imprison-
58 ment, and shall have the right to use the jail of said county
59 when necessary; and may pass such ordinances and resolutions
60 as may be expedient or necessary for maintaining and pro-
61 moting the peace, good government and welfare of the city, and
62 for the performance of the functions thereof. The city of
63 Logan as constituted by this act, shall retain, keep and suc-
64 ceed to all rights, privileges, property, interest, claims and de-
65 mands heretofore acquired by, vested in or transferred to the
66 said city as heretofore constituted and shall have all powers
67 that now are or hereafter may be granted to municipalities
68 by the constitution or laws of West Virginia; or that are
69 herein by implication conferred, or are necessary to or con-
70 sistent with the purposes of this act; and all such powers,
71 whether expressed or implied, shall be exercised and enforced
72 in the manner prescribed by this act, or where not prescribed
73 herein, in such manner as shall be provided by ordinances or
74 resolutions of the governing body herein provided for.

Sec. 2. The municipal authorities of the said city of Logan
2 shall consist of a mayor and five councilmen, who shall con-
3 stitute the council of said city, in the corporate name of said
4 city, unless otherwise provided by state law or municipal ordi-
5 nance.

Sec. 3. All the corporate powers and functions pertaining
2 to said city shall be exercised by its council, or under its au-
3 thority.

Sec. 4. The two political parties polling the highest vote
2 for governor at the last preceding general election shall, at
3 least fifteen days before, and not more than thirty days before,
4 any municipal election, nominate by a mass convention candi-
5 dates for mayor and councilmen, to be voted upon at said elec-
6 tion. It shall be the duty of the chairmen of the two dominant
7 political parties of said city to call and preside at the said
8 conventions of their respective parties. The candidates thus
9 nominated by each of said political parties receiving the largest
10 vote in the ensuing city election shall be declared elected. On

11 the Thursday next following any election hereunder, the coun-
12 cil shall meet and canvass, ascertain, declare, and record the
13 results of such election. The results of the first election of
14 officers held hereunder shall be so canvassed, ascertained, de-
15 clared, and recorded by the board of commissioners now in
16 office, except as herein otherwise provided, the general elec-
17 tion laws governing the ascertainment and declaration of the
18 results of elections of county officers, and relating to appeals
19 and proceedings for review or reversal of decisions of the
20 board of canvassers concerning the same, are hereby made ap-
21 plicable to all elections of officers, held under this act.

Sec. 5. The first election of officers under this charter shall
2 be held on the first Tuesday in April, one thousand nine hun-
3 dred thirty-three; and on the first Tuesday in April in every
4 second year thereafter, an election for all elective officers under
5 this charter shall likewise be held. The officers elected at such
6 elections shall take their offices and enter upon the discharge
7 of their duties on the first day of May following their election.
8 Any special election authorized hereunder shall be held as pro-
9 vided in the order of the council calling the same. All gen-
10 eral and special elections held hereunder shall be held at
11 places already designated as voting places and used as voting
12 places in national and state elections, namely: Logan graded
13 school building, Logan junior high school building, Logan court-
14 house, Logan fire station, and Logan senior high school build-
15 ing; unless said voting precincts are changed by the city coun-
16 cil.

Sec. 6. Every person residing in said city shall be entitled
2 to vote for all officers elected under this act; but no person who
3 is a minor, or of unsound mind, or 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
7 to vote, shall be permitted to vote therein.

Sec. 7. All qualified voters within city of Logan entitled
2 to vote in the municipal election held therein shall be regis-
3 tered in like manner as are the qualified voters in national and
4 state elections, and the laws of the state of West Virginia in
5 effect at the time of such registration shall in all things apply
6 thereto; except the fee for such registration shall be five cents

7 for each qualified voter so registered, and the powers con-
8 ferred upon the county court by the laws of the state of West
9 Virginia in reference to registration of voters are hereby con-
10 ferred upon the council of said city of Logan: *Provided, how-*
11 *ever,* That for the first election held under this charter the
12 commissioners of the said city shall have the voters of the city
13 of Logan registered prior to the nominating conventions and in
14 subsequent elections to be held under this charter, the city
15 council may adopt and use the registration list used in the last
16 national or state election.

Sec. 8. Every person elected or appointed to any office
2 under this charter before proceeding to exercise any of the
3 duties of such office, shall make oath or affirmation that he or
4 she will support the constitution of the United States and the
5 constitution of this state and will faithfully and impartially
6 discharge the duties of his or her office to the best of his or
7 her skill and judgment. Said officers shall be paid a monthly
8 salary, the amount of which except as herein otherwise pro-
9 vided, shall be fixed by said council as soon as may be after
10 the councilmen thereof have entered upon the duties of their
11 office, except that the members of said council shall receive
12 no salary other than a salary of five dollars apiece for each
13 regular monthly meeting of said council, attended by such
14 members.

Sec. 9. Vacancies in the office of the council, including
2 mayor, shall be filled by the remaining members of the council,
3 who shall appoint to such vacancy a person having the same
4 politics as the member whose office is vacant.

Sec. 10. Immediately after their induction into office said
2 council shall meet and organize. The mayor shall preside at
3 all meetings and shall sign the minutes and records required
4 to be kept by the council. Three members of the council shall
5 constitute a quorum to do business and the mayor shall have no
6 vote except in case of a tie vote by the council. The council
7 shall, at their first meeting, appoint a city solicitor.

Sec. 11. The city solicitor shall be an attorney-at-law, au-
2 thorized to practice law in the courts of Logan county, and he
3 shall be the legal adviser of the city and of all its officers re-
4 specting legal matters. He shall prosecute all suits, actions
5 and proceedings instituted on behalf of the city, and defend

6 all suits, actions and proceedings against the city, and when
7 requested in writing shall give his written opinion to any offi-
8 cer of the city upon such legal questions affecting the interest
9 of the city or the duties of such officer as may be referred to
10 him for an opinion. He shall also perform such other duties
11 as may be required by the council, or mayor. It shall be his
12 duty to attend the sessions of the council, and to attend and
13 prosecute all trials of civil and criminal actions pending in
14 the municipal court of said city. Said solicitor shall receive
15 as compensation for his services the sum of fifty dollars per
16 month. In all criminal prosecutions conducted by the city
17 solicitor wherein there is a conviction of the defendant, there
18 shall be taxed as a part of the costs of the suit, a fee of not less
19 than five dollars nor more than ten dollars, which shall be col-
20 lected, paid into the city treasury, and by it disbursed for the
21 general expenditures of the city.

22 The mayor, with the consent of the council, shall appoint
23 and employ a secretary to the mayor. The salary of the sec-
24 retary to the mayor shall be fixed by the council and shall not
25 exceed the sum of sixteen hundred dollars per year. The coun-
26 cil shall cause to be kept by the secretary to the mayor in a
27 well bound book to be called "minute book," an accurate record
28 of all its proceedings, ordinances, acts, orders, and resolu-
29 tions, and in another to be called "ordinance book," accurate
30 copies of all general ordinances adopted by the council; both
31 of which shall be accurately indexed and open to the inspec-
32 tion of any one required to pay taxes in the city, or who may
33 be otherwise interested therein. All oaths and bonds of offi-
34 cers in the city, and all papers of the council shall be endorsed,
35 filed and securely kept by the secretary to the mayor. The
36 bonds of officers shall be recorded in a well-bound book to be
37 called "records of bonds."

38 The secretary to the mayor shall perform such other duties
39 as by ordinance of the council may be prescribed. The tran-
40 script of ordinances, acts, orders, and resolutions certified by
41 the secretary to the mayor under the seal of the city shall be
42 admissible in evidence in any court or before any justice.

Sec. 12. In case of temporary vacancy in the office of mayor,
2 for any cause whatsoever, the said mayor shall select one of the

3 members of the council to serve in the capacity of mayor during
4 the said temporary vacancy.

Sec. 13. Said mayor and councilmen shall be elected by the
2 qualified voters of the said city, and shall serve for a term of
3 two years, and thereafter until their successors in office shall
4 have been elected and qualified. No person shall be eligible to
5 the office of mayor or councilman except a qualified voter of said
6 city, who has resided therein for at least one year next before
7 his or her election.

Sec. 14. The salary of the mayor shall be fixed by the coun-
2 cil and shall not exceed the sum of three thousand dollars per
3 year. The duties of the mayor shall be:

4 (a) To see that the laws and ordinances of the city are en-
5 forced;

6 (b) To appoint all officers of the city, subject to the approval
7 of the council, except the city solicitor and members of the
8 council, and to employ, or cause to be employed, all such em-
9 ployees of the city as may be found necessary to properly per-
10 form the functions and duties required but all appointments
11 and employments so made by said mayor shall be made upon
12 merit and fitness alone, and approved by the council;

13 (c) To exercise supervision and control over all depart-
14 ments and divisions created herein or that may be hereafter
15 created by the council, except over the city solicitor;

16 (d) To attend all meetings of the council with the right to
17 take part in its discussions, but without the right to vote, except
18 in case of a tie vote;

19 (e) To recommend to the council for adoption such meas-
20 ures as he may deem necessary or expedient;

21 (f) To keep the council fully advised as to the financial con-
22 dition and needs of the city;

23 (g) To supervise and conduct the performance of their du-
24 ties by all officers and employees by the city except city solici-
25 tor;

26 (h) Determine and decide on the plan and program for
27 paving, sewerage, and otherwise improving the different streets
28 and alleys in the city, and fix and determine the time in which
29 such streets and alleys shall be paved, sewerage and otherwise
30 improved:

31 (i) Determine and decide upon the kind and make of pave-
32 ment, sidewalks, curbs, sewers and other improvements which

33 shall be constructed and made upon and in any of the streets
34 and alleys of the city ;

35 (j) Act as purchasing agent and purchase all supplies and
36 materials for all departments of the city government: *Provided*,
37 *however*, That he shall not make any contract or purchase in-
38 volving an expenditure in excess of three hundred dollars, with-
39 out first obtaining the assent of the council so to do ;

40 (k) Make and execute on behalf of the city all writings,
41 contracts, deeds and agreements, the making of which shall be
42 authorized by this charter, or by any ordinance, resolution or
43 statute :

44 (l) To call attention of the council and the city solicitor to
45 the violation of any law or ordinance that may come to the
46 knowledge of said city mayor ;

47 (m) To perform and carry out all other duties that may be
48 assigned to him.

Sec. 15. The mayor by and with the consent of the said
2 council may direct the county assessor to make all assessments
3 within the corporate limits of said city according to the laws
4 and regulations governing assessments in general throughout
5 the county, and the county assessor shall be paid a fee out of
6 the city treasury to be fixed by the council, but not to exceed
7 three hundred dollars annually: *Provided, however*, That the
8 council of the said city of Logan may adopt and use their own
9 method of collecting the municipal taxes insofar as the salary
10 for collecting such taxes does not exceed four hundred dollars.

Sec. 16. On the same day that the law requires county courts
2 to meet and make up their estimates under the provisions of
3 article eight, chapter eleven of the code of West Virginia, the
4 council of the city of Logan, acting in conjunction with the
5 mayor, shall meet and make up a similar estimate, in a similar
6 manner, pertaining to fiscal affairs of the said city of Logan,
7 and shall publish said estimates in the same manner and for the
8 same length of time as the said county courts are required to
9 publish their estimates. At the same time that county courts
10 are required to meet and lay the various county levies upon
11 taxable property for county purposes, the council shall in like
12 manner meet and lay a levy upon all taxable property, both real
13 and personal, situated within and subject to taxation within the
14 said city of Logan, including property assessed by the board of
15 public works.

16 The rate of levy, however, shall not exceed fifty cents on each
17 one hundred dollars' valuation of the taxable property in said
18 city, unless a higher rate of levy be authorized by a two-thirds
19 vote of the voters of said city of Logan, in an election held for
20 that purpose. At the same time said council shall levy a special
21 annual tax of three dollars on each female dog, and of one dol-
22 lar on each male dog within said city over three months old at
23 the time said estimate is made, and the tax thus levied shall be
24 collected and paid into the city treasury for use in general cur-
25 rent expenses.

Sec. 17. There shall be a lien on all real estate within said
2 city for the city taxes assessed therein, and for all fines and
3 penalties assessed against or imposed upon the owners thereof
4 by the authorities of the city, including expenses for making,
5 maintaining, repairing, paving or macadamizing sidewalks,
6 drains, gutters and streets from the time the same are assessed
7 or imposed, which lien shall have priority over all other liens,
8 except taxes due the United States and the lien for taxes due
9 the state, county and district, and such lien may be enforced in
10 the name of the city upon order of the council or the order of
11 the mayor in the manner provided by law for the enforcement
12 of liens upon real property for county taxes.

Sec. 18. The council may by ordinance impose special li-
2 cense tax in all cases where the state of West Virginia imposes
3 such license tax, except that no license tax shall be levied in
4 said city under clauses (s), (t), and (y) of section one, article
5 twelve, chapter eleven of the code of West Virginia.

6 The council shall prescribe by ordinance the time and manner
7 in which license of all kinds shall be applied for and granted,
8 and shall require the payment of the taxes thereon to the city
9 treasurer on the delivery to the person applying therefor, which
10 tax shall include the same fees for the issuing of the license as
11 are charged for similar services for state and county officers,
12 and which fees shall be paid into the city treasury. The council
13 may for good cause refuse to issue any license applied for, and
14 for like good cause may revoke any license granted by it. But
15 the person holding such license must first have reasonable notice
16 of time and place of hearing and adjudicating the matter as
17 well as the cause alleged, and shall be entitled to be heard in
18 person or by counsel in opposition to such revocation. The term
19 for which any license provided for in this charter shall be

20 granted shall be governed by the general laws providing for
21 state license and the rate of such license tax shall be fixed by the
22 council, but shall not be greater than the state license for similar
23 purposes.

Sec. 19. The judicial power of the city shall be vested in a
2 municipal court to be presided over by the mayor, and the word
3 "mayor" shall be taken to include and mean the words "mu-
4 nicipal judge" whenever the same are used in this act. Said
5 court shall have exclusive jurisdiction over all criminal pro-
6 ceedings for the violation of any city ordinance, and for the col-
7 lection of any license or tax imposed by any city ordinance,
8 and shall have concurrent jurisdiction with justices of the peace
9 of Logan county, of the following offenses committed within said
10 city, to-wit, petit larceny, assault and battery, breaches of the
11 peace, rioting, wilful injury to property, and all misdemeanors
12 committed within said city which are made punishable by fine
13 or imprisonment or both, under the general laws of this state:
14 *Provided*, That the punishment for such misdemeanors, unless
15 herein otherwise provided, shall be the same as that fixed for a
16 conviction of such misdemeanors following a trial before a jus-
17 tice of the peace or a trial in the circuit court of Logan county:
18 *And provided further*, That the accused may demand a trial by
19 jury on all such misdemeanor charges as he would be entitled
20 to have tried by a jury in said circuit court or by a jury before
21 such justice of the peace. A conviction or acquittal on such
22 misdemeanor charges in said municipal court shall operate as a
23 bar to further prosecution on the same charges before any jus-
24 tice or the circuit court of Logan county.

25 The municipal judge shall be a conservator of the peace
26 within the limits of said city, and shall also have the same power
27 to issue attachments in civil suits as a justice of the peace has,
28 although the cause of action arose outside of the city. Said
29 attachments shall be returnable to and all issues thereon tried
30 before some justice of the county of Logan. Said municipal
31 judge shall, upon proper complaint and information on oath
32 made before him, have authority to issue warrants for the ar-
33 rest of any persons for any class of offenses over which said
34 municipal judge is herein given jurisdiction, and said warrants
35 may be executed anywhere within the limits of this state. If
36 said warrants are executed by the officer to whom directed, or by
37 any member of the department of public safety, no endorsement

38 or other authentication thereof shall be required than the signa-
39 ture of the municipal judge issuing same. Said municipal
40 judge shall have power to issue executions for all fines, penal-
41 ties and costs imposed by him, or he may require the immediate
42 payment thereof, and in default of such payment he may com-
43 mit the party in default to the jail of Logan county, until such
44 fine, penalties and costs are paid or bonded, but the term of
45 imprisonment for fine and costs alone shall not exceed thirty
46 days. The expense of maintaining any person committed to the
47 county jail by the municipal judge shall be borne by the city,
48 except as to any person who shall be bound over to await the
49 action of the grand jury of the circuit court of Logan county,
50 in which event the expense of maintaining such person shall be
51 borne by the county of Logan. The municipal judge shall not
52 receive any money belonging to the city or to individuals, unless
53 he shall give bond and security as is required by justices of the
54 peace, and all provisions of chapter fifty of the code of West
55 Virginia, relating to monies received by justices shall apply in
56 like manner to said municipal judge.

57 He shall have authority to sentence male offenders over the
58 age of sixteen years to labor upon the streets and public works of
59 the city of Logan during the term of their imprisonment, and
60 thereafter until the fine and costs imposed upon the offender
61 are paid or bonded. The compensation for said labor shall be
62 paid to the offender's dependents, if any, in conformity with
63 such regulations as the council may by ordinance provide. The
64 municipal judge may also sentence offenders to labor upon the
65 public roads of Logan county in like manner and with like ef-
66 fect as such offenders may now be sentenced to work upon said
67 public roads by the circuit court of Logan county, West Vir-
68 ginia. In case such offender so sentenced by said municipal
69 judge shall be worked upon said public roads under the direc-
70 tion of the county court of Logan county, or the county road
71 engineer of said county, or of some officer designated by said
72 county court, the cost of maintaining such prisoners in jail shall
73 be borne by the county of Logan for such period as they are
74 worked upon said public roads, and such compensation as shall
75 be allowed said prisoners by said county court shall be paid to
76 offender's dependents, if any, and if no dependents, then such
77 compensation shall be credited upon said offender's fine and
78 costs, including the cost of boarding said offender while in jail.

79 Appeals shall lie from the judgment of said municipal court
80 to the circuit court of Logan county in accordance with law in
81 the same manner as appeals are allowed from the judgment of
82 justices of the peace.

83 It shall be the duty of the municipal judge and the city solici-
84 tor to see that all fines, costs and penalties imposed upon offend-
85 ers are collected and paid into the city treasury to be used for
86 the city purposes in the same manner as moneys raised by said
87 city through taxation are used. However, said city solicitor and
88 municipal judge shall assume no personal liability for the col-
89 lection of any fines, costs or penalties which they are unable to
90 collect through the exercise of reasonable diligence.

91 At the expiration of his term of office the municipal judge
92 shall make an account and settlement for all moneys coming into
93 his hands, and an annual audit shall be made of his books, rec-
94 ords and accounts, as provided by chapter ten-(a) of the code
95 of West Virginia. His books and records shall be at all times
96 open for inspection by the board of commissioners and the city
97 manager.

98 A well-bound book indexed and denominated "police docket"
99 shall be kept in the office of the municipal judge, in which shall
100 be noted each case brought before or tried by him, together
101 with the proceedings therein, including the statement of the
102 complaint, the warrant or summons, the return, the fact of
103 appearance, or nonappearance, the defense, the hearing, the
104 judgment, the amount of fine and costs separately stated, and
105 in cases of conviction, the action taken to enforce the same.
106 The record of each case shall be signed by the municipal judge
107 and the original papers thereof, if no appeal be taken, shall be
108 kept together and preserved in his office.

Sec. 20. The mayor shall also be ex officio treasurer of the
2 said city and it shall be the duty of the treasurer to collect the
3 city taxes, license, levies, assessments, and other such city claims
4 as are placed in his hands for collection by the council, and he
5 may distrain and sell therefor in like manner as a sheriff may
6 distrain and sell for state taxes; and he shall, in all other re-
7 spects, have the same power as a sheriff to enforce the payment
8 and collection thereof. The mayor, as treasurer, and the cus-
9 todian of the moneys and funds of the city, shall keep faithful
10 and accurate records and accounts thereof, in such manner as
11 to show the true status of said accounts at all times, and shall

12 exhibit his said records to the council at each of their regular
13 meetings. Such records shall also at all times be open to the
14 inspection of any taxpayer of the city.

15 No money shall be disbursed from the city treasury except
16 upon order of the council, and a complete record showing the
17 purpose, name of payee, and the amount shall be kept by the
18 mayor's secretary in a permanent record for the council. All
19 drafts on the treasury shall be signed by the mayor and at least
20 three members of the council. It shall be the duty of the sec-
21 retary to the mayor to keep a record of such drafts, which shall
22 be open to the inspection of the public at all times. A perma-
23 nent record shall also be kept of all drafts drawn on the treas-
24 ury, and at each meeting of the council such records shall be
25 laid before it, and an examination be made of all drafts drawn,
26 or expenditures incurred since the last preceding meeting.
27 The mayor, as collector of taxes and as treasurer of the muni-
28 cipal corporation, shall be required to settle annually with the
29 council at the same time, and in the same manner as is pre-
30 scribed by general law for the settlement of their accounts with
31 the county court by the sheriffs as treasurers of the several
32 counties of the state.

Sec. 21. The mayor shall also be superintendent of streets
2 and within the limits of the money provided for such work all
3 public streets and alleys shall be kept clean and in constant
4 repair, and all sewers within the city shall be kept in good re-
5 pair and operating condition. All garbage of the city shall
6 be removed and burned or otherwise disposed of as directed
7 by the mayor, and full authority is hereby conferred upon
8 him to purchase, subject to the approval of the council, or to
9 acquire by lease or otherwise a site or location within or with-
10 out the city of Logan on which to deposit and dispose of all
11 city garbage. The police of the city of Logan shall have full
12 and complete authority to prevent camping or trespassing upon
13 any location acquired for the disposal of such garbage, whether
14 such location be within the city limits or not.

Sec. 22. The mayor, who before entering upon the dis-
2 charge of his duties as such, shall take and subscribe before a
3 notary public, or other person competent to administer an oath,
4 and file same with city council, an oath that he will support
5 the constitution of the United States and of the State of West
6 Virginia, that he will faithfully account for, as required by

7 law, all moneys, funds and properties which shall come into
8 his custody or under his control by virtue of his office, and
9 that he will faithfully perform the duties of mayor to the
10 best of his skill and judgment. He shall also, before entering
11 upon the discharge of his duties, execute and file with the
12 city council a bond in the penalty of at least fifty thousand
13 dollars, and in such greater amount as the council may direct,
14 with some solvent and responsible surety or bonding company,
15 authorized to do business in this state as surety therein, con-
16 ditioned that he will faithfully perform the duties of his said
17 office. The premium on such bond shall be paid by the city
18 out of the funds in the city treasury, and when said bond is de-
19 livered to the council they shall record the same and then de-
20 liver it to the clerk of the county court of Logan county, who
21 shall record it in his office in the same book in which the bonds
22 of county officers are recorded. A certified copy of said bond
23 as recorded by either the said mayor or said clerk shall be ad-
24 mitted and considered in evidence the same as the original
25 could be in all courts and before all public bodies in this
26 state.

Sec. 23. At the expiration of his term of office the mayor
2 shall make an account and settlement for all monies coming into
3 his hands, and an annual audit shall be made of his books, rec-
4 ords, and accounts, as provided by general law respecting county
5 offices. His books and records shall be at all times open for
6 inspection by the council. The mayor shall make a monthly
7 report to the council of all arrests and fines, which reports
8 shall be examined and approved before the salary of said official
9 is paid for such month.

Sec. 24. The mayor, councilmen, and city solicitor may be
2 removed for the same causes and in the same manner as pro-
3 vided by general law for the removal of county officers. All
4 other officers or agents appointed hereunder may be removed
5 at the pleasure of the mayor, without cause, subject however,
6 to the approval of the majority vote of the council at their
7 next regular meeting, whenever the mayor deems such re-
8 moval for the best interest of the city.

Sec. 25. The city shall construct, keep repaired and main-
2 tain its own roads, streets and alleys and by reason thereof
3 the property located within the limits of said city shall not be

4 subject to district road levies for the magisterial district in
5 which said city is located except levies to pay the bonded in-
6 debtedness, if any, of the county of Logan, and of the magis-
7 terial district of Logan, now outstanding.

Sec. 26. The city shall provide for and maintain as required
2 by law all poor persons and paupers within the city limits, and
3 shall by reason thereof be released from paying any county or
4 district levies for the maintenance of the poor or paupers.

Sec. 27. The city is hereby authorized to issue its bonds
2 in the manner provided by general law, and in that way be-
3 come indebted for the following purposes only, to-wit:

4 (a) For the acquisition of a site and the construction
5 thereon of a city incinerator complete;

6 (b) For the paving, repaving, curbing, recurbing, grading,
7 regrading, sewerage, resewerage, or otherwise permanently im-
8 proving any street or alley or roadway within the city limits
9 or the acquisition of land or rights-of-way for the establish-
10 ment of new streets, alleys or roadways or rights-of-way for the
11 building of city sewers;

12 (c) For the construction and installing of a water plant
13 or works to supply the city of Logan and the residents thereof
14 with water, or for the acquisition of the water plants or works
15 now installed in said city, and the improving, reconstruction
16 or rebuilding of the same.

17 But the city shall not become indebted in any manner or for
18 any purpose to an amount, including existing indebtedness, in
19 the aggregate, exceeding five per cent on the valuation of the
20 taxable property therein to be ascertained by the last assess-
21 ment for state, county and municipal taxes, previous to the
22 incurring of such indebtedness; nor without at the same time
23 providing for the collection of a direct annual tax sufficient
24 to pay annually the interest on such debts and the principal
25 thereof, within, and not to exceed thirty-four years: *Pro-*
26 *vided*, That no debt shall be contracted under this section
27 unless the question connected with the same shall have first
28 been submitted to a vote of the people, and have received three-
29 fourths of all the votes cast for and against the same.

Sec. 28. The city through its officers, shall have plenary
2 power to construct, maintain and keep in constant repair, all
3 streets, alleys, roadways, sidewalks, gutters, and sewers of the

4 city, and to lay out, construct and maintain, and keep in re-
5 pair, new streets, alleys, roadways, sidewalks, gutters, and
6 sewers, and to apportion such amount of monies raised by tax-
7 ation to that purpose as may be requisite: *Provided, however,*
8 That such construction and repair, as is herein mentioned, can-
9 not be made by the county court upon an agreement regarding
10 said construction and repair, and cost of same, by the said
11 county court, the mayor, and the city council.

Sec. 29. It shall be the duty of the owner of any real prop-
2 erty abutting on or next adjacent to or on any sidewalk, foot-
3 way, or gutter, to lay and construct proper sidewalks, and to
4 curb, recurb, pave, repave, or repair, and keep the same in
5 constant good and clean condition in the manner and within
6 the time required by the council. And if any owner of any such
7 real estate shall fail or refuse to lay and construct such sidewalks,
8 and to do such curbing, recurbing, paving, repaving, or repair-
9 ing, or to keep the same constantly in good condition and clean,
10 in the manner and within the time required by the said council,
11 it shall be the duty of the said council to cause the same to be
12 done at the expense of the city, and to assess the amount of
13 such expense against said property, and upon the owner there-
14 of, and the amount so assessed against said property shall
15 constitute a lien thereon and shall be collected by the city treas-
16 urer in the same manner and at the same time that city taxes
17 on property assessed within the city are collected. If the owner
18 of the property upon which such lien exists fails to pay the
19 same within six months after said lien is perfected, then such
20 real estate may be sold to satisfy said lien in a suit in equity
21 brought for that purpose on behalf of the city of Logan as
22 plaintiff.

Sec. 30. The council shall have the right in the name of the
2 city of Logan, to institute and prosecute in the circuit court of
3 Logan county, West Virginia, condemnation proceedings for the
4 purpose of condemning real estate for streets, alleys, roadways,
5 drains, sewers, market grounds, city halls, incinerator plants and
6 other city purposes. Said condemnation proceedings shall con-
7 form to and be governed by the general laws of West Virginia
8 relating to condemnation of real estate for public uses.

Sec. 31. Public utility franchises shall be granted for a
2 period of not exceeding twenty-five years, and it shall be pro-

3 vided in every franchise that upon the annexation of new ter-
4 ritory to the city, said franchise shall also apply within said
5 annexed territory. No exclusive franchise or monopoly shall be
6 granted, and all franchises or privileges for the occupation or
7 use of the streets, alleys and roadways of the city shall be con-
8 strued strictly in favor of the city. All such franchises shall be
9 granted subject to the right of the city to control by resolution
10 or ordinance the operation of said franchise, whether so ex-
11 pressed in the franchise or not.

Sec. 32. The council of the city shall have power by ordi-
2 nance to control and regulate the construction and repair of all
3 houses and other structures or buildings within the city, and
4 provide for the granting of building permits; to cause the re-
5 moval of all unsafe walls or buildings and may upon the pe-
6 tition of any person or persons owning the greater amount of the
7 frontage of the lots abutting on any street between any two cross
8 streets, or in any square in said city, prohibit the erection on
9 such street, or in such square, of any building or any addition
10 to any building unless the outer walls thereof be made of brick
11 and mortar or other fireproof material, and to provide for the
12 removal at the expense of the owner, of any building or ad-
13 ditions which shall have been erected contrary to such prohi-
14 bition.

Sec. 33. In order to carry into effect all the specific and im-
2 plied powers conferred upon the city of Logan by this charter
3 or any other or general law, the said council shall have and pos-
4 sess full power and authority to make all needful ordinances,
5 by-laws, orders and resolutions not repugnant to the laws and
6 constitution of the United States and of this state, and to pro-
7 vide for the proper enforcement of the same by fines, penalties
8 and imprisonment.

Sec. 34. The city of Logan under this charter shall succeed
2 to all the rights and liabilities of the city of Logan, under the
3 charter granted by the acts herein amended, or repealed, and it
4 shall be liable for all the debts and obligations of said city, the
5 same as if said indebtedness or liability were created or incurred
6 by the city of Logan under this charter.

Sec. 35. All ordinances, by-laws, orders and resolutions of
2 the city of Logan in force at the time this act goes into effect,
3 so far as they are not inconsistent with this charter, shall con-

4 tinue in force as ordinances, by-laws and resolutions of the city
5 of Logan, until amended or repealed by the council of said city.

Sec. 36. The provisions of chapter eight of the code of West
2 Virginia, so far as the same are not repugnant to the provisions
3 of this chapter, or to any by-laws or ordinance passed by the
4 council under powers conferred upon them by this charter, shall
5 be applicable to the said city of Logan.

Sec. 37. At the time they hold their mass convention for the
2 purpose of nominating candidates to be voted for as mayor and
3 councilmen under the provisions hereof, the voters of the re-
4 spective political parties may select a city executive committee
5 to represent them. Such committees shall consist of a chairman,
6 a secretary, and six other members; and the powers and duties
7 of such chairman, secretaries and committees, as respects mu-
8 nicipal-conventions, elections, affairs and matters, shall be the
9 same as are respectively held and performed by county execu-
10 tive committees, chairman and secretaries of said political par-
11 ties, in respect to county conventions, elections, affairs and mat-
12 ters.

Sec. 38. The regular meetings of the council shall be pub-
2 licly held at such time and in such places in the city as they
3 shall from time to time ordain and appoint; and it shall be
4 lawful for the council by ordinance to vest in any officer of the
5 city, or in any member, or number of members of its own body
6 the 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 meetings, those in attendance shall have authority
10 to compel the attendance of absent members under such rea-
11 sonable penalties as they may think proper to impose by ordi-
12 nance. All questions put to vote, except such matters as are
13 herein otherwise provided for, shall be decided by a majority
14 of the members present.

Sec. 39. The mayor, with the consent of the council, shall
2 appoint and employ a chief of police and such other police of-
3 ficers as shall be necessary, who shall be ex officio constables
4 within the corporate limits of the city and as such may execute
5 any writ or process issued by the mayor, or by any justice of
6 the peace in any place in Logan county; said police shall have
7 all the powers, rights and privileges within the corporate limits
8 of the city in regard to the arrest of persons, the collection of

9 fines, and the execution and return of process, that are vested
10 by law in a constable of a magisterial district, and shall be liable
11 for all fines, penalties and forfeitures that a constable of a mag-
12 isterial district is liable to, to be recovered in the same manner,
13 and in the same court that fines, penalties and forfeitures may
14 be recovered against such. All other police officers employed
15 by said city shall perform their duties under the several direc-
16 tion of the chief of police, and they shall be charged with the
17 same duties and shall have and possess the same powers as the
18 chief except insofar as they are herein placed under the super-
19 vision of said chief of police: *Provided, however,* That all police
20 officers, other than that of chief of police, necessary for the
21 protection and safety of the inhabitants of the city of Logan,
22 cannot be made by the sheriff of the county upon an agreement
23 regarding the duties and cost of same, by said sheriff, mayor
24 and city council. On special occasions, the council may desig-
25 nate and appoint additional policemen to act temporarily and
26 they shall be charged with the same duties and clothed with the
27 same powers as regular police officers hereunder. All police of-
28 ficers appointed hereunder shall before entering upon the dis-
29 charge of their duties execute a bond in the penalty of at least
30 five thousand dollars, conditioned for the faithful discharge of
31 their duties as such officers, that they will account for and pay
32 over as required by law all moneys which shall come into their
33 hands by virtue of their office and further conditioned for the
34 payment of all damages sustained or incurred by anyone by
35 reason of injury through the wilful illegal use of any weapons
36 which said police are authorized to carry. Upon the execution
37 of such bond such chief of police and other police shall be
38 authorized to carry anywhere within the limits of the said city
39 of Logan, and anywhere else within the limits of the state of
40 West Virginia while engaged in the actual performance of their
41 duties as such, any weapons now authorized by law to be carried
42 by the sheriff of Logan county. Said chief of police and other
43 policemen appointed hereunder shall be paid such compensa-
44 tion as is fixed by the mayor and approved by the council, which
45 compensation shall be paid out of the city treasury monthly.

Sec. 40. The mayor, with the consent of the council, shall
2 appoint a chief of fire department and such number of firemen
3 as in its opinion are necessary to the creation and maintenance
4 of a fire-fighting force sufficient for the needs of the said city of

5 Logan; the mayor, with the consent of the council, shall pre-
6 scribe the duties and fix the compensation of said chief and
7 other firemen and shall promulgate and adopt such rules and
8 regulations for the government of said fire-fighting force, and
9 for the use, maintenance and care of the city's fire-fighting
10 equipment, as may, in his opinion, be necessary or needful.
11 The chief of the fire department, and each fireman so appointed,
12 shall, while in the necessary performance of their duties, or
13 while going to or returning from any fire, be vested with the
14 same powers of arrest as are conferred upon the chief of police
15 by this charter. The council may by ordinance also promulgate
16 and enforce such rules and regulations governing traffic over
17 a street on which fire-fighting equipment is being moved to the
18 scene of a fire, as will in its opinion properly safeguard and
19 expedite the moving of such equipment. The chief of the fire
20 department shall be an ex officio constable within the corporate
21 limits of the city and shall qualify as such in the manner pro-
22 vided herein for police officers. While engaged as such police
23 officer he shall serve under the direction of the chief of police.

Sec. 41. The mayor may appoint a city engineer subject to
2 approval of the council, whose duty it shall be to perform such
3 engineering services as are required of him from time to time by
4 order of the council or the mayor. And in case any permanent
5 improvements are being made upon any of the existing streets
6 or alleys, or to any sewers of the city, or in case any new streets
7 are hereafter planned, laid out or dedicated for the public use
8 of the city, or any new sewer lines are hereafter planned, laid
9 out or put in use in said city, before the same are dedicated
10 and laid out they shall be correctly surveyed by such engineer
11 and a map and plan of the same filed with the mayor as a part
12 of the records of said city. In case the city should install a
13 waterworks or a water plant, or purchase the one now in op-
14 eration in said city (either or any of which the said city is
15 hereby authorized to do), all the lines installed by the city for
16 carrying water, and all improvements made to said plant, shall
17 first be submitted to the city engineer, and approved by him
18 and the mayor before the same shall be acted upon by the coun-
19 cil.

Sec. 42. All contested elections shall be heard and deter-
2 mined by the council in existence at the time the election is
3 held, and the contest shall be made and conducted in the manner

4 as provided for in contests for county and district officers, and
5 the council by their proceedings in such cases shall as nearly
6 as practicable, conform with like proceedings of the county
7 court in such cases.

Sec. 43. The mayor shall sign, execute and acknowledge, for
2 and on behalf of the city, all deeds, releases, writings, and
3 documents not herein required to be signed, executed and ac-
4 knowledged by some other official.

5 All election officers, who perform their services under the
6 provisions of this charter, shall be paid the same compensation
7 as is provided by law for similar services performed by election
8 officers under the appointment of the county court of Logan
9 county.

Sec. 44. No member of the council, including the mayor, the
2 secretary to the mayor, and the city solicitor shall be entitled
3 to hold any other office in the city government.

Sec. 45. No person holding a lucrative or appointive office
2 under this state, or the county of Logan, shall be eligible to
3 hold the office as mayor of the city of Logan.

Sec. 46. All officers of the city of Logan shall remain in
2 office and hold their offices and discharge the duties thereof
3 under the provisions of the present charter of the city of Logan
4 until the first day of May, one thousand nine hundred thirty-
5 three, and thereafter, until their successors are qualified, and
6 all existing offices not provided by this act shall be abolished as
7 of the first day of May, one thousand nine hundred thirty-three.

Sec. 47. The act of the legislature of West Virginia passed
2 March eight, one thousand nine hundred twenty-nine, known
3 as house bill number three hundred seventeen, relating to the
4 charter of the city of Logan, and being chapter twenty of the
5 acts of the legislature of West Virginia, one thousand nine hun-
6 dred twenty-nine, relating to municipal charters, and all acts
7 and parts of acts inconsistent with this act, are hereby repealed.

CHAPTER 125

(House Bill No. 71—By Mr. Peery)

AN ACT to amend and reenact sections three, four, twelve, thirteen,
fourteen, fifteen, sixteen, twenty-seven, thirty, thirty-four,
thirty-five, thirty-seven, fifty-seven, fifty-nine and sixty of the

acts of the legislature of West Virginia, being chapter six, (municipal charters), of the acts of one thousand nine hundred fifteen, passed February eleven, one thousand nine hundred fifteen, and adding section sixteen-(a) thereto, relating to the charter of the city of Martinsburg.

[Passed March 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

3. Boundaries of the seven wards of city.

ARTICLE IV.

SEC.

4. Mayor and councilmen from each ward to constitute council.

ARTICLE VIII.

SEC.

12. Dates of first and subsequent elections; political affiliations of election officers; change in name and boundaries of precincts; voting population of precincts; publication of notice of special election; council to canvass results of any election; mandamus or prohibition against council; minute book of council as board of canvassers.

ARTICLE IX.

SEC.

13. Election and term of mayor.
14. Eligibility to office of mayor.
15. Election and term of councilmen.
16. Eligibility to office of councilmen.
16-(a). Nominating conventions for candidates for mayor and councilmen and for ward executive committee of political parties.

ARTICLE XVIII.

SEC.

30. Appointive officers, duties and salaries.

ARTICLE XXI.

SEC.

34. Appointment, qualifications and salary of commissioner of streets.

ARTICLE XXII.

SEC.

35. Duties, bond and salary of treasurer; bond of city depository.

ARTICLE XXIII.

SEC.

37. Appointment, duties and salary of city attorney.

ARTICLE XXXV.

SEC.

57. Appointment, supervision and salaries of members of fire department; appointment, qualifications and duties of civil service commission for fire department.

ARTICLE XXXVII.

SEC.

59. Expiration of terms of present officers and employees; present ordinances to remain in force until repealed; term of present council.
60. Inconsistent acts repealed; provisions of act, as to constitutionality separable and several.

Be it enacted by the Legislature of West Virginia:

That sections three, four, twelve, thirteen, fourteen, fifteen, sixteen, twenty-seven, thirty, thirty-four, thirty-five, thirty-seven, fifty-seven, fifty-nine and sixty of chapter six, (municipal charters), of the acts of the legislature of West Virginia, one thousand nine hundred fifteen, be amended and reenacted, and section sixteen-(a) added thereto, to read respectively as follows:

Section 3. The said city shall consist of seven wards, which 2 shall be bounded as follows:

3

First Ward

4 Beginning in the line of the corporation line in the center of
5 West Virginia avenue thence with the corporation line to the
6 west side of Alabama avenue, and corner to ward number three;

7 thence with the line of ward number three eastwardly to Porter
8 avenue in the center of First street; thence eastwardly with the
9 center of First street to the center of Winchester avenue; thence
10 southwardly with Winchester avenue to the center of West
11 Stephen street; thence eastwardly on West Stephen street to the
12 intersection of Virginia avenue and Faulkner avenue; thence
13 southwardly on Faulkner avenue to the center of West Virginia
14 avenue, thence with center of same to the beginning.

15

Second Ward

16 Beginning in the line of the corporation line in center of
17 West Virginia avenue; thence with the corporation line east-
18 wardly and northeastwardly to the center of Tuscarora creek;
19 thence west to the center of said creek and Spring run; thence
20 southwestwardly up Spring run to the center of East Stephen
21 street; then westwardly with East and West Stephen street to
22 the intersection of Virginia avenue and Faulkner avenue; thence
23 south to the center of Faulkner avenue; thence southwardly
24 with the center of same to the center of West Virginia avenue;
25 thence along center of same to the beginning.

26

Third Ward

27 Beginning in the center of West King street and South Maple
28 avenue; then northwardly with the center of South Maple ave-
29 nue to the center of West Burke street; thence westwardly along
30 the center of West Burke street to the center of South Raleigh
31 street; thence southwardly along center of same to the center of
32 West King street; thence along center of same to the corner of
33 corporation line at Tennessee avenue; thence with corporation
34 line to the corner of same west side of Alabama avenue; thence
35 southwardly with the west side of Alabama avenue to the corner
36 of ward number one; thence with line of same to the center of
37 Virginia avenue and West Stephen street; thence eastwardly
38 center of West Stephen street to the center of South Maple ave-
39 nue; thence northwardly along center of same to the beginning.

40

Fourth Ward

41 Beginning at the center of West Stephen street and South
42 Maple avenue; thence with the center of South Maple avenue
43 and South Maple avenue to the center of West Burke street;
44 thence eastwardly on the center of same to the center of the Bal-

45 timore and Ohio railroad, southeastwardly along the center of
 46 said railroad to the corner of corporation line east of Tuscarora
 47 creek; thence with the corporation line to the center of Tus-
 48 carora creek, westwardly up center of Tuscarora creek to the
 49 center of Spring run and Tuscarora creek; thence southwardly
 50 with Spring run to the center of East Stephen street; thence
 51 with the center of said street to the beginning.

52

Fifth Ward

53 Beginning at the center of West King street and South Ral-
 54 eigh street, thence westwardly with the center of West King
 55 street to the corporation corner at Tennessee avenue; thence
 56 with the corporation line northeastwardly to the center of Balti-
 57 more and Ohio railroad; thence eastwardly along the center of
 58 said railroad to the center of East Race street; thence west-
 59 wardly up the center of East Race street to the center of Maple
 60 avenue along the same; thence south along the same to the cen-
 61 ter of East Burke street; thence westwardly along West Burke
 62 street to the center of Raleigh street; thence southwardly along
 63 Raleigh street to the center of West King street to the place of
 64 beginning.

65

Sixth Ward

66 Beginning at the center of Liberty street and Third street,
 67 thence eastwardly with the center line of Liberty street east-
 68 wardly to the corporation line; thence southwestwardly with
 69 the corporation line to the corner of same east of bridge over
 70 Tuscarora creek to ward number four and center of Baltimore
 71 and Ohio railroad tracks; thence westwardly along center of
 72 said railroad to the center line of East Burke street; thence
 73 westwardly with Burke street to the center of Maple avenue;
 74 thence northwardly with Maple avenue to the center of West
 75 Race street to the Baltimore and Ohio railroad tracks; thence
 76 northwardly along said Baltimore and Ohio railroad to the cen-
 77 ter of North Queen street; thence along North Queen street to
 78 the center of Liberty and Third streets to the center of begin-
 79 ning.

80

Seventh Ward

81 Beginning at the corporation line of the west side of the Mar-
 82 tinsburg and Williamsport turnpike at a small bridge or cul-

83 vert; thence with corporation line southeastwardly and south-
84 westwardly, west and southwestwardly to the corner of ward
85 number six intersection with corporation line and center of
86 Liberty street to the center of North Queen street; thence south-
87 wardly with North Queen street to the center of Baltimore and
88 Ohio railroad tracks; thence westwardly with the said Baltimore
89 and Ohio railroad tracks to the corporation line and corner of
90 ward number five; thence with corporation line northeastwardly
91 and southeastwardly to the beginning.

Municipal Authorities

ARTICLE IV.

Section 4. The municipal authorities of the city of Martins-
2 burg shall be the mayor, and one councilman each of the seven
3 wards, who shall constitute the council.

ARTICLE VIII.

Section 12. The first election under this act shall be held on
2 the second Tuesday in June in the year one thousand nine hun-
3 dred thirty-four, and on the same day every two years there-
4 after. Such elections, and all subsequent elections, shall be held
5 in such manner as is, or shall be prescribed by law.

6 No more than two election commissioners shall be of the same
7 political party, and the clerks and challengers shall be one each
8 of two political parties. The council may at any time change
9 the names and boundaries of precincts, may create more pre-
10 cincts in each ward and may arrange all or any of the precincts
11 in any wards, but shall be so made as to have as nearly as prac-
12 ticable not more than six hundred voters residing in any one
13 precinct, and it shall be the duty of the council to arrange said
14 precincts, if after any election more than six hundred votes
15 be cast at the precinct, so that the new precinct will, as far
16 as practicable, contain not more than six hundred voters each.
17 Special elections for any purpose must be authorized by the
18 council and called by the mayor. Notices of all special elections
19 must be given by publication in two newspapers of general cir-
20 culation, published in the city of Martinsburg, at least thirty
21 days before the date fixed for such special election and by post-
22 ing such notices in such manner as the council may prescribe.
23 The council shall sit on the second day after every election
24 as a board of canvassers, each member of the council having

25 one vote; and as such board of canvassers, they shall canvass,
26 ascertain, publish and declare the result of any election held;
27 and the circuit court of Berkeley county shall have power to
28 control proceedings of said board of canvassers by mandamus
29 and prohibition. The said board shall keep in a separate book
30 a record of its proceedings, and shall take down and record any
31 evidence, motion, or paper filed, or offered by any candidate,
32 which book and record shall be open to the public and shall be
33 kept in the custody of the recorder.

Election of Officers

ARTICLE IX.

Section 13. On the second Tuesday in June, one thousand
2 nine hundred thirty-four, and on the same day every two years
3 thereafter, there shall be elected by the qualified voters of the
4 city, a mayor, who shall hold his office from the first day of
5 July succeeding in the year in which he is elected for a term
6 of two years, and until his successor is elected and qualified.

Sec. 14. No person shall be eligible to the office of mayor
2 except a citizen entitled to vote at the election at which he is
3 elected, and has been assessed and paid taxes in the city of Mar-
4 tinsburg upon a valuation of at least five hundred dollars' worth
5 of real or personal property therein, for the year pre-
6 vious, and any person elected to said office who has not been
7 assessed and paid taxes on such amount of property or who
8 shall be or become an officer or employee of any person, firm
9 or corporation holding any franchise or contract under or with
10 said city shall not qualify or enter upon the performance of the
11 duties thereof, but such office shall become vacant and shall be
12 filled by a qualified person as provided herein for other vacan-
13 cies.

Sec. 15. On the second Tuesday in June, one thousand
2 nine hundred thirty-four, there shall be elected one councilman
3 from each ward of said city as constituted under this act. Said
4 councilmen so elected in each of said seven wards shall hold
5 their office for the term of two years from the first day of
6 July, one thousand nine hundred thirty-four. At each election
7 thereafter seven councilmen, that is to say, one from each ward,
8 shall be elected by the qualified voters thereof for the term of
9 two years from the first day of July, following their election.

Sec. 16. Councilmen must be residents at the time of their
2 election, and voters in the ward from which they are elected,
3 and have been assessed and paid taxes in the city of Martins-
4 burg for the year previous upon a valuation of at least one
5 hundred dollars' worth of real or personal property
6 therein, and any person elected to said office who has not been
7 assessed and paid taxes on such amount of property or who
8 shall be or become an officer or employee of any person, firm
9 or corporation holding any franchise or contract under or with
10 said city, or shall remove from said ward, shall not qualify or
11 enter upon the performance of the duties thereof, such office
12 shall become vacant and shall be filled by a qualified person as
13 provided herein for other vacancies. And the circuit court of
14 Berkeley county is hereby given jurisdiction by mandamus on
15 quo warranto at the suit of any taxpayer in the city to declare
16 and enforce such vacancy.

Sec. 16-(a). Primary elections shall not be held, but can-
2 didates for elective offices may be nominated by nominating con-
3 ventions. Organized political parties, desiring to nominate
4 candidates shall hold ward meetings on the call of the chairman
5 of such party, not earlier than April fifteenth or later than May
6 first before any city election, at some place designated in each
7 ward, at which a candidate to represent such party for council
8 from such ward in the ensuing election shall be chosen, to-
9 gether with the number of delegates to which the ward is en-
10 titled to a convention to choose the candidate of such party for
11 mayor, which convention shall be held on the second Tuesday in
12 May, preceding such election, at the hour and place designated
13 by the chairman of such party. The chairman of such meet-
14 ings and conventions shall certify to the recorder for placing
15 upon the official ballot the candidate nominated thereat. The
16 executive committee for each ward shall be selected in the same
17 manner and at the same time the delegates to the mayoralty
18 convention are chosen. Candidates shall not be nominated in
19 any other way.

Appointive Officers

ARTICLE XVIII.

Section 30. The council shall appoint a recorder and audi-
2 tor, sergeant, treasurer, city attorney, commissioner of streets,
3 water superintendent, chief of fire department and building in-

4 spector, policemen, and all other officers, all of whom shall be
5 residents of the county of Berkeley, and the council shall pre-
6 scribe the duties and fix the salaries of such officers and also
7 fix the salaries of all other officers not otherwise provided for
8 in this act.

Duties of Commissioner of Streets

ARTICLE XXI.

Section 34. The council shall appoint a commissioner of
2 streets for said city, who shall be a competent civil engineer,
3 and who shall perform all such duties as may now or hereafter,
4 by ordinance, be imposed upon him. His salary shall be fixed
5 by council from term to term.

Duties of Treasurer

ARTICLE XXII.

Section 35. The council shall appoint a treasurer, whose
2 duties shall be to keep all funds of the city in some bank or
3 banks in said city in his name as treasurer of the city of Martins-
4 burg, which shall pay interest on such deposits equal at least
5 to that paid by state depositories on all funds of the state of
6 West Virginia, and in the same manner at the same time. Be-
7 fore receiving any such deposits, such banks shall give bond in
8 such penalty as the council shall prescribe and with sureties
9 to be approved by said council, conditioned for the prompt
10 payment whenever lawfully required of all city moneys, or parts
11 thereof, which may be deposited with them, which bond shall
12 be renewed at such times as the council may require.

13 Before receiving any money under said election, said treas-
14 urer shall give bond in such amount and with such provisions as
15 the council may by ordinance prescribe; his salary shall be fixed
16 by the council from term to term.

17 In addition to the duties herein set forth the treasurer shall
18 perform such other duties as may be required by the council.

Duties of City Attorney

ARTICLE XXIII.

Section 37. The council shall appoint a city attorney who
2 shall be the legal adviser of the city and all its officers in all
3 matters arising and in which legal proceedings may be taken;
4 he shall prosecute all suits, actions and proceedings instituted
5 on behalf of said city and defend all suits and actions against

6 said city, and, when requested in writing, shall give his written
7 opinion to the mayor and council, or any standing committee
8 thereof, upon such legal questions as may be referred to him
9 affecting the city's interest; he shall perform such other duties
10 as may be required. It shall be his duty to attend ses-
11 sions of the police court, when requested by the mayor, and
12 prosecute all trials therein and all appeals that are taken from
13 such court, and for his services he shall receive such compensa-
14 tion as the council shall provide.

Fire Department

ARTICLE XXXV.

Section 57. The council shall appoint the salaried members
2 of the fire department; said fire department shall be under the
3 supervision and subject to rules and regulations prescribed by
4 the council. The council shall fix their salaries from time to time.

5 The council shall appoint a civil service commission, consisting
6 of three members, none of whom shall be members of the council,
7 or of the paid or volunteer fire department, and not more than
8 two of whom shall be of the same political party. One shall be
9 appointed for two years, one for four, and the other for six
10 years; every two years one member of the commission shall be
11 appointed, and all members shall be eligible to succeed them-
12 selves.

12-a This commission shall have power to conduct examina-
13 tions as to the fitness of all salaried members of the fire depart-
14 ment, and to recommend suitable men for appointment by the
15 council. The council shall make no appointments except from
16 those recommended by said commission. The council shall adopt
17 by proper ordinance, rules and regulations governing the activi-
18 ties of said commission.

Existing Officers and Ordinances

ARTICLE XXXVII.

Section 59. All officers, agents and employees of the city of
2 Martinsburg, shall remain in and hold their offices and discharge
3 the duties thereof, until the first day of July, one thousand nine
4 hundred thirty-four, unless the term of office sooner expires and
5 thereafter until their successors are qualified, and all existing
6 officers not provided for by this act, shall be abolished as of the
7 first day of July, one thousand nine hundred thirty-four, ex-

8 cept firemen, who shall hold office until their successors are
9 appointed and qualified as provided in this act.

10 All valid ordinances and regulations passed and adopted by
11 the council, on or before the first day of January one thousand
12 nine hundred thirty-three, and not inconsistent with this act,
13 shall be and remain in full force, unless and until repealed, and
14 the council now in office shall continue to exercise its powers,
15 as such, until the first day of July one thousand nine hundred
16 thirty-four.

Sec. 60. All acts in conflict or inconsistent with this act are
2 to the extent of any such conflict, hereby repealed. If any
3 clause, paragraph or section of this act should be declared to
4 be unconstitutional, all other clauses, paragraphs and sections
5 thereof shall not be affected thereby.

CHAPTER 126

(House Bill No. 100—By Mr. Yoke)

AN ACT to amend and reenact chapter fifteen (municipal charters),
acts of one thousand nine hundred twenty-one, as amended and
reenacted by chapter twenty-one (municipal charters), acts of
one thousand nine hundred twenty-five, relating to the char-
ter of the city of Morgantown.

[Passed February 17, 1933: in effect ninety days from passage. Became a law
without the approval of the Governor.]

ARTICLE I.

SEC.

1. City of Morgantown a body corporate; powers; to succeed rights and liabilities of city under former charter; present ordinances to continue in force until repealed.
2. Boundaries.
- 2(a). Election for enlarging boundaries, when held and how conducted.
- 2(a-1). Cost of election; procedure when all or part of new territory is within another municipality.
- 2(a-2). When majority vote of voters in territory proposed to be acquired required.
- 2(a-3). Ordinance by council of city of Morgantown to carry out terms of agreement of annexation.
- 2(a-4). Annexed territory must be contiguous to city of Morgantown.
3. Number and boundaries of wards.

ARTICLE II.

SEC.

- 1(a), (b) and (c). Number, terms and qualifications of councilmen.

SEC.

- 1(d) and (e). Filling vacancy in council.
- 1(f). When councilman may not vote on question before council; penalty.
- 1(g). Penalty when city officer or employee interested in city contract; contract void; penalty for acceptance of certain gifts and gratuities by city officer or employee.
- 1(h), (i), (j) and (k). Selection, duties, term, absence or resignation of mayor.
2. When terms of present councilmen cease; terms of new councilmen.
3. Compensation of mayor and councilmen; no extra compensation to officers or employees of city or contractor; when claims against city not to be paid; salary of councilmen not to be increased or diminished during term of office.
4. Time and place of meetings of council.
- 4(a). Special meetings of council.
- 4(b). Majority of council a quorum.
- 5(a). Council judge of election and

SEC.

- qualification of members; quorum; adoption, signing and filing ordinances.
- 5(b). When councilman not to vote on question before council; yeas and nays.
- 5(c). Mayor to have one vote; city clerk has no vote.
6. Council journal open to inspection of taxpayers; what records of former towns to be preserved; approval and signing of minutes.
- 7(a). Corporate powers to be exercised by council.
- 7(b). Powers of council to make and enforce ordinances; limits of imprisonment and fines.
- 8(a). Enumerated powers of council.
- 8(b). Powers of council not limited to those enumerated.
9. Council may pass ordinances, etc., to carry its powers into effect; limitations on terms of imprisonment and amount of fines.
10. Trial by council of member; penalty

ARTICLE III.

SEC.

1. Qualifications of voters.
2. Regular annual election; number to be elected; how conducted, etc.; tie vote; contested elections.
3. Elections governed by regulations of council.
4. Registration of voters.
5. Form of election ballots.
6. Opening and closing of polls.
7. Election precincts.

ARTICLE IV.

SEC.

1. Annual estimate and levy by council.
- 2(a). City manager to review city assessments made by county assessor.
- 2(b). City manager to review assessments of public service corporations within the city.
3. Poll tax; vote on amount of.
4. Annual levy; on what based; maximum amount; levy on dogs.
5. City levy certified to sheriff; duty of sheriff.
6. City taxes collected by sheriff; payment to city clerk; sheriff's bond to city.
- 7(a). Regulations for storage and transportation of, and license tax on, gunpowder and other explosives.
- 7(b). Regulation of and license for performances to which admission is charged.
- 7(c). Licenses on horses, wagons, hawkers, etc.
- 7(d). Unlawful to act as fortune teller, palmist, etc.
- 7(e). License on auctioneers and loan agencies and regulation of auction sales.
- 7(f). License on hotels, etc.; provisions as to boarding stables for horses and mules.
- 7(g). License on pawn brokers or loan agents.
- 7(h). Regulation of fees of money brokers, loan agents, etc.

SEC.

- 7(i). City may require license for any business or vocation licensed by state.
- 7(j). Penalty for doing business without required license.
8. Lien on real estate for city taxes; lien for assessments, fines, etc.
- 9(a). City may support its poor and its health units; city shall construct and maintain its roads and streets; what district and county levies not to apply to city property.
- 9(b). County court chargeable with construction and maintenance of bridges within city; consent of council to change or relocation.

ARTICLE V.

SEC.

- 1(a). Appointment of city officers by council, city manager and city clerk.
- 1(b). Oath of salaried officer or employee.
- 1(c). Bonds of officers, when required by council.
- 1(d). Form of bond; officer not to perform duties of office until bond, when required, is given.
- 1(e). Bonds payable to city; proceedings on.
- 1(f). Fees and money paid for official services to belong to city.
- 2(a). Council to choose city manager, who shall be administrative head of city government.
- 2(b). City manager, term and removal or suspension.
- 2(c). City manager, powers and duties; powers as to money expenditures and contracts.
3. Qualifications, powers, duties and bond of city clerk.
- 4(a). Qualifications of judge of police court.
- 4(b). Jurisdiction of police court.
- 4(c). Proceedings for recovery of fines.
- 4(d). Commitment of accused for act of grand jury.
- 4(e). Sessions of police court.
- 4(f). Enforcement of orders and judgments of police court; process directed to chief of police; fees.
- 4(g). Powers, duties and fees of clerk of police court.
- 4(h). Court docket and seal; records and certificates of court to be given full faith and credit.
- 4(i). Judgment for costs of prosecution; when to be borne by person instituting prosecution.
5. Powers and duties of chief of police.
- 5(a). Duties of chief of police as to sessions and orders of police court.
- 5(b). Powers of special officers.
6. Powers, duties and compensation of auditor.

ARTICLE VI.

SEC.

1. Unlawful use of city streets.
2. Designation of certain streets and alleys for transportation of designated commodities.
3. Construction and repair of streets; water and gas lines, street car tracks and excavation in and on.
4. When public utilities may not dis-

SEC.

- turb paving to make improvements.
5. Sewering before paving.
 6. When disturbance of streets or alleys by digging may be permitted; service fee.
 7. Provisions for issuance and sale of city bonds; restrictions on bonds for street paving; bond elections.

ARTICLE VII.

SEC.

1. Powers of council as to streets, walks, market grounds, public squares, bridges, parks and playgrounds; compensation to owner for property taken or damaged; establishing or changing grades; assessments for grading, paving, etc.; certificates of assessments; time limit on repaving; method of ascertaining, recordation and

SEC.

lien of assessment; special maintenance assessment for streets; sidewalks.

ARTICLE VIII.

SEC.

1. Collection and disposal of garbage; special levy for; council may submit to vote of people.
2. Publication of financial statement.
3. What prior contracts, etc., of city to remain in force and effect.
4. Copies of ordinances or minutes of council as evidence.
5. No legal act of council or city officer invalidated by this act.
6. Penalty for violation of provisions of this act.
7. Women to have same rights, etc., as men.
- 8(a). Inconsistent acts repealed.
- 8(b). Invalidity of portion of act not to affect remaining portion. *

Be it enacted by the Legislature of West Virginia:

That chapter fifteen (municipal charters), acts of one thousand nine hundred twenty-one, as amended and reenacted by house bill number two hundred forty-eight, acts of one thousand nine hundred twenty-five, be amended and reenacted to read as follows:

ARTICLE I.

Section 1. The inhabitants of the portion of the county of 2 Monongalia, in the state of West Virginia, within the limits of 3 the city of Morgantown as they now are, or as they may here- 4 after be, shall be and continue a body politic and corporate, 5 by the name and style of "the city of Morgantown," and as 6 such, and by that name, shall have perpetual succession and 7 may contract and be contracted with, sue and be sued, plead 8 or be impleaded, answer and be answered unto, and may pur- 9 chase, acquire by condemnation proceedings for public use, take, 10 receive, hold and use goods and chattels, lands and tenements 11 and choses in action, or any interest, right or estate, therein 12 either for the proper use of said city, or in trust for the benefit 13 of any person or association therein; and the same may grant, 14 sell, convey, transfer and assign, let, pledge, mortgage, charge 15 and encumber, in any case and in any manner in which it 16 would be lawful for private individuals so to do, except where 17 its power may be limited by law; and may have and use a 18 common seal, and alter and renew the same at pleasure; and 19 generally shall have all the rights, franchises, capacities and 20 powers appertaining to municipal corporations in this state.

21 All real and personal estate, and all funds, rights, titles, taxes,
22 credits and claims and rights of action owned by the city of
23 Morgantown immediately before this charter takes effect or
24 which are then held in trust or have been appropriated for the
25 use or benefit of said city or of the inhabitants thereof, shall
26 be and the same are hereby transferred to and vested in the
27 city of Morgantown under this charter.

28 All lawful contracts with and all lawful rights, claims and
29 demands against the city of Morgantown, at the time this char-
30 ter takes effect, shall be good in law against the said city under
31 this charter.

32 All ordinances heretofore enacted and all recorded orders
33 of the council of said city in effect at the time of the passage
34 of this act shall be and continue hereunder until the same shall
35 be duly and regularly repealed and revoked.

Boundaries

Sec. 2. The corporate boundaries of the city shall be as fol-
lows, that is to say:

3 Beginning at Target rock, a large rock in the Monongahela
4 river below Morgantown, said Target rock being nearest the
5 right bank of said river, thence north fifty-six degrees east,
6 two hundred and three and eight-tenths poles to a locust on
7 the northeast side of University avenue, opposite the entrance
8 of Riverview drive; thence south sixty-one degrees and fifteen
9 minutes east, two hundred fifty-three and seven-tenths poles to
10 a post on the southeast side of Stewartstown road or street at
11 its intersection with Vangilder avenue; thence south fifty-
12 eight degrees and two minutes east, two hundred one and five-
13 tenths poles to a stone on the southeast side of the Ice's Ferry
14 pike or North Willey street at its intersection with Harner
15 avenue; thence south eleven degrees and nine minutes east,
16 two hundred nineteen and five-tenths poles to a stone on the
17 southwest side of the Decker's Creek road opposite its inter-
18 section with Hartman Run road; thence south thirty-four de-
19 grees and fifteen minutes west, two hundred thirty-one and
20 five-tenths poles to a large stone on the top of the hill on land
21 of George Harner; thence south fifty-eight degrees and twenty-
22 five minutes west, two hundred twenty-seven and five-tenths
23 poles, to a stone on the northeast side of Dorsey avenue at its

24 intersection with Ross street; thence south sixty-seven degrees
25 and fifty-three minutes west, three hundred and forty-four
26 poles to a stone at the intersection of the Evansville pike, with
27 the Morgantown and Fairmont road, state route number sev-
28 enty-three; thence north eighty-eight degrees and twenty-five
29 minutes west, seventeen and eighty-eight one-hundredths poles
30 to a sycamore on the right bank of the Monongahela river;
31 thence directly across said river to a point opposite said syc-
32 more and thence with the shore line of said river and down
33 the western side of same to a point opposite Target rock, and
34 thence across said river to Target rock, the place of beginning.

35 (a) The city of Morgantown may from time to time here-
36 after enlarge the boundaries of the city only by and with the
37 consent of a majority of the inhabitants of the territory pro-
38 posed to be annexed, who are qualified voters of the state of
39 West Virginia, voting upon the subject at a general election
40 held in Monongalia county, West Virginia, for state, county,
41 judicial or district officers, the vote upon the question of an-
42 nexation to be by ballot, for the purpose of voting on such
43 question only, to be deposited in a ballot box or boxes separ-
44 ate and distinct from the others used at such election, and
45 the election to be held after a notice thereof published in two
46 newspapers published in said city of Morgantown once a week
47 for four successive weeks, and to be conducted and the result
48 thereof duly ascertained, declared, certified and made a matter
49 of record by the same officers who perform the like duties in
50 relation to the votes upon other matters at such general elec-
51 tion, and the ballots shall be prepared for voting upon such
52 question by the same officers as the other ballots for use at such
53 election, and, so far as applicable, all the provisions of chapter
54 three of the code of West Virginia shall apply to the election
55 upon such annexation question.

56 (a-1) *Provided, however,* That all expenses of holding such
57 election, insofar as pertaining to such annexation of territory
58 not already separately incorporated, the payment whereof is
59 not now provided for by law, shall be paid by the city of
60 Morgantown: *Provided further,* That if the territory pro-
61 posed to be annexed is part or all of the land embraced within
62 the boundaries of any other municipal corporation, before the
63 election on such annexation question is held, the city of Mor-

64 gantown and such other municipal corporation shall agree
65 upon the terms upon which the annexation is to be made, and
66 such terms shall be inserted in the published notice of election;
67 the vote taken on such question of annexation in a municipal
68 corporation in which part or all of the territory proposed to be
69 annexed is located, and the vote on annexation in territory
70 not within a municipal corporation must be taken separately
71 and not together.

72 (a-2) A majority of the votes cast upon the question of an-
73 nexation in any municipal corporation must be in the affirma-
74 tive to authorize the annexation of any of the territory thereof,
75 and a majority of the votes cast upon such question in terri-
76 tory not in such a corporation must be in the affirmative to
77 authorize the annexation of any of the last-mentioned terri-
78 tory.

79 (a-3) In the event that a majority of the votes upon the
80 question of annexation shall be in the affirmative the council
81 of the said city of Morgantown shall by ordinance carry out
82 the terms of agreement upon which the annexation is to be
83 made.

84 (a-4) Any territory annexed must be contiguous to a
85 boundary or boundaries of the city of Morgantown existing
86 at the time of the annexation.

Wards

Sec. 3. The territory included in the said city, and hereby
2 divided into wards, shall from time to time be redistricted by
3 the city council so that the wards shall be as nearly equal as
4 may be in area and population, and when the wards and the
5 boundaries thereof shall have been duly established by ordi-
6 nance of the common council they shall thereafter remain as
7 so established until the city shall be redistricted by like ordi-
8 nance.

9 Until such ordinance shall be adopted the wards shall be
10 as follows:

11 *First Ward*

12 The first ward shall comprise all that portion of said city
13 which lies between the southwestern boundary line of said cor-
14 porate limits, the Monongahela river, Decker's creek and the
15 divisional lines between the first ward and the second ward of

16 said city, which divisional line is as follows, to-wit: Beginning
17 at a beech tree on the south bank of Decker's creek in a line
18 between the lands of John J. Brown and Mary E. Brown, and
19 thence with their said divisional line south eight and one-half,
20 east eighty-one and one-half poles crossing the road leading to
21 the old fair grounds, now known as Wilson or White avenue,
22 and thence in a westerly direction with said White avenue, to
23 Willey driveway, and thence with the center line of said Willey
24 driveway, to its first intersection with Jefferson street, and
25 thence with the center line of said Jefferson street in a south-
26 erly direction to Jackson avenue at its intersection with Logan
27 avenue, and thence with the center line of said Logan avenue
28 around the sharp bend on said avenue to its intersection with
29 King street, and thence with the center line of said King street
30 in a southwesterly direction to the end of said street, where
31 it merges into Sheldon avenue, and thence with the center line
32 of said Sheldon avenue to its intersection with Ross street,
33 and thence with the center line of said Ross street to its in-
34 tersection with the Morgantown and Kingwood pike, and
35 thence with the center line of said pike in an easterly direc-
36 tion to the corporate limits.

37

Second Ward

38 The second ward shall comprise all that portion of said city
39 included within the following boundaries, viz: Beginning at
40 a beech tree on the southern bank of Decker's creek, and thence
41 in a southerly direction, with the eastern boundary of the first
42 ward to a point where the southeastern boundary line of the
43 corporate limits of said city intersects the Morgantown and
44 Kingwood pike, and thence with the said southeastern bound-
45 ary line of the corporate limits to a point where the said bound-
46 ary line crosses Decker's creek near the intersection of the
47 Decker's creek road and the Sturgiss road at a large stone, and
48 thence with the center line of the Decker's creek road in a west-
49 erly direction to the iron bridge across Decker's creek near the
50 plant of the Everbright Mirror company, and thence with the
51 center line of said creek to the place of beginning.

52

Third Ward

53 The third ward shall comprise all that portion of said city
54 which lies within the following boundaries, viz: Beginning at

55 the junction of Decker's creek with the Monongahela river, and
56 thence along the eastern shore of said river to Hough street,
57 and thence along the center line of said Hough street to its
58 intersection with Willey street, and thence along the center
59 line of said Willey street to the deep ravine known as Deep
60 Hollow, lying between the old town of Morgantown and what
61 is known as East Morgantown at the point where the street or
62 road leading from Willey street to East Morgantown crosses
63 said ravine; thence along the small stream in the said ravine
64 and down the same to Decker's creek, and thence down the cen-
65 ter of said Decker's creek to the place of beginning.

66

Fourth Ward

67 The fourth ward shall comprise all that portion of said city
68 which lies within the following boundaries, viz: Beginning at
69 the northwestern corner of the corporate limits of said city at
70 a point on the bank of the Monongahela river known as Target
71 rock; and thence with the eastern shore of said river and up
72 the same in a southeasterly direction to the mouth of Falling
73 run; and thence in a northeasterly direction up the center line
74 of said Falling run to a point where the same is crossed or
75 intersected by the northern boundary of said city; and thence
76 in a westerly direction with the said northern boundary line
77 or corporate limits of said city to the place of beginning.

78

Fifth Ward

79 The fifth ward shall comprise all that portion of said city
80 included within the following boundaries, viz: Beginning at
81 a point on the east shore of the Monongahela river, at the
82 mouth of Falling run and a corner in the boundary line of the
83 fourth ward, and thence up the said eastern shore of said river
84 in a southerly direction to a point in the center line of Hough
85 street, and thence in an easterly direction up Hough street,
86 and with the boundary lines of the third ward of said city to
87 a point in Decker's creek at the mouth of Deep Hollow ravine,
88 a corner to both the second and third wards of said city, and
89 thence in an easterly direction with the northern boundary line
90 of the second ward of said city to the corporate limits, and
91 thence with the northwestern boundary line of said city in a
92 northwesterly direction to a point in the center of Falling
93 run ravine, a corner in the boundary lines of said fourth ward,

94 and thence with the southeastern boundary lines of said fourth
95 ward in a southwesterly direction to the place of beginning.

ARTICLE II.

Section 1. All municipal authority of said city shall be
2 vested in the city council composed of ten or more councilmen,
3 two from each ward, elected by the voters thereof. The words
4 "council," "common council" and "city council" when used
5 in this act shall be construed as synonymous.

6 (a) All councilmen shall serve for a term of two years and
7 until their successors are elected and qualified, unless sooner
8 removed from office as hereinafter provided;

9 (b) All councilmen shall be residents of the city and of the
10 ward from which chosen, and qualified voters therein;

11 (c) No person holding an elective office under this state,
12 the United States or any foreign government; no member of
13 congress, no person who is a salaried officer of any railroad
14 company, operating or proposing to operate its lines of rail-
15 road in said city, or who is a sheriff, constable or clerk of any
16 court of record shall be eligible to a seat in council. No person
17 who has been, or hereafter shall be convicted of bribery,
18 perjury or other infamous crime shall be eligible to a seat in
19 the council. No person who may have collected or been en-
20 trusted with public money, whether of a state, county, town-
21 ship, district or any municipal corporation, shall be eligible
22 to the council, or to any office of honor, trust or profit in the
23 city until he shall have duly accounted for and paid over
24 such money, according to law;

25 (d) Vacancies in the council shall be filled for the un-
26 expired term by a majority of the remaining members;

27 (e) The filling of any vacancy shall take into account the
28 ward of the member whose place has been vacated and his
29 successor must reside in such ward. Removal from a ward
30 shall vacate the seat of a councilman residing in such ward
31 at the time of his election;

32 (f) No member of council who is, directly or indirectly,
33 a holder or owner of any bond or stock of any corporation,
34 owning or interested in a municipal franchise, privilege or
35 easement in or from such city; or be an officer, agent, trustee,
36 servant or employee of such corporation, shall vote on, or

37 participate in any discussion of any proposition in which such
38 company is directly or indirectly interested. If any member
39 of council shall violate this provision, he shall be guilty of a
40 misdemeanor and upon conviction thereof be confined in the
41 county jail not more than thirty days, or be fined not more
42 than one hundred dollars;

43 (g) Any member of council, officer or salaried employee of
44 the city who shall become or be directly or indirectly inter-
45 ested in any contract or in the profits to be derived therefrom
46 with the municipality shall forfeit his office and employment;
47 and in addition thereto any such contract shall be void and un-
48 enforceable against the city, and the acceptance by any coun-
49 cilman, officer or other employee of any interest in such con-
50 tact or any gift or gratuity from any person, firm or corpora-
51 tion dealing with the city, shall disqualify the person for a pe-
52 riod of five years from date of such forfeiture from holding any
53-54 office or employment in the government of the city of Mor-
55 gantown; and in addition such person shall be subject to crimi-
56 nal prosecution under any ordinance of the city or laws of the
57 state of West Virginia;

58 (h) The council at the first meeting in July of each year,
59 beginning with one thousand nine hundred thirty-four, shall
60 select one of their number as their chairman or presiding offi-
61 cer, who shall be known officially as mayor of the city, and
62 recognized as such for ceremonial purposes and for the pur-
63 pose of being served with civil process against the city, and for
64 the performance of all duties imposed upon him by this charter.
65 A majority vote of the whole number of councilmen shall be
66 necessary for the election of such mayor;

67 (i) The mayor shall hold his office as such for one year,
68 or until his successor shall be elected, and shall be the presid-
69 ing officer of the council;

70 (j) In the event of the death or resignation of the regular
71 mayor, the vacancy in such office for the unexpired term shall
72 be filled by the council;

73 (k) And in the event of the absence or disability of the
74 regular mayor at any meeting of the council, a majority of the
75 councilmen shall select one of their number to serve as chair-
76 man pro tem of the meeting, or a part thereof, until the return
77 of the regular mayor;

Sec. 2. Terms of the members of council elected in January, 2 one thousand nine hundred thirty-two, shall continue and ex- 3 tend to the first day of July, one thousand nine hundred thirty- 4 four; and the term of the members of council elected in Jan- 5 uary, one thousand nine hundred thirty-three, shall continue 6 and extend to the first day of July, one thousand nine hundred 7 thirty-five. The councilmen hereafter elected at the regular 8 election herein provided for shall be elected for a term of two 9 years aforesaid from the first day of July following the date 10 of their election.

Sec. 3. Councilmen shall be paid five dollars each for every 2 regular meeting they attend, and the mayor shall be paid six 3 dollars for like attendance, but no compensation shall be allowed 4 for special meetings, nor for any committee meetings of the 5 council.

6 No extra compensation shall be granted or allowed to any 7 member of council, agent or servant of the city, or contractor 8 therewith after the services shall have been rendered or the 9 contract made; nor shall any payment be made of any claim 10 or part thereof, created against the city, under any agreement 11 or contract made without express authority of law; and all such 12 unauthorized agreements shall be null and void. Nor shall the 13 salary or compensation of any member of council be increased 14 or diminished during his term of office. No member of council 15 shall receive any additional emolument, allowance or perqui- 16 site of any account, save the compensation hereinbefore in this 17 section provided.

Sec. 4. The meetings of the city council shall be held Tues- 2 day of each week at seven o'clock P. M., or as soon thereafter 3 as a quorum of members shall be in attendance, in the council 4 chamber of the city hall; and if any meeting cannot be held 5 in such chamber, it shall be held at such convenient place in 6 said city as the majority of the members shall select after reason- 7 able notice of the time and place of the meeting to each mem- 8 ber.

9 (a) In the event a legal holiday shall occur on any Tuesday, 10 the meeting shall be held on the succeeding Wednesday. Coun- 11 cil may hold special meetings at the place selected for their 12 regular meetings, commencing at such hour as they shall de-

13 termine. Special meetings of council may be called by the
14 mayor or any three members of the council;

15 (b) A majority of the council shall be necessary to form
16 a quorum for the transaction of business.

Sec. 5. (a) The council shall be judge of the election and
2 qualifications of its members, subject to the provisions of article
3 three of this charter. A majority of all members elected shall
4 constitute a quorum to do business, and the affirmative votes
5 of a majority of all members elected shall be required for the
6 adoption of any ordinance or resolution. Every ordinance or
7 resolution passed by the council shall be signed by the mayor
8 or mayor pro tempore, and filed by him with the clerk within
9 two days and by him recorded;

10 (b) No member of the council shall vote upon any order,
11 measure, resolution, or proposition in which he may be inter-
12 ested otherwise than as an inhabitant of such city. Upon the
13 call of any member the yeas and nays on any question shall be
14 taken and recorded in the journal;

15 (c) The mayor shall have a vote as a member of the common
16 council, but in case of a tie the motion shall fail. The city clerk
17 shall have no vote, but act as clerk of said body only.

Sec. 6. The council shall cause to be kept in a well bound
2 book called the "council journal" an accurate record of all its
3 proceedings, by-laws, ordinances, orders and resolutions, which
4 shall be fully indexed, and shall be open to the inspection of any-
5 one who is required to pay taxes to such city. The records of
6 the former towns of Morgantown, South Morgantown, Seneca,
7 and Greenmont shall remain with the council of said city, and
8 it shall make suitable provisions for the safekeeping and preser-
9 vation of the same. At each meeting of the council the pro-
10 ceedings of the last meeting shall be read, corrected if erroneous,
11 and signed by the presiding officer for the time being.

Sec. 7. (a) All corporate powers and functions pertaining
2 to the said city shall be exercised by its common council or under
3 its authority, in the corporate name of the city, unless otherwise
4 provided herein by state law or by municipal ordinance;

5 (b) The common council shall have the authority to pass all
6 ordinances not in conflict with the constitution and laws of the
7 United States, or of this state, which shall be necessary and
8 proper to carry into full effect any power, authority, capacity

9 or jurisdiction, which is or shall be granted to, or vested in, the
10 said city, or in the council or any officer of said city; and pro-
11 vide for the enforcement of any or all of their ordinances by
12 reasonable fines and penalties, or by imprisoning the offender
13 or offenders violating such ordinances, and by compelling them
14 to labor, without compensation, at any of the public works or im-
15 provements, undertaken or to be undertaken by said city, or by
16 any or all of the said modes: *Provided, however,* That no person
17 shall be imprisoned or compelled to labor as aforesaid, more than
18 thirty days, or fined more than one hundred dollars for any
19 offense.

Sec. 8. (a) The council of said city shall have power there-
2 in to lay off, vacate, close, open, alter, curb, pave, and keep in
3 good repair, roads, streets, alleys, sidewalks, crosswalks, drains
4 and gutters for the use of the inhabitants thereof and of the
5 public, and to improve and light the same, and to have them
6 kept free on and over them; to regulate the width of sidewalks
7 on the streets, roads and alleys, and to order the sidewalks,
8 drains and gutters to be curbed and paved and kept in good
9 order, free and clean, by owners or occupants of the real prop-
10 erty next adjacent thereto; to establish and regulate markets,
11 prescribe the time of holding the same, provide suitable and con-
12 venient buildings therefor, and prevent the forestalling of such
13 markets; to prevent injury or annoyance to the public or indi-
14 viduals from anything dangerous, offensive or unwholesome; to
15 regulate, or prohibit slaughter houses, tan houses, tan yards,
16 soap factories, and all other structures for carrying on any busi-
17 ness, trade or employment in said city that is unhealthy, offen-
18 sive or dangerous; to abate any nuisance within the city limits,
19 or to require and compel the abatement or removal thereof by
20 the person causing the same, or at his expense, or by the owner
21 or occupant of the ground on which such nuisance exists or at
22 the expense of the owner of such ground; to cause to be filled up,
23 raised, or drained, by the owner thereof or at his expense, any
24 lot or tract of land covered with stagnant water; to prevent
25 hogs, horses, cattle, sheep, and other animals, and fowls of all
26 kinds from going at large in such city; to provide for impound-
27 ing and confining all kinds of cattle, dogs, animals, and fowls
28 running at large within said city, until the fines and penalties

29 therefor have been paid, and in default of such payment to make
30 sale of the cattle, animals, or fowls impounded to satisfy such
31 fines and penalties; to protect places of divine worship, and to
32 preserve order in and about the places where held; to regulate
33 the keeping of gun powder and other inflammable or dangerous
34 substances; to provide in or near the city places for burial of
35 the dead, and to regulate the interment therein; to provide for
36 the regular building of houses or other structures; to provide
37 for the making and maintenance of division fences and party
38 walls by the owners of adjacent premises; to provide for the
39 proper drainage of lots or other parcels of land by the owner
40 or occupant thereof or at his expense; to make regulations
41 for guarding against danger by fire; to impose punishment for
42 assault, assault and battery, and breaches of the peace; to
43 prohibit maintaining, loitering in or visiting houses of ill
44 fame, or loitering in saloons, upon the streets, or in any public
45 place; to define offenses against good morals, and decency, and
46 provide penalties therefor; to prevent the illegal sale of all
47 intoxicating liquors, mixtures, and preparations; to make use
48 of the county jail of Monongalia county for a city prison for
49 the city; to erect, own, control, and maintain, or authorize or
50 prohibit the erection of any waterworks in the said city or any
51 gas plant, or electric light plant, for light, heat, and power,
52 or for either of said purposes; to prevent and punish any pol-
53 lution of the water supply within said city, and to prevent
54 and punish any injury to any gas plant, electric plant, or water-
55 works within said city; to provide for and regulate the weigh-
56 ing or measuring of hay, coal, lumber, and other articles sold
57 or kept for sale in the city, and to establish rates and charges
58 therefor; to protect the person of the inhabitants of the city;
58-a and to protect all property public and private, within the city;
59 to preserve the peace and good order therein; to preserve and
60 promote the health, safety, comfort, and well being of the in-
61 habitants thereof; to provide for the appointment of a suitable
62 police force; to provide for the examination, regulation and
63 licensing of stationary engineers, and others having charge or
64 control of stationary engines, boilers, or steam generating ap-
65 paratus within said city; to provide a revenue for the city and
66 apply the same to its purposes; to provide for the annual assess-
67 ment of taxable property therein; to impose a license tax on
68 persons or companies keeping for hire carriages, buggies,

69 wagons, or vehicles of any kind, or for carrying passengers for
70 pay in such city; to require and take from any officer when
71 deemed necessary a bond, payable according to law, with such
72 sureties, and in such penalty as the council may see fit, con-
73 ditioned for the faithful discharge of the duties of the office;
74 to adopt rules for the transaction of business and for the gov-
75 ernment and regulation of its own body;

76 (b) The enumeration of certain powers of council herein
77 shall not be construed to limit the power of council to those
78 powers enumerated to the exclusion of all or any other powers
79 which are not contrary to the constitution or any general law
80 of this state or of the United States; and all such powers not
81 in such conflict are hereby granted to said council whether
82 enumerated herein or not.

Sec. 9. To carry into effect these enumerated powers, and all
2 other powers conferred upon such city, or its council, by this act
3 or by any other future act of the legislature of this state, the
4 council shall have power to make and pass all needful orders,
5 by-laws, ordinances, resolutions, rules and regulations, not con-
6 trary to the constitution and laws of this state, and to prescribe,
7 impose and exact reasonable fines, penalties and imprisonments
8 in the county jail or other place of imprisonment in said cor-
9 poration, if there be one; no terms of imprisonment, however,
10 to exceed thirty days or fine the sum of one hundred dollars,
11 for a violation thereof. Such fines, penalties and imprisonments
12 shall be recovered and enforced under the judgment of the
13 judge of the police court of said city, or the person lawfully
14 exercising his functions.

Sec. 10. Upon a charge being presented that any councilman
2 has violated any of the foregoing inhibitions such charge shall
3 be reduced to writing and the remaining council shall proceed
4 to arraign and try such councilman, under such regulations as
5 the ordinances shall prescribe, but the extreme penalty upon
6 conviction shall be suspension upon majority vote, removal
7 from office upon a two-thirds vote.

ARTICLE III.

Section 1. Every person who has been a bona fide resident
2 of the city for six months next preceding the city election there-
3 in, and who is a qualified voter under the constitution and laws
4 of this state, shall be entitled to vote at any city election, in

5 the ward in which he actually resides. But no person shall be
6 deemed a resident of such city by reason of being a student of
7 any school or college therein, or by reason of being stationed
8 therein for any temporary purpose.

Sec. 2. The regular annual election in said city shall be held
2 on the first Tuesday in June, beginning with the year one thou-
3 sand nine hundred thirty-four, and at each such election there
4 shall be elected one councilman from each ward. All elections
5 shall be held, conducted and the results thereof ascertained,
6 certified, returned and finally determined under an ordinance
7 of the common council of such city which shall not be incon-
8 sistent with the general statutes of the state governing munici-
9 pal elections and shall conform as nearly as practicable to such
10 statutes. Whenever two or more persons receive an equal num-
11 ber of votes for the same office, if such number be the highest
12 cast for such office, the persons under whom the supervision of
13 the election is held shall decide by lot which of the candidates
14 shall be returned elected and shall make their return accord-
15 ingly. All contested elections shall be heard and decided by the
16 common council.

Sec. 3. Elections or votes on any question by the qualified
2 voters of said city shall be held or taken at such place and
3 under the superintendency of such persons and subject to such
4 regulations as are by the council ordained and consistent with
5 the laws of the state.

Sec. 4. The council shall by ordinance provide for the adop-
2 tion and use by the city, in all city elections, of the regular
3 registration of voters prepared by the registrars duly ap-
4 pointed by the county court of Monongalia county (the regis-
5 tration hereby intended to be adopted and used, being the one
6 which would be used in a general or state-wide primary elec-
7 tion held in said county and state on the same day such city
8 election is to be held), and any person who shall become a resi-
9 dent of the city, after such registration has been prepared and
10 filed by the county authorities in the manner provided by law,
11 and who shall establish his or her right to vote in such city
12 election, may register with the city clerk at any time, except
13 on a Sunday or legal holiday, until the third day before the
14 day on which such election is to be held, and his or her name
15 shall be entered on such registration list by said city clerk,

16 and the city clerk shall have the same powers in regard to the
17 transfer of voters from one precinct to another in said city, as
18 are now vested in the county clerk of Monongalia county for
19 the transfer of voters from one precinct to another in said
20 county.

Sec. 5. In all city elections for councilmen the names of
2 the candidates for council in each ward shall be arranged and
3 placed alphabetically on the ballots without party desig-
4 nation or symbol, whether such candidates are nominated by
5 political parties or by petition, or such other methods as are
6 now provided by law.

Sec. 6. In all city elections hereinafter held in said city,
2 the council shall provide by ordinance for the opening of the
3 polls at seven o'clock in the morning, and the closing of same
4 at seven o'clock in the evening.

Sec. 7. The council is empowered to define and locate voting
2 precincts for elections in said city which shall conform, so far
3 as practicable, to the territorial areas of the election precincts
4 in said city for state and county elections, but there shall be
5 only one voting place in each precinct.

ARTICLE IV.

Section 1. The council shall cause to be annually made up
2 and entered upon its journal not later than the first day of
3 July in each year, an accurate estimate of all sums that are,
4 or may become, chargeable to such city, and which ought to be
5 paid, within one year; and it shall in the month of August,
6 thereafter, revise and correct said estimate and order a levy
7 of so much as may in its opinion be necessary to pay the same;
8 the correction and adoption of said estimate to be made and
9 said levy laid in the manner and at the time provided by the
10 one thousand nine hundred thirty-one, code of West Virginia,
11 and any and all acts amendatory thereof and as otherwise pro-
12 vided by law.

Sec. 2. (a) Annually after the county assessor shall have
2 completed the assessment of real and personal property within
3 said city, the city manager, with the assistance of the city clerk
4 and the city engineer, shall review the assessments so made
5 within the city of Morgantown, and where, in their judgment,
6 material errors have been made, they shall seek to have the

7 same corrected, and if necessary shall appear before the board
8 of equalization and review for that purpose;

9 (b) And it shall be the duty of the city manager and the
10 city solicitor in like manner to review and, if necessary, cause
11 to be corrected assessments of properties, real and personal, of
12 public service corporations within the city.

Sec. 3. The council of said city may, by proper ordinance,
2 assess and collect a poll tax on every resident of said city who
3 has attained the age of twenty-one years, which tax shall not
4 be in excess of five dollars per person per annum, and may
5 be collected by the assessor of said county at the time of making
6 the annual assessment of the property within said city, or by
7 the city clerk and his assistants, or by both: *Provided, however,*
8 That no poll tax in excess of one dollar per person per annum
9 shall be assessed and collected unless and until the proposal
10 for such higher rate of tax shall first be submitted to vote at any
11 regular election in said city and approved by a majority of the
12 votes cast upon that question at such election: *And provided*
13 *further,* That the council shall give notice of such submission
14 by publication of the same once each week for two successive
15 weeks immediately preceding said election, in two newspapers
16 published within said city.

Sec. 4. The annual levy upon property above provided for
2 shall be upon all real and personal property subject to state
3 and county taxes, and such levy shall be upon the basis of the
4 valuation of such properties as has been fixed for state and
5 county purposes: *Provided, however,* That the aggregate of such
6 levy when so laid for all city purposes shall not in any one
7 year exceed the rate of one dollar on every hundred dollars of
8 valuation. Said levy shall also be upon all dogs in the city.

Sec. 5. The city clerk, after the city council shall have
2 made its levy final, shall certify the same to the sheriff of Mon-
3 ongalia county, who shall add such levy to the levies for state,
4 county and school district purposes upon real and personal
5 property within the city. And the said sheriff, after the said
6 city levy shall have been extended upon the land and personal
7 property books of the sundry wards, shall include such levies
8 upon the tax tickets for the real and personal property within
9 said city.

Sec. 6. Thereafter the said sheriff shall proceed to collect
2 the taxes due to the city in manner and form as provided for

3 the collection of state, county and school district taxes under
4 chapter eleven of the code of one thousand nine hundred thirty-
5 one. He shall pay over to the city clerk of said city the sums so
6 collected by him not oftener than semi-monthly, at such times
7 as will be mutually suitable and convenient to the said sheriff
8 and the city clerk. The record of delinquent taxes, both real
9 and personal, the collection thereof, the lien to secure the same
10 and all other matters pertaining thereto, shall be governed by
11 the provisions of chapter eleven of the code of one thousand
12 nine hundred thirty-one as to state and county delinquencies.
13 The sheriff shall give to the city a bond in the sum of at least
14 twenty-five thousand dollars for the paying over and accounting
15 for taxes due the said city so collected by him, but the expense
16 of such bond shall be borne by the city.

Sec. 7. (a) The council may by ordinance require that
2 suitable magazines or places shall be provided in or near said
3 city for the storage of gunpowder, dynamite, petroleum and
4 the volatile products thereof, and all explosives and combustible
5 and dangerous articles, make and enforce such regulations as it
6 may deem necessary respecting the place and manner of trans-
7 porting the same, and assess and collect an annual license tax
8 for the keeping and selling of any or all such articles;

9 (b) The council may by ordinance regulate theatrical ex-
10 hibitions, public shows, musical performances and hypnotic ex-
11 hibitions, and all performances to which admission is obtained
12 by the payment of money or other reward, and grant or refuse
13 license for any of such performances, and levy and collect taxes
14 on the same;

15 (c) The council may grant license to owners and keepers
16 of horses, hacks, carts, wagons, drays, bicycles and every
17 description of wheeled vehicles kept within the said city;
18 levy and collect license taxes as well as other taxes thereon, and
19 subject the same to such regulations as the interest or conveni-
20 ence of the inhabitants of said city, in the opinion of the coun-
21 cil, may require. The council shall also have authority to li-
22 cense and collect license taxes from hawkers and peddlers with-
23 in said city, and persons who rent temporary quarters or who
24 temporarily station themselves upon a street to sell or exhibit
25 articles, must take out and pay the license required by the
26 city of hawkers and peddlers. Nothing in this paragraph shall

26-a be construed so as to supersede or to be in conflict with section
26-b twenty-one, article six, chapter seventeen of the code of West
26-c Virginia, one thousand nine hundred thirty-one, relating to the
26-d licensing of motor vehicles;

27 (d) It shall be unlawful for any person, in said city, to
28 hold himself or herself out as a fortune teller, clairvoyant,
29 mindreader or palmist, and purport and claim to tell the future
30 or the past by the above or any other hidden and secret methods
31 or science, or to practice the above callings, avocations or pro-
32 fessions, and the council may pass an ordinance prohibiting the
33 same and prescribing penalties for its violation. Nothing in
34 this section contained shall be construed so as to regulate or
35 control any religious association or body;

36 (e) The council may by ordinance regulate sales at auction
37 within said city, and levy and collect taxes upon such sales;
38 grant or refuse licenses to auctioneers, and loan agencies, and
39 levy and collect taxes upon such licenses, in addition to any
40 tax which may be payable to the state: *Provided, however,* That
41 nothing herein contained shall be construed to authorize any
42 interference by the corporate authorities of the city with, or
43 the imposition of any tax upon any sale made under the judg-
44 ment or decree of any court of justice in this state, or made
45 by a trustee under a deed of trust given bona fide in this state
46 to secure debt;

47 (f) The council shall have exclusive authority within said
48 city, by ordinance, to grant or refuse license to the keepers of
49 hotels, inns and taverns, houses of public or private entertain-
50 ment, not used for immoral purposes, boarding houses, public
51 eating houses, places of public amusement and boarding stables
52 or stables for keeping and feeding horses and mules for com-
53 pensation: *Provided, however,* That persons keeping an inn,
54 hotel or tavern, with stabling attached, shall not be required
55 to have any other license than the license to keep an inn, hotel
56 or tavern, by reason of their keeping and feeding horses and
57 mules for compensation. The council shall further have au-
58 thority, by ordinance, to regulate the manner in which such
59 horses or places shall be kept, and to levy and collect a license
60 tax from every person licensed under the authority of this sec-
61 tion, in addition to all other taxes imposed upon him or his
62 property;

63 (g) The council may by ordinance require city license from
64 persons conducting the business of pawn broker or loan agent
65 in the city by lending money or other things of value for profit
66 for or on account of personal property deposited with the lender
67 in pledge or left in the possession of the borrower and secured
68 to the lender by lien, pledge, mortgage, or deed of trust;

69 (h) The council may also, by ordinance, restrict or regu-
70 late fees to be charged to patrons by money brokers, pawn
71 brokers, loan agents, private bankers and others engaged in like
72 business, in said city, for examination of title, applications,
73 examinations of property, appraisements, renewals, transfers,
74 or any other paper writing to be signed by such patrons, or
75 for anything else connected with a loan, and may safeguard
76 the public against unscrupulous, unfair or exorbitant charges
77 by any such brokers, loan agents, bankers and others engaged
78 in like business, in said city;

79 (i) The council may by ordinance require city license for
80 persons conducting and carrying on any business or vocation in
81 the city for which the state may now or hereafter require
82 license;

83 (j) The council may by ordinance subject any person or
84 persons, who without having obtained a city license therefor,
85 shall do any act, or follow any employment or business in said
86 city, for which the council is or shall be authorized to grant
87 license, to any fine or punishment which they are authorized to
88 impose or inflict for the enforcement of their ordinance.

Sec. 8. There shall be a lien on all real estate within the city
2 for the city taxes assessed thereon from the day fixed by law
3 for the commencement of the assessment of such taxes in each
4 year, and the interest upon such taxes at the rate of nine per-
5 centum per annum from the time provided by chapter
6 of the acts of the legislature, special session of one thousand nine
7 hundred thirty-two, which may be enforced in the same manner
8 provided by law for the enforcement of the lien for state and
9 county taxes. There shall also be a lien on all real estate within
10 the city for other assessments, fines and penalties assessed or im-
11 posed upon the owners thereof by the authorities of the city from
12 the time the same are so assessed or imposed, with interest at six
13 per centum per annum, which shall have priority over all other
14 liens except the lien for taxes, and may be enforced by the coun-

15 cil by suit in equity in the corporate name of the city or in the
16 manner now prescribed by law for the enforcement of the lien
17 for state and county taxes, or in such other manner as the coun-
18 cil may by ordinance prescribe.

Sec. 9. (a) The city may support its own poor and may sup-
2 port its own health unit and shall construct and maintain its own
3 roads and streets, and by reason thereof there shall be no
4 county and/or district levies on real estate and personal prop-
5 erty in the city for the support of the poor outside the city limits,
6 during such time as the city shall support its own poor, nor for
7 the hospitalization of the county poor, nor for maintenance of
8 any county hospital, nor any county health unit during such
9 time as the city shall support its own health unit, nor any dis-
10 trict road tax levies for the construction and maintenance of
11 roads outside the city limits;

12 (b) But the county court shall remain chargeable for the
13 construction and maintenance of bridges within the city, and
14 the location of such bridges, when once established, shall not be
15 changed or relocated by said county court without the con-
16 sent of the council.

ARTICLE V.

Section 1. (a) The council shall appoint the following
2 officers of the city: A city manager, a city clerk, a judge of the
3 police court, and may appoint an auditor, each of whose powers,
4 duties and responsibilities shall be as hereinafter set forth. They
5 shall each receive such compensation as the council may from
6 time to time determine. All other subordinate officers of the city,
7 except assistants and clerks in the office of the city clerk, shall
8 be appointed by the city manager. Assistants and clerks in the
9 office of the city clerk shall be appointed by the city clerk with
10 assent and approval of the city manager;

11 (b) Every city officer and employee on salary, before he enters
12 upon the duties of his office, shall make before someone author-
13 ized by law to administer oaths, and file with the city clerk an
14 oath or affirmation to support the constitution of the United
15 States and of the state of West Virginia, and to perform faith-
16 fully, honestly and impartially the duties of his office to the best
17 of his skill and judgment;

18 (c) Such officers and employees of the city as the council
19 may determine by ordinance, shall, respectively, furnish and

20 file their bonds with the city clerk for approval by council as to
21 form and security, in such penalties, respectively, and with such
22 conditions as are fixed by such ordinance, with such corporate
23 or other surety or sureties hereinbefore mentioned, payable to
24 the city. The furnishing of such bond shall be necessary quali-
25-26 fication of such officers or employees;

27 (d) The bonds of all appointive officers required to give
28 bond shall also be approved as to form by the city solicitor. No
29 officer or employee of the city of whom a bond is required shall
30 enter into the discharge of his official duties or of the duties
31 which he is employed to discharge, until his bond has been duly
32 filed and approved;

33 (e) All bonds, obligations or other writings taken in pur-
34 suance of this section, as well as other bonds given to the city of
35 Morgantown, shall be made payable to such city, and the respect-
36 ive persons or corporations, their heirs, executors, administra-
37 tors and successors bound thereby, shall be subject to the same
38 proceedings on the said bonds, obligations or other writings for
39 enforcing the conditions and terms thereof, by motion or other-
40 wise, before any court of record whose sessions are or shall be
41 held in the city of Morgantown, as collectors of the county levies
42 and their sureties are or shall be subject to on their bonds for
43-44 enforcing the payment of such levies;

45 (f) All fees and money paid to an officer of the city for any
46 official service shall belong to the city and be paid at once into
47 the city treasury by such officer, the salary or compensation
48 given by the city to its officers respectively being all the com-
49 pensation they shall be entitled to for any official service.

Sec. 2. (a) The city manager shall be chosen by the council
2 solely on the basis of his executive and administrative qualifica-
3 tions. The choice shall not be limited to inhabitants of the city
4 or state. The city manager shall be administrative head of the
5 municipal government and shall be responsible for the efficient
6 administration of all departments;

7 (b) The city manager shall be appointed for an indefinite
8 period. He shall be removable by the majority vote of the whole
9 membership of council. If removed at any time after six
10 months, he may demand written charges and a public hearing
11 on the same before the council prior to the date on which his
12 final removal shall take effect. But during such hearing the

13 council may suspend him from office. During the absence or
14 disability of the city manager the council shall designate some
15 properly qualified person to perform the duties of the
16 office;

17 (c) The powers and duties of the city manager shall
18 be:

19 (1) To see that the laws and ordinances are enforced;

20 (2) To appoint all officers and employees of the city, ex-
21 cept members of the city council and such officers as council
22 is hereby authorized to elect and employ, or cause to be em-
23 ployed, to-wit: the city manager, the city clerk, the judge of
24 the police court and the auditor; but all appointees or em-
25 ployees shall be upon merit and fitness alone;

26 (3) To exercise supervision and control over all depart-
27 ments and divisions created herein or that hereafter may be
28 created by the council, except the council and other officers by
29 it appointed;

30 (4) To attend all meetings of council with the right to take
31 part in discussion, but having no vote;

32 (5) To recommend to the council for adoption such meas-
33 ures as he may deem necessary or expedient;

34 (6) To keep council fully advised as to the financial con-
35 ditions and needs of the city;

36 (7) To approve for payment all vouchers prepared by the
37 city clerk, when the expenditure has been authorized by council
38 by proper appropriation, and the payment is otherwise proper
39 to be made;

40 (8) To supervise the conduct and performance of the duties
41 of other officers and employees of the city, except the members
42 of the city council, reporting to such council any failure of per-
43 formance of duty by any of the other appointees of such coun-
44 cil, and enforcing the proper performance of their duties by
45 the officers appointed by him and by the city council, to the
46 end that the city's business shall be efficiently and economically
47 transacted; and

48 (9) The city manager shall act as purchasing agent and
49 purchase all supplies and materials for all departments of the
50 city government, and make sale of all property of the city not
51 needed or suitable for the public use (when and after such
52 sale has been authorized by the city council) in such manner as

53 the council may direct: *Provided, however,* That he shall not
54 make any contract involving an expenditure in excess of five
55 hundred dollars without first obtaining assent of council so to do,
56 which said assent shall be made a matter of record and properly
57 entered upon the journal or minute book by the city clerk; he
58 shall submit to contractors for competitive bids, on forms ap-
59 proved by council, all proposals for construction work to be
60 done for or by the city and all improvements to be made for or
61 by the city; all supplies to be used by the city and all materials
62 purchased by the city for construction of any public improve-
63 ments or for any other city purpose, shall be done, performed,
64 made and purchased on competitive bids. All proposals for
65 such shall be upon precise specifications, and notice of the re-
66 quirements of the city shall be given to dealers in supplies and
67 materials of the kind required who by reason of location are
68 best able to furnish same at lower prices. All bids and offers
69 shall be filed and preserved in the office of the city clerk. In
70 purchasing limited quantities of materials or supplies, or in
71 case of an emergency, the city manager may purchase or con-
72 tract the expenditure in a sum not exceeding five hundred dol-
73 lars without the assent of council or the delay necessary to se-
74 cure competitive bids or offers to supply same. Council shall
75 have the power and right to reject any or all bids or estimates
76 for construction or improvements and may cause such work to
77 be done, or improvements to be made otherwise than upon com-
78 petitive bids, when in their opinion such bids are excessive;

79 (10) To perform such other duties as may be prescribed by
80 this charter or be required of him by ordinance or resolution of
81 the council;

82 (11) The city manager shall devote his whole working time
83 to the performance of the duties of his office, and while occupy-
84 ing such office shall not engage, directly or indirectly, or be
85 actively interested in any business other than the performance
86 of his duty concerning the affairs of the city of Morgantown;

87 (12) The city manager shall have authority to grant, in
88 writing, to the officers so appointed the power necessary or
89 proper for the purposes above mentioned; to define their duties
90 in writing, to allow them reasonable compensation (said com-
91 pensation to be approved by council), and to require and take
92 from them such bonds, obligations or other writings as shall

93 be necessary or proper to insure the faithful performance of
94 their several duties.

Sec. 3. The qualifications, powers, duties and responsibilities
2 of the city clerk shall be:

3 (1) The city clerk shall be a citizen, resident and qualified
4 voter of said city;

5 (2) He shall hold office at the will of the council;

6 (3) He shall keep all records of the city, including the
7 records of the meeting of the city council;

8 (4) He shall act as auditor and keep the records of the
9 finances of the city showing all receipts and disbursements;

10 (5) He shall keep all other records pertaining to the city
11 and all departments thereof, including the records pertaining
12 to the office of city manager not necessary to be kept in the
13 offices of such departments;

14 (6) He shall act as clerk of the police court and perform
15 the duties required in connection therewith by the provisions of
16 this charter, ordinances of council or by direction of the police
17 judge, himself. And if he shall hold the office of police judge,
18 then the city manager shall appoint an assistant or clerk from
19 some department of the city to so act as clerk of the police court
20 during his term of office;

21 (7) He shall act as treasurer of said city, collecting all
22 moneys (except those collected by the sheriff or other person as
23 herein provided) due it and depositing the same in such bank as
24 shall be named a "city depository" by council. He shall pay
25 out no money except upon vouchers approved for payment by
26 endorsement by the city manager;

27 (8) He shall receipt to the sheriff at such times, not oftener
28 than semi-monthly, as shall be mutually convenient for them,
29 for the taxes collected by said sheriff for the use of the city;

30 (9) The city clerk shall report to and be under the direc-
31 tion of the city manager, but the city manager shall not have
32 the right or power to remove him from office;

33 (10) He shall give bond as treasurer of the city in at least
34 the sum of twenty-five thousand dollars, conditioned as required
35 by this charter and according to law.

Sec. 4. (a) The judge of the police court shall be a citizen,
2 resident and qualified voter of the city. He shall hold office at
3 the will of the council;

4 (b) He shall be the presiding officer of the police court and
5 shall have authority to try and determine all cases over which
6 said court shall have jurisdiction. In the event of his absence
7 or disability, the city clerk shall act as temporary police judge
8 until such time as the council shall appoint some duly qualified
9 person to perform the duties of police judge, paying therefor
10 such compensation as the council may deem reasonable. The
11 police court shall have jurisdiction over all offences against or
12 violation of the ordinances of said city, and authority to inflict
13 punishments for such violations in the manner lawfully pre-
14 scribed by such ordinances upon and against offenders or viola-
15 tors of the same: *Provided, however,* That no jury shall be al-
16 lowed in any trial in said court for the violation of any ordi-
17 nance of the city;

18 (c) The proceedings for the recovery of the fine or for the
19 enforcement of the penalty prescribed by any ordinance shall
20 conform to the regulations so far as they are applicable, pre-
21 scribed in chapter fifty of the code of one thousand nine hun-
22 dred thirty-one for the enforcement of penalties against per-
23 sons convicted for misdemeanors; but the judge of said court
24 by *capias pro fine* or other process may cause the defendant to
25 be arrested and brought before said court to be dealt with
26 according to law;

27 (d) In cases where evidence discloses such a violation within
28 the city, of a law of the state that, in the opinion of the judge of
29 the police court, the person accused should be committed to
30 await the action of the grand jury upon an accusation made,
31 the judge of the police court shall have the same jurisdiction
32 and power as a justice of the peace in the county of Monon-
33 galia in regard to the apprehension, commitment and admission
34 to bail of the person so accused; and in the exercise of such
35 jurisdiction and powers shall be governed by the same regula-
36 tions;

37 (e) The sessions of said court shall be at such times and
38 places as the council of said city shall by ordinance direct;

39 (f) The said court shall have full power and authority to
40 enforce its orders and judgments, by any process of law which
41 may be necessary and proper for the purpose, and all processes,
42 executions and orders of said court shall be signed by the judge
43 or the clerk thereof. Such process and executions shall be di-

44 rected to the chief of police of said city, and be executed by him
45 or one of his deputies. In the execution of any process or order
46 of said court, the chief of police or deputy shall have the same
47 powers, be governed in his proceedings by the same rules of
48 law, and be subject to the same liabilities as the sheriff of Mon-
49 ongalia county, West Virginia, in the performance of like serv-
50 ices. There may be charged for the services of such officer the
51 same fees as the sheriff is entitled to charge for like services,
52 but all such fees, as well as all fines imposed by said court, shall
53 be collected by the chief of police, and accounted for and paid
54 by him to the treasurer of the city. The city shall in no event
55 be liable for any such fees;

56 . (g) The clerk of said court shall have authority to admin-
57 ister oaths within said city, and shall perform such duties as
58 may be required by the judge of said court, or be prescribed by
59 rule or order of the council. Such clerk may charge the same
60 fees for his services as are allowed to be charged by justices of
61 the peace for like services, and such fees shall be collected by
62 him in like manner as fees of the clerk of the circuit court are
63 collected, but all such fees shall be accounted for by him to the
64 city and paid over to its treasurer;

65 (h) A docket and other books required for the records and
66 a seal shall be provided for the said court by the council, and
67 the seal may be altered or renewed as the said court may direct.
68 Full faith and credit shall be given to the records of said court
69 and the certificates of its judge or clerk, whether the seal of said
70 court be fixed thereto or not, in like manner and with the same
71 effect as if the same were records of the circuit court or certifi-
72 cates of the judge of a circuit court similarly authenticated;

73 (i) The said police court shall have power, upon rendering
74 judgment against a defendant charged with the violation of an
75 ordinance of the city, to render judgment against him also for
76 the costs of prosecution. In every suit or prosecution for the
77 violation of an ordinance the said court shall cause the person
78 or persons at whose instance it was instituted to be designated
79 upon the warrant or writ issued to arrest or summon the person
80 charged, and if the person or persons charged shall not be con-
81 victed in such court, and such court shall be of the opinion that
82 no sufficient or probable cause existed for the institution of the
83 said suit or prosecution, then judgment for the costs of the city,

84 and of the defendant, or of either of them, as the court shall
85 deem just, shall be rendered against the person or persons at
86 whose instance such suit or prosecution was instituted.

Sec. 5. The chief of police shall be ex officio a constable
2 within the corporate limits of this city. He may execute any
3 writ or process issued by the police judge or a justice of the
4 peace at any place in Monongalia county. He shall have all
5 powers, rights and privileges within the corporate limits of the
6 city in regard to the arrest of persons, the collection of claims,
7 and the execution and return of process, that can be legally
8 exercised by a constable of the district in which the said city
9 is situated, and he and his sureties shall be liable to all the fines,
10 penalties, and forfeitures that a constable of a district is liable
11 to, for any failure or dereliction in his office, to be recovered in
12 the same manner and in the same courts that the fines, penalties
13 and forfeitures may be recovered against such constables.

14 (a) The chief of police and/or such police officers as he may
15 designate shall attend the sessions of the police court and ex-
16 cute and enforce the orders of the judge thereof;

17 (b) All special police officers shall have and possess all the
18 powers, rights and privileges of a constable of a district within
19 the corporate limits of the city, in regard to the arrest of per-
20 sons, and the execution and return of all criminal writs and
21 process issued by the police judge; but the council may exempt
22 them from giving the bond required of constables.

Sec. 6. The powers and duties of the auditor shall be:

2 (1) He shall at the end of each fiscal year make and report
3 to the council a complete examination and audit of all the books
4 and accounts of said city, and upon completion of such audit
5 a notice of such completion shall be published in two daily news-
6 papers of said city to the effect that such audit has been made
7 and is on file, a copy thereof in the office of the city clerk and
8 a copy thereof in the office of the city solicitor, where the same
9 shall be constantly open at all reasonable hours to the inspec-
10 tion of any citizen and taxpayer of said city thereafter;

11 (2) He shall at the request and direction of the council fur-
12 nish to each member of council, not later than ten days after
13 the close of any quarter of the fiscal year, a complete itemized
14 statement of the receipts and disbursements for such quarter,

15 and a statement of assets and liabilities, together with the true
16 financial status of the city at the end of such quarter;

17 (3) He shall perform such other duties as may be required
18 of him by the council or by the city manager;

19 (4) The auditor may be employed part time or full time, as
20 the council may elect from time to time, and shall receive
21 such compensation for his services as the council shall prescribe.
22 The council shall be the sole judge of the qualifications and fit-
23 ness of the person employed as auditor.

ARTICLE VI.

Section 1. It shall be unlawful for any person, firm or cor-
2 poration to subject any of the streets of the city of Morgantown
3 to a use which will destroy, impair or injure the use of such
4 street, or streets, for ordinary travel in ordinary modes. The
5 council shall carry this provision into effect by appropriate
6 ordinance or ordinances.

Sec. 2. Council shall have full power and authority to desig-
2 nate by ordinance certain of the streets and alleys of the city as
3 routes for the transportation and haulage of commodities and to
4 classify such commodities and specify the streets and alleys
5 over which certain classes shall be hauled and transported, and
6 otherwise to regulate the traffic of the city in such manner as
7 in its judgment will protect the streets and alleys of the city
8 and promote the public interest.

Sec. 3. Council shall have full power and authority to pro-
2 vide by ordinance for the construction, maintenance and repair
3 of all streets and alleys in said city; and to provide rules and
4 regulations for the laying of water and gas lines and street car
5 tracks thereon; and for the construction of sewer pipes and
6 sewer systems thereon; and to provide rules and regulations for
7 the manner in which said pipes and tracks shall be laid and re-
8 laid in such streets and alleys, and to provide for the future
9 needs of such pipes and their connection, and such street car
10 tracks, and excavations therefor, and to provide rules and reg-
11 ulations for excavations in such streets or alleys under the su-
12 pervision of such city officials as council may by ordinance pro-
13 vide, and the council shall have full power and authority to
14 provide by ordinance for the laying of gas, water and sewer
15 pipes, and street car tracks in any such street or alley, and to

16 provide that no such street or alley or part thereof, after being
17 paved, shall be opened, excavated, or in any manner interfered
18 with, except upon such conditions and terms as council may by
19 ordinance prescribe, and council shall have full power and
20 authority to provide by ordinance for the relaying and reloca-
21 tion of such pipes and their connections, and such street car
22 tracks prior to the paving or repaving of any such street or
23 alley.

Sec. 4. Council shall provide by ordinance for the require-
2 ment upon all public utilities or public service corporations to
3 place or renew all pipes, conduits or other underground appli-
4 ances, including all connections therewith to the curb upon any
5 street to be paved sufficient to provide for the reasonable antici-
6 pated requirements of such company or companies for the
7 probable life of such paving, and notice to that effect shall be
8 given by the city council a sufficient time in advance of the
9 commencement of such paving, not to exceed ninety days, to
10 enable such public service corporation or utilities corporation
11 fully to comply therewith, and upon their failure so to do, such
12 public utility corporation or public service corporation shall
13 thereafter be deprived of any rights under its franchises from
14 the city or otherwise of disturbing such paving to install such
15 improvements to its plant, and council may at the expiration of
16 the time fixed in said notice, proceed with its paving and not be-
17 fore.

Sec. 5. And before any streets of said city shall hereafter be
2 paved, and as preliminary to the paving thereof, council shall
3 provide reasonable adequate sewers, both main and lateral, and
4 including the connections of the property line of said street.

Sec. 6. The council may by ordinance prohibit the dis-
2 turbance of any streets or alleys of the city, including the side-
3 walks or public grounds of said city, caused by digging there-
4 in for the benefit of any private person, firm or corporation
5 other than the city itself, except by city employees under city
6 supervision at the expense of such private person, firm or cor-
7 poration, or under the superintendence and control of the city
8 itself; and may charge a service fee to cover the permanent in-
9 jury to such streets, alleys, sidewalks or public grounds im-
10 possible to repair, and the council shall by ordinance require
11 the enforcement of these provisions, including the duty of mak-

12 ing repeated repairs as often as the defects so caused shall re-
13 appear.

Sec. 7. Council shall have full power and authority to pro-
2 vide by ordinance for the issue and sale of bonds for the pur-
3 poses set forth in chapters forty-seven and forty-seven-a of
4 the code of West Virginia, and any and all amendments there-
5 of, in the amount of five per centum of the valuation of all
6 assessable property lying within the limits of said city, which
7 value shall be ascertained by the last assessment made by the
8 city, in the manner hereinbefore provided, of all the taxable prop-
9 erty therein next prior to the issuing of such bonds; and council
10 shall have full power and authority to provide by ordinance for
11 the collection of a direct annual tax sufficient to pay annually,
12 the interest on such bonded indebtedness, and the principal
13 thereof, within not exceeding thirty-four years from the date of
14 the issuing of same: *Provided, however,* That no bonds may be
15 issued for street paving purposes other than paving street inter-
16 sections or financing the grading, regrading, paving or repaving
17 of streets or alleys ordered or petitioned to be paved under ordi-
18 nance providing for the assessment of the cost thereof to the
19 owners of lots or fractional parts of lots abutting thereon as
20 provided in section twenty-four of said chapter fifteen, munici-
21 pal charters, acts of the legislature of West Virginia, one thou-
22 sand nine hundred twenty-one; and further, that no bonds
23 shall be issued until all questions connected therewith shall
24 have been first submitted to the qualified voters of the said city
25 and shall have received three-fifths of all the votes cast for
26 and against the same, and otherwise in accordance with the
27 provisions and requirements of said chapter forty-seven-a of
28 the code of West Virginia and any and all amendments there-
29 of.

ARTICLE VII.

Section 1. (a) The council may by ordinance, within
2 said city lay out and cause to be opened any street, walks,
3 alleys, market grounds and public squares, or extend or widen
4 the same, first having obtained title to the ground necessary
5 for the purpose; may grade any street, walk, alley, market
6 ground or public square which is or shall be established with-
7 in said city; and may pave or otherwise improve the same, and
8 cause them to be kept open in good repair, and generally or-

9 dain and enforce such regulations respecting the same, or any
10 of them, as shall be proper for the health, interest or conveni-
11 ence of the inhabitants of said city;

12 (b) The council may cause to be taken or damaged for
13 the use of the city, for streets, alleys, markets, bridges, public
14 squares, parks, playgrounds and other municipal purposes, in-
15 cluding occupation by sewer, water pipes, gas pipes, heating
16 pipes, compressed air pipes and electric or other subways, any
17 private property within the city (and where such use is to
18 secure or improve the water supply, or for park, playground,
19 sanitary or cemetery purposes) outside the limits of the city,
20 but no such property shall be taken or damaged without just
21 compensation. The compensation, if it cannot be determined
22 by agreement with the owner of the property so taken or dam-
23 aged, shall be ascertained in such manner as is or may be pre-
24 scribed by general law for the condemnation of land for public
25 purposes;

26 (c) Council shall have full powers and authority to make
27 and provide, by ordinance, laws, rules and regulations for the
28 establishing or changing of the grades of any sidewalks, foot-
29 way or gutter in said city; to grade, regrade, curb, recurb,
30 pave and repave any such sidewalk, footway or gutter and
31 keep the same clean, in such manner and time as the council
32 shall provide by ordinances; and to assess the amount of such
33 expense upon such real property or the owner thereof: *Pro-*
34 *vided, however,* That such cost shall be levied but once against
35 the same property so far as it pertains to the change of grade;

36 (d) The council shall have full power and authority to
37 make and provide by ordinance for the establishment of a
38 method to be followed in all street grading, paving and re-
39 paving from time to time with any suitable material therefor,
40 depending upon the character of traffic and the grade and other
41 conditions upon any particular street, and such ordinance
42 shall provide for the assessment of the entire cost of such
43 grading, regrading, paving and repaving (except as pro-
44 vided for in paragraph four of this section) to the owners of
45 lots or the fractional part of lots abutting on that part of
46 the street or alleys so paved, in proportion to the distance
46-a such lot or fractional part of lot abuts on such street or alley

47 so graded, regraded, paved or repaved, subject, however, to
48 the following provisions:

49 (1) That when any part of said street or alley so paved
50 or about to be paved is occupied or used by any public service
51 or public utility company, the council shall provide for as-
52 sessing such portion of the total costs of such grading, re-
53 grading, paving or repaving, as may be provided for in the
54 respective franchise, for the distance such street is so occu-
55 pied by such public service or public utility company, includ-
56 ing the intersections of cross streets and alleys, and shall pro-
57 vide for assessing the remainder of the cost of such grading,
58 regrading, paving or repaving, including such cross streets,
59 alleys, etc., to the abutting property owners on both sides of
60 such street, in proportion to their frontage thereon, taking
61 the entire distance such street is traversed by such service or
62 public utility company as the basis of such assessment;

63 (2) Council shall by ordinance provide for the collection
64 of such assessments, which at the option of the owner or
65 owners may be paid either in cash or yearly installments of
66 not exceeding ten years, such installments shall be evidenced
67 by the issuance of interest-bearing certificates of assessment
68 payable in from one to ten years, and said certificates of as-
69 sessment when so issued shall become a lien upon the prop-
70 erty for which the assessment has been levied, and such lien
71 shall have priority over all other liens of whatever nature,
72 except the lien for taxes. Said certificates of assessment shall
73 bear interest at a rate not exceeding the legal rate of six per-
74 centum per annum to the date of issuance until paid, and shall
75 be and are hereby made exempt from all taxation by the state
76 of West Virginia or any of its agencies. Any property owner
77 shall have the right on ninety days' notice to pay in whole or
78 in part at any time before maturity any or all certificates
79 of assessment standing as a lien against his property and shall
80 not be liable for interest thereon or on such part so paid after
81 payment;

82 (3) Nothing herein contained, however, shall authorize
83 and empower council to cause the owner or occupant of any
84 lot or any parcel of ground abutting on such street or alley
85 to pay for or be assessed with the cost of such grading or re-
86 grading, paving or repaving, within fifteen years after such

87 street or alley has been once graded and paved or repaved with
88 concrete or other permanent base at the cost and expense of the
89 property owners abutting thereon;

90 (4) Council shall provide for all necessary grading at the
91 city's expense upon any street or alley ordered by it to be
92 graded and paved for the first time, in order to equalize the
93 cost of paving in the first instance and repaving those streets
94 and alleys heretofore graded and paved at the city's expense;

95 (5) Nothing herein contained, however, shall prevent the
96 council from including the grading of any street or alley, or
97 part thereof, and the paving of the cross streets or cross alleys
98 and the assessment of the entire cost thereof against the prop-
99 erty owners adjacent thereto in proportion to their frontage
100 upon both sides of such street, whenever the owners of a ma-
101 jority of the frontage abutting upon both sides of said street
102 shall petition council so to do, and for the purpose of this
103 section the distance to be paved as a unit shall not be limited
104 to one city block between cross streets, but shall be for the
105 entire distance petitioned to be paved;

106 (6) Immediately upon the completion and acceptance of
107 any such pavings, the council shall direct the city clerk to
108 cause to be published a notice which shall name and describe
109 the location of the portion of the street or alley upon which
110 said paving shall have been constructed; give the name or
111 names of the owners of each lot abutting or bounding upon
112 such portion of the street or alley, if known, and if the name
113 or names of the owner of any lot or fractional part of a lot
114 are unknown, such lot shall be described with reasonable cer-
115 tainty in order that the same may be identified; and the num-
116 ber of feet that each lot or fractional part of a lot abuts upon
117 such paved portion, as well as the amount assessed against
118 each lot or fractional part of a lot for the cost of the paving.
119 Said notice shall cite all owners of lots or fractional parts of
120 lots abutting upon the portion of the street or alley which
121 has been paved, to appear before the council at a regular
122 meeting thereof, within thirty days from the first publica-
123 tion of the notice, and show cause, if they can, why the as-
124 sessment aforesaid should not become final, which notice shall
125 be published once a week for two successive weeks in one or
126 more newspapers of general circulation published in said city.

127 The council shall upon the request of any one or more of the
128 owners of said lots or fractional parts of lots, appoint a day
129 to hear the grievances of said owner or owners, and may alter
130 or amend any assessment made against any one or more of said
131 owners for good cause shown. The city clerk shall give notice
132 to all persons claiming to be injured by said assessment, of the
133 time and place of holding the meeting of the council to hear
134 such grievances, which meeting shall be held within ten days
135 after the clerk shall have given the last mentioned notice.
136 The council may adjourn the hearing from time to time. In
137 case any owner or owners of abutting property fail within
138 thirty days to complain to the council of any grievance or
139 injury they may have suffered by reason of the assessment
140 aforesaid, or to appear before the council for the purpose of
141 having the same corrected on the day appointed by council
142 for the hearing of such grievances as has been complained of,
143 the assessment as laid shall be final. The findings of such
144 council shall be subject to correction by the circuit court of
145 Monongalia county upon appeal, which must be taken and
146 perfected within thirty days from the findings and be heard
147 and determined by such court without delay, having prece-
148 dence over other cases on the court's docket. The rights con-
149 ferred by this section are cumulative and shall not be ex-
150 hausted as to any particular street or alley by reason of hav-
151 ing been once exercised.

152 When the amount of any such assessment shall be so de-
153 termined, the city clerk shall thereupon certify the amount of
154 such assessment with a description of the property chargeable
155 therewith, and the name of the owner thereof, to the clerk of
156 the county court of Monongalia county, who shall record the
157 same in the trust deed books of said clerk's office, and the
158 record thereof in such book shall constitute notice to all per-
159 sons of the existence of such paving assessment; and such as-
160 sessment shall be and constitute from and after the date of
161 such recordation the first lien against such property, subject
162 only to state, county and municipal taxes; and such assess-
163 ment when due, if not paid, shall be certified by the city clerk
164 to the auditor of the state of West Virginia and proceeded
165 with for collection thereof as is now provided or may here-
166 inafter be provided for the collection of taxes;

167 (7) All money appropriated for the paving, repaving or
168 maintenance of streets or alleys shall be used for such pur-
169 poses only, and the proceeds derived from all such paving and
170 maintenance assessments shall be placed in special funds,
171 and shall be applied to the city's liabilities on that particular
172 improvement;

173 (8) In any case, however, where any street or alley in said
174 city shall be paved by the state, county or district, thereby
175 making it unnecessary for the city to pave the same under any
176 of the provisions of this section, the city shall have the power
177 to assess a special maintenance assessment against the prop-
178 erties abutting on so much of said street or alley so paved to
179 be applied to the maintenance of all streets and alleys of the
180 city, and the amount of which shall be the approximate cost
181 of the said paving based upon the frontage of each particular
182 property abutting thereon;

183 (e) The council may by ordinance establish the width of
184 any sidewalk along any street, alley or part thereof, at a
185 width of not less than four feet and require the owner or
186 owners of any ground fronting on such sidewalks abutting on
187 their property to pave or repave the same; and in case of the
188 failure or refusal of such owners so to do, the city may cause
189 same to be properly paved, or repaved at the expense of such
190 owner or owners; and the council shall have power by ordi-
191 nance, in like manner, to require the owner or owners of
192 property abutting on any paved sidewalk, whether heretofore
193 or hereafter constructed, to keep such sidewalk in repair, and in
194 default of his or their so doing, to cause ~~th~~ same to be repaired
195 and assess the cost thereof upon such owner or owners. It shall
196 be lawful for the officer authorized by council to collect any
197 such tax or assessment for the cost of such paving or repaving
198 to collect the same from the owner or owners of such grounds
199 in the same manner as provided by law in the collection of
200 city taxes: *Provided, however,* That such cost shall be levied
201 but once against the same property so far as it pertains to the
202 change of grade;

203 (f) In all cases where the city is compelled to construct
204 or lay sidewalks under this section, it shall include a commis-
205 sion of not exceeding twenty per cent, for the time of its em-
206 ployees in supervising such construction, laying the assess-

207 ment, and collecting the same over and above the actual cost
208 to it of such assessment.

ARTICLE VIII.

Section 1. Council shall provide by ordinance for the systematic collection, removal and disposal of all garbage of every kind and character under the control, management and at the expense of the city, and for such rules and regulations as shall by it be deemed necessary, advisable or expedient in the collection, removal and disposal of the same; and should the expense thereof be found to be excessive for the revenue of the city, the council shall have the power to provide by ordinance for the laying of a special levy for that purpose sufficient to provide funds therefor.

But council may, by appropriate ordinance, fairly submit the question of garbage collection and removal at public expense to a referendum to the people and should the result of such referendum show a majority vote opposed to such collection and disposal at public expense, then council shall suspend the operation of this section, and should the result of such referendum show a majority vote in favor of such collection and disposal at public expense, then council shall provide for the collection of all garbage thereafter.

Sec. 2. In lieu of the itemized annual statement of accounts of the city the council may cause to be published annually such general statement of the finances of the city as to give the public a fair understanding thereof.

Sec. 3. All contracts, grants, easements, rights, privileges or consent on, in or relative to any street, alley, or public ground or property of said city, made by the council of said city, or by any board or officer thereof, prior to this charter taking effect, and all other contracts, grants, easements, rights, privileges or consents, entered into or granted by the said city or its council, at any time prior to this charter taking effect, which are now in force, or which may have been lawfully entered into or granted, within any territory hereafter annexed to the city of Morgantown, and be in force and effect when the annexation is made, shall continue in full force and effect, and be respected and complied with by the city of Morgantown, and the council and other officers thereof under this charter, and all indebtedness

14 incurred by the said city, prior to this charter going into effect,
15 shall be binding upon the city of Morgantown, under this char-
16 ter, and be paid by it out of its revenues.

Sec. 4. All copies purporting to be copies of the ordinances
2 of said city or extracts from the journal or minutes of the coun-
3 cil which shall be printed by the authority of the council, or
4 which shall be certified to be correct by the mayor of said city
5 under the seal thereof, shall be received by all courts and
6 magistrates of this state as prima facie evidence of the tenor
7 of such ordinances, and of the acts and proceedings of the coun-
8 cil therein set forth.

Sec. 5. This charter shall not invalidate any legal act done
2 by the council of the city of Morgantown, or any officer of said
3 city now or heretofore in office.

Sec. 6. Any person who shall violate any of the provisions
2 of this charter for the violation of which no punishment has
3 been provided herein, shall be deemed guilty of a misdemeanor,
4 and upon conviction thereof, shall be punished by a fine of not
5 exceeding one hundred dollars or by imprisonment in the county
6 jail not exceeding one year, or by both such fine and imprison-
7 ment.

Sec. 7. In accordance with the provisions of the nineteenth
2 federal amendment and laws of this state, women shall have the
3 same rights, privileges, and prerogatives as men, and the pro-
4 noun "he" wherever used herein shall be construed to include
5 women.

Sec. 8. (a) All acts and parts of acts which are in conflict
2 and inconsistent with this act, are hereby repealed and declared
3 inoperative insofar only as they are in conflict or inconsistent
4 with this act.

(b) The invalidity of any portion of this act shall not affect
6 the validity of any other portion thereof which can be given
7 effect without the invalid part.

CHAPTER 127

(House Bill No. 548—By Mr. Newman)

AN ACT to amend and reenact section sixteen, chapter two of the acts of the legislature of West Virginia (municipal charters), one thousand nine hundred twenty-nine, conferring certain powers on the city of Moundsville.

[Passed March 3, 1933: in effect from passage. Approved by the Governor.]

SEC. 16. Enumerated powers of council: council to have any additional powers granted by section ten.		SEC. article four, chapter eight of code.
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Be it enacted by the Legislature of West Virginia:

That section sixteen, chapter two of the acts of the legislature of West Virginia (municipal charters), one thousand nine hundred twenty-nine, be, and the same is hereby amended and reenacted to read as follows:

Section 16. 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 or of the
 5 public, and to improve and light the same, and to keep the
 6 same free from obstructions of every kind; to regulate the
 7 width of pavements and sidewalks on the streets and alleys,
 8 and to order the pavements, sidewalks, footways, drains and
 9 gutters to be kept in good order, free and clean, by the owners
 10 or occupants of the real property next adjacent thereto; to
 11 establish and regulate markets, prescribe the times of holding
 12 the same, provide suitable and convenient buildings therefor,
 13 and prevent the forestalling or regulating of such markets; to
 14 prevent injury or annoyance to the public or to individuals
 15 from anything dangerous, offensive or unwholesome; to pro-
 16 hibit or regulate slaughter houses and soap factories within
 17 the city limits; or the exercise of any unhealthy or offensive
 18 business, trade or employment; to abate all nuisances within
 19 the city limits, or to require and compel the abatement or re-
 20 moval thereof, by or at the expense of the person causing the
 21 same, or at the expense of the owner or occupant of the ground
 22 on which they are placed or found; to cause to be filled up,

23 raised or drained by or at the expense of the owner, any city
24 lot or tract of land covered or subjected to be covered by stag-
25 nant water; to prevent horses, hogs, dogs, cattle, sheep, or
26 other animals and fowls of all kinds from going or being at
27 large in such city, and as one means of prevention, to provide
28 for impounding and confining such animals and fowls, and
29 upon failure to reclaim, for the sale thereof; to protect places
30 of divine worship and to preserve order in and about the
31 premises where and when such worship is held; to regulate
32 the keeping of gunpowder and other inflammable or danger-
33 ous substances; to provide and regulate the building of houses
34 or other structures, and for the making and maintaining of
35 division fences by the owners of adjoining premises, and for
36 the proper drainage of city lots or other parcels of land, by
37 or at the expense of the owner or occupant thereof; to provide
38 against damage or danger by fire; to punish for assaults and
39 batteries; to arrest, convict and punish any person for gam-
40 bling or keeping gaming tables, commonly called a, b, c, or e, o,
41 table or faro bank or keno table, or table of like kind, under
42 any denomination, whether the game or table be played with
43 cards, dice or otherwise, or shall be a partner, or concerned
44 in interest, in the keeping or exhibiting such table or bank,
45 or keeping or maintaining any gaming house or place, or
46 betting or gambling for money or anything of value; to sup-
47 press houses of ill fame and to arrest and punish persons
48 loitering in, or visiting them, or loitering in saloons, or upon
49 the streets; to prevent lewd and lascivious conduct; the sale
50 or exhibition of indecent pictures or other representations;
51 to license, prohibit, and regulate dances and dance halls; the
52 desecration of the Sabbath day; profane swearing; to prohibit
53 the manufacture, sale, keeping or storing for sale, or offering
54 or exposing for sale, or transportation of liquors or absinthe,
55 or any drink compounded with absinthe, or the possession of
56 "moonshine liquor;" to protect the persons of those resid-
57 ing or being within said city; to appoint when necessary or
58 advisable a police force, permanent or temporary, to assist the
59 chief of police in the discharge of his duties; to build or pur-
60 chase, or lease and to use, a suitable place within or near said
61 city for safekeeping or punishment of persons charged with
62 or convicted of the violation of ordinances; to provide for the

63 employment of persons convicted of the violation of ordinances
64 or who may be committed in default of the payment of fines,
65 penalties or costs, who are otherwise unable to discharge the
66 same, by putting them to work for the benefit of the city,
67 and to use such means to prevent their escape while at work,
68 as they may deem expedient; to erect, or authorize or prohibit
69 the erection of gas works, electric light works or water works
70 within the city limits; to prevent injury to such works, or
71 the pollution of any gas or water used or intended to be used
72 by the public or by individuals, and to do all things necessary
73 to adequately supply said city and the inhabitants thereof with
74 pure, healthful and wholesome water; to use, generate, dis-
75 tribute, sell and control electricity and gas for heat, light and
76 power and to furnish light for the streets, houses, buildings,
77 stores, and other places in and about said city; to provide a
78 sewerage system for said city; to provide for and regulate
79 the weighing and measuring of hay, coal, lumber and other
80 articles sold or kept or offered for sale, within said
81 city; to establish and construct wharves and docks, and to re-
82 pair, alter or remove any landing, wharf or dock which has
83 been or shall be so constructed, and to establish and collect
84 rates and charges for the use thereof; to regulate the running
85 and speed of engines and cars within the said city, except that
86 the council of said city shall not interfere with the speed of
87 trains and engines beyond the corporation lines of the city
88 of Moundville as heretofore existing, until the said new ter-
89 ritory shall be laid out in lots, streets and alleys, and opened
90 and used by the public; to organize one or more fire companies
91 and provide necessary apparatus, tools, implements, engines
92 or any of them for their use, and in their discretion to organ-
93 ize a paid fire department; to make regulations with respect
94 to the erection and location of all pipes, conduits, and tele-
95 phone, telegraph, electric light or other poles within said city,
96 and the extension of any wires, lines and poles by any individ-
97 uals or corporation; to create by ordinances such committees
98 or boards, and delegate such authority thereto as may be
99 deemed necessary or advisable; to provide for the annual as-
100 sessment of the taxable property therein, including dogs kept
101 in said city, and to provide a revenue for the city for municipal
102 purposes, and to appropriate such revenue to its expenses,

103 and generally to take such measures as may be deemed neces-
 104 sary or advisable to protect the property, public and private,
 105 within the city; to preserve and promote the health, safety,
 106 comfort and well being of the inhabitants thereof.

107 The council of said city shall have power and authority to
 108 control and regulate the construction and repairs of all houses
 109 and other buildings within the said city; to provide for the
 110 granting of building permits; to cause the removal of unsafe
 111 walls or buildings; and may prohibit the erection on any such
 112 street, or in such square, of any building, or of any addition
 113 to any building unless the outer walls thereof be made of brick
 114 and mortar or other fireproof material; and to provide for the
 115 removal of any building or addition which shall have been
 116 erected contrary to such prohibition, at the expense of the
 117 owner or owners thereof.

118 The said council of said city shall have any and all addi-
 119 tional power and authority granted to cities, towns and villages
 120 by section ten, article four, chapter eight of the code of West
 121 Virginia, one thousand nine hundred thirty-one.

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

CHAPTER 128

(House Bill No. 549—By Mr. Newman)

AN ACT to amend and reenact section forty-eight, chapter eighty-
 two of the acts of the legislature of West Virginia, regular ses-
 sion, one thousand nine hundred eleven, relating to the charter
 for the city of Moundsville.

[Passed March 3, 1933; in effect from passage. Approved by the Governor.]

SEC. 48. Advertisement for bids for street paving; cost of paving to be borne by city and property owners; ascertainment and lien	SEC.	of assessment against property owner; additional levy for paving and rights-of-way purposes.
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Be it enacted by the Legislature of West Virginia:

That section forty-eight of chapter eighty-two of the acts of the legislature of West Virginia, regular session, one thousand nine hundred eleven, be amended and reenacted so as to read as follows:

Section 48. The council shall have the authority to provide 2 that any street, avenue or alley or any portion thereof between 3 the curbstones, shall be macadamized, or paved with bricks, 4 cobblestones, or other suitable material, upon the lowest and best 5 terms obtainable, after advertisement for four weeks in one or 6 more newspapers in the city, for bids and proposals for the 7 work; and two-thirds of the cost of such macadamizing or pav- 8 ing, from curb to curb of such street, avenue, or alley, shall be 9 assessed to the owners of lots, or fractional parts of lots, front- 10 ing or abutting on such street, avenue or alley, that is to say: 11 The property owners on each side of said street, avenue or alley 12 to be assessed one-third of the cost of said improvements, to each 13 property owner a sum proportionate to the distance, or extent 14 in feet by him owned, and one-third of the sum so assessed shall 15 be paid by each property owner to the city within thirty days 16 after the completion of the work, and the remainder in two equal 17 installments in six and twelve months thereafter, with interest 18 thereon at the rate of six per centum per annum, or at such other 19 times as the council may prescribe. The remaining one-third 20 of such expense, as well as the expense of macadamizing or 21 paving at the intersections of streets, avenues and alleys, shall 22 be defrayed by the city. The council shall cause a notice to be 23 published for one week in a newspaper of said city, showing the 24 owners of the property and the number of feet fronting on said 25 improvements, as well as the time and the place where the said 26 council will proceed to fix said assessments as above provided, 27 and giving notice to any person having an interest in said prop- 28 erty to appear and show cause, if any they can, why such assess- 29 ment should not be made; and the council may, in making said 30 assessments, consider the petition of any person or corporation 31 relative to the inequality of said assessment, and may equalize 32 and adjust the same. The assessment to be made to any owner 33 of real estate shall constitute a lien on such estate; and like 34 proceedings may be had and taken to enforce such lien, or 35 to recover from such owner the amount of such assessment, or of 36 any installment thereof, as those provided for in the preceding 37 section providing for the laying of pavements. The council of 38 said city may cause an additional annual levy of fifteen cents 39 on the hundred dollars of the ascertained value of all the real 40 and personal property within said city, or subject to taxation, 41 for the purpose of defraying the expenses of paving the streets, .

42 avenues and alleys of said city as herein provided; or for the
 43 purpose of paying for rights-of-way and not to exceed one-half
 44 the cost of construction of state road through the city of
 45 Moundsville. Any balance in the fund created by this section
 46 may be used as aforesaid.

CHAPTER 129

(Senate Bill No. 56—By Mr. Neale)

AN ACT to amend and reenact section two of an act of the legislature of West Virginia passed on the thirtieth day of January, one thousand nine hundred twenty-nine, relating to the charter of the city of Parkersburg, and being chapter one of the acts of the legislature of West Virginia of one thousand nine hundred twenty-nine, relating to municipal charters, as amended by an act of the legislature of West Virginia passed on the twenty-third day of November, one thousand nine hundred twenty-nine, relating to the charter of the city of Parkersburg, and being chapter one of the acts of the legislature of West Virginia of one thousand nine hundred twenty-nine, extraordinary session, and repealing all other acts or parts of acts inconsistent or in conflict herewith.

[Passed February 1, 1933; in effect from passage. Approved by the Governor.]

Sec.

2(a). Corporate limits and boundaries.
 2(b). What liabilities and obligation of street car or other railway company for paving are governed by

SEC.

franchise or contract granted or entered into prior to passage of this act.

Be it enacted by the Legislature of West Virginia:

That section two of an act of the legislature of West Virginia passed on the thirtieth day of January, one thousand nine hundred twenty-nine, relating to the charter of the city of Parkersburg, and being chapter one of the acts of the legislature of West Virginia of one thousand nine hundred twenty-nine, relating to municipal charters, as amended by an act of the legislature of West Virginia passed on the twenty-third day of November, one thousand nine hundred twenty-nine, relating to the charter of the city of Parkersburg, and being chapter one of the acts of the legislature of West Virginia of one thousand nine hundred

twenty-nine, extraordinary session, be, and the same is hereby amended and reenacted so as to read as follows:

Section 2. (a). The corporate limits and boundaries of said 2 city shall be as follows:

3 Beginning at a point in the ordinary water line on the
4 southern bank of the Little Kanawha river, and opposite the
5 center of the mouth of Worthington creek; thence across said
6 river to the center of Worthington creek; thence following the
7 meanders of said Worthington creek, and with the center line
8 thereof, to the mouth of Holmes run; thence with the center
9 of Holmes run to its intersection with the easterly property
10 line of Stella street; thence in a southwesterly direction in a
11 straight line to a point in the westerly line of Emerson avenue
12 one hundred and forty feet north of the northerly line of For-
13 tieth street, at right angles thereto; thence in a westerly
13-a direction parallel with the northerly line of Fortieth
13-b street, and the continuation of the said line if the same
14 were extended, and one hundred and forty feet northerly there-
15 from, to a point one hundred and fifty feet west of the north-
16 westerly line of Spring Brook drive at right angles thereto;
17 thence in a southerly and westerly direction parallel with and
18 one hundred and fifty feet westerly and northerly from the
19 said line of Spring Brook drive to a point one hundred and
20 fifty feet north of the northerly line of Lakeview drive at right
21 angles thereto; thence in a westerly direction parallel with the
22 northerly line of Lakeview drive and the continuation thereof,
23 if the same were extended, and one hundred and fifty feet
24 northerly therefrom, to a point one hundred and twenty-five
25 feet west of the westerly line of Murdoch avenue at right
26 angles thereto; thence in a southerly direction parallel with
27 the westerly line of Murdoch avenue, and one hundred and
28 twenty-five feet westerly therefrom, to a point one hundred
29 and seventy-five feet north of the southerly property line of
30 West Virginia avenue; thence in a westerly direction parallel
31 with the southerly property line of West Virginia avenue and
32 the continuation thereof, if the same were extended, and one
33 hundred and seventy-five feet northerly therefrom, to a point
34 in the center of Pond Run; thence down Pond Run with the
35 center line thereof to the northerly line of Twenty-sixth street,
36 which street runs between Anderson addition and what was

37 formerly land belonging to J. N. Camden; thence with the line
38 of Twenty-sixth street and said line extended towards and
39 across the Ohio river to a point in the West Virginia-Ohio state
40 line on the westerly side of said river; thence down the Ohio
41 river with the said state line to a point opposite a point on the
42 southern bank of the Little Kanawha river at the mouth there-
43 of in the ordinary water line thereof; thence to said last named
44 point; thence with the said ordinary water line of said river
45 in an easterly direction to the place of beginning.

46 (b). *Provided*, That in case any street car or other railway
47 company has heretofore constructed, or operates upon or over,
48 any tracks or rails upon or along any street or road within any
49 territory heretofore outside of the corporate limits of the city
50 of Parkersburg, and which territory by this act is included
51 within the corporate limits of said city, and has by the terms
52 of any franchise heretofore granted to said company, or its
53 predecessors in title, by the county court of Wood county, or
54 by the terms of any contract heretofore made by it, or its pre-
55 decessor in title, with said county court, had its responsibili-
56 ties for paving, or obligations to pave, any part of such street
57 or road between its rails or otherwise, limited or defined, then
58 such responsibility or obligation for paving shall not be ex-
59 tended or enlarged by the fact that such street or road is, by
60 this act, embraced within the corporate limits of such city, and
61 as to such street or road, the said company shall not be af-
62 fected by the provisions of section forty-eight of this act, but
63 its liabilities and obligations in regard to such paving shall be
64 governed by such franchise or contract granted or entered into
65 previous to the passage of this act.

66 All acts and parts of acts inconsistent with this act are here-
67 by repealed.

CHAPTER 130

(House Bill No. 463—By Mr. Poling)

AN ACT to amend and reenact sections eighteen and twenty-eight, chapter seventy-one of the acts of the legislature, one thousand nine hundred twenty-three, relating to the charter of the city of Philippi.

[Passed March 1, 1933; in effect from passage. Approved by the Governor.]

Sec.	Sec.
18. Compensation of elective and appointive officers; limitations on; officers or employees not to be pecuniarily interested in a city	28. Duties and powers of city clerk; contract, etc. powers as acting mayor.

Be it enacted by the Legislature of West Virginia:

That sections eighteen and twenty-eight, chapter seventy-one of the acts of the legislature, one thousand nine hundred twenty-three, be amended and reenacted to read as follows, the same relating to charter of the city of Philippi:

Section 18. The council, in their discretion, may fix the compensation of all officers and other persons, whether elective or appointive, and of all persons employed by them; but a councilman shall not receive more than two dollars for each meeting nor more than thirty dollars per annum for his services as a councilman; nor shall the mayor receive more than one hundred dollars per year, exclusive of costs; nor shall the city clerk receive more than sixty dollars per month; nor shall the street commissioner receive more than seventy-five dollars per month; nor shall the city electrician receive more than one hundred ten dollars per month; nor the chief of police more than one hundred dollars per month; and the assistant policemen shall not receive more than three dollars per day. And no officer, agent or employee of said city shall be pecuniarily interested, either directly or indirectly, in any contract, sale or purchase for or on behalf of the city, or in the proceeds of any improvements made by or on behalf of the city, nor shall he receive, directly or indirectly, any compensation for his services rendered on behalf of the city, other than herein specified.

Sec. 28. It shall be the duty of the city clerk to keep a journal of the proceedings of the council, and have charge of and preserve the records, bonds, papers and other documents

4 belonging to the city, and shall make out all electric light bills
 5 and collect same. It shall be his duty to attend the sessions of
 6 the police court and keep accurate records of its proceedings,
 7 and all judgments shall be entered by him within twenty-four
 8 hours after the same are rendered. He shall, in case of sickness
 9 or disability of the mayor to act, or in case of his absence from
 10 the city, or during any vacancy in the office of the mayor, per-
 11 form the duties of mayor, and shall be vested with all powers
 12 necessary for the performance of such duties. He shall also
 13 perform such other duties pertaining to the fiscal affairs of the
 14 city or otherwise, as may be required of him by this act or by
 15 the council.

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

CHAPTER 131

(House Bill No. 496—By Mr. Ballard)

AN ACT to amend and reenact chapter eight of the acts of the legis-
 lature of West Virginia, one thousand nine hundred nine, as
 amended the twenty-third day of February, one thousand
 nine hundred fifteen, by an act of the legislature of West
 Virginia, as amended by chapter one hundred fourteen
 of the acts of the legislature of West Virginia, one
 thousand nine hundred seventeen, as amended by chapter
 seventy-two of the acts of the legislature of West Virginia, one
 thousand nine hundred twenty-three, incorporating and re-
 lating to the city of Princeton.

[Passed March 3, 1933; in effect from passage. Became a law without the approval
 of the Governor.]

Sec.	Sec.
1. City of Princeton a body corporate; powers.	11. Mode of voting; conduct and return of elections.
2. Corporate boundaries.	12. Tie vote decided by council.
3. Number and boundaries of wards.	13. Contested elections.
4. Mayor, recorder and six councilmen to constitute city council.	14. Filling vacancies in office.
5. Council to exercise corporate powers.	15. Power of council as to appointing additional officers; duties, compensation and removal; powers, salary and duties of chief of police.
6. Appointment and removal of officers by council.	16. Bonds to be made payable to city; proceedings on.
7. Eligibility of mayor, recorder and councilmen.	17. Oaths of elective officials.
8. First election under act; terms of office; when term of present councilmen expires; subsequent elections.	18. When terms of elective and appointive officials begin.
9. Qualification of voters.	19. Filling vacancy caused by ineligibility.
10. Registration of voters.	20. Duties and salary of mayor.

SEC.	SEC.
21. Duties and salary of recorder; warrants and executions issued by; appeals from decision; as ex officio treasurer to collect taxes, licenses, etc.	33. Collection of taxes by treasurer; discounts; distraint for; books of treasurer open to inspection; monthly statements by; settlements by; bond of.
22. Quorum of council.	34. Assessor to copy real and personal property books of county assessor of property within limits of city to extend taxes after levy is laid.
23. Minute and ordinance books.	35. Granting and revocation of licenses.
24. Reading and correction of minutes; ayes and noes.	36. Condemnation proceedings by council.
25. Mayor, or recorder, to preside at council meetings, but to have no vote except in case of a tie.	37. Vote of people on bond issues for paving, permanent improvements or refunding indebtedness.
26. Regular and special meetings of council; compelling attendance of members; majority vote of members present to decide question.	38. When councilmen personally liable for indebtedness incurred; penalty.
27. Moneys belonging to city to be paid to treasurer; how expended.	39. District and county road levies not to be extended against city property.
28. Enumerated powers of council; maximum fine or imprisonment; fees of recorder and police officers; powers as to sewerage and waterworks systems, vote on purchase of waterworks; vote on purchase of electric light plant; provisions as to street paving; assessments against property owner for; paving certificates.	40. Existing ordinances, etc., to remain in force until repealed; present officers to continue in office until successors elected and qualified.
29. What police docket to show.	41. Construction of sidewalks, drains and gutters; how cost of paid; how cost of street paving paid; petition of property owners for street paving; hearing and action on by council; how cost paid.
30. Annual and special levies; street tax; tax on dogs, cows, etc.; maximum amount of general levy; amount of special annual levy to create sinking fund; amount of special annual levy to pay off outstanding orders, etc.	42. Voting places and election commissioners.
31. Power and duties of assessor.	43. Powers, duties and compensation of city attorney.
32. Lien of taxes, fines and penalties; state laws as to delinquent taxes to govern.	44. Depositories of city funds.
	45. Compensation of councilmen.
	46. Existing inconsistent ordinances and inconsistent acts repealed.
	47. Unconstitutionality of part of act not to affect remaining part.

Be it enacted by the Legislature of West Virginia:

That chapter seventy-two of the acts of the legislature of West Virginia, one thousand nine hundred twenty-three, relating to the charter of the city of Princeton, be amended and reenacted 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 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.

Sec. 2. The corporate limits of the city of Princeton shall be

2 as follows, that is to say: Beginning at a point midway between
3 two willow trees near an old house site and an abandoned spring
4 in an old apple orchard up a hollow in an eastern direction from
5 the northern end of the present Virginian shops; thence run-
6 ning southeasterly in a straight line to the Carr & Bratton
7 scales on the old Pisgah road, and including said scales to a
8 point on the northwest line of Princeton-Athens road (Rogers
9 street); thence in a southwesterly direction along the northwest
10 line of said road to its intersection with the southwest line of
11 Thorn street; thence along the northwestern side of Rogers
12 street to its intersection with the northeastern line of Brick
12-a street; thence along the northeast line of Brick street to its
13 intersection with the southwestern line of Lazenby avenue;
14 thence along the southeastern line of Lazenby avenue in a south-
15 westerly direction to its intersection with the eastern boundary
16 of the West Virginia Water Service Company's right-of-way;
17 thence in a westerly direction in a straight line to the residence
18 of K. W. McClaugherty, and including said residence within the
19 corporation, to a point at the center line of the Bluefield-Prince-
20 ton road; thence in a southwesterly direction to the back of the
21 residence owned and occupied by A. M. Sutton, and including
22 said residence; thence in a westerly direction to the southwest
23 corner of the Bowling addition to the city of Princeton; thence
24 in a northerly direction along the west boundary of said Bowl-
25 ing addition and the cemetery, being the same straight line, to
26 the south line of the New Hope road; thence with the south line
27 of the New Hope road in a northeasterly direction to the inter-
28 section of said line with the south line of Main street; thence
29 with the east line of Clark street in a northerly direction to the
30 intersection of said line with the northeast line of Pike street
31 (Beckley road); thence in a northeasterly direction, in a straight
32 line to the residence of the late Saunders Lewis, and not includ-
33 ing the same within the corporation, to the residence formerly
34 owned by Elliott Blankenship and not including said residence
35 within the corporation to the point of beginning.

Sec. 3. The said city of Princeton shall consist of wards,
2 which shall be bounded as follows:

3 *First ward.* All of the following described boundary shall
4 constitute the first ward of said city: Beginning at the inter-
5 section of corporation line with the center line of Trent street;

6 thence in a northwesterly direction with the center line of
7 Trent street to the center of Princeton avenue; thence with
8 the center of Princeton avenue in a southwesterly direction to
9 the intersection of the center line of said Princeton avenue,
10 with the center line of Walnut street; thence with the center
11 line of said Walnut street, in a northwesterly direction to the
12 intersection of center line of said Walnut street with the center
13 line of Mercer street; thence in a northeasterly direction to its
14 intersection with the center line of Center street; thence with
15 the center line of Center street in a westerly direction to its
16 intersection with the center line of Hale avenue; thence with the
17 center line of Hale avenue in a northern direction to the cor-
18 poration line; thence with the corporation line in a western
19 direction, following said line to the point of beginning.

20 *Second ward.* All of the following described boundary
21 shall constitute the second ward of said city, that is to say:
22 Beginning at a corner of the first ward, that is to say at the
23 intersection of corporation line with the center line of Trent
24 street; thence along and with said corporation line in a easterly
25 direction to the intersection of said corporation line with the
26 center line of the macadam road leading to Athens at the in-
27 tersection of the center line of said Athens road with the line
28 of Rogers street; thence in a northern direction with the center
29 line of said macadam road to its intersection with the center
30 line of Harrison street; thence in a western direction to its
31 intersection with the center line of Third street; thence with
32 the center line of Third street in a northerly direction to the
33 end of Third street; thence continuing the same direction and
34 on the same degrees as the last named line to the corporation
35 line; thence with the corporation line, in a southwestern direc-
36 tion to the center line of Hale avenue, at the northeastern
37 corner of First ward; thence with the center line of Hale
38 avenue in a southeasterly direction with the line of the first ward
39 and continuing with said line of the first ward to the point of
40 beginning.

41 *Third ward.* All of the following described boundary shall
42 constitute the third ward of said city, that is to say: All
43 of that territory lying within the corporate limits of said city
44 east, northeast and southeast of the second ward and not
45 included in the boundaries of either the first and second
46 wards.

Sec. 4. The municipal authorities of the said city of
2 Princeton shall consist of a mayor, recorder and six councilmen,
3 who shall constitute the council of said city, in the corporate
4 name of said city, unless otherwise provided by state law or
5 municipal ordinance.

Sec. 5. All the corporate powers and functions pertaining
2 to said city shall be exercised by its council, or under its
3 authority.

Sec. 6. The council may appoint a recorder, an assessor,
2 a city engineer, a chief of police and such additional police
3 officers as they may deem proper, a city attorney, a chief of
4 fire department and such other officers as may be provided
5 for by ordinance of the city council or by this act, and such
6 officers shall hold their respective offices during the pleasure
7 of the council, and may be removed therefrom by the council
8 at any time with or without cause.

Sec. 7. No person shall be eligible to the office of mayor,
2 recorder or councilman, unless at the time of his election or
3 appointment he is legally entitled to vote in the city election
4 for members of the common council; and he was for the pre-
5 ceding year assessed with taxes upon real or personal property
6 within the said city, of the assessed aggregate value of at
7 least three hundred dollars, and shall have paid the taxes so
8 assessed.

Sec. 8. On the first Tuesday of June, one thousand nine
2 hundred thirty-three, there shall be elected by the qualified
3 voters of said city, a mayor, and by the qualified voters of
4 each ward one councilman. The term of office of the said
5 mayor shall be for the period of two years, commencing on
6 the first day of July, one thousand nine hundred thirty-three,
7 and until his successor shall be elected and qualified. The
8 term of office of the councilman from each ward so elected shall
9 be for the period of four years, commencing on the first day of
10 July, one thousand nine hundred thirty-three, and until their
11 successors shall be elected and qualified.

12 The councilmen, one from each ward of said city, whose
13 terms have not expired at the time of the passage of this act,
14 shall continue and hold office as councilmen until the expira-
15 tion of their term, the first day of July, one thousand nine
16 hundred thirty-five.

17 On the first Tuesday in June, one thousand nine hundred
18 thirty-five, and every two years thereafter, there shall be
19 elected by the qualified voters of said city, a mayor, whose
20 term of office shall be two years as aforesaid, by the qualified
21 voters of each ward, one councilman, whose term of office shall
22 be four years as aforesaid.

23 It being the intention herein that each ward of said city
24 shall be represented by two councilmen, one of which shall be
25 elected every two years.

Sec. 9. Every person residing in said city shall be entitled
2 to vote for all officers elected under this act; but no person
3 who is a minor, or of unsound mind, or a pauper, or who is
4 under conviction of treason, or bribery in an election, or who
5 has not been a resident of this state for one year and of said
6 city for six months next preceding the election at which he
7 desires to vote, shall be permitted to vote therein.

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

Sec. 11. In all elections by the people the mode of voting
2 shall be by ballot, but the voters shall be left free to vote
3 an open, sealed or secret ballot as they may elect. The elec-
4 tion in said city shall be held and conducted and the result
5 thereof certified, returned and finally determined under the
6 laws in force in this state relating to general elections, except
7 that the persons conducting said elections shall, on the day
8 after the election is held, deliver the ballots, tally sheets and
9 poll books to the recorder, and thereafter the council of said
10 city shall meet within five days (Sunday excepted) after said
11 election and canvass the returns of said election, and declare
12 the result thereof, and in all respects comply with the require-
13 ments of the statute of the state relating to elections. The
14 corporate authorities of said city shall perform all duties in
15 relation to such elections required by general law of the county

16 court and officers in effect on the day of said election and each
17 succeeding election under this charter. And the provisions of
18 the code in effect on the date of said election, concerning elec-
19 tions by the people, shall govern such elections and be ap-
20 plicable thereto, and the penalties therein prescribed for of-
21 fenses relating to elections shall be enforced against the of-
22 fenders of such corporate elections; and the said act shall have
23 the same force and effect as if it were specially applicable in
24 such corporate elections and was by this act reenacted in
25 extenso; except as above modified as to the time in which the
26 returns of the election and canvass thereof shall be made.

Sec. 12. Whenever two or more persons receive an equal
2 number of votes for mayor, or councilman, such tie shall be
3 decided by the council in existence at the time the election
4 is held: *Provided*, That the council in office at the time of the
5 institution of such contest proceedings shall hold over and re-
6 main 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.

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

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

Sec. 15. The council shall also have authority to pro-
2 vide by ordinance for the appointment of such other officers
3 as shall be necessary and proper, to carry into full force
4 and authority the power, capacity, jurisdiction and duties of
5 said city, which are, or shall be, vested therein or in the
6 council or in the mayor, or any other officer or body of officers
7 thereof, and to grant to the officers so appointed the power
8 necessary or proper for the purpose above mentioned. The
9 council, by ordinance, shall define the duties of all officers so

10 appointed not defined by this act, and may provide them a
11 reasonable salary, which shall be payable out of the city
12 treasury, and shall require and take from all of them whose
13 duty it shall be to receive its funds, assets or property, or have
14 charge of the same, such bonds, obligations, or other writings
15 as they shall deem necessary to insure the faithful perform-
16 ance of their several duties. All officers elected may be re-
17 moved by the council from office for intemperance, gross im-
18 morality, gambling, malfeasance or misfeasance in office, or in-
19 ability or neglect to perform the duties of their respective of-
20 fices. Any appointed officer who holds his office at the pleasure
21 of the council may be removed from his office with or without
22 cause. The chief of police shall have power, rights and
23 privileges within the corporate limits of said city in regard
24 to the arrests of persons, the collections of claims and the
25 execution and return of process that can be legally exercised
26 by a constable of a district within this state; and may, without
27 having any warrant or other process therefor, arrest any person
28 who commits any offense against the laws of this state or in-
29 fraction of the ordinances of said city, in his presence. He
30 shall be ex officio the keeper of the city jail, and have charge
31 of the city prisoners confined therein, and may confine any
32 person arrested by him in the city jail until such time as the
33 charge against such person can be inquired into by the re-
34 corder. Any person fined by the recorder, for infraction of
35 any of the ordinances of the city, may pay such fine to either
36 the recorder or the chief of police; and the said chief of
37 police and his sureties shall be liable for all fines, penalties
38 and forfeitures that a constable of a district is liable for in
39 the same court that the said fine, penalties and forfeitures are
40 now recovered against a district constable. For his services
41 as chief of police, he shall receive a salary to be fixed by the
42 council, payable out of the city treasury, and no other fees,
43 commissions, emoluments, salaries or compensations whatso-
44 ever shall be allowed for such services. All fees, which but for
45 this act, he would be entitled to recover and retain shall never-
46 theless be charged and collected by him and paid into the
47 city treasury at the end of each month for the use and benefit
48 of the city. The chief of police shall be appointed to his office
49 by the council.

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, ex-
5 ecutors, administrators and assigns bound thereby shall be
6 subject to the same proceedings on such bonds, obligations
7 or writings for enforcing the conditions of the terms thereof,
8 by motion or otherwise, before any court of record or justice
9 of the peace having jurisdiction thereof, held or acting in
10 or for said Mercer county, or any district thereof or else-
11 where, that the sheriff or collector of said county and his
12 sureties are, or shall be subject to, on his bond taken for the
13 enforcement of the duties in the payment of the county levy.

Sec. 17. The mayor, recorder and councilmen, and all
2 other officers provided for in this act, shall each, before enter-
3 ing upon the duties of their offices and within fifteen days
4 after receiving their certificates of election or appointment,
5 take the oath or affirmation prescribed by law for all officers
6 in this state, and make oath or affirmation that they will truly,
7 faithfully and impartially, to the best of their ability, dis-
8 charge the duties of their respective offices so long as they con-
9 tinue therein. Said oath or affirmation may be taken before
10 any person authorized to administer oaths under the laws in
11 force at the time the same is taken, or before the mayor or
12 recorder of said city; but in any event a copy of said oath of
13 said officer shall be filed with the recorder.

Sec. 18. The mayor shall enter upon the duties of his
2 office upon the first day of July next after his election, and
3 his term of office shall be for a period of two years. The
4 councilmen shall enter upon the duties of their offices upon
5 the first day of July next after their election and their terms
6 of office shall be for a period of four years, and until their
7 successors are elected and qualified, and all appointive officers
8 shall enter upon their duties as soon as they have qualified,
9 and shall remain in office until removed therefrom.

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
5 this act.

Sec. 20. The mayor of said city shall be chairman of

2 its council, shall preside at the meetings of the council and
3 shall also be a conservator of the peace within the said city.
4 He shall especially see that the orders, by-laws, ordinances,
5 acts and resolutions of the council are faithfully executed. He
6 shall have control of the police of said city and may appoint
7 special police officers, whenever he may deem it necessary,
8 and may suspend any police officer of the city until the next
9 regular meeting of the council. And it shall be his duty
10 especially to see that the peace and good order of the city are
11 preserved, and to this end he may arrest or cause the arrest and
12 detention of all violators of the laws of this state and ordi-
13 nances of the city if the offense is committed in his presence.
14 He shall from time to time recommend to the council such
15 measures as he may deem useful and needful for the welfare of
16 the city. For his services as mayor he shall receive the sum of
17 three hundred dollars per year, to be paid out of the city
18 treasury in monthly installments, and no other fees, commis-
19 sions, emoluments, salaries or compensation whatever shall be
20 allowed him for his services as mayor.

Sec. 21. The recorder shall keep an accurate record of
2 all the proceedings of the council, and shall have charge of and
3 preserve the records of the city.

4 In case of the absence of the mayor from the city, or his
5 inability from any cause to act, or during any vacancy in the
6 office of the mayor, the recorder shall perform such duties
7 of mayor as pertain to the office of mayor, and to that end, in
8 addition to the other powers herein conferred upon him, the
9 recorder is hereby vested with all the powers necessary for the
10 performance of the duties of the mayor while acting as such.
11 The recorder shall be ex officio assessor of said city and shall
12 perform such duties as are imposed by law. He shall be paid a
13 salary of four hundred dollars, payable in equal monthly in-
14 stallments, for his services as such recorder and assessor, to be
15 paid out of the city treasury. He shall be ex officio justice
16 of the peace within said city and shall, within the same, have,
17 possess and exercise all the powers and perform all the duties
18 vested by law in a justice of the peace, except he shall have
19 no jurisdiction in civil causes of action arising out of the
20 corporate limits of the city, unless the defendant resides or is
21 found therein and process therein served upon him. He shall
22 have the same power to issue attachments in civil suits as a

23 justice of the peace of his county; but, in such case, he shall
24 have no power to try the same, but such attachments shall be
25 made returnable and heard before a justice of the peace of his
26 county.

27 Any warrant issued by him, or other process, may be ex-
28 ecuted at any place in said county. He shall have power to
29 issue his warrant for the arrest and apprehension of all persons
30 violating the ordinances of the city, and shall have power to
31 try the same and impose on such violators of the ordinances of
32 the city such fines and penalties as are prescribed by the
33 ordinances thereof.

34 He shall have the power to issue executions for all fines,
35 penalties and costs imposed by him, or he may require the
36 immediate payment thereof, and in default of such payment, he
37 may commit the party in default to the jail of said county or
38 other place of imprisonment used by such corporation, if there
39 be one, until the fine or penalty and the costs be paid, but the
40 imprisonment in such cases shall not exceed thirty days. And
41 in all cases where a person is sentenced to imprisonment or pay-
42 ment of a fine of ten dollars or more (and in no case shall a
43 judgment for a fine be for less than ten dollars) if the de-
44 fendant, his agent or attorney objects to a less fine being im-
45 posed, such person shall be allowed an appeal from such de-
46 cision to the criminal court of the county of Mercer, upon the
47 execution of an appeal bond with security deemed sufficient by
48 said recorder to cover the fine and costs, and the cost in the
49 criminal court, in case said judgment be affirmed, with condi-
50 tion that the person proposing to appeal will perform and
51 satisfy any judgment which may be rendered against him by the
52 criminal court on such appeal. If such appeal be taken, the
53 warrant of arrest, if any, a transcript of the judgment, the
54 appeal bond and other papers in the case shall be forthwith de-
55 livered by said recorder to the clerk of said court, and said
56 court shall proceed to try the case as upon an indictment or
57 presentment and render such judgment, including costs, as the
58 law and evidence may require.

59 The expense of maintaining any person committed to jail
60 hereinbefore set forth by the recorder, except it be to answer an
61 indictment, shall be paid and taxed as costs against the de-
62 fendant. He shall have the right to charge and collect the
63 same fees which a justice of the peace is authorized to charge

64 and collect for similar acts in cases tried before him. The re-
65 corder shall also be ex officio treasurer of the said city, and as
66 such shall perform all the duties of this act imposed upon the
67 treasurer of the said city and be vested with all the powers
68 herein vested in and imposed upon the treasurer of the said
69 city. It shall be the duty of the treasurer to collect the city
70 taxes, licenses, levies, assessments, and other such city claims as
71 are placed in his hands for collection by the council, and he
72 may distrain and sell therefor in like manner as a sheriff may
73 distrain and sell for state taxes; and he shall, in all other
74 respects, have the same power as sheriff to enforce the payment
75 and collection thereof.

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

Sec. 23. The council shall cause to be kept by the re-
2 corder in a well bound book to be called "minute book," an
3 accurate record of all its proceedings, ordinances, acts, orders,
4 and resolutions, and in another to be called "ordinance book,"
5 accurate copies of all general ordinances adopted by the coun-
6 cil; both of which shall be accurately indexed and open to the
7 inspection of anyone 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."

13 The recorder shall perform such other duties as by ordi-
14 nance of the council may be prescribed. The transcript of
15 ordinances, acts, orders and resolutions certified by the re-
16 corder under the seal of the city shall be admissible in evidence
17 in any court or before any justice.

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

Sec. 25. The mayor, or in his absence the recorder, shall

2 preside at the meetings of said council; the mayor and recorder
3 shall have no vote as members of said council except in case of
4 a tie vote in the council in which case the presiding officer
5 shall vote.

Sec. 26. The regular meetings of the council shall be
2 publicly held at such times and in such places in the city as
3 they shall from time to time ordain and appoint; and it shall
4 be lawful for the council by ordinance to vest in any officer
5 of the city, or in any member, or 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
8 majority of the members of the council do not attend any
9 regular or special meeting, those in attendance may compel
10 the presence of absent members under such reasonable pen-
11 alties as they may think proper to impose by ordinance. All
12 questions put to vote, except such matters as are hereinafter
13 provided for, shall be decided by a majority of the members
14 present.

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

Sec. 28. The council of said city shall have power to
2 lay off, vacate, close, open, alter, grade, improve and keep
3 in good repair the roads and streets, alleys, pavements, side-
4 walks, crosswalks, drains, sewers and gutters therein, for the
5 use of the citizens and the public. And to improve and light
6 the same, and keep them free from obstructions of every kind;
7 to regulate the width and kind of pavements and sidewalks,
8 footways, drains and gutters, and cause the same to be built
9 and kept in good repair and order, and free and clean by the
10 owners and occupants of the real property next adjacent
11 thereto; to establish public parks and playgrounds, and to
12 this end purchase and acquire necessary and appropriate
13 grounds and improve the same and regulate the use thereof;
14 to establish markets, prescribe the time for holding the same,

15 provide suitable and convenient buildings therefor, and pre-
16 vent the forestalling of said markets; to prevent injury or
17 annoyance to the public or individuals from anything danger-
18 ous, offensive or unwholesome; to prohibit or regulate
19 slaughter houses, tan houses and coal factories within the
20 city limits, or the exercise of any unhealthful or offensive
21 business, trade or employment; to abate all nuisances with-
22 in the city limits, or to compel the abatement or removal
23 thereof, at the expense of the person causing the same, or by
24 or at the expense of the owner or occupant of the ground on
25 which said nuisance is placed or found; to cause to be filled
26 up, raised or drained, by or at the expense of the owner, any
27 city lot or tract of land covered or subject to be covered by
28 stagnant water; to prevent horses, hogs, cattle, sheep or other
29 animals and fowls of all kinds from going or being at large in
30 such city, and as one means of prevention provide for im-
31 pounding or confining such animals and fowls at the expense
32 of the owner thereof; to protect places of divine worship and
33 to preserve order in and about the premises when and where
34 worship is held; to regulate the keeping and sale of gun-
35 powder, and other inflammable or dangerous substances; to
36 regulate the manner of exhibiting for sale and selling of milk,
37 meats and vegetables; to permit and regulate the building of
38 houses, or other structures, and regulate the kind of material
39 to be used in the construction thereof, and provide for the
40 making and maintaining of division fences by the owners of
41 adjoining property, and for the proper drainage of city lots
42 and other parcels of land by or at the expense of the owner or
43 occupant thereof; to provide against danger or damage by
44 fire; to punish assault and battery; to prohibit the keeping
45 or loitering in or visiting houses of ill fame or loitering in
46 saloons or upon the streets; to prevent lewed or lascivious
47 conduct, the sale or exhibition of indecent pictures, papers or
48 other representations; to prevent adultery and fornication;
49 to prohibit the carrying of concealed or dangerous weapons
50 within the corporate limits of said city; to punish drunken-
51 ness; to punish larceny where the amount stolen is less than
52 twenty dollars; to prevent gambling, and the keeping and
53 using of slot machines and gaming devices; to prohibit any-
54 thing against good morals and common decency, and to fix
55 punishment therefor; to prevent the desecration of the Sab-

56 bath day, profane swearing, the illegal sale of intoxicating
57 drinks, mixtures or preparations; to protect the person of
58 those residing or being in said city; to appoint when neces-
59 sary or advisable, a police force, permanent or temporary, to
60 assist the chief of police in the discharge of his duty, and who,
61 when appointed, will have the same power and authority in
62 and about the arrest of offenders, as the chief of police may
63 have; to build or purchase, or lease a suitable place of im-
64 prisonment within said city, for the safekeeping or punish-
65 ment of persons charged with or convicted of a violation of
66 the ordinances of the city, or they may adopt the county jail
67 of Mercer county for that purpose; to erect or authorize or
68 prohibit the erection of gas, water works, or electric works,
69 or all of them, within the city limits, or near the same, to
70 prevent injury to such works, or the pollution of any gas or
71 water used or intended to be used by the public or any in-
72 dividual; to provide for and regulate the weighing of hay,
73 coal, lumber and other articles sold or kept within said city,
74 and to establish rates and charges for the weighing and meas-
75 uring thereof; to create by ordinance such committees and del-
76 egate such authority thereto as may be necessary or advis-
77 able; to provide for the annual assessment of taxable prop-
78 erty therein, and for the revenue for the city for municipal
79 purposes, and to appropriate such revenue to its expenses; and
80 generally to have power to take such measures as are deemed
81 necessary or advisable to protect persons or property, public
82 or private, within the city; to preserve peace, quiet and good
83 order therein, and to promote the health, safety, comfort and
84 well-being of the inhabitants thereof; to organize one or more
85 fire companies and provide necessary apparatus, tools, im-
86 plements, engines, or any of them, for their use, and in their
87 discretion to organize a paid fire department; to make regula-
88 tions with respect to the erection and location of telephone,
89 telegraph, electric light or other poles by any individual or
90 corporation; to grant and regulate all franchises in, upon,
91 over and under such restrictions, as shall be provided by
92 ordinances; but no exclusive franchises shall be granted by
93 said council to any individual or corporation, nor shall any
94 franchise be granted for a longer period than fifty years;
95 to regulate, license and restrict the use of motor buses, auto-
96 mobiles, drays and wagons, upon the streets, alleys and public

97 grounds of said city when the same are being used for hire or
98 reward.

99 The council shall have authority to pass all ordinances not
100 repugnant to the constitution and laws of the United States
101 and of this state, which shall be necessary and proper to carry
102 into full effect the power, authority, capacity and jurisdiction
103 which is or shall be granted to or vested in the said city, or in
104 the council or in any officer or body of officers of said city,
105 and to enforce any and all of the ordinances by reasonable fines
106 and penalties, and, upon the failure to pay any fine or penalty
107 imposed, may compel the offender to labor without compensa-
108 tion at and upon any of the public works or improvements
109 undertaken, or to be undertaken, by said city, or to labor at
110 any work which the said council may lawfully employ labor
111 upon, at such reasonable rates per diem as the council may fix,
112 until any fine or fines and costs so imposed upon any offender
113 by said city have been fully paid and discharged, after de-
114 ducting reasonable charge of support while in the custody of
115 the officers of the city: *Provided, however,* That no fine shall
116 be imposed exceeding one hundred dollars and costs, and that
117 no person shall be imprisoned or compelled to labor as afore-
118 said for more than ninety days for any one offense. And in
119 all cases where a fine is imposed for an amount exceeding ten
120 dollars and costs, or a person be imprisoned, or be compelled
121 to labor as aforesaid for a greater term than ten days, an
122 appeal may be taken from such decision upon the terms and
123 conditions as appeals are taken from the judgment of a justice
124 of this state. Such fines and penalties shall be imposed and
125 recovered and such imprisonment inflicted and enforced by
126 and under the judgment of the recorder of said city; or in case
127 of his absence or inability to act, then by any member of the
128 council to be appointed by the council for that purpose; and
129 for his services in trying cases, whether civil, criminal or in-
130 fractions against ordinances. the recorder shall be entitled to
131 charge and collect such fees as are paid to justices of the
132 peace for similar services. And in all such cases the chief of
133 police or other officers performing the service shall be en-
134 titled to receive such fees as are paid to constables for similar
135 services, which shall be paid to the city treasury at the end
136 of each month, taking proper vouchers therefor: *Provided*
137 *further,* That the fee for making any arrest shall be one

138 dollar, whether such officer be the chief of police or other
139 officer. In addition to the powers above enumerated, the said
140 city council shall have power to build, construct, maintain and
141 operate a sufficient sewerage system and water works as may be
142 necessary for the proper supply of water to the inhabitants of
143 the said city, for both public and private use, and said city
144 shall have the power to purchase any water works now in the
145 said city or hereafter placed therein by any party other than
146 said city, whenever the council of said city shall deem proper
147 and such order shall have been ratified by a vote of the quali-
148 fied voters of said city at an election called for that purpose,
149 with due notice, and at least two-thirds of the vote cast at said
150 election shall vote for the ratification of said council to pur-
151 chase said water works; and the said city shall have the power
152 to enlarge the said water works, if so purchased, by putting ad-
153 ditional reservoirs either within or out of said city, and the
154 said city shall have the right, if its council shall deem proper,
155 and the order of said council be ratified by a vote as aforesaid,
156 to build, construct, maintain and operate such water works in
157 the said city as may be deemed proper without the purchase or
158 acquisition of any water works then in said city, and said city
159 shall have the right to lay pipes and mains for the proper dis-
160 tribution of said water, either in or out of said city, as shall be
161 necessary for the proper distribution of same, and for that pur-
162 pose may acquire by lease, purchase or condemnation of such
163 lands as shall be necessary, either within or without the said
164 city, or they may contract for such work to be done, in either
165 event, to supply and do all things necessary to supply the said
166 city and inhabitants thereof with water as aforesaid; and the
167 said city may acquire by purchase any electric light plant now
168 in said city or hereafter placed therein by any party other than
169 said city, and shall have the right to build, construct, main-
170 tain and operate such plant for furnishing electricity for said
171 city and for the inhabitants thereof, but no electric light plant
172 shall be purchased or built or operated unless voted on by the
173 qualified voters of said city at an election called and held as
174 aforesaid, and the same be ratified by a two-thirds vote of
175 all votes cast at said election. Whenever anything for which a
176 state license is, or may be required to be done within said city,
177 or within two miles of the corporate limits thereof, the council
178 as herein provided, may by ordinance require a city license to

179 be had for doing the same, the amount of which license shall be
180 fixed by the council; and may in any case, require from the
181 person licensed a bond, with sureties, and in such penalty and
182 with such conditions as it may deem proper, and the council on
183 notice may revoke such license at any time if the condition of
184 the said bond be broken. The council may impose a license and
185 assess a tax thereon on all wheeled vehicles for public hire and
186 upon all dogs kept within said corporate limits. The council
187 may prescribe, impose and enforce reasonable fines and pen-
188 alties, including imprisonment, under the order of the police
189 judge of said city, or the persons lawfully exercising his func-
190 tions, upon any person carrying on, or attempting to carry on,
191 any business for which a city license is required without first
192 obtaining a city license therefor, and paying the city license
193 tax assessed thereon. All licenses provided for in this act shall
194 be paid to the treasurer of the city; and for the purpose of
195 enforcing the provisions of this section, the city shall have
196 police jurisdiction for two miles beyond the corporate limits
197 thereof. The council shall have the power to make any regu-
198 lations and pass all ordinances necessary and proper con-
199 cerning the granting and revoking of license, but the public
200 shall be given notice by publication for two issues in a news-
201 paper of general circulation by any firm, person or corpora-
202 tion desiring a license of any character.

203 Whenever the council shall deem it expedient to cause any
204 street or alley in said city or portion thereof to be paved,
205 curbed or macadamized or otherwise improved in a permanent
206 manner, upon the petition in writing signed by the owners of
207 not less than three-fifths in lineal feet frontage of the lots
208 abutting on both sides of any street or alley, between any two
209 cross streets or between a cross street and an alley, it shall
210 order the work done in the following manner and upon the
211 following terms: The contract for such paving or other im-
212 provements shall, after due advertisement in which the coun-
213 cil shall reserve the right to reject any and all bids, be let to
214 the lowest responsible bidder. The contractor shall look only
215 to the city for payment of the work and in no sense to the
216 abutting land owners. The total cost of curbing, grading and
217 paving or otherwise improving any such street or alley, with
218 the exception in the case of a street occupied by street car
219 tracks or other railways of the distance between the rails and

220 two additional feet outside of each rail, which portion shall be
221 borne and paid entirely by the street car or other railway
222 company operating such street car line or other railway (un-
223 less otherwise provided by the franchise of such street or other
224 railway company granted previous to the passage of this act.)
225 shall be borne by the owners of land abutting upon said street,
226 alley or portion thereof, according to the following plan,
227 that is to say: Payment is to be made by all land owners on
228 either side of such portion of a street or block so paved and
229 improved in such portion of the total cost, less the portion,
230 if any, chargeable to such street or other railway company,
231 as the frontage in feet of his land so abutting bears to the
232 total frontage of all land so abutting on such street, alley
233 or portion thereof so paved or improved as aforesaid: *Pro-*
234 *vided*, That the entire cost of such paving or improvement
235 shall be chargeable to the abutting property owners as afore-
236 said, or such part of the cost thereof as may be agreed upon
237 between the council and the owners of at least three-fifths of
238 such frontage. The cost of such paving of improvement
239 chargeable to the abutting owners is not to include any portion
240 or amount paid for paving of squares at intersections of
241 streets, which shall in all cases be borne and paid by the city.
242 When the paving of any street or alley, or portion thereof,
243 shall have been let to contract, it shall be the duty of the
244 engineer of the city to cause the several frontages abutting
245 thereon be measured and to calculate the assessment upon
246 each and every land owner so abutting and to certify the same
247 to the council, showing the proper amount to be determined
248 as provided in the foregoing plan. It shall be the duty of the
249 council to examine and compare such assessments, amounts
250 and names so certified to it, and thereupon said council
251 shall give notice by publication for two successive weeks in
252 some newspaper published in said city that an assessment
253 under this section is about to be laid against the abutting prop-
254 erty for paving or improvements done on said street or alley,
255 describing the location of such paving or improvements, and
256 any owner or owners thereof shall have the right to appear be-
257 fore said council, within two weeks from the first publication
258 thereof and move said council to correct any apportionment or
259 assessment excessive or improperly made as charged, which
260 corrections said council shall have the power to make, and if

261 found to be correct or when corrected by the council as afore-
262 said, it shall center the same together with a description of the
263 lots of land as to location, frontage, depth and ownership, so
264 far as the same may be ascertained, upon its record and to
265 enter in its records that such owners and lots be assessed and
266 chargeable with the amount so ascertained to be borne by them,
267 respectively, and when so approved, certified and entered of
268 record, the same shall be and constitute an assessment against
269 said owners and liens upon said lots for such respective
270 amounts. And it shall be the duty of the council to im-
271 mediately certify such assessment to the treasurer for collec-
272 tion as herein provided, and a copy of said order shall be
273 certified by the recorder to the clerk of the county court of
274 Mercer county, who shall be required to record and index the
275 same in the proper trust deed book in the name of each person
276 against whose property assessments appear therein. The
277 amounts so assessed against said abutting land owners shall
278 be paid in five payments as follows, that is to say: One-fifth
279 of said amount, together with interest on the whole assess-
280 ment for one year, shall be paid into the city treasury of the
281 city, before the first day of May next after said work is com-
282 pleted and said assessments have been certified to the county
283 clerk; and a like one-fifth together with interest for one year
284 upon the whole amount remaining unpaid on or before the
285 first day of May in each succeeding year thereafter until all
286 has been paid and each of said installments of one-fifth be-
287 ginning with the first shall bear interest on the amount of
288 said installment at six percentum per annum from the date of
289 the record of same in the county court clerk's office until paid:
290 *Provided, however,* That any abutting owner so liable for any
291 portion of the cost of such paving shall have the right at any
292 time after the same is certified as aforesaid to the treasurer
293 for collection to anticipate the payment of any or all of said
294 assessments and shall be allowed to pay the face of said assess-
295 ment with interest at six percentum per annum only to the
296 time of payment. To each of such installments of assessments
297 remaining unpaid in the treasurer's hands on the days herein
298 specified for the payment thereof, a penalty of ten percentum
299 per annum shall be added to any assessments so remaining un-
300 paid in the treasurer's hands on such date, shall be taken up by
301 the council, on such settlement had with the treasurer on such

302 dates, and thereupon the council shall place such assessments,
303 with the penalty added thereto, in the hands of the chief of
304 police or other officer of the said city, whose duty it is to col-
305 lect delinquent taxes and assessments, to be treated and con-
306 sidered, and the payment thereof enforced in all respects as
307 hereinbefore and hereinafter provided for the collection of
308 taxes due the city, and such assessments with the penalty ad-
309 ded thereto shall constitute and continue to be a lien upon the
310 property liable therefor the same as for taxes, which lien may
311 be enforced in the same manner as provided for taxes, or by a
312 suit in equity to enforce this lien. The liens hereinbefore
313 provided for shall have priority over all other liens except
314 those for taxes due the state and shall be on a parity with taxes
315 and assessments due the city. Whenever all such assessments
316 for paving, curbing, macadamizing or other improvements
317 heretofore mentioned shall be paid in full to the treasurer,
318 he shall deliver to the party paying the same a release of the
319 lien therefor, which may be recorded in the office of the clerk
320 of the county court as other releases of liens.

321 In addition to the methods hereinbefore and hereinafter
322 prescribed for the payment of the cost of construction and
323 improvement of streets, the council may on the petition in
324 writing signed by the owners of not less than three-fifths in
325 lineal feet frontage of the property abutting upon any street,
326 avenue or roadway in said city or of the property abutting up-
327 on any portion thereof between any two intersecting streets,
328 order any street, alley or portion thereof, to be graded and
329 paved, repaved, or otherwise permanently improved, and the
330 council may order to be issued a certificate for each install-
331 ment of the amount of the assessment to be paid by the owner
332 of any lot or fractional part thereof abutting on the street,
333 or alley so improved, or portion thereof, which certificates
334 are to represent the annual installments as hereinbefore pro-
335 vided in this section, that is, five equal installments due on or
336 before the first day of May in each year. The amount speci-
337 fied in said assessment shall be a lien as aforesaid in the hands
338 of the holder of such certificate upon such abutting lot or
339 part of lot and such certificate shall draw interest from the
340 date of said assessment and payment may be enforced in the
341 name of the holder of said certificate by proper suit in equity
342 in any court having jurisdiction to enforce such lien; the

343 council shall fix the amount of such assessment, advertise for
344 bids and do all things in connection therewith as hereinbefore
345 and hereinafter provided in this act. Paving certificates shall
346 be issued in the same number of installments and payable at
347 the same time as other paving assessments provided for in this
348 section. Nothing contained in this act shall be construed as
349 imposing a time limit upon the enforcement by appropriate
350 suit of any lien for street improvements heretofore or here-
351 inafter created. Certificates authorized by this section shall
352 be subject to the same penalty clause as heretofore provided
353 for installments due on paving assessments. The council shall
354 have authority to assign, sell or negotiate to any bank or
355 person the certificates authorized by this action: *Provided*,
356 That no sale or transfer of such certificates shall be made at
357 less than the face value and accrued interest of such certifi-
358 cates so sold or transferred, and in selling and assigning the
359 said certificates, or in placing the same as collateral for money
360 advanced to the city the endorsement of the city shall be a
361 special endorsement and shall be binding on the city only in
362 regard to the street improvement, paving installment or certi-
363 ficate fund, and in no wise a debt, liability or guarantee
364 against the general levy of the city. The owners of the lot or
365 land assessed under this section may at any time anticipate
366 and pay such assessment or certificate with accrued interest
367 thereon as is heretofore provided.

368 Property owners desiring that the street on which their
369 property abuts be improved may petition the council as is
370 hereinbefore and hereinafter provided, and in said petition
371 may have the privilege of requesting which method herein-
372 before and hereinafter provided that their street or alley or
373 portion thereof be improved under; in the absence of any re-
374 quest in the petition so submitted by property owners as afore-
375 said stated, the council may pave or otherwise permanently
376 improve said street, alley or portion thereof, so petitioned to
377 be improved, under any one of the methods hereinbefore or
378 hereinafter provided.

Sec. 29. A well bound book, indexed, to be denominated
2 "police docket" shall be kept in the office of the recorder, in
3 which shall be noted each case brought before or tried by him,
4 together with the proceedings therein, including a statement of

5 complaint, the warrant or summons, the return, the fact of
6 appearance or nonappearance, the defense, the hearing, the judg-
7 ment, the costs, and, in case the judgment be one of conviction,
8 the action taken to enforce the same. The record of each case
9 shall be signed by the recorder, and the original papers thereof,
10 if no appeal be taken, shall be kept together and preserved in
11 his office.

Sec. 30. The council shall lay an annual levy or an additional
2 or special levy at such times as may be provided by the general
3 laws then in force and may include a poll tax of not exceeding
4 two dollars each year upon each able-bodied man residing within
5 the limits of the city who is over the age of twenty-one years,
6 which poll tax shall be used exclusively for opening, improving
7 and maintaining roads, streets and alleys of the city, and shall
8 designate the same as the "street tax;" and the said council
9 may also impose such license tax upon dogs, cows, horses and
10 other animals as they may deem proper, and collect the same
11 from the owners of such animals as other taxes are collected, and
12 prescribe such rules, regulations and penalties governing the
13 payment of said tax on animals as they may deem reasonable.
14 The general annual levy upon the taxable property within the
15 corporate limits of said city shall not exceed the sum of sixty
16 cents upon each one hundred dollars' valuation. But in addi-
17 tion to said levy above mentioned and in addition to any levies
18 provided by the general law, the council of said city, beginning
19 with the year one thousand nine hundred thirty-three, are em-
20 powered to and shall lay a special annual levy not to exceed
21 ten cents on each one hundred dollars' valuation of the property
22 in said city for the purpose of creating a sinking fund with
23 which to pay off the principal of the present outstanding bonded
24 indebtedness of said city when the same becomes due, and of
25 retiring the bonds so outstanding in accordance with the pro-
26 visions thereof, and for the further purpose of paying annually
27 when due, the interest coupons of the said present outstanding
28 bonded indebtedness of the said city, which said special levy
29 shall be continued annually by the council for as many years
30 as it may be necessary to pay off the present outstanding bonded
31 indebtedness and the interest coupons that may become due
32 thereon, but no longer. Also in addition to the above, the said
33 council, beginning with the year one thousand nine hundred

34 thirty-three, are empowered to and shall lay a special annual
35 levy not to exceed fifteen cents on each one hundred dollars'
36 valuation of the property in said city for the purpose of paying
37 off any outstanding orders issued against the treasury of said
38 city prior to July first, one thousand nine hundred thirty-two,
39 and for the further purpose of paying off any and all debts
40 contracted prior to said date or any judgment, taken against the
41 said city; and after said orders and debts have been paid, the
42 council may continue to lay said special levy for such public
43 improvements as the council shall from year to year certify by
44 resolution as necessary to be made during the succeeding year.
45 And both of the aforesaid special levies when collected shall be
46 used for no other purpose than for the aforesaid purpose for
47 which they shall be laid as aforesaid.

Sec. 31. It shall be the duty of the assessor to make an assess-
2 ment of the property within the city subject to taxation 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 numbers 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 for
13 state and county purposes for said year, and the value placed
14 on said property shall not exceed the value of such assessment
15 for county and state purposes. In order to aid the assessor in
16 ascertaining the property subject to taxation by said city, he
17 shall have access to all books and public records of said Mercer
18 county, without expense to him or said city, and he shall have
19 the same power and be subject to the same penalties in ascer-
20 taining and assessing the property and subjects of taxation in
21 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 assessments 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 anyone
29 failing to comply therewith. When he shall complete his assess-
30 ment book he shall deliver the same, when sworn to, to the city
31 council.

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 sidewalks,
5 drains, gutters and streets from the time work is begun, which
6 shall have priority over all the other liens except taxes due the
7 United States and the lien for taxes due the state, and county
8 and district, and such lien may be enforced by the council in
9 the manner provided by law for the enforcement of the lien for
10 county taxes. And the laws of the State of West Virginia in
11 relation to delinquent taxes, and the sale of property therefor,
12 are hereby and in all respects adopted as to all proceedings in
13 relation to taxes for city purposes delinquent in said city. And
14 the powers and duties conferred by the laws of said state upon
15 county courts and their clerks and sheriffs in regard to delin-
16 quent taxes and their collection are hereby in all things con-
17 ferred upon city council, its recorder and other city officials
18 whose duties are of a similar nature as those said county officials,
19 insofar as the same may be directly or by implication applicable
20 in the collection of delinquent taxes due said city.

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
10 said taxes are assessed. He may allow a discount of two and
11 one-half per cent on all taxes paid on or before the thirtieth
12 day of November. Said taxes shall be a lien upon the property
13 upon which they are assessed from and after the time the
14 assessor's books are completed, verified and returned to the city
15 council, and he shall write the word "paid" opposite the name

16 of each person who pays the taxes against him, and shall also
17 give to the person paying such taxes a receipt therefor: *Pro-*
18 *vided, however,* That the said treasurer may distrain at any time
19 for any taxes assessed against a person who is about to remove,
20 or who has removed from said city, after such taxes are assessed,
21 and the books returned as aforesaid. He shall also receive 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 taxes
42 and licenses and receipt to the party paying the same by en-
43 dorsement upon the permit granted by order of the council, or
44 mayor, as the case may be. He shall, upon the expiration of his
45 term of office, turn over to the council all books and other pos-
46 sessions belonging to the city, except the money in his hands,
47 which he shall turn over to his successor upon the order of the
48 council, as hereinbefore provided; and shall, before entering
49 upon the duties of office, execute a bond with good security
50 payable to said city in a penalty of not less than ten thousand
51 dollars, conditioned that he will faithfully discharge the duties
52 of his office and account for and pay over as required by law
53 and the orders, ordinances, rules and regulations of the council
54 of said city, all money which shall come into his hands, which
55 bond shall be subject to the approval of the council. He shall

56 be chargeable with all the city taxes, levies and assessments, and
57 money of the city, which shall come into his hands and shall
58 account therefor.

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

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

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, electric
4 light plants or other works, or purposes of public utility, or
5 for any other public purposes. Such proceedings, and pro-
6 cedure therefor, shall conform, be governed by and be followed
7 as is provided by the laws of the State of West Virginia in

8 effect at the time such condemnation is sought to be made for
9 the condemnation of real estate by county courts.

Sec. 37. The council of the said city shall have the right to
2 bond the city for the purpose of paving the said streets, or
3 for other permanent improvements or for the purpose of taking
4 up payment of or refunding any already outstanding city
5 bonds or items of indebtedness, whenever the council thereof
6 may deem the same necessary; but the aggregate indebtedness
7 of said city for all purposes shall never at any time exceed five
8 percentum of the assessed valuation of the taxable property
9 therein according to the last assessment next preceding said
10 date. The said council shall provide a fund for the payment of
11 the interest annually on the said indebtedness so created, and to
12 pay the principal thereof within and not exceeding thirty-four
13 years: *Provided*, That no debt shall be contracted hereunder,
14 unless all questions connected with the same be first submitted
15 to a vote of the qualified voters of said city, and have received
16 three-fifths of all the votes cast for and against the same.

Sec. 38. The council of the said city shall not, at any time,
2 for any purpose, create an indebtedness against the said city
3 except as provided in the next preceding section, exceeding
4 the available assets of the said city for the current year; and
5 if the said council shall create such indebtedness or issue
6 orders on the city for an amount exceeding the amount of money
7 available for that year for said city from all sources, and the
8 amount of money then in the treasury appropriated, the mem-
9 bers of said council shall be severally and jointly liable for the
10 payment of the excess of such indebtedness of orders over the
11 amount of the money applicable thereto, and the same may be
12 recovered in any court having jurisdiction thereof. Any council-
13 man violating the provisions of this section shall be deemed
14 guilty of malfeasance in office, and may be removed as such
15 councilman in pursuance of section fifteen of this act: *Pro-*
16 *vided, however*, That this shall not be applicable to such mem-
17 bers who have voted against said excess: *And provided further*,
18 That the vote of each member of the council shall be recorded.

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

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

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 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 abutting property owners if the council shall so desire and deem it advisable to do so.

Upon a petition in writing signed by the owner 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

26 portion thereof, and offering in such petition to have their
27 proportionate part of the entire cost thereof, in proportion
28 to the frontage thereon, the council may order such work to be
29 done as hereinafter provided and charge and assess the entire
30 cost thereof, or such part of the cost thereof as may be agreed
31 upon between the council and the owners of at least three-fifths
32 of such frontage, to the property abutting upon such street,
33 avenue or roadway, or portion thereof, in proportion to the
34 frontage of the respective properties abutting thereon, and col-
35 lect the same as taxes are collected or by action at law or suit
36 in equity.

37 Upon the filing of such petition the council shall set a
38 date for a hearing and shall give notice thereof for at least
39 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
44 specifications for the proposed improvement and shall there-
45 upon determine whether the work shall be done or not.

46 If the council determines to do such work, then the same
47 shall be let to the lowest responsible bidder after advertise-
48 ment of the letting thereof for once a week for at least two
49 weeks in some newspaper of general circulation in the city of
50 Princeton. Upon the receipt of such bids the council may re-
51 ject any or all bids. The council may require deposit to be
52 made with each bid as evidence of good faith, and shall have
53 plenary power to decide upon the responsibility, etc., of the
54 several bidders. The council shall also take bond with good
55 security from the successful bidder in a sum equal to the esti-
56 mated value of the work conditioned for the faithful and
57 proper performance thereof. When the said improvement shall
58 have been completed, or when the said improvement shall have
59 been completed between any two cross streets intersecting the
60 street, avenue or roadway improved, then the city may assess the
61 cost thereof against the property abutting upon the said street,
62 avenue or roadway, or such part thereof as may be completed,
63 and collect the same 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 liens
66 may be enforced in the same manner provided for collection of

67 taxes and shall have priority over all other liens upon said
68 property except for taxes due the state and county, and shall be
69 on a parity with the taxes and assessments due the city.

70 The city shall pay the contractor for such work as shall
71 be provided in the contract out of such fund as may be avail-
72 able or provided, and shall reimburse itself or such funds out
73 of the assessments when collected.

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 con-
4 duct the election hereinbefore provided to be held, and shall pass
5 all proper ordinances to give this act full force and effect, and
6 the council may establish as many voting precincts in each ward
7 as it may deem proper.

Sec. 43. The city attorney, if there be one, shall be the legal
2 advisor 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 that
12 are taken from such recorder to the criminal or circuit court,
13 and for his services he shall receive such compensation as the
14 council shall provide, and in addition thereto, in all criminal
15 prosecutions conducted by said city attorney, where there is a
16 conviction of the defendant, there shall be taxed an attorney's
17 fee in favor of said city attorney of not less than five nor more
18 than ten dollars, which said fee shall be taxed as part of the costs
19 of the case.

Sec. 44. It shall be the duty of the city treasurer to keep all
2 funds of the city in some bank or banks within said city, which
3 shall pay interest on such deposits and on the average daily
4 balances of such funds of the per cent, equal, at least, to that
5 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 banks in which he shall deposit said funds for the
11 time being and until some bank in said city will receive such
12 deposits on such terms.

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 fifty cents for each meeting of the council
5 actually attended by him.

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.

Sec. 47. Should any part, provision or section of this act be
2 held, by a court of competent jurisdiction, void or unconsti-
3 tutional, then it is the intention that the part or section not so
4 held be and remain in full force and effect.

CHAPTER 132

(House Bill No. 387—By Mr. Moore)

AN ACT to amend and reenact sections ten and thirteen, chap-
ter one, acts of the legislature of West Virginia, regular
session, one thousand nine hundred nineteen, entitled "An act
to incorporate the town of South Charleston, in Kanawha
county, West Virginia, fixing its corporate limits and prescrib-
ing and defining the powers and duties of said town and the
officers of same."

[Passed March 8, 1933; In effect from passage. Became a law without the approval
of the Governor.]

SEC.	10. Election and terms of mayor, re-	|	SEC.
	corder and six councilmen.		13. Date of first election under this
			act.

Be it enacted by the Legislature of West Virginia:

That sections ten and thirteen, chapter one, acts of the
legislature, regular session, one thousand nine hundred nineteen,
be amended and reenacted to read as follows:

Section 10. On the first Tuesday in April, one thousand nine hundred thirty-four, and every four years thereafter, there shall be elected by the qualified voters of said town of South Charleston a mayor, recorder and six councilmen; the term of office of said mayor, recorder and councilmen shall be for the period of four years, beginning on the first day of May, next after their election and until their successors shall be elected and qualified.

Sec. 13. The first election under this act shall be held on the first Tuesday in April, one thousand nine hundred thirty-four, and on the same day every four years thereafter. Such election and all subsequent elections shall be held in such manner as is or shall be prescribed by law.

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

CHAPTER 133

(House Bill No. 282—By Mr. Wells)

AN ACT to amend and reenact section three, chapter twenty-five, acts of the legislature, one thousand nine hundred twenty-one (municipal charters), being senate bill number fifty-eight, entitled "a bill creating the municipal corporation of the City of Spencer, defining the boundaries thereof and providing for the government of such city, and defining its powers and liabilities," relating to the tenure of office of the mayor and councilmen of the City of Spencer in the county of Roane.

[Passed March 9, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.	3. City and its officers to succeed to all powers and duties of the town of Spencer and its officers;		SEC.	terms of officers; vote of people on change of length of term.
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Be it enacted by the Legislature of West Virginia:

That section three, chapter twenty-five, acts of the legislature, one thousand nine hundred twenty-one (municipal charters), being senate bill number fifty-eight, be amended and reenacted to read as follows:

Section 3. Said city shall be governed in the same manner, by the same laws, have the same powers, and perform the same

3 duties and functions as "The Town of Spencer" immediately
4 before this act shall take effect was governed by, had, could do
5 or might perform; and the powers, duties and liabilities, includ-
6 ing the election of officers and the selection, appointment and
7 qualification thereof, of and for said city, shall in all respects
8 be the same as those exercised by "The Town of Spencer," and
9 which it is liable for under the charter and laws defining all
10 such duties, powers, and liabilities thereof, immediately before
11 this act shall take effect. And said city is also vested with all
12 of the powers contained in the charter for "The Town of
13 Spencer," and amendments thereto, and with those contained
14 in chapter forty-seven of the code of West Virginia and the
15 general laws of said state relating to the powers, duties and
16 liabilities of municipal corporations, insofar as the same are
17 not in conflict with said charter and amendments thereto; and
18 said city shall be governed by said charter and laws and derive
19 its powers therefrom, and from the ordinances and by-laws of
20 said town now in force which are not in conflict with or repug-
21 nant to said charter and the laws of said state relating to mu-
22 nicipal corporations. And said city may, at any time, by resolu-
23 tion duly adopted by its council, change any and all of its ordi-
24 nances and by-laws or repeal the same, and adopt any others
25 and be governed by and enforce the same, provided the same
26 are not in conflict with or repugnant to said charter and amend-
27 ments thereto, or of the laws of said state.

28 And the duties, powers and liabilities of the officers of the
29 City of Spencer shall be the same as the officers of "The Town
30 of Spencer," which were in office immediately before the passage
31 of said act, and the mayor and councilmen shall be elected by
32 the registered voters of said city, and (except when elected to
33 fill vacancies) for the term of two years and until their succes-
34 sors shall have been elected and qualified, and said mayor and
35 councilmen shall be residents of said city and shall be entitled
36 to vote for members of its common council at the time of their
37 respective election. The first election under this act shall be
38 held on the fourth Thursday in March, one thousand nine hun-
39 dred thirty-three, in the city hall in said city under the super-
40 vision of the present mayor and councilmen of said city; and
41 each two years thereafter there shall be held an election on the
42 same day at the same place and under the supervision of the

43 councilmen of said city, the mayor and councilmen conducting
 44 said elections shall grant certificates to the officers elected, which
 45 shall be entered upon the records with the ordinances of said
 46 council, and the term of office of said mayor and councilmen so
 47 elected shall commence on the first day of April, next after
 48 their election, and shall continue for a term of two years there-
 49 after, or until their successors are elected; and said officers,
 50 when elected, shall have the same duties and have the same
 51 powers as the mayor and councilmen of said city had prior to
 52 the passage of this act.

53 This bill shall be ratified by the voters of the City of Spencer.

54 There shall be printed on the bottom of each ticket:

55 For two-year term.

56 Against two-year term.

57 And a majority vote shall determine the time.

CHAPTER 134

(Senate Bill No. 175—By Mr. Paull)

AN ACT to amend and reenact section thirty-five, chapter eighty-two of the acts of the legislature, regular session one thousand nine hundred thirty-one, relating to the charter of the city of Wellsburg.

[Passed March 11, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.	35. When city taxes may be collected semi-annually; dates when due,	SEC.	discounts and interest.
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Be it enacted by the Legislature of West Virginia:

That section thirty-five, chapter eighty-two of the acts of the legislature, regular session one thousand nine hundred thirty-one, be amended and reenacted to read:

Section 35. The city collector and treasurer shall begin the
 2 collection of taxes upon the first day of October of each year.
 3 When the taxes of any one person or corporation amount to a
 4 sum greater than ten dollars, one-half of said taxes may be
 5 collected during the month of October in the year for which

6 levied and the remaining one-half during the month of April
7 of the following year. All taxes paid during the months afore-
8 said, including both the first and second installment, shall be
9 subject to a discount of two and one-half percentum. All taxes
10 not paid during the said months shall bear interest at the same
11 rate as state and county taxes.

CHAPTER 135

(Senate Bill No. 112—By Mr. Beneke, by request)

AN ACT to amend and reenact section forty-six of the greater
Wheeling charter.

[Passed March 10, 1933; in effect ninety days from passage. Became a law without
the approval of the Governor.]

SEC.

46. For what business or vocation city
license may be required.

Be it enacted by the Legislature of West Virginia:

That section forty-six of the greater Wheeling charter be
amended and reenacted to read as follows:

Section 46. The council may, by ordinance, require city
2 license for persons conducting and carrying on any business or
3 vocation in the city, for which the state may now or hereafter
4 require license, except that the council may by ordinance, re-
5 quire license for persons, firms, or corporations conducting and
6 carrying on the business of contractors and subcontractors en-
7 gaged in building construction, of installing plumbing and
8 plumbing fixtures, the installation of electrical wiring and
9 electrical fixtures and the business of conducting a miniature
10 golf course, whether the state requires a license for such voca-
11 tions or businesses or not.

CHAPTER 136

(House Bill No. 102—By Mr. Pelter, by request)

AN ACT to amend and reenact chapter fifteen of the acts of the
legislature of West Virginia, at the session of one thousand nine
hundred five, as amended by chapter fourteen of the acts of the
legislature of West Virginia, at the session of one thousand nine

nine hundred fifteen, as amended by chapter twenty of the acts of the legislature of West Virginia of the session of one thousand nine hundred nineteen, as amended by chapter four of the acts of the legislature of West Virginia of the session of one thousand nine hundred twenty-seven, as amended by chapter twenty-one of the acts of the legislature of West Virginia of the session of one thousand nine hundred twenty-nine (municipal charters), incorporating and relating to the City of Williamson.

[Passed March 11, 1933; in effect ninety days from passage. Became a law without the approval of the Governor.]

Sec.

1. City of Williamson a body corporate; powers.
2. Corporate boundaries.
3. Number and boundaries of wards.
4. Change of ward boundaries.
5. Mayor and four councilmen to constitute council; mayor elected at large and one councilman from each ward.
6. Council to exercise corporate powers of city.
7. Appointment of officers by council.
8. Eligibility of elective and appointive officers.
9. Powers, duties and compensation of officers to be fixed by council.
10. Council to fill vacancy in office of mayor or councilman.
11. Qualification of voters; council to conduct and canvass elections; voting precincts and election supplies; registration of voters.
12. Political nominating conventions for elections hereunder; selection of city political executive committees; terms of members; filling vacancy in executive committee.
13. Dates of nominating conventions; publication of notice of; executive committees to make rules governing convention; certification to city clerk of party nominees; executive committee to fill vacancy in list of nominees; dates of first and subsequent elections hereunder; appointment and qualifications of election commissioners; executive committee may furnish council with list of election commissioners; nominations by petition.
14. Oaths of officers.
15. Powers, duties and compensation of appointive officers.
16. Removal of elective officer by council.
17. Removal of appointive officers and employees by council.
18. What council journal to show.
19. Regular and special meetings of council; mayor to preside; quorum; each member entitled to one vote; member not to vote upon question in which inter-

Sec.

19. ested; mayor to be member of council; city clerk to attend meetings but not to vote; duties of clerk; place and time of meeting of council; order of business.
20. Enumerated powers of council; franchises; building permits.
21. Condemnation proceedings by council.
22. Prevention of illegal sale of spirituous and other liquors; licenses for sale of; penalty for illegal sale of; duty of mayor and police as to sale of liquors.
23. Work on streets to pay fines.
24. License or privilege taxes.
25. Revocation of licenses.
26. Ordinances to carry enumerated and other powers into effect; limitation on amount of fine and imprisonment.
27. Street paving upon petition of property owners; how cost of paid; limitation on amount of assessment for.
28. Procedure when street paving is let to contract; assessment against property owner for; collection of assessments; sale or transfer of assessments; lien of assessments.
29. Sewering upon petition of property owners; method of paying cost of; provisions as to assessment for cost; certificates issued for cost of.
30. Assessing against property owner cost of removing snow, ice, weeds and rubbish.
31. Powers and duties of mayor.
32. Powers, duties, oath and bond of city clerk.
33. Qualifications, powers and duties of city attorney.
34. Powers, duties and salaries of chief of police and policemen.
35. Powers of chief of police as ex officio constable.
36. Council to appoint chief and members of fire department; mayor to supervise; quarters and equipment for.
37. Appointment, salary and duties of city health officer.
38. Annual estimate and levy.

Sec.	Sec.
39. Amounts of levies and upon what laid.	ceiving city funds; form of bonds; action on; amount of for specified officials; premiums on paid by city.
40. Clerk's duties as city assessor; listing and other provisions concerning dogs.	51. Oaths of office.
41. Lien of city taxes, assessments, fines and penalties; delinquent real estate.	52. Annual salaries of city officials; councilmen not to be interested in furnishing supplies or performance of any contract with city.
42. Clerk's duties as city collector.	53. When terms of present city officials cease.
43. Banks as city treasury; how city funds disbursed; bond of bank; city clerk to be city treasurer; settlement.	54. Provisions for provisional government; governor to appoint mayor and councilmen; when terms of appointees begin and expire; terms of elective mayor and councilmen.
44. Clerk's duties as city accountant.	55. Existing contracts of city to continue in force; public work begun to be continued and completed.
45. City accountant to devise proper accounting procedure.	56. Present ordinances and resolutions to continue in force until repealed.
46. Itemized sworn account for claim against city to be filed with clerk.	57. Inconsistent acts repealed; provisions of act separable and several; if any part is invalid not to affect remaining provisions of act.
47. When warrants for claim against city may issue.	
48. City funds, how deposited and expended; published statement of receipts and expenditures; audit of accounts of city clerk and financial affairs of city.	
49. Posting or publication of financial statement and of property delinquent for taxes.	
50. Bonds of all officers or officials re-	

Be it enacted by the Legislature of West Virginia:

That chapter fifteen of the acts of the legislature of West Virginia of the session of one thousand nine hundred five, as amended by chapter fourteen of the acts of the legislature of West Virginia of the session of one thousand nine hundred fifteen, as amended by chapter twenty of the acts of the legislature of West Virginia of the session of one thousand nine hundred nineteen, as amended by chapter four of the acts of the legislature of West Virginia of the session of one thousand nine hundred twenty-seven, as amended by chapter twenty-one of the acts of the legislature of West Virginia of the session of one thousand nine hundred twenty-nine (municipal charters), incorporating and relating to the City of Williamson, be amended and reenacted to read as follows:

Section 1. That the inhabitants of that portion of Mingo county, in the state of West Virginia, included in the boundaries described in section two of this act, be and they are hereby made a municipal corporation by the name of "The City of Williamson," by which name they shall have perpetual succession and a common seal, and by which they may sue and be sued, plead and be impleaded, contract and be contracted with, and purchase and otherwise acquire and hold real estate and personal property needed in the discharge of the functions of government conferred by this charter.

Sec. 2. The corporate boundaries of the said city shall be

2 as follows; that is to say: Beginning at the mouth of Sycamore
3 creek; thence up said creek to the first left hand fork
4 thereof; thence with the said left hand fork to the top of the
5 ridge; thence up said ridge to the main ridge dividing the
6 waters of Tug river and Buffalo creek, and with the latter ridge
7 to a point on the dividing lines of the lands of the William-
8 son Mining and Manufacturing company and Thomas Stepp's
9 estate; thence westward with said dividing lines to the lands
10 of V. A. Williamson; thence with the lines dividing the lands
11 of said V. A. Williamson and Thomas Stepp's estate to Tug
12 river; thence up Tug river with the center thereof to the place
13 of beginning.

BOUNDARIES OF WARDS

Sec. 3. The City of Williamson shall be divided into four
wards, the boundaries of which shall be as follows:

3 *First Ward*

4 All of the following described boundary shall constitute the
5 first ward of said city, to-wit:

6 Beginning at the mouth of Sycamore creek and running with
7 the corporation line of said city of Williamson up Sycamore
8 creek to the first left hand fork thereof; thence with said left
9 hand fork and the corporation line to the top of the ridge be-
10 tween Williamson branch and Sycamore creek; thence down
11 said ridge with the meanders thereof and with the dividing
12 lines of the Lawson heirs and the Williamson Mining and Manu-
13 facturing company to Tug river; thence up Tug river to the
14-15 place of beginning.

16 *Second Ward*

17 All the following described boundary shall constitute the
18 second ward of said city, to-wit:

19 Beginning at the intersection of Harvey street and Tug
20 river; thence up Harvey street with the center thereof to Logan
21 or Joseph street at the intersection of Alderson street; thence
22 up Alderson street with the center thereof to the top of the
23 ridge at the corporation line; thence with the corporation line
24 around said ridge to the line of the first ward, and with the
25 western line of said first ward, it being the line between the
26 lands of the Williamson Mining and Manufacturing company

27 and the Lawson heirs, to Tug river; thence down Tug river to
28 the place of beginning.

29

Third Ward

30 All the following described boundary shall constitute the
31 third ward of said city, to-wit:

32 Beginning at the intersection of Harvey street and Tug river
33 and running with the western boundary lines of the second
34 ward to the main dividing ridge and corporation line of said
35 city; thence in a westerly direction and running with said
36 corporation line to the intersection of the point between West
37 Williamson and the main City of Williamson; thence down said
38 point to the West Williamson cemetery line; thence with the
39 northern line of said cemetery and running southeastwardly
40 to Tug river; thence up Tug river to the place of beginning.

41

Fourth Ward

42 All the following described boundary shall constitute the
43 fourth ward of said city, to-wit:

44 Beginning at the corporation line at the intersection of
45 Tug river and the line between the lands of Thomas Stepp and
46 V. A. Williamson; thence running with the corporation line to
47 the top of the ridge and with the ridge and corporation line
48 to the line of the third ward, and with the western line of said
49 third ward to Tug river; thence down Tug river to the place
50 of beginning.

Sec. 4. The council of the City of Williamson shall have the
2 power and authority to change the boundary lines of the re-
3 spective wards from time to time; but no changes shall be made
4 in the boundary lines of said wards until at least three weeks'
5 notice of the proposed change shall have been given by the
6 council, by publication of notice thereof in a newspaper pub-
7 lished and of general circulation in said City of Williamson,
8 once each week for three successive weeks. Said notice shall give
9 the date on which the council will pass on the proposed changes
10 and a brief statement of the changes proposed. Any changes
11 made under the provisions of this section shall be by ordi-
12 nance passed and adopted in the manner hereinafter set forth
13 in this charter.

Sec. 5. The municipal authorities of the city shall consist
2 of a mayor and four councilmen, who shall constitute and
3 be known as "the council of the City of Williamson". One

4 councilman shall be elected by the voters of each of the re-
5 spective wards and the mayor shall be elected at large.

Sec. 6. All the corporate powers and functions pertaining
2 to the said city shall, except as otherwise provided herein,
3 be exercised by its council, or under its authority, in the cor-
4 porate name of the city.

Sec. 7. The council of the city shall appoint a city attorney,
2 a city clerk, and a superintendent of the water department, as
3 well also as other subordinate officers herein provided for, and
4 also all other necessary officers and employees of and for the
5 city as may be required, except wherein the selection of any of
6 them may be hereinafter otherwise prescribed: *And, provided*
7 *further*, That the appointment of any person as superintendent
8 of the water department shall not become effective unless and
9 until the department of health of the state of West Virginia
10 shall have approved such appointment of the person selected
11 by the council.

Sec. 8. No person shall be eligible to hold the office of
2 mayor, councilman, or any subordinate office, unless at the
3 time of his election or apportionment he is legally entitled to
4 vote in the city election for mayor and members of the coun-
5 cil.

Sec. 9. The powers, duties and compensation of all officers
2 shall be established by ordinance, subject to the limitations
3 herein prescribed. But the compensation pertaining to any
4 office shall not be increased or diminished to affect any officer
5 subsequent to his election or appointment and during the
6 term for which he was elected or appointed.

Sec. 10. Whenever a vacancy shall occur from any cause
2 in the office of mayor or councilman, the council shall proceed
3 to elect a properly qualified person to fill such vacancy, and
4 the person so elected to fill such vacancy shall hold such office
5 until the next regular city election and until the election and
6 qualification of his successor.

Sec. 11. Every citizen of this state, who has been a bona
2 fide resident of the city for sixty days next preceding any city
3 election, and who is otherwise legally entitled to vote under
4 the constitution and laws of this state, and who has been duly
5 registered as herein provided for, shall be entitled to vote at
6 such city election at the precinct in which they respectively

7 reside; but no person shall be deemed a resident of such city
8 by reason of being stationed therein for any temporary pur-
9 pose.

10 The council of the city is hereby authorized and directed to
11 hold and conduct all elections provided for herein, and to can-
12 vass and certify the returns therefrom, and to try and decide
13 all contests in the manner and form required by general law so
14 far as applicable. And it shall be the duty of the council of the
15 city to provide by ordinance for the creation and establish-
16 ment of voting precincts in said city and in each ward thereof,
17 and to define their boundaries; to supply and furnish to the
18 officers holding and conducting such elections at each of said
19 precincts all necessary supplies and equipment, and in the
20 exercise of the power herein conferred upon the council it shall
21 conform as nearly as practicable to the general law of this
22 state governing the holding and conducting of elections and
23 certifying the result thereof. The council to exercise and per-
24 form all of the duties in relation to elections in said city en-
25 joined upon the county courts by general law, and the clerk
26 of said city to perform the functions and duties enjoined upon
27 the clerks of the county and circuit courts in relation to elec-
28 tions by general law.

28-a It shall be the duty of the council of the city to provide by
29 ordinance for the registration of the voters of said city, such
30 ordinance to conform as nearly as may be to the general laws
31 of the state providing for the registration of voters; except
32 that the duties imposed by general law upon the county court
33 shall be performed by the council of the city, and the duties
34 imposed upon the clerks of the county and circuit courts by
35 general law shall be performed by the clerk of the city.

Sec. 12. At least thirty days before the time fixed for
2 holding the first election hereunder, each of the two political
3 parties which cast the greatest number of votes in the last
4 regular election held in the said city, shall cause a meeting to
5 be held of the members of each of said parties, at such time and
6 place as may may be fixed by the chairman of the executive
7 committees of the county; and at which meeting each of said
8-9 parties shall elect a city executive committee for each of said
10 parties in said city, such executive committee to be composed
11 of one man and one woman from each of the voting precincts
12 in said city, as well as a chairman, a secretary, and a treasurer

13 of said city committee, from the city at large, such chairman, a
14 secretary, and a treasurer to be elected in addition to the said
15 two members from each of said precincts.

16 And thereafter, at each convention held in said city under
17 the provisions of this act, held for the purpose of nominating
18 candidates for mayor and councilmen, each of the said political
19 parties shall elect a city executive committee, composed of the
20 number herein specified.

21 The members of the city executive committees chosen first
22 after the passage of this act shall hold office until the regular
23 convention is held in said city by each of said parties for the
24 purpose of nominating candidates for the offices of mayor and
25 councilmen. And thereafter the members of such city executive
26 committees shall hold office for the period of three years.

27 If a vacancy occur in the office of committeeman or com-
28 mitteewoman, the remaining members of the committee may
29 elect a successor, who shall fill the unexpired term until the
30 next regular convention held for the purpose of nominating
31 candidates for elective city offices.

Sec. 13. On the second Tuesday in April, one thousand nine
2 hundred and thirty-four, and on the second Tuesday in April of
3 every third year thereafter, each of the said political parties
4 shall hold a convention of its members in said city, for the pur-
5 pose of nominating a candidate of that party for the office of
6 mayor of said city, and four candidates for the office of coun-
7 cilman.

8 But before holding such convention, the city executive com-
9 mittee of every such party holding such convention shall cause
10 notice of the date, hour and place of holding such conven-
11 tion to be published in two separate newspapers published in
12 said city, such notice to be published once each week for two
13 consecutive weeks prior to the time of holding such conven-
14 tion.

15 The city executive committee of each party so holding such
16 convention shall have authority to make such rules and regula-
17 tions governing the holding of such convention as it may deem
18 proper, including all parliamentary rules and regulations gov-
19 erning the deliberations of such convention.

20 And within five days after the holding of such convention,
21 the city executive committee of each party shall cause to
22 be furnished to the city clerk a complete list of the persons

23 nominated by that party for the offices of mayor and council-
24 men, such list so furnished to be duly sworn to and attested
25 by the chairman and the secretary of such city executive com-
26 mittee.

27 And in the event that a vacancy occur in the list of such
28 nominees, after such convention has been held, then the said
29 city executive committee shall have authority to designate
30 some other qualified citizen of the city as such nominee, the
31 name of such nominee or nominees to be certified in like man-
32 ner to the said city clerk.

33 The first election to be held in said city under the provisions
34 of this charter shall be held on the Third Tuesday in May, in the
35 year one thousand nine hundred thirty-four, and thereafter
36 on the third Tuesday in May of every third year thereafter.

37 On the first Tuesday in May, one thousand nine hundred
38 thirty-four, and on the first Tuesday in May, of every third
39 year thereafter, the council of the city shall hold a meeting
40 for the purpose of making all arrangements and preparations
41 for the holding of such election. And at such meeting the
42 council of the city shall appoint three qualified voters of the
43 city as commissioners of election for each voting precinct in
44 said city. Said commissioners of election shall be persons of
45 good standing and character, and not addicted to drunkenness,
46 and not more than two of said commissioners of election shall
47 belong to the same political party. If at any time during said
48 meeting, or prior thereto, the city executive committees of the
49 two political parties which cast the greatest number of votes
50 in the last preceding regular city election, shall present to said
51 city council a writing signed by the chairman of such executive
52 committee, giving a list of persons from that political party as
53 such commissioners of election, then in appointing such com-
54 missioners of election the city council shall appoint said com-
55 missioners of election from the list or lists so presented to the
56 city council. Every such writing so presented shall be filed,
57 preserved, and kept by the clerk of the council in his office.

58 The city council shall have authority to provide all neces-
59 sary and suitable means, equipment, and appliances for the
60 holding of such elections, and may adopt all necessary rules,
61 ordinances, and regulations governing the same as may ap-
62 pear proper.

63 And in addition to the methods prescribed for the nomina-
64 tions of candidates, candidates for the offices of mayor and
65 councilmen may be nominated as follows, that is to say: if,
66 not less than fifteen days prior to the date of the election, a
67 petition signed by not less than three hundred of the qualified
68 voters of the city shall be presented and filed with the clerk of
69 the city, asking that the name or names of candidates be placed
70 upon the ballot. then it shall be the duty of the city council to
71 cause such name or names to be so placed upon the official ballot
72 to be used in such election.

Sec. 14. Every person elected or appointed to an office in
2 such city shall, within twenty days after his election or appoint-
3 ment and before entering upon the duties of his office, take and
4 subscribe the oath of office prescribed by law in the case of dis-
5 trict officers, which may be taken before the mayor of such
6 city or before any person authorized by law to administer
7 oaths; and the certificate of the officer administering the oath
8 shall be filed with the clerk of the city.

Sec. 15. The council shall prescribe the powers and define
2 the duties of all appointed officers and employees, except in-
3 sofar as the same may be defined or set forth herein; and the
4 council shall fix the compensation of all such appointed offi-
5 cers, subject to such limitations as are herein set forth.

Sec. 16. The council shall have the power to remove from
2 office any elective official of the city by reason of gross im-
3 morality, misconduct, or neglect of duty, by the affirmative vote
4 of a majority of the members of the council: *Provided, how-*
5 *ever,* That reasonable notice of the charge preferred shall be
6 given to such official, and after a hearing has been held on
7 the charges preferred.

Sec. 17. Any and all appointive officers, and all officers and
2 employees other than elective officers, of the city shall serve
3 during the will and pleasure of the council, and may be sum-
4 marily removed from office by the council, upon the vote of
5 a majority of the members of the council.

Sec. 18. The council shall cause to be kept in a well bound
2 book, called by the name of the "Council Journal," an ac-
3 curate, full and complete record of all its proceedings, by-laws,
4 ordinances, orders, and resolutions, which shall be kept fully
5 indexed, and shall be open to inspection by any person, firm,

6 or corporation, who is required to pay taxes to the said city.

7 At all times, when it is not in use by the council, its journal,
8 as well as all other papers, records, writings, and documents
9 relating to the business of the council, or the affairs of the city,
10 shall be safely in custody by the city clerk, as also herein pro-
11 vided.

Sec. 19. The council of the city shall hold a regular meeting
2 on the second and fourth Fridays of each month, and shall hold
3 such special meetings as may from time to time be called as
4 hereinafter provided for.

5 The mayor shall have authority to call any special meeting
5-a of the council; and likewise a special meeting of the council
5-b may be called upon a joint notice of not less than three members
6 of the council; but before holding such special meeting, the
7 mayor, or if called as aforesaid by not less than three members
8 of the council, then such three members shall cause the city clerk
9 to post notice thereof at the front door of the municipal build-
10 ing of the city, at least twenty-four hours prior to such special
11 meeting, and to give personal notice to each member of the
12 council at least twelve hours in advance thereof where possible.

13 All regular and special meetings of the council shall be pre-
14 sided over by the mayor, and in his absence by a mayor pro tem
15 to be chosen from their number by the councilmen present;
16 four members of the council present shall be necessary in order
17 to constitute a quorum for the transaction of business.

18 Each member of the council shall be entitled to one vote.
19 But no member of the council, or the mayor, shall vote upon or
20 take part in the consideration of any question, measure, or
21 proposition in which he is or may be interested otherwise than
22 as a resident of the city.

23 The mayor shall be a member of the city council, and shall
24 be entitled to one vote only as a member thereof. The clerk
25 of the city, chosen in the manner hereinafter provided, shall
26 attend upon all meetings of the council, but shall be entitled
27 to no vote, nor shall he take part in any consideration or dis-
28 cussion of the council upon any matter, except when called upon
29 or invited by the council to take part therein. He shall fur-
30 nish any and all data or information that may be desired by
31 the members of the council relating to the business of the city.
32 The clerk shall have charge of all record books, minute books of

33 the council and city, and shall also have charge of the council
34 journal. He shall faithfully and accurately record the minutes
35 and proceedings of all meetings of the council, which shall be
36 recorded in the council journal, all such records of the council
37 journal to be duly authenticated and attested by the mayor and
38 the city clerk, as hereinafter provided. And the said clerk
39 shall in all matters act as the secretary to the council.

40 All meetings of the council shall be held in the council or
41 council chamber provided therefor in the municipal building of
42 said city, and shall be held at such hour of the day as may be
43 designated by the council. And at its first meeting, after the
44 qualification of the first mayor and councilmen holding office
45 hereunder, and thence at the first meeting of the mayor and
46 councilmen taking office after each election hereunder, the coun-
47 cil of the city shall fix upon and adopt a certain hour or time
48 of the day at which all meetings of the council shall be held.
49 But such hour so adopted shall be subject to change by vote
50 of the members of the council. The following schedule or order
51 of business shall be followed and observed by the council at
52 their said meetings:

53 *First:* The mayor, or mayor pro tem, shall direct the clerk
54 of the council to call the roll of the members of the council,
55 who shall answer to their respective names as called,
56 in the council journal the clerk shall record the names of the
57 members present and the names of the members absent.

58 *Second:* The mayor, or mayor pro tem, shall call upon the
59 clerk to read aloud from the council journal the minutes of the
60 previous meeting of the council, and in no event shall the full
61 and accurate reading thereof be dispensed with; and after the
62 reading thereof, the minutes of the previous meeting may by
63 vote or action of the council be corrected, if proper so to do,
64 and otherwise the same shall stand approved as read. Imme-
65 diately after which the said minutes shall be thereupon duly
66 attested by the mayor and clerk.

67 *Third:* The council shall thereupon take up for considera-
68 tion, discussion, and action, if necessary, all uncompleted or
69 unfinished business not previously disposed of or acted upon.

70 *Fourth:* The council shall thereupon take up for considera-
71 tion, discussion, and action, if necessary, such new matters or
72 new business as may come before the council.

73 *Fifth:* The council shall thereupon take up such miscellane-
74 ous matters as may come before it, including any matters that
75 may be brought before it by any citizen or resident of the city
76 or other person. And any person desiring to bring any matter
77 to the attention of the council shall in all cases be given a full
78 opportunity to present such matter.

Sec. 20. The council of said city shall have power to lay
2 off, vacate, close, open, alter, grade, build and keep in good
3 repair roads, streets, alleys, pavements, sidewalks, crosswalks,
4 viaducts, bridges, drains and gutters therein for the use of
5 the citizens and of the public, and to improve and light the
6 same, and to keep the same free from obstructions of every
7 kind; to regulate the width of pavements and sidewalks on the
8 streets and alleys, and to order the pavement, sidewalks, foot-
9 ways, drains and gutters to be kept in good order, free and
10 clean, by the owners or occupants of the real property next
11 adjacent thereto; to establish and regulate markets, prescribe
12 the time for holding the same, provide suitable and convenient
13 buildings therefor, and prevent the forestalling or regrad-
14 ing of such markets; to prevent injury or annoyance to the
15 public or to individuals from anything dangerous, offensive
16 or unwholesome; to prohibit or regulate slaughter houses and
17 soap factories within the city limits. or the exercise of any
18 unhealthful or of offensive business, trade of employment; to
19 abate all nuisances within the city limits or to require and
20 compel the abatement or removal thereof, by or at the expense
21 of the owner or occupant of the ground on which they are placed
22 or found; to cause to be filled up, raised or drained by or at the
23 expense of the owner any city lot or tract of land covered or
24 subject to be covered by stagnant water; to prevent horses, hogs,
25 cattle, sheep or other animals and fowls of all kinds from going
26 or being at large in such city, and as one means of prevention,
27 to provide for impounding and confining such animals and
28 fowls, and, upon failure to reclaim for the sale thereof: to
29 protect places of divine worship and to preserve order in and
30 about the premises where and when such worship is held; to
31 regulate the keeping of gunpowder and other inflammable
32 and dangerous substances; to provide and regulate any build-
33 ing of houses or other structures, and for the making and
34 maintaining of division fences by the owners of adjoining

35 premises, and the proper drainage of city lots, or other par-
36 cels of land, by or at the expense of the owner or occupant
37 thereof; to provide against damage or danger by fire; to
38 punish for carrying deadly weapons, and for assaults and bat-
39 teries; to prohibit loitering in or visiting houses of ill fame, or
40 loitering upon the streets; to prevent lewd and lascivious con-
41 duct, the sale or exhibition of indecent pictures or other rep-
42 resentation; the desecration of the Sabbath day; profane
43 swearing; the illegal sale of all intoxicating liquors, drinks,
44 mixtures and preparations, beer, ale, wine or drinks of like
45 nature. To protect the person of those residing or being within
46 the city; to build or purchase, or to lease and to use, a suitable
47 place within or near said city for the safe-keeping or punish-
48 ment of persons, caught with, or convicted of the violation of
49 laws, and ordinances, to provide for the employment of per-
50 sons convicted of the violation of laws and ordinances, or
51 who may be committed in default of payment of fines, penal-
52 ties or costs and who are otherwise unable to discharge the
53 same, by putting them to work for the benefit of the city,
54 and to use such means to prevent their escape, while at work,
55 as may be deemed expedient; to erect or authorize or prohibit
56 the erection of gas works, electric light works or water works
57 within the city limits, to prevent injury to such work or
58 pollution of any gas or water used or intended to be used
59 by the public or by individuals, and to do all things necessary
60 to adequately supply said city and the inhabitants thereof,
61 with pure, healthy and wholesome water; to use, generate, and
62 distribute, sell and control electricity and gas for heat, light
63 and power, and to furnish light for the streets, houses, build-
64 ings, stores and other places in and about the said city; to
65 provide a sewerage system for said city; to provide and
66 regulate the weighing and measuring of hay, coal, lumber and
67 other articles sold, or kept or offered for sale within said
68 city; to establish and construct wharfs and docks, and to re-
69 pair, alter or remove any landing, wharf or dock, which has
70 been or shall be so constructed, and to establish and collect
71 rates and charges for the use thereof; to regulate the renting
72 and speed of engines and cars within city limits, except that
73 the council of said city shall not interfere with the speed of
74 trains and engines in territories not laid out in lots, streets

75 and alleys, and open and use by the public; to organize one or
76 more fire companies and provide necessary apparatus, tools,
77 implements engines or any of them, for their use, and in their
78 discretion to organize a paid fire department; to make regula-
79 tions with respect to the erection and location of all tele-
80 phone, telegraph, electric light, or other poles within said city,
81 and the extension of any wires, lines and poles by any in-
82 dividual or corporation; to grant and regulate all franchises
83 in, upon, over or under the streets, alleys and public ways of
84 said city, under such restrictions as shall be provided by
85 ordinance, but no exclusive franchise shall be granted by said
86 council to any individual or corporation, nor shall any fran-
87 chise be granted for a longer period than fifty years; to create
88 by ordinance such committees or boards, and delegate such
89 authority thereto, as may be deemed necessary or advisable;
90 to provide for the annual assessment of taxable property
91 therein including dogs, kept in said city, and to provide a
92 revenue for the city for municipal purposes, and to appro-
93 priate such revenue to its expenses, and generally to take
94 such measures as may be deemed necessary or advisable, to
95 protect the property, public and private, within the city; to
96 preserve and maintain peace, quiet and good order therein;
97 to preserve and promote the health, safety, comfort and well
98 being of the inhabitants thereof; to prevent gambling, the
99 keeping of poker rooms and gaming tables and to establish
100 voting precincts.

101 The council of said city shall have the power and authority
102 to control and regulate the construction and repairs of all
103 houses and other buildings within the said city; to provide
104 for the granting of building permits; to cause the removal of
105 unsafe walls or buildings; and may, upon the petition of the
106 person or persons owning the greater amount of frontage
107 of the lots abutting on any street between any two cross
108 streets or in any square of said city, prohibit the erection on
109 such street, or in such square of any building, or any addi-
110 tion to any building, more than ten feet high, unless the
111 outer walls thereof be made of brick and mortar, or other
112 fireproof material; and to provide for the removal of any
113 building or addition which shall have been erected contrary

114 to such prohibition, at the expense of the owner or owners
115 thereof.

Sec. 21. The council shall have the right to institute pro-
2 ceedings in the name of the city for the condemnation of real
3 estate for the use of roads, bridges, streets, alleys, drains,
4 public buildings and other grounds, including parks and ceme-
5 teries, and sites for public libraries for the use of the city;
6 and the manner of procedure shall, as nearly as practicable,
7 conform to the provisions of the code of West Virginia, and
8 the expenses thereof shall be borne by the city.

Sec. 22. The council shall have full power to make and en-
2 force ordinances for the prevention of the illegal sale of all
3 spirituous, intoxicating, malt and vinous liquors within the city.

4 No license for the sale thereof shall be issued or granted
5 except in such cases as may be permitted by the constitution
6 of the United States, the constitution of the state of West
7 Virginia, and the laws relating thereto.

8 The council shall have the authority to prescribe by ordi-
9 nance such fines, penalties, and terms of imprisonment for the
10 violations of such ordinances relating to the illegal sale of such
11 liquors, as may appear advisable to the council, such fines and
12 penalties to be the same as are prescribed by the laws of this
13 state for violations of the state laws, relating to intoxicating
14 liquors.

15 The mayor of the city, and the members of the police depart-
16 ment shall be charged with the enforcement of all such ordi-
17 nances prohibiting the sale of such liquors, and the mayor
18 may impose fines and penalties for violations of the ordinances
19 of the city relating to sales of liquors as aforesaid.

20 Any and all fines so collected as aforesaid shall be paid into
21 the treasury of the city, and the mayor shall keep an accurate
22 record of all cases arising by reason of the violation of such
23 ordinances.

Sec. 23. The council of the city shall have authority to
2 enact all such proper ordinances as it may deem advisable, re-
3 lating to the working of prisoners in the city jail upon the
4 city streets, or at such other city work as may be directed.

5 And the council shall have authority to provide by ordi-
6 nance that in any case where a person may be fined for viola-
7 tion of the laws or ordinances of the city, and in the event of

8 the failure to pay such fines, then the person or persons may
9 be sentenced to work upon the streets of the city, or at such
10 other work of the city as may be ordered by the mayor.

11 And the council shall have authority to enact any and all
12 proper ordinances providing that where any person or persons
13 may be sentenced to confinement in the city for violations of
14 any laws or ordinances of the city, then such person or per-
15 sons may be worked upon the streets of the city, or at other
16 city work, during the time for which they were sentenced to
17 confinement.

18 And the council shall have authority to make and enforce
19 any and all proper ordinances relating thereto.

Sec. 24. The council in its discretion shall be vested with
2 authority to impose license or privilege taxes payable to the
3 city, upon such businesses, professions, occupations, or enter-
4 prises as the council may deem proper, and to make and en-
5 force all reasonable ordinances and regulations respecting the
6 same: *Provided, however,* That nothing therein contained shall
7 be in conflict with the constitution or laws of this state or of the
8 United States of America.

Sec. 25. The council may revoke any license granted by the
2 city, where license is required, in order to conduct the busi-
3 ness of the licensee, upon good cause shown, but the person
4 holding the license shall have reasonable notice of the time
5 and place of hearing, as well as the cause alleged, and he shall
6 be entitled to be heard in person or by counsel in opposition
7 to such revocation.

Sec. 26. 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 of said council shall have and possess
5 full authority to make, pass and adopt all needful ordinances,
6 by-laws, orders and resolutions, not repugnant to the con-
7 stitution and laws of the United States or of this state, and to
8 enforce any or all of such ordinances, by-laws, orders or resolu-
9 tions, by prescribing for a violation thereof, fines and penalties
10 and imprisonment in either the county jail of Mingo county
11 or the city prison, if there be one; but no fine shall exceed
12 fifty dollars, and no term of imprisonment shall exceed ninety
13 days. Such fines and penalties shall be imposed and recovered,

14 and such imprisonment inflicted and enforced, by and under
15 the judgment of the mayor of said city; or, in case of his ab-
16 sence, or inability to act, of one of the councilmen, appointed
17 for the purpose by the council.

Sec. 27. Upon the petition, in writing, of the persons own-
2 ing the greatest amount of frontage of the lots abutting on any
3 street or alley, between any two cross streets, or between a
4 cross street and an alley, the council of the city, by a lawful
5 majority thereof, may order such part of any street or alley
6 to be paved between the sidewalks with cobblestone, brick,
7 Belgian blocks, asphalt, or other suitable material, from one
8 of such cross streets or alleys to the other, under such regula-
9 tions as may be fixed by ordinance duly passed by the council;
10 two-thirds of the cost of such paving shall be assessed to the
11 owners of the lots or fractional parts of lots abutting on that
12 part of the streets or alleys so paved in proportion to the
13 distance such lot or part of a lot abuts on such street or alley,
14 and the remaining one third of the cost of such paving shall
15 be paid by the city. In making such assessments the basis
16 shall be the cost of paving that part of the street or alley on
17 which the property lies, included between the adjoining cross
18 streets or alleys, and the amounts assessed against the owners
19 of each lot or fractional part of a lot, shall be in the propor-
20 tion which the frontage of such lot or part of lot bears to the
21 whole cost of paving said street or alley between said cross
22 streets or alleys as aforesaid; and the same may be collected
23 in the manner provided herein for the collection of city taxes:
24 *Provided, however,* That the city councilmen of said city may,
25 by lawful majority thereof, order that the amounts so assessed
26 against owners of the lots or fractional parts of lots be paid
27 in five annual payments as follows, that is to say, one-fifth
28 of said amount, together with interest from date of comple-
29 tion of work upon the whole amount assessed, shall be paid
30 into the city treasury before the first day of January next
31 after said work is completed, and a like one-fifth together with
32 interest for one year upon the whole amount remaining unpaid
33 on or before the first day of January in each year thereafter
34 until all has been paid: *Provided further,* That no assessment
35 to the owners of such lots or fractional parts of lots abutting

36 on such street or alley shall exceed fifty percentum of the rea-
37 sonable cash value of such lots or fractional part thereof.

Sec. 28. When the paving of any street, alley or portion
2 thereof shall have been let to contract and the work done as
3 provided in the foregoing section, it shall be the duty of the
4 engineer of said city to cause the several frontages abutting
5 thereon to be measured, and to calculate the assessment upon
6 each and every owner so abutting and to certify the same
7 to the council, showing the proper amount to be determined,
8 as provided in the foregoing plan. It shall be the duty of
9 the council to examine and compare such assessment, amounts
10 and names so certified to it, and thereupon give notice by pub-
11 lication once a week for two consecutive weeks in some news-
12 paper of general circulation in said city, that an assessment
13 under this act is about to be made against the abutting prop-
14 erty for paving or improvements done on said streets or alleys,
15 describing the location of such paving or improvements, and
16 any owner or owners thereof shall have the right to appear
17 before said council, within two weeks from the first publica-
18 tion thereof, and move to correct an apportionment or as-
19 sessment excessive or improperly made as charged, which cor-
20 rection said council shall have the power to make according
21 to the intent of this act, and if found to be correct or when
22 corrected by the council as aforesaid, it shall enter the same,
23 together with a description of the lots or lands as to loca-
24 tion, frontage, depth and ownership so far as the same may be
25 ascertained, upon its records and shall enter in its records
26 that such owners and lots be assessed and chargeable with the
27 amount so ascertained to be borne by them respectively; and
28 when so approved, certified and entered on record the same
29 shall be and constitute an assessment against said owners and
30 lots for such respective amounts. And it shall be the duty of
31 the council to immediately certify such assessments to the
32 city clerk for collection as herein provided, and a copy of
33 said order shall be certified by the city clerk to the clerk of
34 the county court of Mingo county, who shall record and index
35 the same in the proper trust deed book in the name of each
36 person against whose property assessments appear therein.
37 To each of such installments of assessments remaining unpaid
38 in the city clerk's hands on the day herein specified for the

39 payment thereof, a penalty of ten percentum on the principal
40 sum shall be added and any assessment so remaining unpaid
41 in the city clerk's hands on such day shall be taken upon such
42 settlements had with the city clerk on such dates, and there-
43 upon and assessment shall be collected with the penalty added
44 thereto by the said city clerk on such dates, and thereupon
45 such assesment shall be collected with the penalty added there-
46 to by the said city clerk, and payment thereof enforced in all
47 respects as provided for the collection or taxes due the city,
48 and they shall be a lien upon the property liable therefor the
49 same as taxes, which lien shall be enforced in the same man-
50 ner as provided for the collection of taxes. Said lien shall
51 have priority over all other liens except those for taxes due
52 the state and shall be on a parity with taxes and assessments
53 due the city. Whenever all such assessments shall be paid
54 in full the city clerk shall deliver to the party paying the
55 same a release of the lien therefor, which may be recorded
56 in the office of the clerk of the county court of said county as
57 other releases of liens, and whenever such assessments shall
58 not be in the hands of the city clerk for collection, but the same
59 shall be shown to the satisfaction of the city auditor or other
60 official performing the duties of auditor, to have been paid in
61 full to any officer entitled to receive the same, such auditor or
62 the mayor may in like manner execute such release.

63 In all cases where an assessment is made upon the property
64 abutting in the street or alley improved in accordance with
65 the provisions hereof the city council may, by resolution, en-
66 tered of record, sell, assign and transfer to any person or
67 persons, for a cash consideration, all or any of the assessments
68 perfected as provided for in this section and apply the amount
69 received therefrom to the costs of such improvements, but no
70 sale and assignment shall be made until either bonds or certi-
71 ficates of indebtedness shall have been issued for such assess-
72 ment which shall be described in detail in the notice of the
73 lien thereof to be recorded in the trust deed record in the
74 office of the clerk of the county court. But no sales or trans-
75 fer of such assessment shall be a greater discount than five
76 percentum of the aggregate sum represented by said sale.
77 When authorized to do so by the council, the mayor may make
78 an assignment and transfer assessments so evidenced by such

79 bonds or certificates as aforesaid, and when so made and re-
80 corded, in the trust deed books in the office where said assess-
81 ments are recorded, the purchaser of such assessments shall be
82 and remain until the payment thereof subrogated to all the
83 rights and remedies, without recourse of said city, as were ob-
84 tained by recording and assessments in the first instance, and
85 said commission may issue against each of the several properties
86 upon which said assessments have been made, bonds or certifi-
87 cates of indebtedness in denomination and corresponding to the
87-a annual sum to be paid on each of the properties so assessed and
88 the assessments on said properties shall, when so made and
89 recorded, remain and be a lien thereon until all such bonds,
90 or certificates of indebtedness are discharged. The lien cre-
91 ated by such assessments may be released as hereinbefore pro-
92 vided, and, in addition thereto, upon presentation to the clerk
93 of the county court all the bonds or certificates issued there-
94 under, as to any specific real estate therein described or lo-
95 cated, showing that the same have all been paid, such clerk
96 is hereby empowered to release the lien of such assessment as
97 to any such real estate by noting a release thereof on the
98 record of the lien as to such real estate on the margin of the
99 deed of trust book where the same is recorded, and such an-
100 notation by such clerk shall have the effect to release such real
101 estate from such lien as effectively as a regularly executed and
102 recorded release thereof. The proceeds from the sale of such
103 bonds or certificate of indebtedness shall be applied to the
104 payment of the indebtedness incurred in making the improve-
105 ments on account of which such bonds or certificates of in-
106 debtedness were issued.

Sec. 29. In addition to the methods by the foregoing sec-
2 tions provided for the payment of the cost of construction and
3 improvement of the streets upon the petition in writing of the
4 persons owning the greatest amount of frontage of the lots
5 abutting on any street or alley or right-of-way or easement
6 between any two cross streets or between a cross street and an
7 alley, the council may order any sewer constructed, recon-
8 structed, and laid in any street, alley or any right-of-way or
9 easement, or portion thereof, and the commission may order to
10 be issued a certificate for each installment of the amount as-
11 sessed to be paid by the owner of any lot or fractional part
12 thereof abutting the street, alley or right-of-way or easement

13 or portion thereof, in which such sewer is laid. The amount
14 specified in said assessment shall be a lien as aforesaid in the
15 hands of the holder of such certificate upon such abutting lot
16 or portion thereof, and such certificate shall draw interest from
17 the date of such assessment and the payment may be enforced
18 in the name of the holder of such certificate by proper suit
19 in equity in any court having jurisdiction to enforce such lien;
20 the council shall fix the amount of such assessment, advertise
21 for bids and do all other things in connection therewith as is
22 provided by the foregoing sections, except (1) that the amount
23 of such certificate shall include two-thirds of the cost of such
24 improvement (the remaining one-third to be paid by the city),
25 and, (2) when a sewer is completed, the cost of which is to be
26 paid by the issuance of certificates, payment is to be made by
27 such land owner on either side or such portion of a street,
28 alley, right-of-way or easement in which such sewer is laid in
29 such proportion as such frontage bears to the total frontage of
30 all lands so abutting on such street, alley, right-of-way or ease-
31 ment. In case of a corner lot, frontage is to be measured along
32 the longest dimensions thereof abutting on such street, alley,
33 right-of-way or easement in which such sewer is laid. Any lot
34 having a depth of two hundred feet or more and fronting on
35 two streets, alleys, right-of-way or easement, one in front and
36 one in the rear of said lot shall be assessed on both of said
37 streets, alleys, rights-of-way or easement if a sewer is con-
38 structed in both of such streets, alleys, rights-of-way or ease-
39 ments. Where a corner lot has been assessed on the end it shall
40 not be assessed on the side, and when it is assessed on the side,
41 it shall not be assessed on the end. (3) The cost of a sewer
42 system shall be calculated in every respect in the same manner
43 as the cost of construction of a single sewer, except that such
44 a system shall be deemed to include all elements of the system
45 which serve to drain a definite drainage area as specified in the
46 order to the council directing the work to be done, and the
47 owners of property abutting upon either side of such portion
48 of a street or right-of-way in which any part of such system is
49 laid shall be assessed in the proportion that the frontage of his
50 land abutting bears to the total frontage of all lands so abut-
51 ting on such street or right-of-way. Sewerage certificates shall
52 be issued in such number of installments as the council may de-

53 termine, the aggregate amount of such certificates to be pay-
54 able in not less than one nor more than five years, and to be
55 divided in as nearly equal installments as practicable. Nothing
56 contained in this act shall be construed as imposing a time
57 limit upon the enforcement by appropriate suit of any lien
58 for public improvements, heretofore, or hereafter created.

59 Certificates, authorized by this and the preceding sections
60 may be issued and sold or negotiated to the contractor doing
61 the work, or to any other person if the council deem it expedi-
62 ent: *Provided*, That the city in issuing such certificates shall
63 not be held as guarantor or in any way liable for payment
64 thereof, except on the direct action of the council expressed
65 by resolution of record before sale.

66 Certificates so issued shall contain a provision to the effect
67 that in the event of default in the payment of any one of said
68 certificates when due, and said default continuing for a period
69 of sixty days, then all unpaid certificates shall become due and
70 payable and the holder of said certificates may proceed to col-
71 lect all of such unpaid certificates in the manner hereinbefore
72 provided. Certificates issued in pursuance of this act shall
73 be negotiable at any bank in said city.

74 The owner of the land or lot of land assessed under this act
75 may at any time anticipate and pay such assessment or certifi-
76 cate with accrued interest thereon.

Sec. 30. The councilmen shall have power to provide by
2 ordinance for assessing against the abutting property the cost
3 of removing from the sidewalks all accumulations of snow and
4 ice and for assessing against the property the cost of cutting
5 and removing therefrom noxious weeds and rubbish.

Sec. 31. The mayor shall be the presiding officer of the
2 council, except that in his absence a mayor pro tem may be
3 chosen. He shall exercise all such powers as are conferred
4 and perform all duties imposed upon him by this charter, by the
5 ordinance of the city, as well as by the laws of the state, not in
6 conflict herewith. He shall be recognized as the official head
7 of the city by the courts for the purpose of serving civil pro-
8 cesses; by the government for the purposes of military law;
9 and for all ceremonial purposes; and by virtue of his said
10 office shall be the administrative head of the municipal govern-

11 ment and shall be responsible for the efficient administration
12 of all departments. He shall be required to:

13 (a) Attend all meetings of the council.

14 (b) Recommend to the council such measures as he may
15 deem necessary or expedient.

16 (c) Keep the council fully advised as to the financial con-
17 dition and needs of the city.

18 (d) Perform such other duties as may be prescribed by this
19 charter, or be required of him by ordinance or resolution of the
20 council.

21 (e) Be and he is hereby authorized and empowered to exer-
22 cise all the duties and functions of a justice of the peace in
23 criminal cases, but before doing so, he shall qualify before the
24 county court and give the bond required of justices of the
25 peace.

26 The mayor shall have the authority to suspend from office
27 any appointive officer or employee of the city, and at the first
28 regular meeting of the council after such suspension, the coun-
29 cil shall take up and consider the matter of such suspension;
30 and upon consideration of such suspension by the council, the
31 council shall have authority to declare such suspension per-
32 manent and discharge the officer or employee; or, the council
33 may terminate such suspension and restore such officer or em-
34 ployee to his position, but the office or position of an official or
35 employee so suspended shall not be vacant until so declared by
36 the council.

37 The mayor shall be charged with the enforcement of the laws,
38 ordinances and regulations of the city.

Sec. 32. The council of the city shall elect and employ a
2 city clerk, but no member of the council of the city shall be
3 eligible to hold the office of city clerk. The city clerk shall
4 be the clerk of the council, and in addition thereto shall do and
5 perform any and all of the matters and things required of and
6 imposed upon him by the provisions of sections forty, forty-
7 two, forty-four, forty-five, forty-six, forty-seven and forty-
8 eight of this charter; and no other assessor or collector shall be
9 elected or appointed for the said city; he shall act as clerk
10 to and secretary for the council, shall keep in his custody the
11 record books and minutes of the meetings of the council,
12 shall take down all minutes of the meetings of the council, and

13 record them faithfully and accurately in the record or minute
14 book of the said council; and he shall do and perform such
15 other and further duties as may be required of him by the
16 council or by this charter.

17 No clerk shall be elected and employed by the said council ex-
18 cept a person of good moral character, and possessed of proper
19 requisites necessary to the efficient management and conduct
20 of the duties of the office.

21 Before entering upon the duties of such clerk, the person
22 duly elected and employed as such shall first take and sub-
23 scribe to an oath, administered by the mayor, which oath shall
24 be that he will faithfully obey the laws of the United States
25 of America and the state of West Virginia and that he will
26 discharge the duties of the office of the clerk of the said city to
27 the best of his skill and judgment.

28 And before assuming the duties of such office, the said clerk
29 shall execute and deliver to the mayor of the said city, an apt
30 and proper bond, in the penalty of not less than twenty-five
31 thousand dollars and in an increased penalty, if the council re-
32 quire, the condition of such bond being that the said clerk
33 will faithfully and honestly account for any and all moneys,
34 bonds, notes, or securities that may come into his hands be-
35 longing to the said city, and that he will not misappropriate
36 or embezzle the same, nor pay out nor dispense any of such
37 moneys, bonds, notes, or securities except upon proper and
38 lawful order and direction.

39 The said clerk is also hereby empowered to certify, under
40 the seal of the city, any copy or copies of the records, papers
41 or documents of the city for use as evidence in any court or
42 tribunal.

43 It shall be the duty of the said clerk to sit with the council
44 of the said city at all of the meetings thereof, and to act
45 in a secretarial capacity to said council, and to furnish such
46 information, statements, or data concerning the financial af-
47 fairs or other affairs of the said city coming within the pur-
48 view of his office, as the said council may require.

49 But the said clerk shall be entitled to no vote.

50 The said clerk shall hold his office during the will and pleas-
51 ure of the council, and if in the judgment of the members of
52 the council the said clerk is not performing the duties of his

53 office in a proper and efficient manner, the council shall have
54 absolute power to remove said clerk, declare his office vacant,
55 and elect his successor.

56 The clerk shall be required to devote his time within custo-
57 mary and regular business hours to the business of the city ex-
58 clusively.

Sec. 33. The council shall appoint a city attorney who shall
2 be an attorney at law, admitted to practice in the state of West
3 Virginia, who shall be the legal advisor of and attorney and
4 counsel for the city and for the officers in matters relating to
5 their official duties. He shall prosecute and defend all suits,
6 actions and procedures for and in behalf of the city; shall pre-
7 pare all contracts, bonds and other instruments in writing
8 in which the city is concerned and shall endorse on each his
9 approval of the form and correctness thereof. He may, if re-
10 quired by the mayor, appear and assist in the prosecution of
11 persons arrested for violating the ordinances of the city or the
12 laws of the state of which the mayor may have jurisdiction.
13 The mayor or city clerk or any member of the council may re-
14 quire his opinion in writing upon any question at law involv-
15 ing their respective powers and duties.

Sec. 34. The police department of the city shall consist of a
2 chief of police, and such other members of the department as
3 may be fixed by the council, including members of the police
4 force and patrolmen, all of whom shall be appointed by the
5 council.

6 The chief of police shall have control of the stationing and
7 transfer of all patrolmen and other officers and employees con-
8 stituting the police force of the city, under such rules and
9 regulations as the mayor or council may prescribe.

10 The respective salaries of all members of the police depart-
11 ment shall be fixed by the council. And no member of the
12 police department shall receive any other wage, salary or thing
13 of value for his services to the city in said department.

Sec. 35. The chief of police shall be ex officio constable
2 within the corporate limits of his city. He may execute any
3 writ or process issued by the mayor or justice of the peace at
4 any place in Mingo county. He shall have all the powers,
5 right, and privileges within the corporate limits of the city in
6 regard to the arrest of persons, the collection of claims, and the

7 execution and return of process, that can be legally exercised
8 by a constable of the district in which the said city is situated,
9 and he and his sureties shall be liable to all the fines, penalties,
10 and the forfeiture that a constable of a district is liable to, for
11 any failures dereliction in his office, to be recovered in the
12 same manner and in the same courts that fines, penalties and
13 forfeitures may be recovered against such constables. All spe-
14 cial police officers shall have and possess all the powers, rights,
15 and privileges of a constable of the district within the cor-
16 porate limits of the city, in regard to the arrest of persons and
17 the execution and return of all criminal rights and processes
18 issued by the mayor.

Sec. 36. The council shall appoint the chief of the fire de-
2 partment together with all members and employees of said
3 department in like manner as the chief of police and members
4 of the police department are appointed by the council. The
5 fire department shall be under the direct supervision of the
6 mayor of the city who shall make recommendations to the coun-
7 cil from time to time as may be necessary concerning said
8 department. The fire department shall be composed of the
9 chief and such other firemen, officers and employees as the
10 council may determine, and their respective salaries shall like-
11 wise be fixed by the council. The council shall have authority
12 to purchase and provide proper and suitable quarters for the
13 fire department and to purchase such trucks, motors, machin-
14 ery, tools and supplies as the council may deem proper and
15 the council shall have the authority to establish one or more
16 fire stations within the city, as it may deem proper.

Sec. 37. The city council shall have authority to appoint
2 a competent physician of the city as the city health officer,
3 and to fix his salary as hereinafter provided. The city health
4 officer shall enforce all ordinances and laws relating to health
5 and sanitation of the city, and shall perform all duties and
6 have all the power provided by general law relative to the
7 public health to be exercised in municipalities by health
8 officers: *Provided, however,* That regulations affecting the pub-
9 lic health or sanitation additional to those established by gen-
10 eral law and for the violation of which penalties are imposed
11 shall be enacted by the council and enforced as provided
12 herein.

13 The city health officer shall enforce all ordinances, laws, and
14 regulations relating to prevention and restriction of disease,
15 and he shall likewise, in time of epidemic or threatened epi-
16 demic, enforce such quarantine and isolation regulations as
17 are appropriate to the emergency.

Sec. 38. The council shall cause to be annually made up
2 and entered upon its journal not later than the first day of
3 July of each year, an accurate estimate of all sums that are
4 or may become chargeable to such city, and which ought to be
5 paid, within one year, and it shall order a levy of so much as
6 may, in its opinion, be necessary to pay the same.

Sec. 39. The levy so ordered shall be upon all dogs in the said
2 city, and upon all real and personal property therein subject
3 to state taxes upon the basis of the valuation of such property
4 as fixed for state purposes; but the taxes so levied upon prop-
5 erty shall not exceed the rate allowed by general law, except
6 where authorized by a vote of the people.

7 The said council is hereby authorized to make the following
8 annual levies, and that is to say:

9 For general purposes, fifty cents upon each one hundred
10 dollars' valuation.

11 For retirement of bonds, forty-eight and one-half cents upon
12 each one hundred dollars' valuation.

13 For public library purposes, one and one-half cents upon
14 each one hundred dollars' valuation.

15 And in such year or years as the council may deem neces-
16 sary, a levy of twenty cents upon each one hundred dollars'
17 valuation, for the purpose of retiring and paying such unpaid
18 or old indebtedness of the city as may have been incurred and
19 remained unpaid for previous years.

20 And the council shall have the authority to make all such
21 levies as it may deem proper: *Provided*, That the same shall
22 not be in conflict with any constitutional inhibition against
23 the same.

Sec. 40. The clerk of the council selected in the manner
2 herein provided, shall also be the city assessor, and it shall be
3 his duty to make an assessment of the property within the
4 city subject to taxation, substantially in the manner and form
5 in which assessments are made by the assessor of his county,
6 and return the same to the council on or before the first day of

7 August of each year; and for this purpose he shall be entitled
8 to full access to all public books and records of Mingo county,
9 and to all documents and papers in the hands of the county
10 assessor relating to assessments for state and county purposes,
11 between the first day of April and the first day of June of each
12 year, without expense to the city, and he shall have all the
13 powers conferred by law on county assessors. In case the clerk
14 of the council as such assessor shall discover any property
15 subject to taxation which has not been listed by the county
16 assessor, or assistant tax commissioner, it shall be his duty
17 to list the same, and make report of the fact, with a descrip-
18 tion of the property and its owner, to the county assessor or
19 the assistant tax commissioner; and it shall be the duty of the
20 county assessor or the assistant tax commissioner to list the
21 same for the state and county purpose and to make a proper
22 valuation of the same and to report its valuation to the assessor
23 of the city. The assessor of the city shall list the dogs in the
24 city, with the names of the owners thereof and return the list
25 to the council. The council shall have the power to make and
26 enforce regulations respecting the listing and taxation of dogs
27 in the city, and to provide for impounding and killing such
28 as appear to have no owner, or upon which the tax has not
29 been paid. And it shall have the power to make and enforce
30 all needful ordinances respecting the assessment of property.

Sec. 41. There shall be a lien on all real estate within the
2 city for the city taxes assessed thereon, from the day fixed
3 by law for the commencement of the assessment of such taxes
4 in each year and the interest upon such taxes at the rate of
5 six per centum per annum from the first day of January next
6 after such assessment until the payment, which may be en-
7 forced by the council in the same manner now provided by
8 law for the enforcement of the lien for state and county taxes,
9 or in such other manner as the council may by ordinance pre-
10 scribe. There shall also be a lien on all real estate within the
11 city for other assessments, fines and penalties assessed or im-
12 posed upon the owners thereof by the authorities of the city
13 from the time the same are so assessed or imposed which shall
14 have priority over all other liens except the lien for taxes
15 and may be enforced by the council by suit in equity, in the
16 corporate name of the city, in the same manner now pre-

17 scribed by law for the enforcement of the lien for state or
18 county taxes, or in such other manner as the council may by
19 ordinance prescribe. If any real estate within the city be
20 returned delinquent for the nonpayment of the taxes thereon,
21 a copy of such delinquent list may be certified by the clerk
22 of the council to the proper officer, in order that the same
23 may be sold for taxes, interest and commissions thereon, in the
24 same manner, at the same time, and by the same officer as real
25 estate is sold for the nonpayment of state and county taxes.

Sec. 42. The city clerk shall, as such, be the city collector,
2 whose duty it shall be to collect all taxes, license fees, assess-
3 ments, rents and all other demands and obligations due or
4 accruing to the city, and to keep a strict account thereof. He
5 shall collect all license taxes and license fees at the time such
6 licenses are delivered. All funds so collected by him he shall
7 pay into the city treasury in the manner provided by ordi-
8 nance.

Sec. 43. The city treasury shall be one or more of the banks
2 of the city, and shall be selected and designated once every
3 three years by the council. The bank or banks which shall be
4 designated as the city treasury shall be first chosen at the first
5 regular meeting of the council held in July, one thousand nine
6 hundred thirty-three, and thereafter on the same day every
7 third year. The money deposited therein shall be disbursed
8 only upon order drawn against the same signed and counter-
9 signed as herein provided. Such bank or banks selected shall
10 give bond with good security, payable to the city, to insure
11 the safety of all deposits, in penalties sufficient to protect the
12 highest amount deposited, the security to be approved by the
13 council. The city clerk shall be the city treasurer and as
14 such city treasurer, shall, at the first meeting in each month
15 of the council, furnish the council a statement showing by
16 items the receipts and disbursements for the last preceding
17 month and the amount on hand at the end of such preceding
18 month; and the city clerk, as city treasurer, shall annually, on
19 or immediately before the first day of July, make settlement
20 with the council as the general laws of the state provide for
21 the sheriff's annual settlement with the county courts.

Sec. 44. The city clerk shall perform all the duties of an
2 accountant, and shall install and have supervision over the

3 accounts of all departments and offices of the city. The city
4 clerk as the city accountant shall require statements exhibiting
5 each transaction and the cost thereof. Upon the death, resig-
6 nation, removal or expiration of the term of any officer, the
7 city clerk, as the city accountant, shall examine the accounts
8 of such officer and report his findings to the city council.

Sec. 45. Under the order and direction of the city council
2 and pursuant to such regulations as the council, may adopt,
3 the city clerk shall devise and maintain proper accounting pro-
4 cedure, sufficiently adequate to record in detail all transac-
5 tions affecting the acquisition, custody, and disposition of all
6 moneys, properties, and assets of the city, in such departments
7 of the city as the council may direct.

Sec. 46. No warrant for the payment of money by way of
2 salary or compensation shall be issued for service to any per-
3 son unless there be filed with the clerk of the council an item-
4 ized sworn account, fully describing the character and amount
5 of services or salary sought to be paid, the correctness of
6 which account shall be certified by the officer having full
7 knowledge of the correctness of such account.

Sec. 47. No warrant for the payment of any claim shall
2 be issued except by order of the council. And no warrant shall be
3 valid unless signed by the clerk of the city, and countersigned
4 by the mayor.

Sec. 48. All taxes which the council is or shall be author-
2 ized to levy and collect, and all fines and penalties which
3 may be imposed and collected for violations of the laws and
4 ordinances of said city, shall inure to the exclusive benefit of
5 said city, and all moneys received or collected for the use of
6 said city shall be paid into the city treasury, and shall not be
7 drawn therefrom except as the council, in accordance with this
8 act, may order, by orders drawn upon the city treasury,
9 signed by the mayor, and countersigned by the clerk, and no
10 order shall be issued upon any fund unless there is an un-
11 expended balance to the credit thereof sufficient to cover such
12 order and money in the treasury to pay it. The council shall,
13 once at least every year, cause to be published in two news-
14 papers published in the said city, a statement of the receipts
15 and expenditures of said city for the past year for each of

16 the several funds, signed and sworn to by the clerk, and at-
17 tested by the mayor.

18 And the council shall have the authority to cause to be
19 made a full and complete investigation and audit of the ac-
20 counts of the clerk of the city, as well as a complete audit of
21 the financial affairs of the city, to be made by properly quali-
22 fied accountants and auditors, the expense thereof to be paid
23 out of the treasury of the city, upon order of the council.
24 But not more than one such audit shall be made in any one
25 year.

Sec. 49. The council shall cause to be posted at the front
2 door of the city hall and at some other public place in each
3 ward of the city, or in lieu thereof, publish each year in two
4 separate newspapers of opposite politics, and if there be not
5 two such newspapers, then in one newspaper, and such news-
6 papers to be published in said city of Williamson, the financial
7 statement of the city, which said statement shall show all monies
8 received and disbursed for any and all purposes. And the
9 council shall in the same manner post or publish a list of real
10 estate and personal property delinquent for taxes, in like man-
11 ner and to the same extent as is now provided for publication
12 of lists of real estate and personal property delinquent for the
13 payment of state and county taxes, thereon. And the council
14 may, in its discretion, advertise and publish a list of all persons,
15 firms, and corporations as may be delinquent in the payment
16 of poll taxes and water rents.

Sec. 50. Any and all city officers or officials whose duties
2 require them to collect, receive, or hold monies, obligations,
3 funds, bonds, notes, securities, or other assets of the city, or
4 having charge of the same for and on behalf of the city, shall
5 each and separately execute a proper bond to secure the faith-
6 ful performance of their respective duties, and for the proper
7 accounting for and paying over, as required by law or ordi-
8 nance, of all moneys, assets, or property of the city coming
9 into their hands. And in addition to the bonds of certain
10 officers as required herein specifically, the council shall have
11 power to require like bonds from such other officers or em-
12 ployees as the council may deem advisable.

13 All such bonds shall be made payable to the city of William-
14 son, with the penalties in such amounts as may be fixed by

15 the council, except in such cases wherein such penalty may be
16 expressly fixed herein. And all such bonds, whether prescribed
17 herein or required by the council in its discretion, shall be
18 signed and executed by a good and solvent surety or bonding
19 company as surety therein. And all such bonds shall be de-
20 livered to and filed with the city clerk, who shall keep the
21 same safely in his custody: *Provided, however,* That the bond
22 of the city clerk shall be delivered to the mayor of the city,
23 to be by him kept safely in his custody.

24 And any action, suit, or proceeding may be brought, in-
25 stituted, and maintained by the city in its corporate name
26 and capacity, and also by any person, firm, or corporation
27 for whose benefit and protection such bond was executed, in
28 or before any court of competent jurisdiction in and for the
29 county of Mingo. And there shall also be available all such
30 remedies as may exist on or against bonds of collectors of
31 county levies.

32 The several officers of the city shall give bonds conditioned
33 as prescribed by law, with corporate surety thereon, as herein
34 provided, such bonds to be approved by the council, and with
35 the penalties thereof as follows: mayor of the city, five thou-
36 sand dollars; city clerk, twenty-five thousand dollars; each
37 councilman, one thousand dollars.

38 Then penalties of all other bonds that may be required by
39 the council of other officers or employees shall be in such
40 amounts as the council may prescribe.

41 The charges and premiums on any and all bonds given by
42 officers and employees of the city shall be paid by the city
43 out of the city treasury, upon proper order.

Sec. 51. Every officer of the city shall, before entering upon
2 the duties of his office, take and subscribe to an oath and af-
3 firmation to be filed and kept, in the office of the council, that
4 he will in all respects faithfully discharge the duties of his
5 office.

Sec. 52. The annual salaries of the officers of the city, to be
2 appointed or elected hereunder, shall be paid by the council out
3 of the city treasury, and the salaries of certain officers and of-
4 ficials shall not exceed the following respective amounts:
5 mayor of the city fifteen hundred dollars; city clerk, fifteen
6 hundred dollars; each councilman other than the mayor, two

7 hundred dollars; city attorney, one thousand dollars; stenog-
8 raphers and bookkeepers, one thousand two hundred dollars;
9 city health officer, one thousand two hundred dollars: *Provided,*
10 *however,* That no member of the council shall either directly
11 or indirectly receive any other compensation or emolument for
12 any service rendered the said city in any capacity save and ex-
13 cept as above provided, nor shall any member of said council be
14 either directly or indirectly interested in the furnishing of any
15 supplies or in the doing or performance of any contract pro-
16 cured or made for or in behalf of the city.

17 The salaries as above set forth are to be paid out of the city
18 treasury proportionately at the end of each month, but are
19 never to be paid in advance. All fees, fines, commissions, and
20 emoluments, except salaries, shall be taxed and collected, and
21 when so collected shall be paid into the treasury of the city by
22 the officers, respectively, for the absolute use of the city.

Sec. 53. The terms of office of the mayor and the remaining
2 members of the present commission of the City of Williamson,
3 who held office prior to the time of the taking effect of this act
4 shall terminate and expire on the thirtieth day of June, one
5 thousand nine hundred thirty-three.

Sec. 54. For the purpose of creating a provisional govern-
2 ment for the City of Williamson during the time required
3 to organize and install the same; to provide for the registra-
4 tion of the voters thereof; and to hold and conduct the first
5 election of officers for said city as herein provided for; it shall
6 be the duty of the governor of this state, as soon as may be
7 after this act becomes effective, and not later than the twenty-
8 first day of June, one thousand nine hundred thirty-three, to ap-
9 point a citizen and resident of said City of Williamson to the of-
10 fice of mayor thereof, and four citizens and residents of said city
11 to the office of councilmen of said city, respectively; all of such
12 appointed officials to have the qualifications herein prescribed.

13 The term of office of such mayor and councilmen so appointed
14 shall begin on the first day of July, one thousand nine hun-
15 dred thirty-three, and shall terminate and expire on the thir-
16 tieth day of June, one thousand nine hundred thirty-four.
17 The term of office of mayor and councilmen whose election is
18 provided for at the first election to be held hereunder and at
19 all subsequent elections, shall begin on the first day of July fol-

20 lowing said election and continue for a period of three years
21 and until their successors are elected and qualified.

Sec. 55. All contracts entered into by the city, or made for
2 its benefit prior to the taking effect of this act, shall continue in
3 full force and effect. All public work begun, prior to the taking
4 effect of this act, shall be continued and completed hereunder.

Sec. 56. All ordinances and resolutions in force at the
2 time of the taking effect of this act, not inconsistent with its
3 provisions, shall continue in force until amended or repealed.

Sec. 57. All the acts and parts of acts in conflict or incon-
2 sistent with the provisions hereof, are hereby repealed. The
3 various provisions of this act shall be construed as separable
4 and several, and should any of the provisions or parts thereof
5 be construed or held to be unconstitutional, or for any other
6 reason invalid, the remaining provisions of this act shall not
7 be thereby affected.

RESOLUTIONS

SENATE CONCURRENT RESOLUTION NO. 2

(BY MR. JOHNSON)

[Adopted January 17, 1933.]

Authorizing the Auditor to draw his warrants for the mileage of members and for the per diem of officers and attaches of the House of Delegates and Senate and for legislative printing.

Resolved by the Senate, the House of Delegates concurring therein:

That the Auditor is authorized to draw his warrants upon the treasury, in advance of the appropriation for the purpose, for the mileage of the members of the House of Delegates and Senate and for the per diem of the officers and attaches of the House of Delegates and Senate and for legislative printing for this session as the accounts for same may come due.

SENATE CONCURRENT RESOLUTION NO. 4

(BY MR. WHITE, of Mingo)

[Adopted January 17, 1933.]

Raising a joint committee on joint rules.

Resolved by the Senate, the House of Delegates concurring therein:

That a joint committee of six members, three to be appointed by the President of the Senate and three by the Speaker of the House of Delegates, be raised as a joint committee on joint rules of the Senate and House of Delegates.

SENATE CONCURRENT RESOLUTION NO. 5

(BY MR. HENDERSON)

[Adopted January 20, 1933.]

Providing for the creation and equipment of a joint legislative

Committee on Efficiency and Economy for the duration of the present session of the Legislature and any extension thereof.

WHEREAS, The Legislature is faced with the greatest emergency and fiscal problem in the history of the state; and

WHEREAS, Much of the information required is now unavailable, inadequate and unusable; and

WHEREAS, The heavy burden of taxation forbids the setting up of new and expensive agencies; and

WHEREAS, Nevertheless, full and complete information is necessary to effective action; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

First: That there is hereby created a joint legislative committee to be known as the Committee on Efficiency and Economy. This committee shall be composed of the President of the Senate, and two other members of the Senate appointed by him; and of the Speaker of the House of Delegates and two other members of the House of Delegates appointed by him.

Second: The committee shall obtain the services of the Bureau for Government Research of West Virginia University as now constituted, to act as staff agent to the committee: *Provided,* That no member of the Bureau for Government Research shall receive any other compensation than that now received as a member of the faculty of West Virginia University.

Third: That the Committee on Efficiency and Economy shall have power to select a presiding officer and a secretary from its membership, to establish rules of procedure, to administer oaths or affirmations, to issue process, to compel the attendance of witnesses, and the production of papers and records, to hold hearings, to take testimony and to employ all means and do all things necessary and appropriate to the performance of its duties. It shall in addition be provided with adequate office facilities in the state capitol building.

Fourth: That this committee shall furthermore be authorized to compile such data, to prepare such reports and to recommend such

legislation as it may deem expedient; and for these purposes may by itself or through its staff agent have access to all public records of the state and of its subdivisions. This committee shall also investigate and report to the Legislature the assessed valuation of public utilities as compared to the rate making valuation of the utilities.

Fifth: It shall be the duty of the Bureau for Government Research of West Virginia University in its capacity as staff agent to the Committee on Efficiency and Economy to investigate, analyze and report upon any phase of the public service that such committee may direct.

Sixth: That a sum not to exceed twenty-five hundred dollars be allocated for the work of this committee, to be drawn in equal amounts upon the contingent funds of the Senate and House of Delegates: *Provided,* That no part of this sum shall be expended except upon the requisition of the Director of the Bureau for Government Research of West Virginia University, and the approval of the presiding officers of the Senate and House of Delegates.

SENATE CONCURRENT RESOLUTION NO. 6

(BY MR. REYNOLDS, of Mercer)

[Adopted March 11, 1933.]

Creating a "Century of Progress Exhibition Commission of the State of West Virginia".

WHEREAS, It has been brought to the attention of the state of West Virginia, that there is being held in the city of Chicago, Illinois, an exposition, entitled a "Century of Progress Exposition", and that a majority of the nations of the world, as well as of the states of the Union, will participate therein; and

WHEREAS, It is highly desirable that this state exhibit to the world and its sister states some of our heretofore unknown advantages and natural resources, especially in view of the fact that West Virginia is rapidly becoming the center of the world's chemical industry, our participation in this international exhibit is deemed advisable; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That a commission is hereby created, to be known as the "Century of Progress Exhibition Commission of the State of West Virginia", to be composed of the Governor of West Virginia, who will be chairman ex officio, the Commissioner of Agriculture, the President of the Senate, and the Speaker of the House of Delegates, with three members of the Senate to be designated by the President thereof, and three members of the House of Delegates, to be designated by the Speaker thereof, and three citizens of the state of West Virginia, to be designated by the Governor. Said commission is hereby authorized and directed to elect a chairman and a secretary, and to employ such clerical help as it may deem necessary and such commission is fully empowered to arrange for the appropriate participation of the state of West Virginia in the exhibitions of the Century of Progress; and, be it

Further resolved, That the Commissioner of Agriculture assemble, erect at Chicago, maintain and return to the state after said exposition closes, a suitable exhibit portraying the advantages of the state, its natural resources, scenic, recreational advantages, its agricultural, industrial, educational and historical features, displaying the highways of the state in order to encourage tourists to travel to and through the state, the various departments of the state furnishing materials, labor and such other assistance as the Commissioner of Agriculture may request; and, be it

Further resolved, That all expenditures in reference hereto shall be made on the approval of the Governor who is chairman ex officio, and that a complete accounting of the expenditures under the appropriation be made to the Legislature at its first meeting after the close of the Chicago Exposition, October thirty-one, one thousand nine hundred thirty-three; and, be it

Further resolved, That there may be appropriated by a supplemental budget bill, out of any funds not otherwise appropriated, such sum as may be necessary to cover the expenses of said commission in connection with said exposition, but it is hereby specifically provided that no part of any fund so appropriated shall be paid to any member of the commission as compensation for his services.

SENATE CONCURRENT RESOLUTION NO. 7

(BY MR. GARRETT)

[Adopted February 17, 1933.]

Directing that all contracts for the purchase of materials and supplies for future deliveries, by the various state departments subsequently to January one, one thousand nine hundred thirty-three, be deferred until after March four, one thousand nine hundred thirty-three.

WHEREAS, Information is now current that certain large contracts are at the present time being made or about to be made by the heads of various of the state departments for the purchase of supplies and materials for future delivery, some over long periods of time, as well as for current use; and

WHEREAS, The incoming administration is pledged to the greatest economy consistent with efficient service, and in order to bring about efficient results it would appear that sundry departments, commissions and bureaus will of necessity be consolidated, abolished or changed, thus doing away with the necessity for future deliveries of some of said materials and supplies and cutting down the requirements for same,

Now, THEREFORE, In order to prevent duplication and waste in making such purchases and contracts for future deliveries, of materials and supplies, many of which will probably never be needed, be it

Resolved by the Senate, the House of Delegates concurring therein:

That all contracts to purchase materials and supplies for future delivery, and for work to be performed in the future, subsequent to January one, one thousand nine hundred thirty-three, be and the same are hereby deferred until after the fourth day of March, one thousand nine hundred thirty-three.

SENATE CONCURRENT RESOLUTION NO. 8

(BY MR. JOHNSON)

[Adopted February 21, 1933.]

Concerning veterans' legislation in congress.

WHEREAS, The treasury and postoffice appropriation bill pending in congress, and now in conference, has been amended by what is called the Bratton amendment, which reduces the appropriation for veterans' administration by forty-seven million dollars, and

WHEREAS, Such a reduction in veterans' administration appropriation would necessarily close many veterans' regional offices and hospitals, including those located in this state, therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Honorable H. D. Hatfield and Honorable M. M. Neely, United States senators from West Virginia, and Hon. Carl G. Bachmann, Hon. Frank L. Bowman, Hon. Lynn S. Horner, Hon. Robert L. Hogg, Hon. Hugh Ike Shott and Hon. Joe L. Smith, our representatives in congress, each be requested and urged to vote against and use every honorable means to defeat said amendment and to present this resolution to the conference committee considering said bill.

SENATE CONCURRENT RESOLUTION NO. 10

(BY MR. HENDERSON)

[Adopted February 24, 1933.]

Raising a joint committee to investigate the penitentiary.

WHEREAS, It is evident that a serious condition exists at the state penitentiary at Moundsville as the result of overcrowding of the institution; and

WHEREAS, A situation of grave, serious concern confronts the State of West Virginia in the problems arising from the overcrowded condition in the state penitentiary and also the matter of relieving same; and

WHEREAS, These matters are of such grave importance that the legislature should have first hand information in dealing with the same; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That a joint committee of eight members, four to be appointed by the President of the Senate, and four to be appointed by the Speaker of the House of Delegates, be created with full authority to make an investigation of present conditions at the state penitentiary on all phases of the question of administration and the employment of labor and any other matters dealing therewith, and that this committee shall proceed to make a full investigation and report to the legislature at the earliest possible time with its recommendations for the guidance of the legislature in dealing with these problems.

Said committee shall have power to employ such clerical assistance as it shall deem necessary, in the proper and efficient discharge of its duties, and is hereby vested with power and authority to administer oaths, compel the attendance and testimony of witnesses, and the production of such books, papers and accounts as the committee may deem necessary to make a thorough examination into the condition of said institution; and, be it

Resolved further, That the Sergeant-at-Arms of the House of Delegates and the Clerk of the Senate are directed to draw their warrants upon the auditor for sufficient funds to pay the expenses of the committee, one-half payable out of each of the contingent funds of the two houses, and that the Sergeant-at-Arms of the House of Delegates and Clerk of the Senate are directed to accompany said committee and arrange for transportation, accommodations and expenses of the committee.

SENATE CONCURRENT RESOLUTION NO. 11

(BY MR. REYNOLDS, of Mercer)

[Adopted March 11, 1933.]

Endorsing the "Easley Save-a-Child Service".

WHEREAS, Thousands of the men and women and children of

our state are being killed or injured daily, by automobiles; and

WHEREAS, It is the opinion of the best minds of the state and nation that only through education of automobile drivers and the children of the school age that this overwhelming casualty list may be curtailed; and

WHEREAS, The "Easley Save-a-Child Service" is doing a great educational and humane work; and

WHEREAS, The president of the United States, the governor of West Virginia, the state superintendent of schools, chambers of commerce, civic clubs, and bar associations heartily endorse this worthy safety campaign; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the "Easley Save-a-Child Service", and with it the courtesy tag, which is the insigna of safety, be and is hereby heartily endorsed, and since this is a humane movement by which the lives of many of our people may be saved from automobile graves.

Resolved further, That the school teachers, parent-teachers' associations, and the entire citizenship heartily cooperate in this safety program that will protect the lives of our people, but no expense to the state shall be incurred by reason of this resolution.

SENATE CONCURRENT RESOLUTION NO. 13

(BY MR. HODGES)

[Adopted March 3, 1933.]

Requesting the Auditor and Treasurer to furnish the Legislature with a statement of the fiscal affairs of the state.

WHEREAS, The administration of the state government in all of its executive and administrative departments will pass into the hands of the Democratic party at noon on March 4, 1933; and

WHEREAS, The Republican party has been in effect uninterrupted control of these departments for the past thirty-six years, and

WHEREAS, The Democratic party, in order that it may render full stewardship for its administration, is entitled to know, and to have the people of West Virginia know, the actual condition of the state's fiscal affairs at the beginning of the new administration; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Auditor and Treasurer, respectively, are hereby requested to furnish the Senate and the House of Delegates, as soon hereafter as possible, a joint statement of the fiscal affairs of the state of West Virginia, as of the 4th day of March, 1933, showing the exact condition of the general fund and the several special funds of the state, including the anticipated income of such funds between March 4, 1933, and the close of the fiscal year June 30, 1933, together with a record of the overdrafts and deficits, if any, in each and every fund, and including also a detailed analysis of the bonded and floating indebtedness of the state showing accurately what anticipations, if any, have been made in the revenues of the state not yet due and payable, and all other information which the Auditor and Treasurer of the state may deem necessary in order to give the Legislature and the people of the state the most complete and accurate knowledge of the true and accurate condition of the state's finances and cash position on March 4, 1933.

SENATE CONCURRENT RESOLUTION NO. 14

(By Mr. Jones)

[Adopted March 11, 1933.]

Requesting the budget commission to submit to the Legislature an amended and supplemental budget.

WHEREAS, This session of the Legislature has passed Senate Bill No. 174, which has become a law, calling a state convention to pass upon the question of the repeal of the eighteenth amendment to the federal constitution, as submitted by the Congress to the states; and

WHEREAS, Said bill provides that an appropriation shall be made to pay the compensation and mileage of the delegates to said convention and the expenses of the convention, therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the budget commission is requested to submit to this Legislature an amended and supplemental budget carrying an item for the above purpose as provided in said Senate Bill No. 174.

SENATE CONCURRENT RESOLUTION NO. 15

(BY MR. PAULL)

[Adopted March 10, 1933.]

Providing for the introduction of a bill, amending the charter of the city of Wellsburg.

Resolved by the Legislature of West Virginia, two-thirds of all the members present and voting concurring therein:

That permission is hereby given for the introduction of a bill with the following title:

“A Bill to amend and reenact section thirty-five, chapter eighty-two of the acts of the Legislature, regular session one thousand nine hundred thirty-one, relating to the charter of the city of Wellsburg.”

SENATE CONCURRENT RESOLUTION NO. 16

(BY MR. WHITE, of Hampshire)

[Adopted March 11, 1933.]

Providing for the introduction of a bill, relating to the consolidation or merger of corporations.

Resolved by the Legislature of West Virginia, two-thirds of all the members present and voting concurring therein:

That permission is hereby given to introduce a bill, with the following title:

“A Bill to amend and reenact section sixty-three, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to the consolidation or merger of corporations.”

SENATE CONCURRENT RESOLUTION NO. 17

(BY MR. JOHNSON)

[Adopted March 13, 1933.]

Providing for the printing and distribution of advance copies of the acts of the regular session of one thousand nine hundred thirty-three.

Resolved by the Senate, the House of Delegates concurring therein:

That the Clerks of the two houses are hereby directed to have printed by the public printer, two thousand five hundred advance copies of the acts of this session exclusive of municipal charters, properly head noted, and with a full table of contents, and in paper binding, for distribution among the members of the Legislature, judges of the supreme court of appeals, and of the circuit, criminal and intermediate courts, circuit and county clerks, sheriffs and prosecuting attorneys.

Said public printer shall print and deliver said advance copies to the clerks of the two houses as soon as possible after the adjournment of this session. Upon receipt of the same, the clerks shall, without delay, forward by mail or express to each member of the Senate and House of Delegates at least ten of said advance copies, and one copy to each of the state officials, and the remainder, if any, they shall deliver to the superintendent of public printing for distribution. The said clerks are also authorized and directed to have printed in signature form or advance sheets, any general law which they may deem of sufficient importance to be issued and distributed in that form. The sum of two hundred dollars out of the contingent fund of the House and one hundred dollars out of the contingent fund of the Senate is hereby directed to be paid by the Auditor upon proper warrants, respectively, to pay the postage or expressage on said advance copies.

For the extra work provided for in this resolution, the time of the Clerk of the Senate and his secretary, the joint supervisor of printing, and three assistant clerks from the Senate is extended for sixty days and the per diem of two assistant clerks from the Senate is extended for thirty days.

The per diem of the following on the part of the House of Delegates is extended as follows: The Clerk, joint supervisor of printing, two assistant clerks and the clerk appointed by the Speaker and assigned to the Clerk of the House is extended for sixty days and the time of the stenographer to the Clerk and one clerk is extended for thirty days.

The per diem for those on the part of the House of Delegates designated, shall be the same as that paid during the regular session and for those not heretofore designated, it shall not exceed the amount paid for the same or similar positions during the regular session. The Clerk of the House of Delegates and Speaker shall certify the extensions given in this resolution to the Sergeant-at-Arms. The per diem for those designated hereunder by the Clerk of the Senate shall be the same as provided in the Senate Resolution of January 16th. The compensation of all those designated hereunder shall be paid out of the contingent fund of the Senate, House of Delegates, respectively, upon proper warrant drawn therefor by the Clerk of the Senate and Sergeant-at-Arms of the House of Delegates and the Auditor is hereby authorized and directed to pay the same.

SENATE CONCURRENT RESOLUTION NO. 18

(BY MR. WHITE, of Hampshire)

[Adopted March 13, 1933.]

Relating to the contingent and other expenses of this session of the Legislature.

WHEREAS, The Legislature is about to adjourn without having passed an appropriation bill, but has heretofore authorized the Auditor and Treasurer to pay certain amounts in advance of the appropriation for the purpose; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Auditor, in advance of the appropriation for the purpose, is hereby authorized, upon proper warrants of the Clerk of the Senate and the Sergeant-at-Arms of the House of Delegates to pay the amounts incurred for supplies and services furnished to the Legislature, including contingent expenses, not heretofore directed by resolution to be so paid.

SEN. COM. SUB. FOR ENG. HOUSE JOINT RESOLUTION
NO. 1

(BY MR. BUTCHER)

[Adopted March 9, 1933.]

Providing for the submission to the voters of the state of an amendment to the constitution of the state, amending section forty-six of article six thereof.

Resolved by the Legislature of West Virginia, two-thirds of all the members elected to each House agreeing thereto:

That the question of ratification or rejection of an amendment to the constitution of West Virginia shall be submitted to the voters of the state, at the next general election to be held in the year one thousand nine hundred thirty-four, which proposed amendment is as follows:

That section forty-six of article six of the constitution of the state of West Virginia, be and the same is hereby repealed and the following inserted in lieu thereof:

Section 46. The Legislature shall, by appropriate legislation, regulate the manufacture and sale of intoxicating liquors within the limits of this state, and any law authorizing the sale of such liquors shall forbid and penalize the consumption and the sale thereof for consumption in a saloon or other public place.

The foregoing amendment shall, if ratified, become effective on the first day of March, one thousand nine hundred thirty-five.

HOUSE CONCURRENT RESOLUTION NO. 1

(BY MR. MATTHEWS)

[Adopted January 11, 1933.]

Raising a joint committee to wait upon the Governor.

Resolved by the House of Delegates, the Senate concurring therein:

That a joint committee be appointed, three by the Speaker of the House of Delegates and three by the President of the Senate, to wait upon the Governor and to inform him that the Legislature is organized with a quorum of each House present, and is prepared to receive any communication he is pleased to make, and to proceed with the business of the session.

HOUSE CONCURRENT RESOLUTION NO. 2

(BY MR. NORTON)

[Adopted January 11, 1933.]

Raising a joint assembly to open and publish election returns.

Resolved by the House of Delegates, the Senate concurring therein:

That the two houses of the Legislature convene in joint assembly in the hall of the House of Delegates at 2 o'clock in the afternoon of this day, that the Speaker of the House of Delegates may, in the presence of the Senate, open and publish the returns of the election of Governor and other state officers elected at the general election held throughout the state on the 8th day of November, 1932, as provided by section three, of article seven, of the Constitution of this state.

HOUSE CONCURRENT RESOLUTION NO. 3

(BY MR. NORTON)

[Adopted January 16, 1933.]

Providing for the appointment of a joint supervisor of printing for the two houses.

Resolved by the House of Delegates, the Senate concurring therein:

That the clerks of the House of Delegates and of the Senate appoint a joint supervisor of printing for the session who shall have general oversight and direction of the printing and the enrollment of bills, under the direction and supervision of the clerks, one-half of his compensation to be paid by the Senate and one-half by the House of Delegates, at a per diem of ten dollars.

HOUSE CONCURRENT RESOLUTION NO. 8

(BY MR. McCLINTIC)

[Adopted January 17, 1933.]

Requesting certain information from the tax commissioner.

WHEREAS, It appearing to the House of Delegates and the Senate that a resolution, Senate Concurrent Resolution No. 5, adopted by the Legislature at the special session called by the Governor in the summer of 1932, in which resolution certain information was requested from the tax commissioner; and

WHEREAS, It appearing to the members of the House of Delegates and Senate, in session now assembled, that such information has not been presented; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That a committee of four, to be comprised of the President of the Senate and the Chairman of the Committee on Finance of the Senate, the Speaker of the House of Delegates and the Chairman of the Committee on Taxation and Finance of the House of Delegates, be and is hereby created and is hereby directed to wait upon the Governor and the Tax Commissioner and request from the Governor and the Tax Commissioner the information sought in Senate Concurrent Resolution No. 5, hereinbefore referred to, which was adopted on the 16th day of August, 1932, and ascertain from the Governor and the Tax Commissioner the information sought therein, or whether same is available or can be secured, and to forthwith report their actions to their respective bodies.

HOUSE CONCURRENT RESOLUTION NO. 12

(BY MR. BEACOM)

[Adopted January 25, 1933.]

Petitioning the Congress to submit a proposal to the states providing for the submission of the Eighteenth Amendment, to the vote of the people.

WHEREAS, The Democratic party in its last national convention in its platform declared in favor of outright repeal of the Eighteenth Amendment to the constitution of the United States; and

WHEREAS, The Republican party in its national convention declared in favor of submitting a proposal providing for the submission of the Eighteenth Amendment to the several states; and

WHEREAS, It appears from the results of the election held in November, last, that the sentiment of the people favors resubmission of the Eighteenth Amendment to a vote of the people; and

WHEREAS, There seems to be a strong sentiment in favor of rendering to the states their sovereign right to determine for themselves the matter of handling the liquor problem; and

WHEREAS, Such ample federal laws will be enacted as will guarantee to each state its right of protection in the exercise of its sovereign rights; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the National Congress submit to the people of the several states the question of repeal of the Eighteenth Amendment and that the National Congress is hereby petitioned to submit such a proposal to the several states.

HOUSE CONCURRENT RESOLUTION NO. 13

(BY MR. REED)

[Adopted January 26, 1933.]

Requesting certain data from the state auditor.

WHEREAS, It is very important that the Legislature know the following facts concerning unredeemed land now held by the state and sold by the several sheriffs, therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

First: That the state auditor furnish to the Legislature the total amount of land now held and owned by the state, including interest, cost, and amount required to redeem same;

Second: What per cent of land the state now holds;

Third: The total acreage of lands suitable only for reforestation.

HOUSE CONCURRENT RESOLUTION NO. 15

(BY MR. BIBB)

[Adopted February 8, 1933.]

Providing for the appointment of a committee to investigate the proposed sale or purchase of the Hinton toll bridge and the Bluestone bridge in Summers county.

WHEREAS, On or about the twenty-ninth or thirtieth day of December, 1931, the Bridge Commission of West Virginia attempted to purchase the Hinton toll bridge across New river at Hinton and the Bluestone bridge across Bluestone river at a point some distance from Hinton, both of which bridges are located in Summers county, West Virginia; and

WHEREAS, It is alleged that said Hinton toll bridge, when built, more than twenty-seven years before, did not cost more than \$42,000.00; and

WHEREAS, An engineering expert had advised said bridge commission that it would cost not less than \$55,000.00 to rehabilitate said Hinton toll bridge so as to make it safe for use; and

WHEREAS, The then existing bridge commission attempted to buy said bridge and agreed to pay the price of \$325,000.00 therefor and provided for a further sum of \$55,000.00 to rehabilitate the same, but authorized a bond issue of \$400,000.000 for the purpose of said proposed deal; and

WHEREAS, It has been alleged that said agreement to purchase said bridges was fraudulently entered into and certain litigation has been instituted in the courts of our state relative to same; and

WHEREAS, In order that the Legislature may be fully informed concerning said proposed deal by the then said bridge commission, and that the citizens and taxpayers, more especially those who are so located and situate as to be users and forced to pay tolls for crossing said Hinton toll bridge, may have full and complete information concerning the said proposed sale and purchase, therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That a committee of three on the part of the House of Delegates be appointed by the Speaker and two on the part of the Senate, to be appointed by the President, be raised to consider and investigate the action of the former Bridge Commission of West Virginia and the proposed purchase of the Hinton and Blue-stone bridges in Summers county, with full authority to conduct such investigation as they may deem proper. The Speaker of the House of Delegates and the President of the Senate shall be ex officio members of said committee. Said committee is authorized to compel the heads and members of all former or present departments and institutions of the state government, as well as all attorneys or agents therefor, and the members, agents or attorneys for any bonding companies said to have been contemplating the purchase of said bonds, as well, also, as the owners, agents or attorneys proposing to sell said bridges, and all other parties interested in the sale or purchase of said bridges, to appear before them upon summons, and shall, if desired, have full authority to compel such persons to bring before them all records of such former or present departments or institutions. No expense to the state shall be incurred by said committee, other than the cost of witnesses, lawful mileage, and for necessary stenographic assistance; and said committee shall not incur any cost for attorneys' fees. All proper expense incurred by said committee shall be paid one-half out of the contingent fund of the Senate and one-half out of the contingent fund of the House of Delegates.

SEN. COM. SUB. FOR HOUSE CONCURRENT RESOLUTION
NO. 16

(BY MR. LESTER)

[Adopted March 9, 1933.]

Memorializing Congress to pass a bill providing for the refinancing of farm mortgages.

WHEREAS, A crisis exists and hundreds of thousands of once prosperous farmers in this nation have already lost their farms and their all by mortgage foreclosures, because of the fact that the

price of agricultural products has for a long time been below the cost of production, a condition that affects all of the people of this nation and is largely responsible for the continuance of the depression; and

WHEREAS, There is at present no adequate way of refinancing existing agricultural indebtedness and the farmers are at the mercy of their mortgagors and creditors; and unless immediate relief is given, hundreds of thousands of additional farmers will lose their farms and their homes and more millions will be forced into our cities and villages and the army of the unemployed will necessarily increase to alarming proportions, thereby precipitating a condition that threatens the very life of this nation; and

WHEREAS, Senator Arthur Capper will introduce, at the session of the Congress which convenes this week, a bill providing for the refinancing of farm mortgages at an interest rate of two per cent plus one per cent for amortization and one per cent for loan protection life insurance, making a total of four per cent, which method of refinancing of farm mortgages has been and is now advocated by the representatives of the farmers of West Virginia; and

WHEREAS, The adoption of such provisions will enable the reduction of the annual carrying charges of present farm mortgages of record from one billion to four hundred millions of dollars and thereby save six hundred millions of dollars annually, which represents an average of one hundred dollars per farm per year for each farm in the United States; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature of West Virginia respectfully requests and petitions the Congress to pass without delay said refinancing bill which will be so introduced by Senator Arthur Capper, in order that the agricultural indebtedness of this nation may be refinanced and agriculture saved from utter ruin, and, be it

Further resolved, That the clerks of the Senate and House of Delegates have copies of this memorial sent to the President of the

United States; the President of the United States Senate; the Speaker of the House of Representatives; the Secretary of Agriculture; Senator Capper and the United States Senators and members of the House of Representatives from West Virginia.

HOUSE CONCURRENT RESOLUTION NO. 19

(BY MR. NORTON)

[Adopted February 1, 1933.]

Raising a committee to recommend relief legislation.

WHEREAS, The message of the Governor recommended certain relief legislation; and

WHEREAS, It is desired to have both branches of the Legislature fully informed as to conditions in the state relative to the relief program and the necessity for continuance thereof, and to understand what action the state should take in connection with the support given by the federal government and the local subdivisions of the state in such relief program; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That a special committee be appointed, consisting of three members of the House of Delegates and three members of the Senate, appointed by the presiding officers thereof, to make a study of conditions in the state relative to the necessity for relief legislation and recommend such measures as the committee may deem advisable for securing necessary alleviation of distress in the state.

HOUSE CONCURRENT RESOLUTION NO. 22

(BY MR. MARTIN)

[Adopted February 7, 1933.]

Directing the State Road Commission to arrange a conference with the State Road Commission of Maryland, relative to taking over jointly the interstate bridges crossing the Potomac River.

Resolved by the House of Delegates, the Senate concurring therein:

That the State Road Commission of West Virginia is hereby directed to arrange a conference with the State Road Commission of Maryland for the purpose of discussing the advisability of taking over jointly the present interstate bridge at Shepherdstown, Jefferson County, and such other interstate bridges as cross the Potomac River to the state of Maryland; and, be it

Further Resolved: That the State Road Commission is further directed to arrange such conference at the earliest possible date and report to the Legislature the results of the conference.

The Clerk of the House of Delegates and the Clerk of the Senate are hereby directed to certify a copy of this resolution to the State Road Commissions of West Virginia and Maryland.

HOUSE CONCURRENT RESOLUTION NO. 25

(BY MRS. PRICE)

[Adopted February 16, 1933.]

Raising a committee to attend the dedication of the Memorial Tablet presented by the state of West Virginia and the West Virginia Kenmore Association.

WHEREAS, The state of West Virginia, through its one thousand nine hundred thirty-one Legislature, appropriated ten thousand dollars to celebrate the George Washington Bicentennial, and

WHEREAS, The committee of the West Virginia Bicentennial saw fit to use five hundred dollars to assist in restoring Kenmore, one of the Washington shrines, and is placing a tablet made from the original gravestone of Mary Washington, the mother of George Washington, bearing the immortal words of Washington, "Give me but a tattered banner and the means to reach West Augusta (now West Virginia) and I would gather around it the patriots that would raise our bleeding country from the heels of tyrants," and

WHEREAS, Kenmore was the refuge of Washington's sainted, widowed mother during those last fearful days at Valley Forge and Yorktown, when the struggling, starving, freezing, ragged, American soldiers, threw off the yoke of servitude to England and created our nation; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That a committee is hereby raised, to consist of the Speaker of the House of Delegates and the President of the Senate, and four to be appointed by the Speaker of the House of Delegates and four by the President of the Senate to attend on February 22nd, the birthday of George Washington, the dedication of the tablet at Kenmore; and, be it

Further resolved, That said committee shall incur no expense to the state.

HOUSE CONCURRENT RESOLUTION NO. 26

(BY MESSRS. MARSH, of Ohio, and YOKE)

[Adopted February 16, 1933.]

Relating to the attempted assassination of President-elect Roosevelt and extending sympathy to Mayor Anton J. Cermak of Chicago.

WHEREAS, On February 15 at Miami, Florida, a radical saw fit to attempt the assassination of our beloved President-elect, Franklin Delano Roosevelt; and

WHEREAS, His attempt in its failure has kept with us one whom the American people greatly admire, respect and love; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That we condemn in the highest degree the radical spirit which seems to prevail to some extent in this country, which radicalism engendered and fostered this dastardly attempt; and, be it

Further resolved, That we extend our sincerest congratulations to President-elect Roosevelt upon his escape from bodily harm and pledge to him our undivided efforts for the complete success of his administration; and, be it

Further resolved, That we extend Mayor Anton J. Cermak, of Chicago, our deepest sympathy and express the hope that he may speedily recover.

HOUSE CONCURRENT RESOLUTION NO. 29

(BY MR. BEACOM)

[Adopted February 20, 1933.]

Raising a committee to draft proper resolutions or bills providing for calling and conducting a convention to act upon the proposal of Congress for the repeal of the Eighteenth Amendment.

WHEREAS, The National Congress has this day adopted a resolution submitting the question of ratification or rejection of a proposal to repeal the Eighteenth Amendment to the Constitution of the United States to conventions in the several states; and

WHEREAS, In order to expedite the calling of such a convention in West Virginia it will be necessary to adopt appropriate resolutions authorizing the calling of same, and prescribing the manner of conducting such conventions; and

WHEREAS, It is believed that this matter should be acted upon at the earliest possible date; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That a committee of six is hereby raised, three to be appointed by the Speaker of the House of Delegates and three by the President of the Senate, to draft proper resolutions or bills to provide for the calling of such a convention and the conducting thereof.

SEN. COM. SUB. FOR HOUSE CONCURRENT

RESOLUTION NO. 30

(BY MR. BEELER)

[Adopted March 10, 1933.]

Requesting the Governor to invite President Roosevelt to locate his summer residence at Berkeley Springs, West Virginia.

WHEREAS, The Legislature and the people of West Virginia appreciate the honor that would be conferred by the location within our state of the summer residence of the President of the United States; and

WHEREAS, Berkeley Springs, in Morgan county, for generations has been noted for the beauty of its scenery, for the equability of its climate, for the medicinal and beneficial qualities of its waters, and for its historical and social background; and

WHEREAS, The first President, George Washington, and succeeding Presidents have found health through the medicinal qualities of the waters of Berkeley Springs; and

WHEREAS, Berkeley Springs is accessible from and convenient to the National Capital; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Governor be, and he is hereby requested to invite President Roosevelt, on behalf of the people of this state, to locate his summer residence at Berkeley Springs, Morgan county, West Virginia.

HOUSE CONCURRENT RESOLUTION NO. 31

(BY MR. PRITT)

[Adopted February 21, 1933.]

Relating to apportionment of federal funds to national forests in West Virginia.

WHEREAS, The Monongahela Forestry Association and others interested in the national forest development in the state of West Virginia believe that there should be a more substantial sum apportioned to the national forests in West Virginia out of the federal national forest appropriation of five million dollars; and

WHEREAS, It is the sense of the Legislature of West Virginia that an earnest effort should be made to obtain a more substantial and equitable apportionment to West Virginia of such federal funds through the Secretary of Agriculture of the United States; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Secretary of Agriculture of the United States be requested to make a more liberal apportionment of federal funds to

the national forests in the state of West Virginia, and that the present members in the Congress of the United States from West Virginia, and the members of the House to take office on March 4, 1933, be requested to use their influence with the Secretary of Agriculture to obtain a more equitable and substantial apportionment of federal funds, such money to be used for the construction and improvement of the national forest highways, trails, bridges, firelanes, lookout towers, tourist camps, and other useful purposes, and to be expended in the national forests located within the boundaries of West Virginia; and, be it

Further resolved, That the Governor be and is hereby authorized to appoint a committee of ten substantial citizens of this state to aid the Representatives from West Virginia in the Congress of the United States in obtaining such apportionment, the members of said committee to serve without pay; and, be it

Further resolved, That a copy of this resolution be transmitted to the Secretary of Agriculture of the United States, to the Governor of West Virginia, and to each of the members of the House and Senate in the Congress of the United States from this State.

HOUSE CONCURRENT RESOLUTION NO. 39

(BY MR. NORTON)

[Adopted March 6, 1933.]

Providing for the introduction of a bill, relating to the bonds of state officers.

Resolved by the Legislature of West Virginia, two-thirds of all the members present and voting concurring therein:

That permission is hereby given to introduce a bill, with the following title:

“A Bill to amend section six, article two, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, relating to the bonds of state officers.”

HOUSE CONCURRENT RESOLUTION NO. 40

(BY MR. JARVIS)

[Adopted March 6, 1933.]

Providing for the introduction of a bill, authorizing the transfer of funds by the board of education of Sherman district, Calhoun county.

Resolved by the Legislature of West Virginia, two-thirds of all the members present and voting concurring therein:

That permission is hereby given for the introduction of a bill with the following title:

“A Bill to authorize the board of education of Sherman district, Calhoun county, to transfer funds, excepting proceeds of bond issues, or moneys raised by levy for the purpose of meeting the interest and sinking fund requirements of outstanding bond issues, from any school fund or funds to any other school fund or funds, under its control, for the fiscal year ending June thirty, one thousand nine hundred thirty-three.”

HOUSE CONCURRENT RESOLUTION NO. 42

(BY MR. DIXON)

[Adopted March 6, 1933.]

Providing for the introduction of a bill, relating to the transfer of school funds in Mineral county.

Resolved by the Legislature of West Virginia, two-thirds of all the members present and voting concurring therein:

That permission is hereby given to introduce a bill with the following title:

“A Bill to authorize the board of education of each independent school district of Mineral county and the board of education of each of the other school districts of said county to transfer funds, excepting proceeds of bond issues, or moneys raised by levy for the purpose of meeting the interest and sinking fund requirements of outstanding bond issues, from any school fund or funds to any other school fund or funds under its control, for the fiscal year ending June thirty, one thousand nine hundred thirty-three.”

HOUSE CONCURRENT RESOLUTION NO. 46

(BY MR. BEACOM)

[Adopted March 7, 1933.]

Providing for the introduction of a bill, relating to the calling of a state convention to pass on the proposed amendment to the constitution of the United States, providing for the repeal of the Eighteenth Article of Amendment to the Federal Constitution.

Resolved by the Legislature of West Virginia, two-thirds of all the members present and voting concurring therein:

That permission is hereby given to introduce a bill with the following title:

“A Bill to provide for a convention to pass on the amendment to the constitution of the United States providing for the repeal of the Eighteenth Article of Amendment to the constitution and the prohibition of the transportation or importation into any state, territory or possession of the United States for delivery or use therein of intoxicating liquors in violation of the laws thereof proposed by the Congress for ratification by conventions in the several states.”

HOUSE CONCURRENT RESOLUTION NO. 47

(BY MR. LAFON)

[Adopted March 7, 1933.]

Providing for the introduction of a bill, relating to county or school order or draft receivable for taxes and fees.

Resolved by the Legislature of West Virginia, two-thirds of all the members present and voting concurring therein:

That permission is hereby given to introduce a bill with the following title:

“A Bill to amend and reenact section ten, article five, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, relating to county or school order or draft receivable for taxes and fees.”

HOUSE CONCURRENT RESOLUTION NO. 48

(BY MR. CARDEN)

[Adopted March 8, 1933.]

Authorizing the State Public Health Council to issue a permit to Dr. C. M. Dyhre to practice medicine and surgery in prescribed areas in this state.

WHEREAS, Dr. C. M. Dyhre graduated from the Kansas City College of Medicine and Surgery in 1920 and has since practiced his profession for eleven years in this state, nine consecutive years of which were in Tucker county, and

WHEREAS, Dr. Dyhre is highly recommended by many of the physicians with whom he has been associated in his practice, as an able and ethical practitioner; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the State Public Health Council is authorized and requested to issue a permit to the said C. M. Dyhre to practice medicine and surgery in areas in this state to be prescribed by said council.

HOUSE CONCURRENT RESOLUTION NO. 49

(BY MR. HABERSTICK)

[Adopted March 8, 1933.]

Relating to the Civil War debt owed West Virginia by the federal government.

WHEREAS, The United States Federal Government, through an act of Congress, recently paid to the state of California the sum of \$6,000,000.00, to settle claims based upon men, munitions and materials furnished the United States Government by the state of California during the Civil War, and

WHEREAS, The state of West Virginia, remaining loyal to the Union, contributed soldiers by the thousands and war supplies and munitions valued in the millions of dollars, and

WHEREAS, The people of West Virginia, soldiers and civilians alike, suffered great hardships and heavy property damages as a direct result of the war tactics of the Federal armies operating throughout West Virginia, and

WHEREAS, Had it not been for the loyalty of West Virginia in time of need, the active battle front of the Civil War would have been flung from the Potomac as far north as Pittsburgh and as far west as the upper reaches of the Ohio river, thus causing much additional loss and distress; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That United States Senator Neely and the six West Virginia members of the National House of Representatives, be, and are hereby petitioned to immediately, with the assembling of Congress, take steps toward collecting the Civil War debt owed West Virginia by the Federal Government; and, be it

Further resolved, That the Legislature of West Virginia do hereby respectfully request that the sum claimed be not set at less than \$13,000,000 plus interest at five percentum, payable since 1915, that West Virginia may be reimbursed in a sum sufficient to cover that assessed against West Virginia as part of the debts of the state of Virginia as held payable against that commonwealth of date prior to the dissolution of the Virginias.

HOUSE CONCURRENT RESOLUTION NO. 50

(BY MR. SUMMERFIELD)

[Adopted March 8, 1933.]

Authorizing the introduction of a bill, relating to the transfer of funds from the road fund of Fayette county to the general county fund of that county for the fiscal years beginning July first, one thousand nine hundred thirty-three, and July first, one thousand nine hundred thirty-four.

Resolved by the Legislature of West Virginia, two-thirds of all the members present and voting concurring therein:

That permission is hereby given to introduce a bill, with the following title:

“A Bill to authorize the county court of Fayette county, West Virginia, to transfer a sum not exceeding twenty cents on each one hundred dollars of the assessed valuation of all property of the county from the county road fund to the general county fund for the fiscal years beginning July first, one thousand nine hundred thirty-three, and July first, one thousand nine hundred thirty-four.”

HOUSE CONCURRENT RESOLUTION NO. 52

(BY MR. RANDOLPH)

[Adopted March 9, 1933.]

Authorizing the introduction of a bill, relating to the establishment of civil service for the fire department of the city of Clarksburg.

Resolved by the Legislature of West Virginia, two-thirds of all the members present and voting concurring therein:

That permission is hereby given to introduce a bill, with the following title:

“A Bill to amend and reenact section twenty-two of chapter six (municipal charters), of the acts of the Legislature of West Virginia, regular session, one thousand nine hundred twenty-one, relating to civil service for the fire department of the city of Clarksburg.”

HOUSE CONCURRENT RESOLUTION NO. 53

(BY MR. CRAIG)

[Adopted March 9, 1933.]

Providing for the introduction of a bill, to create the independent school district of Cross Creek, in the county of Brooke.

Resolved by the Legislature of West Virginia, two-thirds of all the members present and voting concurring therein:

That permission is hereby given for the introduction of a bill with the following title:

“A Bill to create the independent school district of Cross Creek, in the county of Brooke.”

HOUSE CONCURRENT RESOLUTION NO. 55

(BY MR. JARVIS)

[Adopted March 10, 1933.]

Authorizing the introduction of a bill, relating to the transfer of funds by the board of education of Center district, Calhoun county.

Resolved by the Legislature of West Virginia, two-thirds of all the members present and voting concurring therein:

That permission is hereby given to introduce a bill with the following title:

“A Bill to authorize and empower the board of education of Center district, in the county of Calhoun, to transfer all funds now in the new building fund and which may come therein until the thirtieth day of June, one thousand nine hundred thirty-three, to the teachers' fund of said district.”

HOUSE CONCURRENT RESOLUTION NO. 56

(BY MR. JARVIS)

[Adopted March 10, 1933.]

Providing for the introduction of a bill, relating to a county high school in Calhoun county.

Resolved by the Legislature of West Virginia, two-thirds of all the members present and voting concurring therein:

That permission is hereby given to introduce a bill with the following title:

“A Bill to amend chapter one hundred eleven of the acts of the Legislature of West Virginia, one thousand nine hundred fifteen, relating to a county high school in Calhoun county, West Virginia, by adding a new section thereto designated and numbered as section six; providing for constructing, erecting, equipping, maintaining and operating a gymnasium or auditorium, or both, for said county high school by authorizing, empowering and vesting the board of directors of the Calhoun county high school with all the rights, duties and powers conferred by law on the West Virginia Board of Control for constructing, erecting, equipping, maintaining, and operating dormitories, homes or refectories, at the various state educational institutions; providing for the issuance of revenue bonds of the county high school, payable solely from the earnings of such gymnasium or auditorium, or both, to pay the cost thereof, providing for the collection of rents, fees and charges; and providing that no debt of said county or school district payable by taxes or assessments shall be incurred in the exercise of any of the powers hereby granted.”

HOUSE CONCURRENT RESOLUTION NO. 58

(BY MR. SPEAKER, MR. HINER)

[Adopted March 11, 1933.]

Authorizing the introduction of a bill, relating to transfer of funds by the board of education of Mill Run district, Pendleton county.

Resolved by the Legislature of West Virginia, two-thirds of all the members present and voting concurring therein:

That permission is hereby given to introduce a bill with the following title:

“A Bill to authorize and empower the board of education of Mill Run district, Pendleton county, to transfer nine hundred twelve dollars from the new building fund to the high school tuition fund.”

HOUSE CONCURRENT RESOLUTION NO. 59

(BY MR. CARDEN)

[Adopted March 11, 1933.]

Authorizing the introduction of a bill, relating to creating the independent school district of Barkers Ridge, in Wyoming county.

Resolved by the Legislature of West Virginia, two-thirds of all the members present and voting concurring therein:

That permission is hereby given to introduce a bill with the following title:

“A Bill to create the independent school district of Barkers Ridge, in the county of Wyoming.”

HOUSE CONCURRENT RESOLUTION NO. 60

(BY MR. CARDEN)

[Adopted March 11, 1933.]

Authorizing the introduction of a bill, relating to creating the independent school district of Slab Fork, in Wyoming county.

Resolved by the Legislature of West Virginia, two-thirds of all the members present and voting concurring therein:

That permission is hereby given to introduce a bill with the following title:

“A Bill to create the independent school district of Slab Fork, in the county of Wyoming.”

HOUSE CONCURRENT RESOLUTION NO. 61

(BY MR. WHITE)

[Adopted March 11, 1933.]

Authorizing the introduction of a bill, relating to the transfer of school funds by the board of education in Crook district, Boone county.

Resolved by the Legislature of West Virginia, two-thirds of all the members present and voting concurring therein:

That permission is hereby given to introduce a bill with the following title:

“A Bill to authorize the board of education of Crook district, Boone county, to transfer money from the elementary teachers' fund and the high school teachers' fund to the high school maintenance fund.”

HOUSE CONCURRENT RESOLUTION NO. 62

(BY MR. SPEAKER, MR. HINER)

[Adopted March 11, 1933.]

Authorizing the introduction of a bill, relating to Workmen's Compensation Fund.

Resolved by the Legislature of West Virginia, two-thirds of all the members present and voting concurring therein:

That permission is hereby given to introduce a bill with the following title:

“A Bill to amend and reenact section two, article three, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, relating to Workmen's Compensation Fund.”

HOUSE CONCURRENT RESOLUTION NO. 63

(BY MR. SPEAKER, MR. HINER)

[Adopted March 13, 1933.]

Concerning failure to pass “Budget Bill” and providing for adjournment *sine die*.

WHEREAS, This, the regular session of the Legislature for one thousand nine hundred thirty-three has extended beyond the sixty day period required by the constitution, and is now in session by virtue of the proclamation of the Governor, made on the eighth day of March, one thousand nine hundred thirty-three, extending said session to and including the fifteenth day of March, one thousand nine hundred thirty-three, for the purpose of considering only the Budget Bill, as provided by the constitution, and

WHEREAS, The Legislature has not had adequate information to enact necessary and suitable revenue measures under the amendment to section one of article ten of the constitution adopted at the general election held on the eighth day of November, one thousand nine hundred thirty-two, to meet the existing deficit and to compensate for loss of revenues occasioned by the general financial and economic depression, and to meet loss of revenue occasioned by the limited levies provided in said amendment to the constitution, and

WHEREAS, Such suitable and necessary revenue measures have not been enacted, and

WHEREAS, It is believed that a proper Budget Bill cannot be enacted until such information is available for the Legislature in passing necessary and suitable revenue measures, and until such necessary and suitable revenue measures are enacted, and

WHEREAS, The Legislature has not passed the Budget Bill submitted to it on the twentieth day of January, one thousand nine hundred thirty-three, being House Bill No. 115, and

WHEREAS, The Legislature is advised that an extraordinary session thereof will be necessary and is expected to be called by the Governor, for the enactment of other suitable and necessary legislation, and

WHEREAS, There is no reasonable opportunity for the passage of a Budget Bill in the immediate future; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature do forthwith adjourn *sine die* and request that the Governor, in his proclamation issuing a call for the extraordinary session of the Legislature, do include in said call; the business of enacting a Budget Bill or a General Appropriation Bill for the purpose of appropriating moneys for the coming biennium to carry on the necessary functions of government, which said Budget Bill shall be prepared and submitted to said Legislature, as provided by law.

HOUSE CONCURRENT RESOLUTION NO. 64

(BY MR. LUBLINER)

[Adopted March 13, 1933.]

Raising a joint committee to wait upon the Governor.

Resolved by the House of Delegates, the Senate concurring therein:

That a joint committee of six, consisting of three on the part of the House of Delegates, to be appointed by the Speaker thereof, and three on the part of the Senate, to be appointed by the President thereof, be appointed to notify the Governor that the Legislature is ready, under the constitution, to adjourn *sine die*, and ask him if he has any further communication to make.

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ACTS

Extraordinary Session

1933



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PROCLAMATION OF HIS EXCELLENCY, THE GOVERNOR,
CALLING THE LEGISLATURE OF WEST VIRGINIA TO
CONVENE IN EXTRAORDINARY SESSION ON APRIL
10, 1933, AND ALSO STATEMENT SENT MEMBERS OF
THE LEGISLATURE AND GIVEN TO THE PRESS BY
THE GOVERNOR AT TIME OF ISSUING SAID PROCLA-
MATION.

STATE OF WEST VIRGINIA
EXECUTIVE DEPARTMENT

CHARLESTON

A PROCLAMATION

BY THE GOVERNOR

I, H. G. Kump, Governor of the State of West Virginia, by virtue of the authority conferred on me by section seven of article seven of the Constitution of this State, do hereby call the Legislature of West Virginia to convene in extraordinary session at two o'clock on the afternoon of the tenth day of April, nineteen hundred and thirty-three, for the following purposes:

First: To enact legislation made necessary by the "Tax Limitation Amendment," to provide additional revenue and to meet the existing emergency:

(1) By balancing the state budget by providing new sources of general revenue; and by increasing the returns from any and all forms of special revenue, including the increase of student fees in state educational institutions;

(2) By providing new sources of revenue for municipalities; and by permitting municipalities to borrow money from the Reconstruction Finance Corporation for self-liquidating projects;

(3) By amending the law pertaining to the redemption of delinquent and forfeited lands; by making any necessary adjustments in the enabling legislation under the "Tax Limitation Amend-

ment''; and by making further provision for the enforcement of tax laws and regulations.

Second: To enact a "Budget Bill" for the fiscal years ending June 30, 1934, and June 30, 1935; to authorize the Governor to so administer the budget as to balance the public income and expenditure; and to enact such additional legislation as may be required to provide for deficits which have accumulated in former fiscal years.

Third: To enact efficiency and economy legislation to make possible the continued maintenance of public education in the state:

(1) By providing for the distribution of state revenue for local schools;

(2) By making the county the basic school unit.

Fourth: To reform the state road commission by providing for a road commissioner; to define and limit a state road program; to provide for state control and financing of county-district roads; and for the maintenance of designated state highways through municipalities.

Fifth: To enact legislation to limit, abolish, transfer or substitute governmental agencies or functions and grant to the governor all appropriate powers connected therewith.

Sixth: To propose constitutional amendments to be submitted to the voters at the next general election, providing for an "Executive Budget", for the "Short Ballot", and for a capitation tax on both men and women.

Seventh: To provide for an interim committee on efficiency and economy to study the political, legal and economic problems of the state and to report its recommendations in the form of bills to the next regular or special session of the legislature.

Eighth: To enact legislation relative to the banking, bonding and insurance institutions of the state, tending to provide greater security to depositors, policyholders and creditors; and to assure more effective methods of conserving our financial resources.

Ninth: To provide for the conservation and development of the natural resources, scenic attractions and recreational facilities of our state.

Tenth: To make the necessary appropriations of public moneys to pay the expenses of this extraordinary session.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State to be affixed.

(GREAT SEAL)

Done at the Capitol in the City of Charleston this twenty-fourth day of March in the year of our Lord nineteen hundred and thirty-three and of the State the seventieth.

By the Governor:

H. G. KUMP.

WM. S. O'BRIEN,

Secretary of State.

EXECUTIVE OFFICES

CAPITOL BUILDING

CHARLESTON

March 24, 1933

To the Members of the Senate and the House of Delegates:

An extraordinary session of the legislature will convene at the Capitol in Charleston on the afternoon of April tenth. It has been the purpose to include in the accompanying call only those subjects which are of first importance and which, for the most part, are essential to the program that we have undertaken. Should the occasion permit, still other matters may be considered, but in this time of emergency it is vital that first things be disposed of first.

The extreme change in our fiscal system made necessary by the "Tax Limitation Amendment" requires that the legislature have the fullest opportunity to meet the crisis, and to this end it will be necessary for you to consider and act upon a new system of public revenue. In addition to the major problems of taxation, it is important that state educational institutions be aided and the state budget relieved by increased student fees; that municipalities be given new sources of income to protect essential services now endangered by a loss of some one million eight hundred thousand dollars from direct levies; and that adjustments be made to encourage the redemption of delinquent and forfeited lands.

The second item provides for the enactment of a "Budget Bill" for the coming biennium. Much attention has been given to possible yields under many forms of state and local revenue, and the board of public works must bring state expenditures in line with these estimates. The most rigid economies will govern every item and the results of this policy will be submitted to you in the form of a budget bill. It has been necessary to allow six million dollars for the aid of public schools and to make provisions for the five million dollars that has formerly been spent for the construction and maintenance of county-district roads. This is in accord with the policy of bringing both relief and opportunity to those portions of our state that have so long been retarded by taxes beyond their ability to pay and by conditions beyond their power to remedy.

These projects form items three and four of the call, which propose plans that have always been part of the administration's program, and that have now become a financial necessity. The plain facts are that local levies alone as fixed by the "Tax Limitation Amendment" will not permit the conduct of local schools nor the construction and maintenance of local roads. When the state assumes these services it must insist on immediate economies in organization that will husband and utilize every taxable resource. This is no time to permit select areas to set themselves apart for preferred treatment, merely because they enjoy the opportunities for self-development that the accident of wealth tends to bring; nor is it a time to indulge those local groups who feel that years of extravagance have given them a vested interest in certain portions of the public revenue. This is above all a time for sharing what remains, and for conserving every resource. A county school unit including within its organization all independent districts, and a state road system embracing all county-district roads, are imperative if these services are to be uniformly maintained during the coming biennium.

Our program of economy necessitates the elimination of waste in the public service of the state. To this end legislation directed toward the immediate simplification of governmental processes and functions will be requested under item five. Items six and seven are important steps in the long-time program that we have pledged ourselves to undertake. They propose constitutional amendments providing for an "Executive Budget," the "Short Ballot,"

and a capitation tax for both men and women; and statutory authority for the appointment of an interim committee on efficiency and economy to study the problems of state and local government. We have gone too long without a definite plan and taken extreme steps without accurate information. In the years to come, these proposals may prove to be the most important that you are called upon to consider.

Our financial institutions have passed through a critical period that has taught many tragic lessons, and item eight proposes legislation that will, on the one hand, both protect and relieve our solvent institutions from the hazards of false fears; and on the other, provide an efficient and economical method of releasing the assets of closed banks. Item nine looks toward conservation of a less pressing but no less permanent character—the preservation and development of our natural resources, scenic attractions and recreational advantages. This is a campaign pledge and I take the first opportunity to make it real.

Many of these items are charged with controversy. They strike deep into vested interests and long established customs. But may I say once again that if we are to carry on, we must abandon the routine of tranquil times. There is no alternative. We must strike boldly for relief. Many things remain to be considered. Many proposals of real merit have had of necessity to be postponed. It is with confidence that I commend this program to a legislature that has already shown such forbearance in the face of the greatest emergency in the history of this state. As Governor, I pledge my wholehearted support to our joint undertakings, and urge that each member consult with me on any subject that may seem important in solving the problems that perplex us all.

H. G. KUMP,
Governor.

LEGISLATURE OF WEST VIRGINIA

ACTS OF 1933

EXTRAORDINARY SESSION

CHAPTER 1

(House Bill No. 204—By Mr. Hiner)

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 3, 1933; in effect from passage. No action on bill by Governor required.]

- | SEC. | SEC. |
|--|---|
| 1-2. Fiscal years. | 30-(b). Secondary roads. |
| 3. Appropriations payable out of general revenue. | 30-(c). State aid to local schools. |
| 4. Appropriations payable out of collections. | 31. Supreme court of appeals and state law library. |
| 5. Salary of elective and appointive state officials and of the judiciary. | 32. Compensation of special judges of circuit courts and mileage and expenses. |
| 6. Attorney general's office. | 33. Transfer of funds to state sinking fund commission by board of public works; repayment. |
| 7. Auditor's office. | 34. Appropriations payable on requisition of board of control. |
| 8. Salary of private secretary to the governor. | 35. No part of appropriation in Sub-Section "B" to be used for land payment unless specifically authorized. |
| 9. Pardon attorney's office. | 36. West Virginia board of control. |
| 10. Civil contingent fund. | 37. Printing, binding, stationery and storage. |
| 11. Treasurer's office. | 38. Huntington state hospital. |
| 12. Secretary of state's office. | 39. Spencer state hospital. |
| 13. Department of agriculture. | 40. Weston state hospital. |
| 14. Tax commissioner's office. | 41. West Virginia training school. |
| 15. Department of mines. | 42. Lakin state hospital. |
| 16. Commissioner of banking. | 43. Welch emergency hospital. |
| 17. Bureau of labor and department of weights and measures. | 44. McKendree emergency hospital. |
| 18. Department of archives and history. | 45. Fairmont emergency hospital. |
| 19. State health department. | 45-(a). Emergency hospital service; payment for charity cases. |
| 20. Capitol building and grounds. | 46. Hopemont sanitarium. |
| 21. Governor's mansion and grounds. | 47. Rutherford sanitarium. |
| 22. Labor funds, capitol building. | 48. Denmark sanitarium. |
| 23. Militia. | 49. Tuberculosis field clinic service. |
| 24. Department of public welfare. | 49-(a). Treatment of tuberculosis. |
| 25. State sinking fund commission. | 50. West Virginia industrial school for boys; appropriations for Lella Arnett, George A. Bernard and Walter Crawford. |
| 26. State water commission. | 51. West Virginia industrial school for colored boys. |
| 27. Bureau of negro welfare and statistics. | 52. West Virginia industrial home for girls. |
| 28. Criminal charges. | 53. West Virginia industrial home for colored girls. |
| 29. Publication of delinquent lists. | |
| 30. State aid for agricultural fairs or associations. | |
| 30-(a). Emergency appropriation; when unlawful to incur liability for state or pay accounts or bills of state; when person authorizing expenditure is personally liable. | |

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| <p>Sec.</p> <p>54. West Virginia children's home.</p> <p>55. West Virginia colored children's home.</p> <p>56. West Virginia home for aged and infirm colored men and women.</p> <p>57. West Virginia geological survey.</p> <p>58. Point Pleasant battle monument commission.</p> <p>59. Berkeley Springs sanitarium.</p> <p>60. Rumseyan society.</p> <p>61. Droop Mountain battle monument commission.</p> <p>62. Florence Crittendon home (Wheeling).</p> <p>62-(a). Morgan Morgan memorial commission.</p> <p>63. West Virginia penitentiary.</p> <p>64. State department of public safety; compensation to injured members.</p> <p>65. West Virginia university.</p> <p>66. University extension work.</p> <p>67. West Virginia agricultural experimental station.</p> <p>68. Marshall college.</p> <p>69. Potomac state school (Keyser).</p> <p>70. New River state college (Montgomery).</p> <p>71. Concord state normal school.</p> <p>72. Fairmont state normal school.</p> <p>73. Glenville state normal school.</p> <p>74. Shepherd college state normal school.</p> <p>75. West Liberty state normal school.</p> <p>76. West Virginia school for deaf and blind.</p> <p>77. West Virginia school for colored deaf and blind.</p> <p>78. West Virginia state college.</p> <p>79. Bluefield state teachers college.</p> <p>80. Storer college.</p> <p>80-(b). Payment of deficit.</p> <p>81. Appropriations payable from general revenue.</p> <p>82. Legislative department—Senate.</p> <p>83. Legislative department—House of Delegates.</p> <p>84. Salaries of members of legislature.</p> <p>85. Legislative printing and stationery.</p> <p>86. Miscellaneous appropriation; supplementary appropriations.</p> <p>86-(a). Appropriations payable from general school fund.</p> <p>87. Department of education.</p> <p>88. State board of education; rehabilitation work; vocational education: out of state students.</p> <p>89. Department of education, county superintendents, uniform examinations and expenses of land department.</p> | <p>Sec.</p> <p>90. Appropriations payable from state road fund.</p> <p>91. State road commission, administrative expense.</p> <p>92. Automobile bureau.</p> <p>93. Gasoline tax, etc.; secondary roads; claims against state road commission.</p> <p>94. Appropriations payable from special license fees.</p> <p>95. Public service commission.</p> <p>96. Appropriations payable from special fund created by Chapter 9, Acts of 1915.</p> <p>97. Workmen's compensation.</p> <p>98. Appropriations payable from special revenue; capitol building fund.</p> <p>99. Limitation on appropriations under Sub-Section "K".</p> <p>100. Fire marshal.</p> <p>101. State veterinary examining board.</p> <p>102. West Virginia state board of embalmers.</p> <p>103. State board of examiners in optometry.</p> <p>104. State board of examiners and registration of architects.</p> <p>105. State board of registration for engineers.</p> <p>106. West Virginia state board of osteopathy.</p> <p>107. State board of examiners for the examination of accountants.</p> <p>108. State board of pharmacy.</p> <p>109. West Virginia board of examiners for registered nurses.</p> <p>110. West Virginia state board of dental examiners.</p> <p>111. Refunding overpayments.</p> <p>112. Appropriations for state board or institution to be drawn upon requisition of proper officers; requisition for appropriations for new buildings, except those under control of board of control, to be accompanied by architect's estimate; per diem and expenses of members of state boards and commissions.</p> <p>113. Printing, binding and stationery, when done upon requisition of superintendent of public printing.</p> <p>114. Limitation on payments from state treasury.</p> <p>115. Governor's powers to consolidate departments, etc., not affected by this act; governor authorized to reduce appropriations.</p> <p>116. Clerk of House and Clerk of Senate to certify copy of appropriation bills to auditor and treasurer.</p> |
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Be it enacted by the Legislature of West Virginia:

Section 1. That there be and are hereby appropriated out of the treasury for the fiscal year ending June thirty, one thousand nine hundred thirty-four, and for the fiscal year ending June thirty, one thousand nine hundred thirty-five and for the remainder of the fiscal year ending June thirty, one

6 thousand nine hundred thirty-three, the following sums of
7 money for the following named purposes:

Sec. 2. The amounts appearing in the column headed
2 "1934" are for the fiscal year ending June thirty, one thou-
3 sand nine hundred thirty-four and the amounts appearing
4 in the column headed "1935" are for the fiscal year ending
5 June thirty, one thousand nine hundred thirty-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.

Sec. 4. No payments shall be made from appropriations ap-
2 pearing in sub-sections "A" and "B", which appropriations are
3 designated, "Payable out of collections," in excess of the
4 amounts therein set forth, and no payments shall be made in
5 excess of the amount of collections, for the particular institu-
6 tion, department, commission or board, paid into the general
7 revenue of the state under the provisions of section two, article
8 two, chapter twelve of the Code of one thousand nine hundred
9 thirty-one.

10 Payments may be made from said appropriations appearing
11 herein at any time during the fiscal year so long as the aggre-
12 gate for the year does not exceed the amount of the appropria-
13 tion and does not exceed the collections that will be made for
14 the year and paid into the general revenue of the state.

SUB-SECTION "A"

Salaries

	1934	1935
Sec. 5. Salary of the Governor..\$	8,000.00	\$ 8,000.00
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 Superintendent of Free		
8 Schools	5,000.00	5,000.00
9 Salary of the Secretary of State....	5,000.00	5,000.00
10 Salary of Adjutant General.....	3,000.00	3,000.00
11 Salary of the State Tax Commis-		

12	isioner	5,000.00	5,000.00
13	Salaries of the members of the		
14	Public Service Commission.....	15,000.00	15,000.00
15	Salary of the Chief of the De-		
16	partment 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	3,000.00	3,000.00
21	Salary of the State Historian and		
22	Archivist	2,700.00	2,700.00
23	Salary of the State Commissioner		
24	of Health	3,600.00	3,600.00
25	Salary of the Janitor and Super-		
26	intendent of Buildings and		
27	Grounds	2,400.00	2,400.00
28	Salary of the Keeper of the Rolls..	300.00	300.00
29	Salaries of the three members of		
30	the Board of Control.....	15,000.00	15,000.00
31	Salary of the Director of the Bu-		
32	reau of Negro Welfare and Sta-		
33	tistics	2,700.00	2,700.00
34	Salary of the Director of Public		
35	Welfare	3,600.00	3,600.00

JUDICIARY

36	Salaries of the judges of the		
37	Supreme Court of Appeals.....	48,000.00	48,000.00
38	Salaries of the judges of the Cir-		
39	cuit Courts	157,000.00	157,000.00

EXECUTIVE DEPARTMENT

Attorney General's Office

	Sec. 6. Salaries of three assist-		
2	ant Attorneys General	11,520.00	11,520.00
3	To pay salaries of clerks, stenog-		
4	raphers and other assistants, in-		
5	cluding current, general and		
6	traveling expenses	12,000.00	12,000.00

Auditor's Office

Sec. 7. Salary of Chief Clerk..	3,300.00	3,300.00
2 Salary Deputy Insurance Com-		
3 missioner	3,000.00	3,000.00
4 Salary Deputy Security Commis-		
5 sioner	3,000.00	3,000.00
6 To pay salaries of other clerks,		
7 stenographers and assistants,		
8 and securities department.....	37,612.00	37,612.00
9 To pay current general and travel-		
10 ing expenses, including Insur-		
11 ance Department	5,150.00	5,150.00
12 Salaries, traveling and current		
13 general expenses—Securities De-		
14 partment — PAYABLE OUT		
15 OF COLLECTIONS	10,500.00	10,500.00
16 For refunding moneys erroneously		
17 paid into the treasury such		
18 sums are hereby appropriated		
19 as may be erroneously so paid,		
20 payable out of the same fund		
21 into which paid.		
22 For pay of State agents, such		
23 amounts are hereby appropri-		
24 ated as may be necessary to pay		
25 commissions of State agents,		
26 payable out of the fund collect-		
27 ed. <i>Provided</i> , That in no case		
28 shall the amount so paid exceed		
29 ten per centum of the funds col-		
30 lected and paid into the treas-		
31 ury by any such agent.		
32 For refunding to counties, dis-		
33 tricts and municipal corpora-		
34 tions, county, district and mu-		
35 nicipal taxes paid into the treas-		
36 ury for the redemption of lands,		
37 such amount is hereby appro-		
38 priated as will be necessary		
39 to refund to the counties, dis-		

40 tricts and municipal corpora-
 41 tions entitled thereto the taxes
 42 so paid into the treasury.
 43 For refunding county, district
 44 and municipal taxes paid into
 45 the treasury by railroads and
 46 other companies, such sum is
 47 hereby appropriated as will be
 48 necessary to refund to each
 49 county, district and municipal
 50 corporation the amount of such
 51 taxes as may be paid into the
 52 treasury to the credit of such
 53 county, district and municipal
 54 corporation.

Governor's Office

	Sec. 8. Salary of the Private		
2	Secretary to the Governor.....	3,300.00	3,300.00

Pardon Attorney's Office

	Sec. 9. Salary of the Pardon		
2	Attorney	3,000.00	3,000.00
3	Salary of the stenographer.....	810.00	810.00
4	Current general expenses.....	225.00	225.00

Civil Contingent Fund

	Sec. 10. 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	20,000.00	20,000.00

Treasurer's Office

	Sec. 11. To pay salaries of		
2	Assistant Treasurer, Clerks,		
3	Stenographers and other As-		
4	sistants, including current gen-		
5	eral and traveling expenses.....	25,000.00	25,000.00
6	To pay part cost of premium on		

7	bond of the Treasurer and As-		
8	sistants	1,200.00	1,200.00
9	To replace office equipment in-		
10	cluding typewriters and other		
11	machines	1,000.00	1,000.00

Secretary of State's Office

	Sec. 12. Salary of chief clerk..	2,220.00	2,220.00
2	Salary of charter clerk.....	1,500.00	1,500.00
3	Salaries of certificate clerk, re-		
4	corider, record clerk and stenog-		
5	raphers (\$1,500.00 each).....	6,000.00	6,000.00
6	Current general and traveling ex-		
7	penses	1,200.00	1,200.00
8	Salary clerk Board of Public		
9	Works	2,220.00	2,220.00

Department of Agriculture

	Sec. 13. To pay salaries of		
2	clerks, stenographers and other		
3	assistants, current general and		
4	traveling expenses, and for car-		
5	rying out the provisions of law		
6	relating to diseased animals and		
7	the eradication of bovine tuber-		
8	culosis; for carrying out the		
9	provisions of law relating to		
10	control of plant diseases and		
11	control of corn borer; for carry-		
12	ing out the provisions of law re-		
13	lating to pure seeds, commercial		
14	fertilizer and commercial feed-		
15	ing stuffs; for carrying out the		
16	provisions of law relating to		
17	control of contagious abortion;		
18	for the establishment of addi-		
19	tional chemical laboratories for		
20	the purpose of determining the		
21	amount of spray residue on		
22	fruit; Bureau of Markets and		
23	publication of bulletins; and for		

24	advertising the resources and		
25	natural advantages of West Vir-		
26	ginia	75,375.00	75,375.00
27	For carrying out the provisions of		
28	law relating to plant diseases		
29	and control of corn borer, in-		
30	cluding nursery and sire regis-		
31	tration—PAYABLE OUT OF		
32	COLLECTIONS	4,000.00	4,000.00
33	For carrying out the provisions of		
34	law relating to pure seeds, com-		
35	mmercial fertilizer and feeding		
36	stuffs — PAYABLE OUT OF		
37	COLLECTIONS	18,000.00	18,000.00
38	For carrying out the provisions of		
39	law relating to inspection of		
40	fruits, vegetables, potatoes, eggs,		
41	truck crops and livestock—		
42	PAYABLE OUT OF COLLEC-		
43	TIONS	25,000.00	25,000.00
44	For carrying out the provisions of		
45	House Bill one hundred thirty-		
46	five, one thousand nine hundred		
47	thirty-one legislature, relating		
48	to regulating the weighing, test-		
49	ing, buying and selling of milk		
50	and cream — PAYABLE OUT		
51	OF COLLECTIONS	5,000.00	5,000.00

State Tax Commissioner's Office

GENERAL OFFICE

	Sec. 14. To pay salaries of		
2	clerks, stenographers and assist-		
3	ants, current general and trav-		
4	eling expenses, including ex-		
5	penses in connection with secur-		
6	ing proper assessment of prop-		
7	erty, compilation of returns and		
8	apportionment of valuations of		
9	public utilities	25,000.00	25,000.00
10	All forfeitures and license taxes		

11 collected by the State Tax Com-
12 missioner, or his agents, under
13 and by virtue of the authority
14 granted by law, shall be paid
15 into the treasury. All neces-
16 sary salaries, expenses, com-
17 missions and attorneys' fees
18 authorized by law for the col-
19 lection of same shall be paid by
20 the Tax Commissioner through
21 the State treasury out of the
22 gross collections. Any part of
23 such forfeitures that may from
24 time to time be due the State
25 or any county, district or mu-
26 nicipality shall be distributed
27 through the State treasury by
28 the Tax Commissioner upon the
29 basis provided by law by secur-
30 ing State checks for said pur-
31 poses and such amounts are
32 hereby appropriated. A suffi-
33 cient amount of the aforesaid
34 moneys collected and paid into
35 the State treasury is hereby ap-
36 propriated to pay the salaries,
37 expenses, commissions or fees
38 authorized by law, and it shall
39 be the duty of the Auditor and
40 Treasurer to keep a separate
41 account of the receipts and dis-
42 bursements of such funds.

REVENUE DEPARTMENT

43 To pay all expenses, including
44 salaries, traveling and current
45 general expenses to carry out
46 the provisions of Com. Sub. for
47 Senate Bill No. 1, relating to the
48 raising of additional revenue
49 and the law relating to Pro-
50 hibition Permits and Non-

51	Intoxicating Beer	100,000.00	100,000.00
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ACCOUNTING DEPARTMENT

52	Salary of chief accountant.....	4,800.00	4,800.00
53	Expenses of uniform system of		
54	accounting, including compensa-		
55	tion of assistants, stenographers		
56	and other expenses	7,500.00	7,500.00
57	Expenses of auditing state de-		
58	partments and compiling finan-		
59	cial reports	10,000.00	10,000.00

Department of Mines

2	Sec. 15. Salary of chief clerk ..	2,400.00	2,400.00
3	Salaries of clerks and stenogra-		
4	phers	4,800.00	4,800.00
5	Salaries of inspectors	52,800.00	52,800.00
6	Salaries of safety director and		
7	assistants	7,800.00	7,800.00
8	Compensation of mine rescue		
9	teams	4,500.00	4,500.00
10	Maintenance of rescue stations ...	6,000.00	6,000.00
11	Traveling expenses chief, in-		
12	spectors and safety directors	24,000.00	24,000.00
	Current general expenses	2,500.00	2,500.00

Commissioner of Banking

2	Sec. 16. To pay salaries of ex-		
3	aminers, secretary, stenograph-		
4	ers and assistants, traveling ex-		
5	pense of commissioner, exami-		
6	ners and assistants and current		
	general expenses	47,175.00	47,175.00

Bureau of Labor and Department of Weights and Measures

2	Sec. 17. Salary of chief clerk..	2,400.00	2,400.00
3	Salaries of assistants and stenog-		
4	raphers, Bureau of Labor and		
5	Department of Weights and		
6	Measures	1,500.00	1,500.00
7	Current general expenses of the		
	Department of Weights and		

8	Measures	1,125.00	1,125.00
9	Current general expenses of the		
10	Bureau of Labor	1,125.00	1,125.00
11	Salaries of factory inspectors.....	9,000.00	9,000.00
12	Traveling expenses of the Com-		
13	missioner of Labor and factory		
14	inspectors	5,250.00	5,250.00
15	Salaries of two inspectors of		
16	weights and measures	3,600.00	3,600.00
17	Traveling expenses of two inspec-		
18	tors of weights and measures....	2,250.00	2,250.00

Department of Archives and History

	Sec. 18. To pay salaries of li-		
2	brarian, clerks, stenographers		
3	and other assistants, including		
4	current general expenses, pur-		
5	chase of books, periodicals, mag-		
6	azines and newspapers.....	7,500.00	7,500.00

State Health Department

	Sec. 19. To pay salaries, cur-		
2	rent general expenses and for		
3	the purchase of typhoid, small-		
4	pox and other vaccine serums		
5	for general distribution upon		
6	the order of the public health		
7	commissioner and to aid in		
8	establishing and carrying on		
9	county health work	100,000.00	100,000.00
10	Salaries and current general ex-		
11	penses—PAYABLE OUT OF		
12	COLLECTIONS	7,500.00	7,500.00
13	<i>Provided, however, That after the</i>		
14	<i>payment of necessary salaries</i>		
15	<i>and expenses, any part of this</i>		
16	<i>sum may be used and expended</i>		
17	<i>by the State Department of</i>		
18	<i>Health in cooperation with the</i>		
19	<i>departments of the Federal Gov-</i>		
20	<i>ernment.</i>		

Capitol Building and Grounds

2	Sec. 20. For water, light, heat,		
3	current expenses, other than re-		
3	pairs and improvement.....	35,000.00	35,000.00
4	Repairs and improvements.....	2,500.00	2,500.00

Governor's Mansion and Grounds

2	Sec. 21. Current general ex-		
3	penses, including expenses of of-		
3	ficial functions	5,250.00	5,250.00
4	Repairs, improvements, furnish-		
5	ings, gas, water and electricity	3,750.00	3,750.00

Labor Funds, Capitol Building

2	Sec. 22. Salaries of engineers,		
3	watchmen, janitors, charwomen.		
3	elevator and telephone oper-		
4	ators	45,000.00	45,000.00

Militia

2	Sec. 23. To carry into effect		
3	the provisions of law relating		
4	to the Militia. Armory rentals,		
5	repairs and equipment, light,		
6	heat, water, caretaker and jani-		
6	tor service	46,000.00	46,000.00
7	All other expenditures for Militia	42,000.00	42,000.00
8	All other expenditures for Militia		
9	—PAYABLE OUT OF COL-		
10	LECTIONS	5,000.00	5,000.00

Department of Public Welfare

GENERAL ADMINISTRATION

2	Sec. 24. Salaries of chief clerk,		
3	clerical force, traveling and		
3	current general expenses.....	6,000.00	6,000.00

DIVISION OF CRIPPLED CHILDREN

4	Hospitalization, care, treatment		
5	and transportation of physically		
6	handicapped children, including		
7	traveling expenses, cost of ad-		

8	ministration, casts, braces, shoes,		
9	physiotherapy, field nursing		
10	service, diagnostic clinics, spe-		
11	cialists' services and similar		
12	items	90,000.00	90,000.00

Note: Not more than 8% of the above shall be used for administration expenses; and not more than \$5,000.00 for physiotheraph.

DIVISION OF DEPENDENT CHILDREN

13	Salaries of chief of division, field		
14	agents and clerical force;		
15	traveling and current general		
16	expenses	29,750.00	29,750.00

DIVISION OF VETERANS' AFFAIRS

17	Salary of chief of division.....	2,400.00	2,400.00
18	Salaries assistant and clerical		
19	force; current general and		
20	traveling expenses	3,750.00	3,750.00

DIVISION OF INDIGENT CHILDREN

21	To provide food, clothing and		
22	maintenance for indigent chil-		
23	dren, no part of this appropria-		
24	tion to be used for administra-		
25	tion expenses	15,000.00	15,000.00

State Sinking Fund Commission

Sec. 25. Salary of assistant

2	secretary	2,220.00	2,220.00
3	Salary of accountant.....	2,160.00	2,160.00
4	Salary of bookkeeper.....	1,800.00	1,800.00
5	Salary of stenographer.....	1,200.00	1,200.00
6	Current general expenses.....	900.00	900.00

State Water Commission

Sec. 26. Current general and

2	traveling expenses, including		
3	compensation of necessary as-		
4	stants	3,750.00	3,750.00

Bureau of Negro Welfare and Statistics

2	Sec. 27. To pay for clerk hire..	1,890.00	1,890.00
3	Current general and traveling ex-		
3	penses	1,500.00	1,500.00

Criminal Charges

2	Sec. 28. To pay criminal		
3	charges, including transporta-		
4	tion of prisoners and extradition		
4	of criminals and fugitives.....	125,000.00	125,000.00

Publication of Delinquent Lists

2	Sec. 29. To pay cost of pub-		
3	lishing list of delinquent cor-		
4	porations as provided by law,		
5	payable on requisition of Gov-		
5	ernor or Auditor.....	375.00	375.00

State Aid for Agricultural Fairs or Associations

2	Sec. 30. To carry out the pro-		
3	visions of law, providing for		
4	State aid for the encouragement		
5	of agricultural fairs to be paid		
6	on approval of Governor and		
6	Commissioner of Agriculture....	5,625.00	5,625.00
7	<i>Provided, That one thousand</i>		
8	<i>six hundred dollars for each</i>		
9	<i>year shall be distributed to</i>		
10	<i>such fairs as may be desig-</i>		
11	<i>nated by the department of agri-</i>		
12	<i>culture as Four-H regional fairs.</i>		
13	<i>Provided, however, That of the</i>		
14	<i>remainder not more than twelve</i>		
15	<i>hundred dollars each year shall</i>		
16	<i>be paid to any one agricultural</i>		
17	<i>fair or association.</i>		

Emergency Appropriation

2	Sec. 30-A. To meet emergencies		
3	that arise during the time that		
3	the Legislature is not in ses-		

<p>4 sion to be disbursed on the order 5 of the Governor</p>	<p>125,000.00</p>	<p>125,000.00</p>
<p>6 <i>Provided</i>, That upon the necessity 7 of the use of the fund in case 8 the appropriation for the first 9 year becomes exhausted, the 10 Governor shall have the right to 11 draw upon the appropriation 12 herein made for the second year, 13 and in case the appropriation 14 for the first year be not ex- 15 pended, it shall automatically 16 become accessible during the 17 second year.</p>		
<p>18 It shall be unlawful for any State 19 board, commission, officer or 20 employee to incur any liability 21 during any fiscal year, which 22 cannot be paid out of the then 23 current year appropriation or 24 out of funds received from the 25 emergency appropriation.</p>		
<p>26 It shall be unlawful for any State 27 board, commission, officer or 28 employee to authorize or to pay 29 any account or bill incurred out 30 of the appropriation for the fol- 31 lowing year, unless a sufficient 32 amount of the appropriation for 33 the fiscal year, during which the 34 liability was incurred, was can- 35 celled by expiration or a suffi- 36 cient amount of the appropria- 37 tion remained unexpended at 38 the end of the year.</p>		
<p>39 Any member of a State board or 40 commission, or any officer or 41 employee violating the provi- 42 sions of this section shall be per- 43 sonally liable for any debt un- 44 lawfully incurred or for any 45 payment unlawfully made.</p>		

Secondary Roads

2	Sec. 30-B. To supplement the		
3	State Road Fund to meet the		
4	requirements of law relating to		
5	secondary roads	1,800,000.00	1,800,000.00
6	The above appropriation to be		
7	transferred to the State Road		
8	Fund on the requisition of the		
9	Governor at such times and in		
10	such amounts as the receipts of		
11	the State Fund—General Reve-		
12	nue will, in the opinion of the		
	Governor, permit.		

State Aid to Local Schools

2	Sec. 30-C. To supplement the		
3	General School Fund to meet		
4	the requirement of law relating		
5	to state aid or maintenance of		
6	local schools. For the purpose		
7	of paying four months teachers'		
8	salaries and for equalization		
9	fund purposes	5,500,000.00	5,500,000.00
10	The above appropriation to be		
11	transferred to the General		
12	School Fund on the requisition		
13	of the Governor at such times		
14	and in such amounts as the re-		
15	ceipts of the State Fund—		
16	General Revenue will, in the		
17	opinion of the Governor, per-		
	mit.		

JUDICIARY DEPARTMENT

Supreme Court of Appeals

2	Sec. 31. Salary of the clerk.....	4,800.00	4,800.00
3	Salary of deputy clerk.....	3,000.00	3,000.00
4	Salary of assistant clerk.....	1,620.00	1,620.00
5	Salaries of five law clerks.....	12,500.00	12,500.00
6	Per diem of the crier.....	950.00	950.00
	Compensation of stenographers for		

7	the judges of the Supreme		
8	Court of Appeals.....	3,600.00	3,600.00
9	Mileage of the Supreme Court		
10	judges	250.00	250.00
11	Current general expenses of the		
12	Supreme Court	2,500.00	2,500.00
13	Printing and binding Supreme		
14	Court reports	5,250.00	5,250.00
15	For expenses of conducting ex-		
16	amination of applicants to prac-		
17	tice law, including traveling ex-		
18	penses and per diem of the		
19	members of the examining		
20	board, to be paid on the order		
21	of the president of the examin-		
22	ing board	1,000.00	1,000.00
23	Salary of State Law Librarian.....	2,550.00	2,550.00
24	Current general expenses and		
25	clerk hire, law library.....	1,800.00	1,800.00
26	Purchase and binding books for		
27	State law library.....	3,000.00	3,000.00

Circuit Courts

	Sec. 32. Compensation of special		
2	judges of the circuit courts.....	3,750.00	3,750.00
3	Mileage of the judges of the cir-		
4	cuit courts	1,875.00	1,875.00
5	Allowance for stenographic work,		
6	stationery and postage, as pro-		
7	vided by law.....	10,500.00	10,500.00
8	Allowance for food and lodging		
9	while holding court in a county		
10	other than that in which the		
11	judge resides, as provided by		
12	law	3,500.00	3,500.00

Sec. 33. The Board of Public Works is hereby authorized to transfer to the State Sinking Fund Commission the amount necessary to meet interest and sinking fund requirements for any bond issue administered by said commission, and for which said commission does not have available funds for said purposes on account of the failure of the local taxing dis-

7 trict to remit necessary funds due to failure of the local de-
 8 pository or otherwise; said amounts are hereby appropriated
 9 as may be necessary for years ending June 30, 1933, 1934 and
 10 1935. The amounts so transferred are to be repaid by the
 11 State Sinking Fund Commission with interest at the rate
 12 carried by the bonds for which the advancement was made out
 13 of funds received from the local taxing district at the time of
 14 collecting future interest and sinking fund levies.

SUB-SECTION "B"

Sec. 34. All appropriations appearing under "Sub-Section
 2 'B'" are payable only on the requisition and approval of the
 3 West Virginia Board of Control.

Sec. 35. No part of any appropriation in "Sub-Section
 2 'B'" shall be used in payment for land unless the appropria-
 3 tion specifically authorizes said payment.

4 No part of any appropriation in "Subsection 'B'" for "Cur-
 5 rent General Expenses" or "Repairs and Improvements" shall
 6 be used to supplement a specific appropriation for salaries.

EXECUTIVE DEPARTMENT

West Virginia Board of Control

Sec. 36. To pay salaries of sec- 2 retary; purchasing agent, di- 3 rector of building construction, 4 chief clerk printing department, 5 bookkeeper, stenographers and 6 other assistants, current gen- 7 eral and traveling expenses.....	38,734.00	38,734.00
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Printing, Binding and Stationery

Sec. 37. For printing, binding, 2 stationery and storage.....	41,250.00	41,250.00
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3 The West Virginia Board of Con-
 4 trol is hereby authorized to de-
 5 termine the necessity and ad-
 6 visability of all expenditures for
 7 printing, binding, stationery
 8 and storage, except where the
 9 same is specifically required by
 10 law.

Huntington State Hospital

Sec. 38. Current general ex-		
2 penses	83,000.00	83,000.00
3 Current general expenses—PAY-		
4 ABLE OUT OF COLLEC-		
5 TIONS	50,000.00	50,000.00
6 Repairs and improvements.....	6,000.00	6,000.00

Spencer State Hospital

Sec. 39. Current general ex-		
2 penses	81,000.00	81,000.00
3 Current general expenses—PAY-		
4 ABLE OUT OF COLLEC-		
5 TIONS	19,000.00	19,000.00
6 Repairs and improvements.....	3,000.00	3,000.00

Weston State Hospital

Sec. 40. Current general ex-		
2 penses	187,500.00	187,500.00
3 Current general expenses—PAY-		
4 ABLE OUT OF COLLEC-		
5 TIONS	26,000.00	26,000.00
6 Repairs and improvements.....	15,000.00	15,000.00
7 New boiler	5,000.00	5,000.00

West Virginia Training School

Sec. 41. Current general ex-		
2 penses	21,250.00	21,250.00
3 Current general expenses—PAY-		
4 ABLE OUT OF COLLEC-		
5 TIONS	3,000.00	3,000.00
6 Repairs and improvements.....	1,700.00	1,700.00

Lakin State Hospital

Sec. 42. Current General ex-		
2 penses	50,000.00	50,000.00
3 Current general expenses—PAY-		
4 ABLE OUT OF COLLEC-		
5 TIONS	7,500.00	7,500.00
6 Repairs and improvements.....	1,000.00	1,000.00

Welch Emergency Hospital

2	Sec. 43. Current general ex-		
	penses	20,000.00	20,000.00
3	Current general expenses—PAY-		
4	ABLE OUT OF COLLEC-		
5	TIONS	25,000.00	25,000.00
6	Repairs and improvements.....	1,000.00	1,000.00

McKendree Emergency Hospital

2	Sec. 44 Current general ex-		
	penses	15,000.00	15,000.00
3	Current general expenses—PAY-		
4	ABLE OUT OF COLLEC-		
5	TIONS	15,000.00	15,000.00
6	Repairs and improvements.....	2,000.00	2,000.00

Fairmont Emergency Hospital

2	Sec. 45. Current general ex-		
	penses	20,000.00	20,000.00
3	Current general expenses—PAY-		
4	ABLE OUT OF COLLEC-		
5	TIONS	15,000.00	15,000.00
6	Repairs and improvements.....	1,000.00	1,000.00
7	Treatment of girls committed to		
8	the West Virginia Industrial		
9	Home for Girls who are afflicted		
10	with infectious diseases.....	1,875.00	1,875.00

Emergency Hospital Service

2	Sec. 45-A. For the treatment of		
3	laborers and others who may be		
4	come public charges, to be paid		
5	upon approval of the West Vir-		
6	ginia Board of Control in the		
7	manner hereinafter set forth....	25,000.00	25,000.00
8	October 1, 1933, and every three		
9	months thereafter any hospital,		
10	other than state hospitals, with-		
11	in the state and doing charity		
12	work, may file with the West		
	Virginia Board of Control item-		

13 ized bills for all charity cases
14 treated during the preceding
15 three months, said bills to be
16 made out in the form prescrib-
17 ed by and at the rates fixed by
18 said board. Sixty days shall
19 be allowed for filing said bills
20 after which time the Board of
21 Control shall audit the same and
22 pay all proper claims. If, how-
23 ever, the aggregate of all claims
24 filed exceeds one-fourth of the
25 amount appropriated for the
26 year then said board shall ap-
27 portion the said one-fourth ap-
28 propriated so that each claim
29 will receive its pro rata share,
30 provided however that no claim
31 for treatment of a charity case
32 shall be considered by the West
33 Virginia Board of Control un-
34 less said board has received
35 notice from the hospital at the
36 time of receiving the charity
37 patient, said notice to be on
38 forms prescribed by the Board
39 of Control and to contain such
40 information as may be required
41 under rules and regulations of
42 the West Virginia Board of
43 Control. This appropriation
44 to be expended on order of the
45 West Virginia Board of Control,
46 under rules and regulations pre-
47 scribed by said board, which
48 board is authorized to limit the
48-a number of patients that may be
49 received as charity cases by any
50 one hospital.

Hopemont Sanitarium

2	Sec. 46. Current general ex-		
3	penses	100,000.00	100,000.00
4	3 Current general expenses—PAY-		
5	4 ABLE OUT OF COLLEC-		
6	5 TIONS	116,000.00	116,000.00
	6 Repairs and improvements.....	8,000.00	8,000.00

Rutherford Sanitarium

2	Sec. 47. Current general ex-		
3	penses	40,000.00	40,000.00
4	3 Current general expenses—PAY-		
5	4 ABLE OUT OF COLLEC-		
6	5 TIONS	33,000.00	33,000.00
	6 Repairs and improvements.....	1,000.00	1,000.00

Denmar Sanitarium

2	Sec. 48. Current general ex-		
3	penses	16,875.00	16,875.00
4	3 Current general expenses—PAY-		
5	4 ABLE OUT OF COLLEC-		
6	5 TIONS	21,000.00	21,000.00
	6 Repairs and improvements.....	2,500.00	2,500.00

Tuberculosis Field Clinic Service

2	Sec. 49. For payment of ex-		
3	penses of tuberculosis field clinic		
4	3 service in cooperation with a		
5	4 like expenditure by West Vir-		
6	5 ginia Tuberculosis and Health		
7	6 Association and its county		
	7 agencies	7,500.00	7,500.00

Treatment of Tuberculosis

2	Sec. 49-A. For the care and		
3	treatment of persons afflicted		
4	3 with tuberculosis, residents of		
5	4 West Virginia, who may become		
6	5 public charges, admitted to a		
7	6 sanitarium under regulations		
	7 prescribed by the West Virginia		

8	Board of Control.....	15,000.00	15,000.00
	<i>West Virginia Industrial School for Boys</i>		
	Sec. 50. Current general ex-		
2	penses	60,000.00	60,000.00
3	Current general expenses—PAY-		
4	ABLE OUT OF COLLEC-		
5	TIONS	17,000.00	17,000.00
6	Repairs and improvements.....	5,000.00	5,000.00
7	To pay Lelia Arnett, widow of U.		
8	G. Arnett, killed by an inmate		
9	while in line of duty, to be paid		
10	in monthly installments.....	600.00	600.00
11	To pay George A. Barnard, em-		
12	ployee, permanently, totally dis-		
13	abled by an inmate while in line		
14	of duty, to be paid in monthly		
15	installments	600.00	600.00
16	To pay Walter Crawford in full		
17	compensation for all claims he		
18	may now or hereafter have on		
19	account of loss of leg while an		
20	inmate of the West Virginia In-		
21	dustrial School for Boys, or any		
22	injuries resulting therefrom, the		
23	West Virginia Board of Control		
24	before disbursing said money to		
25	secure a release in full from said		
26	Walter Crawford (House Bill		
27	No. 275)	2,500.00	2,500.00
28	<i>Provided</i> , That this money shall		
29	be turned over to a committee,		
30	to be appointed by the county		
31	court of the county of which		
32	said Walter Crawford is a resi-		
33	dent, to be by such committee		
34	administered for his mainten-		
35	ance and necessities, as said		
36	court may deem best.		

West Virginia Industrial School for Colored Boys

2	Sec. 51. Current general ex- penses	18,750.00	18,750.00
3	Current general expenses—PAY-		
4	ABLE OUT OF COLLEC-		
5	TIONS	5,000.00	5,000.00
6	Repairs and improvements.....	1,000.00	1,000.00

West Virginia Industrial Home for Girls

2	Sec. 52. Current general ex- penses	25,000.00	25,000.00
3	Current general expenses—PAY-		
4	ABLE OUT OF COLLEC-		
5	TIONS	9,000.00	9,000.00
6	Repairs and improvements.....	1,000.00	1,000.00

West Virginia Industrial Home for Colored Girls

2	Sec. 53. Current general ex- penses	11,225.00	11,225.00
3	Current general expenses—PAY-		
4	ABLE OUT OF COLLEC-		
5	TIONS	1,775.00	1,775.00
6	Repairs and improvements.....	500.00	500.00

West Virginia Children's Home

2	Sec. 54. Current general ex- penses	15,300.00	15,300.00
3	Current general expenses—PAY-		
4	ABLE OUT OF COLLEC-		
5	TIONS	4,500.00	4,500.00
6	Repairs and improvements.....	1,500.00	1,500.00
7	To construct sewer in cooperation		
8	with the city of Elkins.....	1,000.00	.....

West Virginia Colored Children's Home

2	Sec. 55. Current general ex- penses	8,925.00	8,925.00
3	Current general expenses—PAY-		
4	ABLE OUT OF COLLEC-		
5	TIONS	2,000.00	2,000.00
6	Repairs and improvements.....	500.00	500.00

West Virginia Home for Aged and Infirm Colored Men and Women

2	Sec. 56. Current general expenses	8,000.00	8,000.00
3	Current general expenses—PAY-		
4	ABLE OUT OF COLLEC-		
5	TIONS	14,000.00	14,000.00

West Virginia Geological Survey

2	Sec. 57. To pay salaries and current general expenses.....	15,000.00	15,000.00
3	Current general expenses—PAY-		
4	ABLE OUT OF COLLEC-		
5	TIONS	1,000.00	1,000.00

Point Pleasant Battle Monument Commission

2	Sec. 58. Maintenance, Tu-Endie-Wei Park	600.00	600.00
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Berkeley Springs Sanitarium

2	Sec. 59. Repairs and improvements including cost of sewer		
3	on State property.....	1,500.00	1,500.00
4	Current general expenses—PAY-		
5	ABLE OUT OF COLLEC-		
6	TIONS	8,000.00	9,000.00
7	The West Virginia Board of Control is hereby authorized to expend out of the appropriation for repairs and improvement for the fiscal year ending June 30, 1933 not to exceed \$1,500.00 for the purchase of land.		

Rumseyan Society

2	Sec. 60. For maintenance of grounds at Shepherdstown.....	100.00	100.00
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Droop Mountain Battle Monument Commission

2	Sec. 61. Maintenance of Droop Mountain Battle Field.....	100.00	100.00
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Florence Crittendon Home (Wheeling)

2	Sec. 62. For the care and treat-		
3	ment of wayward girls and their		
4	children, residents of West Vir-		
5	ginia, who may become public		
6	charges, admitted under regu-		
7	lations prescribed by the West		
	Virginia Board of Control.....	3,000.00	3,000.00

Morgan Morgan Memorial Commission

	Sec. 62-A. Maintenance of Park	25.00	25.00
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West Virginia Penitentiary

2	Sec. 63. Current general ex-		
3	penses	150,000.00	150,000.00
4	Current general expenses—PAY-		
5	ABLE OUT OF COLLEC-		
6	TIONS	125,000.00	125,000.00
7	Repairs and improvements.....	15,000.00	15,000.00
8	To build wall to enclose additional		
9	land to increase size of interior		
10	of penitentiary		25,000.00
11	Any balances remaining in former		
12	appropriations made for this		
13	new wall are hereby re-appropri-		
14	ated for expenditure during the		
15	biennium beginning July 1,		
16	1933.		
17	In the event the amount collected		
18	and paid into the treasury to		
19	the credit of the Current Gen-		
20	eral Expense Fund, payable out		
21	of collections, does not aggre-		
22	gate \$125,000, by reason of the		
23	operations of the proposed		
24	Hawes-Cooper Bill, or by reason		
25	of failure to utilize prison labor		
26	for road work at the present		
27	per diem of forty-five cents, or		
28	the inability of the State to con-		
	tract its prison labor to the ex-		

29 tent now contracted, then there
 30 is hereby authorized, payable
 31 out of general revenues of the
 32 state, an amount sufficient to
 33 cover the losses caused by any
 34 of the aforesaid contingencies.

State Department of Public Safety

Sec. 64. To pay the expenses of
 2 the Department of Public
 3 Safety, including the compen-
 4 sation of the officers, employees
 5 and members, and all other
 6 expenses 300,000.00 300,000.00

7 Any member of the department
 8 of public safety who has been
 9 or may hereafter be injured
 10 while in the line of duty in the
 11 services of the state shall be
 12 entitled to receive such com-
 13 pensation for such period of
 14 time as determined and fixed
 15 by the West Virginia Board of
 16 Control:

17 *Provided, however,* That such
 18 compensation shall not exceed
 19 the rate of compensation receiv-
 20 ed at the time of injury, payable
 21 out of the foregoing appropria-
 22 tion.

23 *Provided, however,* That the fore-
 24 going appropriation may be used
 25 to pay hospital and surgical
 26 treatment of troopers injured
 27 while in line of duty and to pay
 28 premiums on group insurance
 29 for members of department.

West Virginia University

Sec. 65. Salaries of officers,
 2 teachers and employees..... 467,000.00 467,000.00

3	Salaries of officers, teachers and		
4	employees, including extension		
5	work—PAYABLE OUT OF		
6	COLLECTIONS	250,000.00	250,000.00
7	Current general expenses.....	150,000.00	150,000.00
8	Current general expenses—PAY-		
9	ABLE OUT OF COLLEC-		
10	TIONS	135,000.00	135,000.00
11	Library books.....	10,000.00	10,000.00
12	Repairs and improvements.....	30,000.00	30,000.00
13	To reimburse the West Virginia		
14	University Stadium Corpora-		
15	tion and West Virginia Uni-		
16	versity Athletic Committee for		
17	money advanced in construction,		
18	furnishings and equipment for		
19	men's field house at West Vir-		
20	ginia University \$61,931.32.		
21	Said amount is hereby authorized		
22	to be paid out of amount		
23	appropriated for current gen-		
24	eral expenses—PAYABLE OUT		
25	OF COLLECTIONS.		
26	<i>Provided, however,</i> That not more		
27	than one-half of the amount so		
28	collected shall be used for this		
29	purpose.		

University Extension Work

	Sec. 66. Mining and Indus-		
2	trial Extension.....	25,000.00	25,000.00
3	Agricultural, Horticultural and		
4	Home Economics Extension.....	50,000.00	50,000.00
5	To pay all expenses in cooperation		
6	with Federal Government in		
7	carrying out the provisions of		
8	Capper-Ketchum Federal Act		
9	for Boys and Girls' work.....	5,000.00	5,000.00
10	4-H Camp for boys and girls club		
11	work at Jackson's Mills.....	16,000.00	16,000.00
12	Repairs and improvements, Jack-		

13	son's Mills.....	1,000.00	1,000.00
14	For development of a state owned		
15	airport in cooperation with the		
16	Federal Government and estab-		
17	lishment of air condition re-		
18	porting system	3,000.00	3,000.00
19	Community Packing Plant, Cur-		
20	rent expenses, repairs and im-		
21	provement, Inwood	5,000.00	5,000.00
22	For expenses in cooperation with		
23	Oglebay Institute	3,000.00	3,000.00
24	For expenses in cooperation with		
25	the Federal Government in pro-		
26	visions of Clark-McNary Act		
27	(Forestry extension)	1,800.00	1,800.00
28	Community Egg Packing Plant—		
29	Current expenses, repairs and		
30	improvements	3,000.00	3,000.00

West Virginia Agricultural Experiment Station

	Sec. 67. Salaries of officers—		
2	technical staff and labor.....	24,000.00	24,000.00
3	Current general expense.....	12,000.00	12,000.00
4	Repairs and improvements.....	2,000.00	2,000.00
5	Live stock.....	500.00	500.00
6	Current general expenses, Rey-		
7	mann Memorial Farms.....	500.00	500.00
8	Repairs and improvements, Rey-		
9	mann Memorial Farms.....	250.00	250.00
10	Current general expenses and re-		
11	pairs and improvements, Uni-		
12	versity Experiment Farm, Jef-		
13	erson County	2,500.00	2,500.00

Marshall College

	Sec. 68. Salaries of officers,		
2	teachers and employees.....	150,000.00	150,000.00
3	Salaries of officers, teachers and		
4	employees — PAYABLE OUT		
5	OF COLLECTIONS	110,000.00	110,000.00
6	Current general expenses.....	25,000.00	25,000.00

7	Current general expenses—PAY-		
8	ABLE OUT OF COLLEC-		
9	TIONS	35,000.00	35,000.00
10	Repairs and improvements.....	4,000.00	4,000.00
11	Equipment and books for new		
12	library	3,000.00	3,000.00

Potomac State School, Keyser

	Sec. 69. Salaries of officers,		
2	teachers and employees.....	38,000.00	38,000.00
3	Salaries of officers, teachers and		
4	employees — PAYABLE OUT		
5	OF COLLECTIONS	9,000.00	9,000.00
6	Current general expenses.....	7,500.00	7,500.00
7	Current general expenses—PAY-		
8	ABLE OUT OF COLLEC-		
9	TIONS	6,000.00	6,000.00
10	Repairs and improvements.....	1,000.00	1,000.00

New River State College, Montgomery

	Sec. 70. Salaries of officers,		
2	teachers and employees.....	48,000.00	48,000.00
3	Salaries of officers, teachers and		
4	and employees — PAYABLE		
5	OUT OF COLLECTIONS.....	20,000.00	20,000.00
6	Current general expenses.....	8,500.00	8,500.00
7	Current general expenses—PAY-		
8	ABLE OUT OF COLLEC-		
9	TIONS	6,500.00	6,500.00
10	Repairs and improvements.....	1,000.00	1,000.00
11	Equipment and books for new		
12	library	1,500.00	1,500.00

Concord State Normal School

	Sec. 71. Salaries of officers,		
2	teachers and employees.....	50,000.00	50,000.00
3	Salaries of officers, teachers and		
4	employees — PAYABLE OUT		
5	OF COLLECTIONS	26,000.00	26,000.00
6	Current general expenses.....	10,000.00	10,000.00
7	Current general expenses—PAY-		

8	ABLE OUT OF COLLEC-		
9	TIONS	5,000.00	5,000.00
10	Repairs and improvements.....	1,000.00	1,000.00

Fairmont State Normal School

	Sec. 72. Salaries of officers,		
2	teachers and employees.....	80,000.00	80,000.00
3	Salaries of officers, teachers and		
4	employees — PAYABLE OUT		
5	OF COLLECTIONS	35,500.00	35,500.00
6	Current general expenses.....	12,000.00	12,000.00
7	Current general expenses—PAY-		
8	ABLE OUT OF COLLEC-		
9	TIONS	7,500.00	7,500.00
10	Equipment for new science hall....	3,000.00	3,000.00
11	Repairs and improvements.....	1,000.00	1,000.00

Glenville State Normal School

	Sec. 73. Salaries of officers,		
2	teachers and employees.....	44,000.00	44,000.00
3	Salaries of officers, teachers and		
4	employees — PAYABLE OUT		
5	OF COLLECTIONS	16,000.00	16,000.00
6	Current General expenses.....	8,000.00	8,000.00
7	Current general expenses—PAY-		
8	ABLE OUT OF COLLEC-		
9	TIONS	10,000.00	10,000.00
10	Equipment and books for new		
11	library	1,000.00	1,000.00
12	Repairs and improvements.....	1,000.00	1,000.00

Shepherd College State Normal School

	Sec. 74. Salaries of officers,		
2	teachers and employees.....	37,000.00	37,000.00
3	Salaries of officers, teachers and		
4	employees — PAYABLE OUT		
5	OF COLLECTIONS	12,000.00	12,000.00
6	Current general expenses.....	8,000.00	8,000.00
7	Current general expenses—PAY-		
8	ABLE OUT OF COLLEC-		
9	TIONS	10,000.00	10,000.00
10	Repairs and improvements	1,000.00	1,000.00

West Liberty State Normal School

Sec. 75. Salaries of officers,		
2	teachers and employees.....	39,000.00 39,000.00
3	Salaries of officers, teachers and	
4	employees — PAYABLE OUT	
5	OF COLLECTIONS	10,000.00 10,000.00
6	Current general expenses.....	8,000.00 8,000.00
7	Current general expenses—PAY-	
8	ABLE OUT OF COLLEC-	
9	TIONS	10,000.00 10,000.00
10	Laboratory equipment and books	
11	for new building.....	1,000.00 1,000.00
12	Repairs and improvements.....	1,000.00 1,000.00

West Virginia School for the Deaf and Blind

Sec. 76. Salaries of officers,		
2	teachers and employees.....	76,000.00 76,000.00
3	Current general expenses.....	50,000.00 50,000.00
4	Current general expenses—PAY-	
5	ABLE OUT OF COLLEC-	
6	TIONS	500.00 500.00
7	Repairs and improvements in-	
8	cluding fire escapes.....	8,000.00 8,000.00

West Virginia School for Colored Deaf and Blind

Sec. 77. Salaries of officers,		
2	teachers and employees.....	10,000.00 10,000.00
3	Salaries of officers, teachers and	
4	employees — PAYABLE OUT	
5	OF COLLECTIONS	250.00 250.00
6	Current general expenses.....	12,000.00 12,000.00
7	Repairs and improvements.....	1,000.00 1,000.00

West Virginia State College

Sec. 78. Salaries of officers,		
2	teachers and employees.....	90,000.00 90,000.00
3	Salaries of officers, teachers and	
4	employees — PAYABLE OUT	
5	OF COLLECTIONS	23,000.00 23,000.00
6	Current general expenses.....	28,000.00 28,000.00
7	Current general expenses—PAY-	

8	ABLE OUT OF COLLEC-		
9	TIONS	8,400.00	8,400.00
10	Repairs and improvements.....	6,000.00	6,000.00
11	Equipment for new building.....	2,000.00	2,000.00
12	West Virginia State College is		
13	hereby authorized to expend out		
14	of accumulated surplus in board		
15	and room fund for part cost of		
16	construction of ten or less homes		
17	for students and teachers, to be		
18	used for said purpose or to		
19	supplement loan from Recon-		
20	struction Finance Corporation		
21	of the United States, the sum of		
22	\$25,000.00.		

Bluefield State Teachers College

	Sec. 79. Salaries of officers,		
2	teachers and employees.....	37,000.00	37,000.00
3	Salaries of officers, teachers and		
4	employees — PAYABLE OUT		
5	OF COLLECTIONS	11,000.00	11,000.00
6	Current general expenses.....	8,000.00	8,000.00
7	Current general expenses—PAY-		
8	ABLE OUT OF COLLEC-		
9	TIONS	4,000.00	4,000.00
10	Repairs and Improvements.....	1,000.00	1,000.00
11	Library books.....	1,000.00	1,000.00

Storer College

	Sec. 80. Salaries of officers,		
2	teachers and employees, and re-		
3	pairs and improvements.....	12,000.00	12,000.00

Payment of Deficit

Sec. 80-B. Any surplus in the State's general revenues or
 2 whatever amount of general revenue is hereafter collected in
 3 excess of the amount appropriated for specific purposes, or in
 4 excess of the amount actually expended, is hereby appropriated
 5 for the purpose of paying interest on or the principal of any
 6 outstanding obligations of the State heretofore issued or here-

7 after issued on account of deficiency in the State's revenues
 8 heretofore created. (The amount hereby appropriated is esti-
 9 mated to be in excess of \$1,000,000.00 annually, based on esti-
 10 mated revenues under present business conditions).

SUB-SECTION "C"

Sec. 81. All appropriations appearing under subsection
 2 "C" are payable out of the General Revenue of the State Fund
 3 for the fiscal year ending June thirty, one thousand nine hun-
 4 dred thirty-three. Except appropriations in Section 84
 5 which are payable for the years one thousand nine hundred
 6 thirty-four and one thousand nine hundred thirty-five.

LEGISLATIVE DEPARTMENT

SENATE

Sec. 82. Mileage of the mem- 2 bers of the Senate for the regu- 3 lar session of one thousand 4 nine hundred thirty-three	1,000.30
5 Salaries of members of senate, 6 one thousand nine hundred 7 thirty-three	500.00
8 President of the Senate, two dol- 9 lars per day as presiding officer 10 for sixty-two days	124.00

Compensation and Per Diem of Other Elective Officers

11 Compensation of the Clerk of the 12 Senate	1,340.00
13 Compensation of the Sergeant at 14 Arms	643.20
15 Compensation of the Doorkeeper	643.20

Compensation of Presidential Appointees

16 One supervisor of stenographers	536.00
17 Eight floor stenographers	3,379.20
18 One mailing and banking clerk ..	428.80
19 Twenty committee clerks	7,660.00
20 Four document room clerks	1,488.00
21 One chief journal page	416.00
22 Two journal pages	720.00

23 One day watchman	360.00
24 One night watchman	380.00
25 Private secretary to the President	780.00
26 Stenographer to the President	643.20
27 Messenger to the President	300.00
28 Clerk to the Committee on	
29 Finance	643.20
30 Stenographer to the Committee	
31 on Finance	536.00
32 Clerk to the Committee on the	
33 Judiciary	624.00
34 Stenographer to the Committee	
35 on the Judiciary	536.00
36 Private secretary to the minority	
37 leader	804.00
38 Ladies' maid	300.00
39 Messenger to the Committee on	
40 Finance	300.00
41 Messenger to the Committee on	
42 the Judiciary	310.00
43 Chaplain	300.00
44 Two assistant Sergeants at Arms	832.00
45 Two assistant doorkeepers	832.00
46 Six floor pages	1,830.00
47 Two cloakroom attendants	600.00
48 Clerk to the Sergeant at Arms	428.80
49 Four mailing room clerks	1,476.00

Clerk's Appointees

50 One assistant clerk	684.00
51 Six assistant clerks	3,840.00
52 Seven assistant clerks	3,333.60
53 Thirteen assistant clerks	5,484.80
54 Joint supervisor of printing	
55 (Senate's part)	310.00
56 Messenger	310.00

Janitor Service

57 Superintendent of Capitol build-	
58 ing and five assistants	1,408.00
59 To pay Charles Lively for edit-	

60	ing, compiling and publishing	
61	the "West Virginia Legislative	
62	Hand Book and Manual and	
63	Official Register" under the	
64	same provisions as to distribu-	
65	tion as were adopted in the	
66	session of one thousand nine	
67	hundred and twenty-one, in-	
68	cluding all expenses incurred	
69	in the employment of contribu-	
70	tors, preparation of matter,	
71	clerical hire, stenographic serv-	
72	ices and proof reading, and for	
73	shipping charges in connection	
74	with the distribution of the	
75	book; which distribution shall	
76	include fifty copies each to	
77	members of the legislature;	
78	For the fiscal year ending June	
79	thirty, one thousand nine hun-	
80	dred and thirty-four	10,000.00
81	For the fiscal year ending June	
82	thirty, one thousand nine hun-	
83	dred and thirty-five	8,000.00
84	After the distribution provided	
85	for in the acts of one thousand	
86	nine hundred and twenty-one	
87	above referred to, or by further	
88	resolution of the legislature	
89	the remainder of the edition	
90	shall be sold by the superinten-	
91	dent of public printing to per-	
92	sons desiring to purchase the	
93	same at the price of three dol-	
94	lars per volume.	
95	Contingent fund of the Senate ..	30,000.00
96	Senate's part of expenses of Com-	
97	mittee on Efficiency and Econ-	
98	omy, raised under Senate con-	
99	current resolution number five	1,636.59
100	To reimburse governor's contin-	

101	gent fund for amount ad-	
102	vanced to Committee on Effi-	
103	ciency and Economy	450.00
104	To pay Senate's part of expenses	
105	of special committee raised	
106	under House concurrent reso-	
107	lution number fifteen (Hinton	
108	bridge)	632.73

Miscellaneous Appropriations

109	To pay the following named per-	
110	sons and firms for supplies fur-	
111	nished and services rendered,	
112	regular session one thousand	
113	nine hundred thirty-three:	
114	Clutter Typewriter Company,	
115	rentals typewriters, etc.	186.00
116	Laird Office Equipment Com-	
117	pany, supplies, etc.	516.18
118	C. W. Wendell, stapling machines	39.00
119	Evatype Rubber Stamp Company	19.95
120	Smith and Brooks, supplies	54.40
121	J. E. and F. L. Thomas, supplies	
122	and stationery	332.93
123	S. Spencer Moore Company,	
124	supplies	394.78
125	Underwood Elliott Fisher Com-	
126	pany, typewriter rental	53.40
127	Remington Rand Company,	
128	rental tables and typewriters ..	26.00
129	Annin and Company, flags	17.67
130	E. Lee Hollahan, typewriting	
131	supplies	15.00
132	Mock Orange Mineral Water	
133	Company	34.20
134	Oakdale Spring Water Company	55.80
135	Myers Brothers, thermostat	16.75
136	Michie Company, annotated codes	210.00
137	Nelson Transfer Company,	
138	drayage	25.00
139	Charleston Cut Flower Company	28.17

140	B. Preiser Company, supplies	8.80
141	Kanawha Novelty Works, sup-	
142	plies	14.25
143	O. J. Morrison Department Store	2.38
144	Diamond Ice and Coal Company..	27.93
145	Thos. O. Laird Company	4.80
146	Swift and Company, soap	3.80
147	Charleston Towel Supply Com-	
148	pany	3.00
149	Chesapeake and Potomac Tele-	
150	phone Company	369.52
151	M. R. Mathews, P. M., stamps	1,107.50
152	Miles Carr, postage advanced	20.00
153	L. Javins, services	310.00
154	Bernard Williams, journal page	
155	for departments, etc.	360.00
156	Elmer Forte, janitor service	128.00
157	A. F. Suter, services fifteen days	90.00
158	The Clerk of the Senate is autho-	
159	rized to draw his warrant upon	
160	the Auditor, payable out of the	
161	contingent fund of the Senate,	
162	for any bills for supplies and	
163	services, upon the approval of	
164	the President of the Senate,	
165	that may have been incurred	
166	by the Senate and not included	
167	in the appropriation bill, and	
168	for bills for supplies and serv-	
169	ices incurred after adjourn-	
170	ment, the requisition for said	
171	bills to be accompanied by a	
172	bill for same to be filed with	
173	the Auditor.	

HOUSE OF DELEGATES

	Sec. 83. Mileage of members	
2	of the House of Delegates	3,096.10
3	Per diem of the Speaker at two	
4	dollars, including two days ex-	
5	tended session	124.00

6	Contingent fund of the House of	
7	Delegates	40,000.00
	<i>Compensation of Other Elective Officers</i>	
8	Compensation of the Clerk for	
9	services during the regular and	
10	extended sessions	1,240.00
11	Compensation of the Sergeant-at-	
12	Arms for services during the	
13	regular and extended sessions..	744.00
14	Compensation of the Doorkeeper	
15	for services during the regular	
16	and extended sessions	620.00
	<i>Compensation of Speaker's Appointees</i>	
17	To pay per diem of attaches	
18	appointed by the Speaker	51,467.00
	<i>Compensation of Clerk's Appointees</i>	
19	To pay per diem of Clerk's	
20	appointees	2,460.00
	<i>Miscellaneous Appropriations</i>	
21	Addressograph Sales Agency,	
22	addressograph supplies	52.75
23	Brawley Hardware Co., step	
24	ladder	1.50
25	Clutter Typewriter Co., type-	
26	writer rental and supplies	151.10
27	Charleston Towel Supply Co.,	
28	towel service	10.73
29	Chesapeake and Potomac Tele-	
30	phone Co., telephone service	342.43
31	Coyle and Richardson, vacuum	
32	cleaner	79.20
33	Diamond Ice and Coal Company,	
34	ice	55.80
35	Evatype Rubber Stamp Co.,	
36	rubber stamps	18.50
37	A. E. Harmon, engrossing com-	
38	missions of elective state officers	22.50
39	E. L. Hollahan, typewriter sup-	
40	plies	15.00

41	Jordan Cab Co., taxi service	37.00
42	H. R. Judy, keys and repairs	4.00
43	R. H. Kyle and Co., supplies, etc.	73.05
44	Kanawha Novelty Works, keys	19.55
45	Laird Office Equipment Co., fur-	
46	niture and office supplies	2,120.52
47	Lane and Sons, repairing fur-	
48	niture	16.00
49	Mock Orange Mineral Water Co.,	
50	water	4.80
51	S. Spencer Moore Co., furniture,	
52	office supplies and rentals	2,701.46
53	Michie Company, twelve codes ..	240.00
54	Meyers Brothers, thermostat	16.75
55	Pugh Furniture Co., carpet	246.95
56	Smith-Brooks Co., supplies	124.35
57	J. E. and F. L. Thomas, office	
58	supplies	121.15
59	Underwood-Elliot Fisher Co.,	
60	typewriter rental	259.65
61	Woodrum Home Outfitting Co.,	
62	carpet	71.50
63	C. W. Wendell, stapling machines	16.50
64	Western Union, telegram .....	.50
65	To pay Joe Leonard, janitor serv-	
66	ices preliminary and subse-	
67	quent to opening of session	4.00
68	To pay Theodore Ayers, same	4.00
69	To pay Rubin Dasper, same	22.00
70	To pay Bill Arnold, same	28.00
71	To pay Edward Tillman, same	20.00
72	To pay B. S. Carney, two days	
73	services subsequent to adjourn-	
74	ment of session	4.00
75	To pay C. W. Hart, same	8.00
76	To pay Charles Havior, same	8.00
77	To pay James Jackson, same	8.00
78	To pay Sam White, same	8.00
79	To pay W. J. Wormly, same	8.00
80	To pay B. S. Carney, Superin-	
81	tendent of capitol buildings	

82	and grounds	124.00
83	To pay expense of special com-	
84	mittee to attend funeral of	
85	father of Delegate Carden	75.00
86	To pay Hal DePue, ex-Sergeant-	
87	at-Arms, services preliminary	
88	and subsequent to opening of	
89	session	150.00
90	To pay R. H. Kidd, Clerk 1931	
91	session, services preliminary	
92	and subsequent to opening of	
93	session	200.00
94	To pay Margaret Feinstein, serv-	
95	ices	180.00
96	To pay House of Delegates' part	
97	of expenses of special com-	
98	mittee, raised under H. C. R.	
99	No. 15, to investigate purchase	
100	of Hinton toll bridge	330.10
101	To pay expense of special com-	
102	mittee to investigate Public	
103	Utilities	1,750.60
104	To pay M. R. Matthews, post-	
105	master, stamps	2,019.50
106	To pay House of Delegates' part	
107	of expense of special committee	
108	on Efficiency and Economy,	
109	raised under S. C. R. No. 5	1,250.00
110	To pay expenses of Committee on	
111	Efficiency and Economy, in-	
112	curring since adjournment of	
113	the regular session	386.59
114	To reimburse the Governor's con-	
115	tingent fund for amount ad-	
116	vanced to committee on Effi-	
117	ciency and Economy	450.00
118	To pay Floyd Sibert, for services	189.00
119	To pay Ernest Crawford, for	
120	services	267.00
121	The Sergeant-at-Arms of the	
122	House of Delegates is autho-	

123 rized to draw his warrants
 124 upon the Auditor, payable out
 125 of the contingent fund of the
 126 House of Delegates, for any
 127 bills for supplies and services,
 128 upon the approval of the
 129 Speaker, that may have been
 130 incurred by the House of Dele-
 131 gates and not included in the
 132 appropriation bill, and for
 133 bills for supplies and services
 134 incurred after adjournment,
 135 the requisition for said bills to
 136 be accompanied by a bill for
 137 same to be filed with the
 138 auditor.

Salaries of Members of the Legislature

	1934	1935
Sec. 84. Salaries of members		
2 of the Senate.....	15,000.00	15,000.00
3 Salaries of members of the House		
4 of Delegates.....	47,000.00	47,000.00

Legislative Printing and Stationery

Section 85. To pay the cost of
 2 legislative printing and station-
 3 ery, the appropriation to be
 4 available for the year ending
 5 June thirty, one thousand nine
 6 hundred thirty-three. If the
 7 work is not completed prior
 8 to June thirty, one thousand
 9 nine hundred thirty-three, then
 10 the appropriation shall continue
 11 in effect until completed 65,000.00

SUB-SECTION "D"

Sec. 86. 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 thirty, one thousand nine hun-
 4 dred thirty-three.

MISCELLANEOUS APPROPRIATIONS

5 To pay Charles N. Finnel for legal	
6 services in connection with	
7 prosecution account bank fail-	
8 ure, Pendleton County, employ-	
9 ment made prior to enactment	
10 of legislation by 1932 Special	
11 Session	250.00
12 To pay Charleston Public Library	
13 Commission, rent old Annex	
14 property, July 1, 1932 to Jan-	
15 uary 31, 1933, end of contract	3,791.66
16 To pay paving certificates against	
17 property owned by State of	
18 West Virginia with interest	
19 from January 25, 1923 at 6%,	
20 principal	433.57
21 To pay W. E. R. Byrne for legal	
22 services representing the State	
23 at the hearing of Harry L.	
24 Brooks, Superintendent of De-	
25 partment of Public Safety, be-	
26 fore the Board of Commis-	
27 sioners, Department of Public	
28 Safety, in March and April,	
29 1931, including \$338.30 expend-	
30 ed for costs	1,338.30

Spencer State Hospital

31 To supplement the appropriation	
32 for current general expenses for	
33 remainder of year ending June	
34 30, 1933	1,572.00
35 NOTE: Above appropriation made	
36 necessary account funds tied up	
37 in closed bank. Any collections	
38 hereafter made for current fiscal	
39 year and funds received from	
40 closed bank shall be turned in to	
41 the general revenue of the State.	
42 The West Virginia Board of Con-	

43 trol is hereby authorized to ex-
 44 pend the amount originally ap-
 45 propriated for current general
 46 expenses, year ending June 30,
 47 1933, in addition to the above
 48 supplemental appropriation.

Fairmont Emergency Hospital

49 To supplement the appropriation	
50 for current general expenses for	
51 remainder of year ending June	
52 30, 1933	1,500.00

53 NOTE: Above appropriation made
 54 necessary account funds tied up
 55 in closed bank. Any collections
 56 hereafter made for current fiscal
 57 year and funds received from
 58 closed bank will be turned in to
 59 the general revenue of the State.
 60 The West Virginia Board of Con-
 61 trol is hereby authorized to ex-
 62 pend the amount originally ap-
 63 propriated for current general
 64 expenses, year ending June 30,
 65 1933, in addition to the above
 66 supplemental appropriation.

McKendree Emergency Hospital

67 The West Virginia Board
 68 of Control is hereby au-
 69 thorized to expend the amount
 70 originally appropriated for
 71 current general expenses,
 72 year ending June 30,
 73 1933.

74 *Provided, however,* That any col-
 75 lections hereafter made for
 76 current fiscal year shall be
 77 turned in to the general reve-
 78 nue of the State.

Miscellaneous

79 To supplement the appropria-	
80 tions for salaries of other	
81 clerks, stenographers, current	
82 and traveling expenses, includ-	
83 ing insurance and securities de-	
84 partments for the fiscal year	
85 ending June 30, 1933, Auditors	
86 Office	11,500.00
87 To supplement the appropria-	
88 tion for criminal charges, in-	
89 cluding transportation of pris-	
90 oners and extradition of crimi-	
91 nals and fugitives for the fiscal	
92 year ending June 30, 1933.....	55,679.00
93 To supplement the appropria-	
94 tions for the Department of	
95 Mines, other than salary of	
96 chief clerk and salaries of	
97 mine inspectors, (of which ap-	
98 proximately \$14,000.00 will re-	
99 main unexpended and be can-	
100 celled,) for the current fiscal	
101 year ending June 30, 1933.....	4,650.00
102 The Adjutant General is hereby	
103 authorized to expend the	
104 amount originally appropriated	
105 for the Militia for current year	
106 ending June 30, 1933.	
107 For repairs and improvements to	
108 roof of Governor's Mansion....	2,000.00
109 To supplement the appropriation	
110 for printing, binding and	
111 stationery for the fiscal year	
112 ending June 30, 1933	19,750.00
113 NOTE: \$13,750.00 of the above	
114 appropriation made necessary	
115 account reduction in original	
116 general revenue appropriation	
117 as required by Chapter 21,	
118 Special Session 1932. Ap-	

119	proximately \$6,000.00 of above	
120	appropriation made necessary	
121	account new forms for land	
122	and personal property books.	
123	To pay Bernhard Godwin for	
124	painting or restoring portraits	
125	of eight former Governors in	
126	accordance with contract of	
127	former Board of Public Works	1,000.00
128	To pay Judge Herbert W. Dent	
129	for salary from time of receiv-	
130	ing certificate of election from	
131	county court to March 13, 1933	922.22
132	To pay Judge Jake Fisher	
133	balance salary for the years	
134	1929 and 1930 account change	
135	in population of the district by	
136	the addition of Clay County to	
137	the Circuit	1,000.00
138	To supplement the Governor's	
139	Civil Contingent Fund for the	
140	year ending June 30, 1933 for	
141	the purpose of paying bills	
142	incident to the Inauguration ..	500.00
143	To pay the cost of investigation	
144	and audit in accordance with	
145	the provisions of Senate Con-	
146	current resolution No. 8, to be	
147	paid on the order of the Gover-	
148	nor; this appropriation to con-	
149	tinue into effect until the pur-	
150	pose has been carried out	10,000.00

SUB-SECTION "E"

Sec. 86-a. All appropriations appearing under Sub-section 2 "E" are payable out of the General School Fund of the State.

Department of Education

	1934	1935
Sec. 87. Salary of assistant su-		
2 perintendent	3,120.00	3,120.00

3	Salary of state aid clerk.....	1,500.00	1,500.00
4	Salary of high school supervisor	3,120.00	3,120.00
5	Salary of rural school supervisor	3,120.00	3,120.00
6	To pay salaries of clerks, steno-		
7	graphers, supervisors and other		
8	assistants	27,260.00	27,260.00
9	Current general expenses.....	6,000.00	6,000.00
10	To pay traveling expense and		
11	other necessary expenses of in-		
12	spectors, supervisors, high, ele-		
13	mentary, and colored schools;		
14	also to pay traveling expenses		
15	and other necessary expenses		
16	in connection with the reorgani-		
17	zation and supervision of county		
18	school systems	6,000.00	6,000.00
19	Printing, binding and stationery..	16,000.00	16,000.00
20	Expenses of state superintendent..	500.00	500.00
21	For division of investigation and		
22	research in connection with con-		
23	solidation and reorganization of		
24	public schools	5,000.00	5,000.00

State Board of Education

	Sec. 88. Salaries of six mem-		
2	bers of State Board of Educa-		
3	tion	2,400.00	2,400.00
4	Salaries of two advisory members		
5	of State Board of Education	800.00	800.00
6	Expenses of members of State		
7	Board of Education.....	1,875.00	2,000.00
8	Expenses of advisory members.....	450.00	450.00
9	Salary and expenses of secretary..	4,040.00	4,040.00
10	Salary of stenographer to sec-		
11	retary	1,500.00	1,500.00
12	To assist in rehabilitation work in		
13	cooperation with the Federal		
14	Government, payable on order		
15	of the State Board of Education		
16	and the Director of Public Wel-		
17	fare	10,000.00	10,000.00

18	Vocational education payable on		
19	order of State Board of Educa-		
20	tion and West Virginia Board of		
21	Control	24,000.00	24,000.00
22	State aid to out of state students,		
23	to carry out the provisions of		
24	Chapter 10, Acts one thousand		
25	nine hundred twenty-seven to		
26	be disbursed by the West Vir-		
27	ginia Board of Control upon re-		
28	quisition of the State Superin-		
29	tendent of Free Schools.....	7,000.00	7,000.00

General Expenses

	Sec. 89. Salaries of county su-		
2	perintendents	60,000.00	60,000.00
3	Expenses for conducting uniform		
4	examinations	7,000.00	7,000.00
5	To pay salaries and current gen-		
6	eral expenses of land depart-		
7	ment	21,000.00	21,000.00
8	The Auditor shall credit all delin-		
9	quent taxes due the State to the		
10	fund to which they belong, and		
11	the cost of certification of sale		
12	shall be paid out of the fund		
13	to which they are credited, and		
13-a	there is hereby appropriated so		
14	much as may be necessary for		
15	the payment of the following		
16	(payable on requisition of the		
17	Auditor):		
18	For the publication of the above		
19	delinquent taxes, there is hereby		
20	appropriated so much as may be		
21	necessary at the rate fixed by		
22	general law, payable on requis-		
23	ition of the Auditor.		
24	In addition to the foregoing ap-		
25	propriations the balance of the		
26	receipts for each year of said		

27	fund is hereby appropriated for	
28	supplemental aid to schools in	
29	accordance with the provision	
30	of general law.	
31	To supplement the appropriations	
32	for the Department of Educa-	
33	tion for the year ending June 30,	
34	1933 for printing and binding,	
35	uniform examinations and cur-	
36	rent general expenses.....	16,500.00
37	To supplement salaries and cur-	
38	rent general expenses of Land	
39	Department for the fiscal year	
40	ending June 30, 1933, Auditor's	
41	office	6,800.00

SUB-SECTION "F"

Section 90. All appropriations appearing under Sub-Section 2 "F" are payable out of the State Road Fund of the State.

STATE ROAD COMMISSION

Administrative Expenses

	1934	1935
Sec. 91. Salary of the com-		
2 missioner	6,000.00	6,000.00
3 To pay the honorarium per diem		
4 of four members of the State		
5 Road Commission	1,200.00	1,200.00
6 Salaries of engineers, clerks, sten-		
7 ographers, property account-		
8 ing, recording and other assist-		
9 ants	100,000.00	100,000.00
10 Traveling expenses.....	16,000.00	16,000.00
11 Office rent, including heat, light,		
12 water and janitor service, in-		
13 cluding automobile bureau.....	10,000.00	10,000.00
14 Current general expenses, includ-		
15 ing automobile bureau.....	50,000.00	50,000.00
16 Federal Aid Supervision.....	3,000.00	3,000.00
17 For operation of toll bridges,		
18 clerk hire, office and traveling		

19	expenses	3,500.00	3,500.00
20	Furniture and fixtures.....	5,000.00	5,000.00
21	To pay salaries of county road su-		
22	pervisors and assistant road su-		
23	pervisors	175,000.00	175,000.00

Automobile Bureau

	Sec. 92. For cost of manufac-		
2	turing license tags for sale to		
3	automobile owners, including		
4	cost of storage, envelopes for		
5	mailing, postage, freight, ex-		
6	press and cartage.....	50,000.00	50,000.00
7	Salaries of clerks, stenographers		
8	and other necessary assistants....	96,000.00	96,000.00
9	To pay salaries and expenses for		
10	the enforcement of traffic, li-		
11	cence and permit laws to be dis-		
12	bursed on the requisition of the		
13	Department of Public Safety		
14	and West Virginia Board of		
15	Control	30,000.00	30,000.00
16	To pay cost of printing and bind-		
17	ing official list of licenses issued		
18	by Automobile Bureau, State		
19	Road Commission.....	3,500.00	3,500.00

General

	Sec. 93. To pay all expenses		
2	in connection with the assess-		
3	ment and collection of the tax		
4	on gasoline; payable on requis-		
5	ition of State Tax Commissioner	13,125.00	13,125.00
6	For complying with and carrying		
7	out the provisions of law, relat-		
8	ing to refunds and for refund-		
9	ing moneys erroneously paid		
10	through the commission into the		
11	treasury, such sums are hereby		
12	appropriated as may be erron-		
13	ously paid.		
14	Complying with and carrying out		

15 the provisions of law relating
16 to subscription to the Compens-
17 ation Fund for protection of
18 employees, such sum as may be
19 necessary is hereby appropri-
20 ated.

21 In addition to the foregoing ap-
22 propriations the balance or resi-
23 due of the annual receipts of
24 the state road fund are hereby
25 appropriated for the payment
26 of interest on and principal of
27 outstanding road bonds, for
28 maintenance and construction
29 and reconstruction of state
30 roads, in accordance with the
31 provisions of Chapter 17 of the
32 Code of West Virginia, as
33 amended by House Bill No. 2,
34 passed May 16, 1933, provided,
35 however, there shall be set aside
36 and expended to pay the cost of
37 maintenance, construction, re-
38 construction and improvement
39 of secondary roads the amount
40 of the transfer from the general
41 revenues of the State for the
42 purpose of supplementing the
43 State Road Fund, (plus what-
44 ever other amount is paid
45 into the State Road fund
46 designated by law for secondary
47 roads), after deducting there-
48 from the proportionate part of
49 administrative expenses which
50 is properly chargeable to second-
51 ary roads, as determined by the
52 State Road Commission of West
53 Virginia.

54 To pay claims against the State
55 Road Commission resulting from

56	personal injury or property	
57	damages; this amount appro-	
58	propriated for remainder of year	
59	ending June thirty, one thou-	
60	sand nine hundred thirty-three	
61	and to remain in effect until	
62	claims are paid, to be paid as	
62-a	follows:	
63	R. C. Hardman.....	406.65
64	R. F. Casdorff.....	14.50
65	P. L. Dysard.....	196.95
66	Tresa Keller.....	10.50
67	Mrs. G. C. Barber.....	35.00
67-a	M. C. Harper	50.00
68	United Pipe & Supply Company	111.46
69	Atlantic Refining Co.	12.00
70	John E. Ahern.....	121.24
71	C. F. Cart.....	9.55
72	John Sandonias.....	28.00
73	W. R. Morris.....	10.95
74	Leonard Carter.....	10.75
75	C. H. Lyles.....	7.50
76	Verna Casdorff.....	20.00
77	E. A. Cunningham.....	150.00
78	Mrs. Lorena McLaughlon.....	13.50
79	Geo. Duty.....	200.00
80	J. E. Brown.....	569.70
81	Bert B. Ross.....	41.35
82	Clyde Belcher.....	46.25
83	G. W. Smith.....	5.00
84	A. F. Allen.....	100.00
85	C. D. Ross.....	320.00
86	H. A. Kesling.....	9.50
87	James S. Kahle.....	10.50
88	Vada Sears.....	185.70
89	Angelo Marini	172.50
90	J. W. Flowers.....	25.00
91	E. P. Connell	22.75
92	U. G. Arnett	138.00
93	O. D. Bubring	252.05
94	The State Road Commission is hereby authorized to expend for	

95 the purpose of equipment and supplies to be used in assist-
 96 ing the Federal Government in its re-forestation program in
 97 West Virginia an amount equal to the appropriations which
 98 will remain unexpended and cancel as set out in Sections
 99 101, 102 and 103 of Sub-Section "F" of the Budget Bill as
 100 passed by the 1931 Legislature for the fiscal year ending June
 101 30, 1933, expenditures to be made upon the order of the Gov-
 102 ernor.

SUB-SECTION "G"

Sec. 94. All appropriations appearing under Sub-Section
 2 "G" are payable out of the special license fees authorized by
 3 sections 15, chapter 8, Acts of 1915 (regular session) and
 4 amendment thereto.

Public Service Commission

Sec. 95. To pay salaries and		
2 current general expenses.....	60,000.00	60,000.00
3 <i>Provided</i> , That not more than		
4 \$3,500.00 of the foregoing ap-		
5 propriation may be expended		
6 annually in cooperation with the		
7 West Virginia Geological Sur-		
8 vey, and/or, the United States		
9 Geological Survey for investiga-		
10 tion of water power resources of		
11 the State, provided, further,		
12 That not more than \$800 of said		
13 appropriation may be expended		
14 annually for the maintenance of		
15 the office of the General Solicitor		
16 of the National Association of		
17 Railroad and Utilities Commis-		
18 sioners, and of representation in		
19 valuation matters before the In-		
20 terstate Commerce Commission,		
21 at Washington, D. C.		

SUB-SECTION "H"

Sec. 96. 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. 97. Salary of State Com-
2 pensionation Commissioner..... 5,000.00 5,000.00
3 Current general expenses..... 194,387.00 194,387.00
4 There is hereby authorized to be
5 paid out of the above appro-
6 priation for current general ex-
7 penses the amount of premium
8 on \$500,000.00 of bonds given
9 by State Treasurer and bond
10 custodians.

SUB-SECTION "I"

Sec. 98. All appropriations made by general law payable
2 out of special revenue, which special revenue is not required
3 to be paid into the general revenue of the State under the pro-
4 visions of section two, article two, chapter twelve of the Code,
5 are hereby authorized, payable out of the special revenue or
6 collections made for the specific purposes.

7 All revenue collected under the Act of the one thousand nine
8 hundred twenty-nine legislature relating to the construc-
9 tion of a capitol is hereby appropriated and authorized to be
10 expended for the purposes designated by this Act.

11 There is hereby appropriated and authorized to be transferred
12 on requisition of the Governor to the Capitol Building Fund
13 from the State Fund—General Revenue an amount sufficient
14 to supplement the Capitol Building Fund so as to liquidate all
15 outstanding obligations incurred account construction of New
16 Capitol, such transfer to be made at such times and in such
17 amounts as the receipts of the State Fund—General Revenue
18 will, in the opinion of the Governor, permit.

SUB-SECTION "K"

Sec. 99. No payments shall be made from appropriations
2 appearing in Sub-Section "K" in excess of the amounts herein-
3 after set forth, and no payments shall be made in excess of the
4 amount of collections, for the particular institution, depart-
5 ment, commission or board, paid into the general revenue of the

6 State under the provisions of section two, article two, chapter
7 twelve of the Code.

8 Payments may be made from said appropriations appearing
9 herein at any time during the fiscal year so long as the aggre-
10 gate for the year does not exceed the amount of the appropria-
11 tion and does not exceed the collections that will be made for
12 the year and paid into the general revenue of the State.

13 All appropriations appearing in "Part One" are payable on
14 the requisition of the head of the particular department, com-
15 mission or board.

16 All appropriations appearing under "Part Two" are pay-
17 able on the requisition of the West Virginia Board of Control.

PART ONE

Fire Marshal

2	Sec. 100. Salary of fire mar- shal	3,000.00	3,000.00
3	Salaries and current general ex- 4 penses—Fire Marshal's Depart- 5 ment	22,500.00	22,500.00

PART TWO

State Veterinary Examining Board

2	Sec. 101. Collections for gen- eral expenses.....	500.00	500.00
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West Virginia State Board of Embalmers

2	Sec. 102. Collections for gen- eral expenses.....	1,000.00	1,000.00
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State Board of Examiners in Optometry

2	Sec. 103. Collections for gen- eral expenses.....	1,500.00	1,500.00
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State Board of Examiners and Registration of Architects

2	Sec. 104. Collections for gen- eral expenses.....	2,000.00	2,000.00
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State Board of Registration for Engineers

2	Sec. 105. Collections for gen- eral expenses	3,000.00	3,000.00
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	<i>West Virginia State Board of Osteopathy</i>		
	Sec. 106. Collections for gen-		
2	eral expenses.....	500.00	500.00
	<i>State Board of Examiners for the Examination of Accountants</i>		
	Sec. 107. Collections for gen-		
2	eral expenses.....	1,000.00	1,000.00
	<i>State Board of Pharmacy</i>		
	Sec. 108. Collections for gen-		
2	eral expenses	3,900.00	3,900.00
	<i>West Virginia Board of Examiners for Registered Nurses</i>		
	Sec. 109. Collections for gen-		
2	eral expenses	2,500.00	2,500.00
	<i>West Virginia State Board of Dental Examiners</i>		
	Sec. 110. Collections for gen-		
2	eral expenses	1,000.00	1,000.00

SUB-SECTION "L"

2 Sec. 111. For refunding overpayments made into the treas-
 3 ury on account of taxes, licenses, fines and commissions, to be
 4 paid out of the fund into which they were paid, such an amount
 5 as may be necessary for such purpose is hereby appropriated.

2 Sec. 112. The appropriations herein made to or for any
 3 state board or institution shall be drawn from the treasury upon
 4 the requisition of the proper officers thereof made upon the
 5 Auditor at such times and in such amounts as may be necessary
 6 for the purposes for which such appropriations are made; and
 7 the Auditor shall pay the amount named in any such requisi-
 8 tion at such time and in such installments as shall be necessary
 9 for the purposes for which any such appropriation is made.
 10 But all requisitions for appropriations for new buildings and
 11 substantial betterments, except such as are under control of the
 12 Board of Control, shall be accompanied by the architect's esti-
 13 mate that the amount named in such requisition is needed for
 14 immediate use. The Auditor shall not issue his warrants to pay
 15 any money out of the state treasury unless the same is needed
 16 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 the ex-
26 penses, which statement shall be filed with the secretary or clerk
27 of the institution, the original whereof the secretary or clerk
28 shall file or preserve in his office, and the duplicate he shall at
29 once forward to the Auditor. If any such member shall wil-
30 fully make a greater charge for such services or expenses than
31 truth justifies, he shall be guilty of embezzlement and punished
32 accordingly.

Sec. 113. All printing, binding, printing paper, and station-
2 ery for the state superintendent of free schools shall be paid
3 for out of the general school fund. All of said printing, bind-
4 ing, printing paper, and stationery shall be purchased on requi-
5 sition through the superintendent of public printing. No
6 printing, binding or printing paper or stationery for the follow-
7 ing named boards, officers or institutions shall be paid for out
8 of the appropriation for public printing, public binding, or for
9 supplying paper or stationery, but shall be paid for out of the
10 appropriations therefor herein made, or out of the expense fund
11 or current general expense fund thereof, namely:

12 The public service commission, the state road commission, the
13 workmen's compensation department, the game and fish com-
14 mission, state fire marshal, the university and all its branches,
15 and all state schools, state hospitals and other state institu-
16 tions, the geological survey, experiment station, all schools
17 or hospitals receiving state appropriations, and the following
18 boards: Pharmacy, dental, nurses, veterinary, embalmers,
19 optometry, architects, engineers, osteopathy and account-
20 ants.

21 Such boards, officers and institutions, except the state super-
22 intendent of free schools, that are herein required to pay for
23 their own printing, stationery and printing paper and binding,
24 have authority to procure the same, or have the same done on
25 requisition of the Superintendent of Public Printing, or may
26 buy such printing and stationery, or have such printing and

27 binding done on competitive bids, under such rules as may be
28 made by the commissioners of public printing.

29 When stationery or printing is procured from the superin-
30 tendent of public printing or printing and binding are done on
31 requisition of his office, by such board, officers or institutions,
32 the superintendent of public printing as to such printing, bind-
33 ing, stationery and printing paper, shall certify the cost thereof
34 to the auditor, stating to what officer, board or institution the
35 same was furnished, and the auditor shall charge against the
36 proper fund or appropriation of such officers, institution or
37 board the amount thereof, and credit such amount to the proper
38 appropriations made by this act for public printing, binding,
39 stationery and printing paper. *Provided*, That the annual or
40 biennial reports required by law to be made to the governor
41 by such boards, officers and institutions shall be printed and
42 paid for out of the appropriation for public printing, public
43 binding and for supplying printing paper and stationery, but
44 all such reports shall be typewritten, or prepared in such a
45 manner that the same shall be legible and suitable for printers'
46 copy, and only so much of any such reports shall be printed as
47 may be ordered by the governor; and no such reports shall be
48 printed by the public printer except on requisition therefor,
49 signed by the governor, which requisition shall state the num-
50 ber to be printed and how the same are to be bound. Such
51 officers, boards and institutions as are required by law to make
52 a report to the governor shall place the same in his hands as
53 soon as the same are completed, and within ninety days after
54 the close of the period which they are to cover.

Sec. 114. No sum of money shall be paid out of the treasury
2 for the years ending June thirtieth, one thousand nine hundred
3 thirty-four and one thousand nine hundred thirty-five
4 beyond the amounts hereby appropriated, unless the same be
5 provided for by constitution or some general law, and no money
6 shall be hereafter drawn from the treasury to pay the salary of
7 any officers or employees before their services have been
8 rendered.

Sec. 115. No part of this act shall in any manner amend, re-
2 peal or set aside the provisions of House Bill No. 553, which
3 act relates to the powers of the Governor to consolidate depart-
4 ments, etc.

5 If in the opinion of the Governor the revenues received and
6 to be received will not equal the aggregate appropriations con-
7 tained herein, then the Governor is hereby authorized to make
8 such reductions in any or all appropriations contained herein so
9 as to balance the Budget with the available revenues.

10 The Governor shall notify the Auditor and Treasurer of such
11 reductions and no disbursements shall be made from the ap-
12 propriation or appropriations so reduced in excess of the
13 amount fixed by the Governor.

Sec. 116. 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

CHAPTER 2

(House Bill No. 224—By Mr. McCoy)

AN ACT making appropriation of public money out of the treas-
ury in accordance with the provisions of the constitution of
the state of West Virginia.

[Passed June 3, 1933; in effect from passage. Became a law without the approval
of the Governor.]

SEC.

1. Appropriation of thirty-five thou-
sand dollars for state's repre-

SEC.

sentation at Century of Prog-
ress Exposition.

Be it enacted by the Legislature of West Virginia:

Section 1. In accordance with the provision of senate con-
2 current resolution Number six authorizing an appropriation
3 to enable West Virginia to be represented at "Century of
4 Progress" Chicago, Illinois, in the year one thousand nine
5 hundred thirty-three, there is hereby appropriated from the
6 treasury out of funds not otherwise appropriated the sum of
7 thirty-five thousand dollars.

CHAPTER 3

(House Bill No. 225—By Mr. White)

AN ACT making appropriations of public moneys out of the treasury.

[Passed June 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.	SEC.
1. Appropriation for legislative printing.	3. Appropriation for salaries, mileage and other expenses of the house of delegates.
2. Appropriation for mileage and other expenses of senate.	

Be it enacted by the Legislature of West Virginia:

That there be and is hereby appropriated out of the treasury for the fiscal year ending June thirtieth, one thousand nine hundred thirty-three, the following sums of money for the following named purposes:

Section 1. Legislative printing.....\$10,000.00

SENATE

Sec. 2. Mileage of members and officers for the	
2 extraordinary session, one thousand nine hundred	
3 thirty-three	993.10
4 President of the Senate two dollars per day as pre-	
5 siding officer	110.00
6 Chaplain of the Senate.....	165.00
7 Compensation of other officers and attaches, chief	
8 janitor and assistant janitors.....	20,350.00
9 Contingent fund of the Senate.....	10,000.00

10 *Miscellaneous Appropriations*

11 Charleston Towel Supply Company	3.00
12 Chesapeake and Potomac Telephone Company.....	310.85
13 Clutter Typewriter Company.....	192.50
14 Diamond Ice and Coal Company.....	21.26
15 Kanawha Novelty Works.....	8.50
16 Lewis Service Station.....	3.89
17 Laird Office Equipment Company.....	673.78
18 Myers Brothers.....	14.15
19 J. E. and F. L. Thomas.....	61.30
20 S. Spencer Moore Company.....	29.98
21 Smith and Brooks.....	21.60

22	Underwood Elliott Fisher Company.....	24.00
23	Winter Floral Company.....	16.50
24	Woodrum Home Outfitting Company.....	23.29
25	C. W. Wendell.....	24.00
26	Lewis Thomas, services.....	330.00
27	Emily Kincaid, services.....	180.00
28	The Clerk of the Senate is authorized upon the ap-	
29	proval of the President of the Senate, to draw his	
30	warrants upon the Auditor, payable out of the con-	
31	tingent fund, for any bills for supplies and services	
32	that may have been incurred by the Senate and not	
33	included in the appropriation bill, and for bills	
34	for supplies and services incurred after the ad-	
35	journalment, the requisition for same to be accom-	
36	panied by a bill to be filed with the Auditor.	

HOUSE OF DELEGATES

	Sec. 3. Salary of members.....	\$ 500.00
2	Mileage of members of the House of Delegates, ex-	
3	traordinary session, one thousand nine hundred	
4	thirty-three	3,105.70
5	Contingent fund of the House of Delegates.....	10,000.00
6	Per diem of the Speaker, as presiding officer, fifty-	
7	five days, at two dollars per day.....	110.00
8	Compensation of Clerk of the House of Delegates,	
9	fifty-five days.....	1,100.00
10	Compensation of Sergeant-at-Arms of the House of	
11	Delegates, fifty-five days	660.00
12	Compensation of the Doorkeeper of the House of	
13	Delegates, fifty-five days	550.00
14	Joint Supervisor of Printing, per diem on the part of	
15	the House of Delegates, fifty-five days.....	275.00
16	Per diem of attaches appointed by the Speaker....	26,203.00

17 *Miscellaneous Appropriations*

18	Chesapeake and Potomac Telephone Company, tele-	
19	phone services.....	136.68
20	Laird Office Equipment Co., office supplies.....	204.01
21	Ed L. Hollahran, typewriter supplies.....	14.00
22	Clutter Typewriter Co., typewriter rental and sup-	

23	plies	117.00
24	S. Spencer Moore and Company, office equipment and	
25	supplies	301.61
26	Pugh Furniture Company, furniture	66.75
27	Smith and Brooks Company, supplies	55.50
28	Underwood Elliot Fisher Company, typewriter	
29	rental, etc.	272.00
30	C. W. Wendell, stapling machines	34.00
31	Winter Floral Company, flowers	47.50
32	Woodrum Home Outfitting Co., furniture, etc.	113.53
33	Timberlake's Inc., supplies	2.05
34	Diamond Ice and Coal Company, ice	20.00
35	Kanawha Novelty Company, desk keys	25.00
36	To pay expense of special committee to investigate	
37	public utilities	56.00
38	To pay M. R. Matthews, Postmaster, stamps	733.00
39	To pay B. S. Carney, Superintendent of Capitol	
40	building and grounds, fifty-six days at two dollars	
41	per day	112.00
42	To pay William Quarels, janitor services	55.00
43	To pay Sam White, janitor services, preliminary to	
44	opening of session	12.00
45	To pay W. J. Wormley, janitor services, preliminary	
46	to opening of session	12.00
47	The Sergeant-at-Arms of the House of Delegates is author-	
48	ized to draw his warrants upon the Auditor, payable out of the	
49	contingent fund of the House of Delegates, for any bills for	
50	supplies and services, upon the approval of the Speaker, that	
51	may have been incurred by the House of Delegates and not	
52	included in the appropriation bill, and for bills for supplies	
53	and services incurred after adjournment, the requisition for	
54	said bills to be accompanied by a bill for same to be filed with	
55	the auditor.	

CHAPTER 4

(Senate Bill No. 16—By Mr. Herold)

AN ACT to amend and reenact sections two and three, article six, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter eight, acts of the legislature, extraordinary session, one thousand nine hundred thirty-two, relating to county depositories, and providing for the execution of bonds and/or the hypothecation of securities as security for deposits.

[Passed May 1, 1933; in effect from passage. Approved by the Governor.]

SEC.	SEC.
2. Form, amount and surety on bonds of county depositories; provisions concerning personal sureties on bonds; action on bond; approval of form by prosecuting attorney; court, in lieu of bond, may accept as security certain	Interest bearing securities; provisions concerning hypothecated securities. 3. County court may require additional security; removal of funds if not given. 5. Interest rate on county deposits.

Be it enacted by the Legislature of West Virginia:

That sections two and three, article six, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one as amended by chapter eight, acts of the legislature, extraordinary session, one thousand nine hundred thirty-two, be amended and reenacted so as to read as follows:

Section 2. No such designation shall be binding on such 2 county, nor shall any public money be deposited thereunder, 3 until the banking institution designated shall execute bond 4 with good and sufficient sureties, to be accepted and approved 5 by the county court, payable to the state of West Virginia, in 6 such sum as the county court shall direct, and which shall 7 not be less than the maximum sum that shall be deposited in 8 the depository at any one time. Such bond shall be executed 9 by at least four resident freeholders as sureties owning in the 10 aggregate unencumbered real estate having an assessed valu- 11 ation thereon equal to the penalty of the bond, or by a fidelity 12 or indemnity company authorized to do such business within 13 the state, satisfactory to, and acceptable by the county court, 14 and having not less than six hundred thousand dollars cap- 15 ital; and such bond shall be conditioned for the receipt, safe- 16 keeping and payment over of all money which may be depos-

17 ited in or come under the custody of the banking institution
18 designated a county depository under the provisions hereof,
19 together with the interest thereon at the rate specified by this
20 article; and such bond shall be further conditioned for the
21 faithful performance, by the banking institution so designated,
22 of all the duties imposed by this article upon a depository of
23 public moneys. *Provided, however,* That the clerk of the
24 county court shall keep a record of each surety on all personal
25 bonds given as hereinbefore provided for, and the clerk shall
26 notify the county court of every recorded conveyance of real
27 estate made by any surety on said personal bonds. An action
28 shall lie on such bond at the instance of the county court, or
29 the sheriff, for the recovery of any money deposited in the de-
30 pository, upon failure or default of the depository to fully
31 and faithfully account for and pay over any and all public
32 moneys deposited by the sheriff and of all interests earned and
33 accrued thereon as required by this article. Such bond shall not
34 be accepted by the county court until it shall have been sub-
35 mitted to the prosecuting attorney, and certified by him to
36 be in due and legal form, and conformable to the provisions
37 of this article, which certificate shall be indorsed thereon:
38 *Provided, however,* That the county court may, in lieu of the
39 bond provided for hereinbefore, accept as security for money
40 deposited as aforesaid, interest-bearing securities of the United
41 States, or of a state, county, district or municipal corporation,
42 or endorsed county and district warrants of the county in which
43 the depository is located; the face value of which securities
44 shall not be less than the sum hereinbefore specified as the
45 amount to be named in the bond in lieu of which such securities
46 are accepted; or the county court may accept such securities as
47 partial security to the extent of their face value for the money
48 so deposited, and require bond for the remainder of the full
49 amount hereinbefore specified, to be named in the bond, and in
50 the bond so required, such acceptance of securities as partial
51 security, and the extent thereof, shall be set forth. The hy-
52 pothecation of such securities shall be by proper legal transfer
53 as collateral security to protect and indemnify by trust any and
54 all loss in case of any default on the part of the banking institu-
55 tion in its capacity as depository as aforesaid, and such collat-

56 eral security shall be released only by order of record of the
57 county court when satisfied that full and faithful accounting
58 and payment of all the moneys has been made under the pro-
59 visions hereof. The county court shall make ample provision for
60 the safekeeping of such hypothecated securities, and the interest
61 thereon when paid shall be turned over to the banking insti-
62 tution, so long as it is not in default as aforesaid.

63 If any banking institution designated as aforesaid fail to
64 execute bond or to hypothecate securities as required hereby,
65 to the satisfaction and acceptance of the county court, before
66 August first, following such designation, it shall not serve
67 during that fiscal year.

Sec. 3. The banking institutions designated in the manner
2 hereinbefore provided shall, upon the acceptance by the
3 county court of the bond and/or upon the hypothecation of
4 the securities, as provided for hereinbefore, be the depositories
5 of public moneys, and remain such for one year, but the
6 county court, at any time it deems the same necessary, may
7 require additional security from a depository in such sum as
8 the court shall by order designate; and if a depository refuse
9 or neglect, for the period prescribed by the court, to give such
10 additional security, or to comply with the provisions of this
11 article, the court may order the removal of the public moneys
12 therefrom to some other depository and if no other county
13 depository is available at the time, then to some reliable bank-
14 ing institution to be the depository thereof temporarily. Such
15 removal, and all other removals, ordered by the county court
16 under the provisions of this article, shall be made by order of
17 record and upon the check of the county treasurer, counter-
18 signed by the county clerk, after notice to such depository.
19 In the event any county depository shall cease to do business
20 or shall suspend business, its rights as a depository shall cease,
21 and the funds on deposit with it shall be transferred to the
22 other depositories of the county, but in the event there is no
23 other approved depository in the county, and pending the
24 designation and approval of another depository, the county
25 treasurer shall deposit public funds coming into his hands, in
26 some reliable banking institution, designated by the county
27 court as a temporary depository, until a depository is desig-
28 nated and approved in the manner herein prescribed. If the

29 money, in case of such removal, be deposited in a banking in-
30 stitution, designated as a temporary depository, such banking
31 institution shall, before the receipt by it of any such money,
32 enter into a bond or hypothecate securities as required by this
33 article; and the county court shall at once proceed to desig-
34 nate a new depository under this article.

Sec. 5. All money deposited in any such depository shall
2 bear interest at the rate of not less than one per cent and not
3 greater than three per cent per annum, to be computed on
4 daily net balances, and such interest shall be placed to the
5 credit of the county treasurer on the first day of every calen-
6 dar month and at any time when the account may be closed.
7 When the interest is credited to the treasurer, the depository
8 shall, in writing, report to the clerk of the county court and
9 the treasurer, each separately, the amount thereof, before noon
10 of the next business day, and all of such interest shall be
11 credited to the general county fund by the clerk of the county
12 court and the treasurer.

13 The county court and the said depositories shall from time
14 to time, but not oftener than once every six months, agree
15 upon a uniform rate of interest to be paid by such deposi-
16 tories; in ascertaining the average daily net balances, due al-
17 lowance shall be made to the depository for any time during
18 which any part of the deposits was not actually available to
19 the depository, and there shall be deducted from the gross
20 daily balances so much thereof as is required by law to be
21 carried as reserve by such depository.

22 All acts and parts of acts inconsistent with this act are here-
23 by repealed.

CHAPTER 5

(House Bill No. 5—By Mr. Hiner)

AN ACT to amend article eight, chapter thirty-one of the code of
West Virginia, one thousand nine hundred thirty-one, by add-
ing thereto a section to be designated section forty-three, re-

lating to the appointment of conservators for, and the reorganization of, banking institutions.

[Passed April 12, 1933; in effect from passage. Approved by the Governor.]

ARTICLE VIII.

Sec.

43. Appointment of conservators for banks by commissioner of banking; powers and duties of conservator; expenses of conservatorship; compensation of conservator.
- 43-(a). Inventory of assets and liabilities by conservator and representative of bank.
- 43-(b). Termination of conservatorship and reopening of bank.
- 43-(c). Disbursement of funds of bank by conservator; receiving deposits by conservator; segregation

Sec.

- tion of deposits; how deposits received by conservator preserved or invested.
- 43-(d). Conditions attached to reorganization of banking institution.
- 43-(e). When sub-section "C" ceases to be effective: publication of notice that affairs of bank will be returned to its board of directors.
- 43-(f). Act does not impair any powers of governor nor commissioner of banking.
- 43-(g). Commissioner of banking to prescribe rules and regulations to carry out provisions of act.

Be it enacted by the Legislature of West Virginia:

That article eight, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding the following section thereto, to be designated as section forty-three.

ARTICLE VIII.

Section 43. Whenever the commissioner of banking shall deem it necessary, in order to conserve the assets of any banking institution for the benefit of the depositors and other creditors thereof, he may appoint a conservator for such banking institution. The conservator may be an employee of the department of banking, and may be required to give such bond and security as the commissioner deems proper.

The conservator, under the direction of the commissioner of banking, shall take possession of the papers, books, records and assets of every description of such banking institution, and take such action as may be necessary to conserve such assets pending further disposition of the business of such institution.

The conservator shall have all the rights, powers and privileges now possessed by or hereafter given receivers of insolvent banking institutions and shall be subject to all the liabilities, obligations and penalties, not inconsistent with the provisions of this article, to which receivers are now or may hereafter become subject.

During the period that such conservator remains in possession of such banking institution, the legal relations of all parties with respect thereto shall, subject to the other pro-

23 visions of this section, be the same as if a receiver had been ap-
24 pointed therefor.

25 All expenses of any such conservatorship shall be paid out
26 of the assets of such banking institution and shall be a lien
27 thereon, which shall be prior to any other lien. The con-
28 servator shall receive a reasonable compensation for his serv-
29 ices to be fixed by the commissioner of banking, but in no event
30 shall such compensation exceed that paid to employees of the
31 department of banking for similar services.

32 (a) Immediately upon taking charge of such banking insti-
33 tution, the conservator, in conjunction with a representative
34 of the bank designated by the directors thereof, shall make in
35 duplicate a complete inventory of all assets and an itemized
36 list of all liabilities of such institution. The original and copy
37 of such list shall be subscribed and sworn to by the persons
38 making the same and the original shall be filed with the depart-
39 ment of banking as soon as practicable, and the copy shall be
40 retained by the conservator.

41 (b) If the commissioner of banking becomes satisfied that
42 such a course of action may be pursued safely and that it will
43 be in the public interest, he may, in his discretion, terminate the
44 conservatorship and permit such banking institution to resume
45 the transaction of its business subject to such terms, conditions,
46 restrictions, and limitations as he may prescribe.

47 (c) While such banking institution is in the hands of the
48 conservator, the commissioner of banking may require such
49 conservator to set aside and make available for withdrawal by
50 depositors and payment to other creditors, on a ratable basis,
51 such amounts as in the opinion of the commissioner may be used
52 safely for this purpose, subject to such priorities and prefer-
53 ences as are provided by law. The commissioner may, in his
54 discretion, permit the conservator to receive deposits. Such de-
55 posits shall not be subject to any limitation as to payment or
56 withdrawal. The deposits shall be segregated and shall not be
57 used either to liquidate any indebtedness of such banking in-
58 stitution existing at the time that a conservator was appointed
59 for it or any subsequent indebtedness incurred for the purpose
60 of liquidating any indebtedness of such banking institution ex-
61 isting at the time such conservator was appointed.

62 Deposits received while the banking institution is in the
63 hands of a conservator shall: (1) Be kept on hand in cash or,

64 (2) be deposited with a federal reserve bank or deposited with
65 such banking institution organized under the United States
66 National Bank Act, or the law of this state as the commissioner
67 of banking may, in his discretion, designate or, (3) be invested
68 in the direct obligations of the United States or the State of
69 West Virginia or the funded obligations of any political sub-
70 division of this state approved by the commissioner of banking.

71 (d) In any reorganization of any banking institution under
72 a plan of a kind which, by its own terms or under existing law,
73 requires the consent, as the case may be, (a) of depositors and
74 other creditors, or (b) of stockholders or (c) of both depositors
75 and other creditors and stockholders, such reorganization shall
76 become effective only (1) when the commissioner of banking
77 shall be satisfied that the plan of reorganization is fair and
78 equitable to all depositors, other creditors and stockholders,
79 and that the plan is in the public interest and when he shall
80 have approved the plan subject to such conditions, restrictions
81 and limitations as he may prescribe; and (2) when, after
82 reasonable notice of such reorganization, as the case may re-
83 quire, (a) depositors and other creditors of such banking in-
84 stitution representing at least seventy-five per cent in amount
85 of its total deposits and other liabilities, or (b) stockholders
86 owning at least two-thirds in amount of its outstanding capital
87 stock, or (c) both depositors and other creditors representing
88 at least seventy-five per cent in amount of the total deposits
89 and other liabilities and stockholders owning at least two-thirds
90 in amount of its outstanding capital stock, shall, as the plan
91 may require, have consented in writing to the plan of reorgani-
92 zation. Claims of depositors or other creditors which will be
93 satisfied in full under the plan of reorganization shall not be
94 included among the total deposits and other liabilities of said
95 banking institution in determining the seventy-five per cent
96 thereof as above provided, or with the outstanding stock in de-
97 termining the two-thirds thereof as above provided. The plan
98 of reorganization shall not affect or impair the rights of any
99 creditor or stockholder not consenting thereto.

100 (e) Fifteen days after the affairs of a banking institution
101 shall have been turned back to its board of directors by the
102 conservator, either with or without a reorganization as pro-
103 vided in subsection (d) hereof, the provisions of subsection
104 (c) hereof shall no longer be effective. Before the conservator
105 shall turn back the affairs of the institution to its board of di-

106 rectors he shall publish in a newspaper published in the munici-
 107 pality or county in which such bank is located, and if no news-
 108 paper is so published, then in a newspaper of general circulation
 109 in the county in which the bank is located, a notice in form ap-
 110 proved by the commissioner, stating the date on which the af-
 111 fairs of the banking institution will be returned to its board
 112 of directors and that the said provisions of subsection (c) will
 113 not be effective fifteen days after such date. On the date of the
 114 publication of such notice the conservator shall send a copy of
 115 such notice by registered mail to the last known address of
 116 every person who is a depositor as shown by the records of the
 117 institution. The conservator shall send similar notice in like
 118 manner to every person making deposit in such institution
 119 under subsection (c) after the date of such newspaper publi-
 120 cation and before the time when the affairs of the bank are re-
 121 turned to its directors.

122 (f) Nothing in this section shall be construed to impair in
 123 any manner any powers of the governor or the commissioner
 124 of banking.

125 (g) The commissioner of banking is hereby authorized to
 126 prescribe such rules and regulations as he may deem necessary
 127 in order to carry out the provisions of this section.

CHAPTER 6

(House Bill No. 68—By Mr. Hiner)

AN ACT to amend and reenact section eighteen, article eight, chap-
 ter thirty-one of the code of West Virginia, one thousand nine
 hundred thirty-one, relating to limitations on loans by bank-
 ing institutions and to the valuation of securities purchased
 by them.

[Passed May 10, 1933; in effect from passage. Approved by the Governor.]

Sec.

18. Limitation on indebtedness of any person, firm or corporation to a banking institutions; outstanding indebtedness in excess of maximum described herein not to be renewed or extended for more than two years after date of passage of act; at end of two year period such indebtedness

Sec.

to be collected; penalty for failure to collect; provisions concerning loans to officers or employees of bank or commissioner of banking, or employee of the department of banking; valuation of securities purchased by banking institution.

Be it enacted by the Legislature of West Virginia:

That section eighteen, article eight, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 18. The total liabilities to any banking institution 2 of any person, firm or corporation, for money borrowed by note, 3 bond, certificate of indebtedness or other device, including the 4 liabilities of the firm, the liabilities of the several members 5 thereof, including in the liabilities of any corporation an invest- 6 ment by such banking institution in the stock of such corpora- 7 tion shall at no time exceed ten per cent of the capital stock 8 and surplus fund of such banking institution. But the dis- 9 count of bills of exchange drawn in good faith against actually 10 existing values and the discount of commercial or business 11 paper actually owned by the person negotiating the same shall 12 not be considered as money borrowed. This section shall not 13 apply to the local public corporations of the state. Nothing 14 herein shall be construed to forbid the sale upon credit of a bank 15 building owned by a banking institution at the time this act 16 takes effect.

17 Indebtedness to a banking institution in excess of the maxi- 18 mum prescribed in this section, outstanding at the date this 19 act takes effect, shall not be renewed, refunded or otherwise 20 extended for longer than a total of two years after such date. 21 Not later than the expiration of the two year period, every 22 banking institution shall proceed to collect such indebtedness 23 by appropriate proceedings to enforce security or personal 24 liability. Violation of this section shall be a misdemeanor and 25 shall be punishable under the provisions of section thirty-nine 26 of this article.

27 No officer, director, clerk or other employee of any banking 28 institution or the commissioner of banking or any employee of 29 the department of banking shall borrow, directly or indirectly, 30 from the banking institution with which he is connected, or is 31 subject to his examination, any sum of money without the writ- 32 ten approval of a majority of the board of directors or discount 33 committee thereof filed in its office, or embodied in a resolution 34 adopted by a majority vote of such board, exclusive of the di- 35 rector to whom the loan is made. If an officer, director, clerk 36 or other employee of any bank shall own or control a majority 37 of the stock of any other corporation, a loan to such corpora- 38 tion shall, for the purpose of this section, constitute a loan to 39 such officer, director, clerk or other employee.

40 Securities purchased by a banking institution shall be en-
 41 tered upon the books of the bank at actual cost but may be
 42 carried thereafter at market value. For the purpose of cal-
 43 culating the undivided profits applicable to the payment of
 44 dividends, securities shall not be estimated at a valuation ex-
 45 ceeding their present cost as determined by amortization; that
 46 is, by deducting from the cost of a security purchased at a
 47 premium, and charging to profit and loss a sum sufficient to
 48 bring it to par at maturity, or adding to the cost of a security
 49 purchased at a discount, and crediting to profit and loss a sum
 50 sufficient to bring it to par at maturity.

CHAPTER 7

(House Bill No. 69—By Mr. Hiner)

AN ACT to amend article eight, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, by adding a new section to be designated section forty-four, relating to the appraisal of assets of a banking institution in conservatorship or receivership.

[Passed June 3, 1933; in effect from passage. Approved by the Governor.]

Sec.

44. Method and procedure for appraisal of assets of banking institutions in conservatorship or receiver-

Sec.

ship; publication of appraisal; expense of appraisal and publication.

Be it enacted by the Legislature of West Virginia:

That article eight, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding the following section to be designated section forty-four.

Section 44. Within sixty days after an inventory shall have been made of the assets of a banking institution in receivership its assets shall be appraised in the manner herein provided and a copy filed with the commissioner of banking. The banking commissioner shall not approve or consent to the reorganization, consolidation, merger or sale of the business of a banking institution in conservatorship or receivership until an appraisal shall have been made and published as provided in this section.

9 Appraisal shall be made on the basis of present true and actual
10 value by three appraisers: The conservator or receiver, a rep-
11 resentative of the banking institution designated by its board
12 of directors and a representative of the depositors, who was
13 a depositor at the time the conservator or receiver was ap-
14 pointed and shall not have disposed of his claim, to be desig-
15 nated by the commissioner of banking upon the nomination in
16 writing of a majority in amount of depositors or assigns if filed
17 with the commissioner not later than two weeks after inventory
18 in receivership or conservatorship. If no such nomination is
19 made the commissioner shall designate the depositors' rep-
20 resentative in his discretion. In the event of disagreement as
21 to a valuation the determination of any two of the appraisers
22 shall be final. A completed appraisal shall be published, in
23 form approved by the commissioner of banking, in a news-
24 paper published in the municipality in which the banking in-
25 stitution is located, and if no newspaper is so published, then
26 in a newspaper of general circulation in the county in which
27 the bank is located, and a copy of the appraisal filed with the
28 banking commissioner. The expense of appraisal and publica-
29 tion shall be deemed part of the cost of the conservatorship or
30 receivership and shall include reasonable compensation allowed
31 the appraisers, other than a conservator or receiver, by the
32 commissioner of banking.

• CHAPTER 8

(Senate Bill No. 3—By Mr. Mathews)

AN ACT to amend and reenact sections one and three, article one; to repeal section four, article one; to amend and reenact sections one to eleven, inclusive, article four; to amend and reenact sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, twenty-one, twenty-five, thirty-one, thirty-two and thirty-three, article five; to repeal sections twenty-six to thirty, inclusive, article five; to amend and reenact sections one, two, six, seven and eight, article six; to amend and reenact sections five, ten, eleven, twelve and forty, article seven; to add section two-(a) to article nine, and to amend and reenact section three, article nine,

*See chapter thirteen, acts 1933 extraordinary session, in this volume.

chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to the organization of the school system so as to permit the establishment of the county unit plan of school organization.

[Passed May 22, 1933; in effect from passage. Approved by the Governor.]

ARTICLE I.

SEC.

1. Definition of words and terms.
3. School district to include territory in one county; existing magisterial school districts, subdistricts and independent districts abolished.
4. Section repealed.

ARTICLE IV.

SEC.

1. County board of education to elect county superintendent; superintendent in office at passage of act to serve out terms; present superintendent to perform only such duties as are designated by the board.
2. Qualifications of superintendent at time of election; filing health certificate.
3. Removal of superintendent by board for cause.
4. Annual salary of superintendent; from what funds paid.
5. Salary of superintendent to be paid monthly.
6. Office of county financial secretary abolished; payment of school orders; monthly report by sheriff to board.
7. Office janitor service and supplies for superintendent.
8. Superintendent, with consent of board, to appoint clerical assistants.
9. Travelling expenses of superintendent.
10. Certain enumerated powers and duties of superintendent.
11. Further powers and duties of superintendent.

ARTICLE V.

SEC.

1. Number, election, term and residence of members county board of education; how terms divided at first election under this act; first meeting and organization of board; appointment by state superintendent of interim board.
2. Filling vacancy in board, removal from district or accepting position as teacher vacates office of member.
3. Oath of board members.
4. Meetings of board; meeting for appointment of teachers; special meetings; quorum; compensation and traveling expenses of board members.
5. County board a body corporate; to succeed to all rights of former magisterial and independent district boards; liable for legal

SEC.

- claims against former boards; powers as to real estate; public school property exempt from execution and free from lien or distress for taxes.
6. Title to land or school site.
7. Yearly ascertainment by board of buildings to be retained for school purposes or sold; right of grantor of lands to purchase same; lease for oil or gas on school sites.
8. Condemnation proceedings by board.
9. Duties of board as to school houses, furniture, health of pupils and repair of buildings, etc.
10. Powers of state board as to plans and specifications for erection of school buildings.
11. Establishment and maintenance by boards of two or more adjoining counties of joint schools; title to property, management and operating cost.
12. Bond required of contractors for building or repairing school property.
13. Enumerated powers of board as to control, establishment, closing and consolidating schools; transportation of pupils; text books; teaching of West Virginia history.
14. Schools and teachers for negro pupils; transfer of negro pupils to another county; apportionment of school funds to negro pupils.
15. Length of school term; additional levy submitted to vote of people upon petition; rate of additional levy; age of pupils.
16. Subdistricts; transfer of pupils; transfer of pupils from one county to another; fees for transferred pupils; transfer of pupils to another state.
21. Board may furnish free textbooks; provisions concerning.
25. Oath and duties of superintendent as secretary of board.
26. Section repealed.
27. Section repealed.
28. Section repealed.
29. Section repealed.
30. Section repealed.
31. Janitors and custodians; board not to appoint district trustees.
32. Appointment, number, salary and traveling expenses of assistant superintendents; negro assistant superintendent; qualifications of assistant superintendent; board not to employ supervisor; agricultural clubs.
33. Board may fix special salary schedules.

ARTICLE VI.**SEC.**

1. Board may establish high and junior high schools and employ teachers to operate.
2. Provisions concerning joint high schools for two or more counties.
6. Transfer of eligible pupils from high school not accessible; tuition.
7. Dormitories for pupils attending high school.
8. Discontinuing high school.

ARTICLE VII.**SEC.**

5. How salaries of teachers and employees paid; withholding salary until required reports are made.
10. School census.
11. What school census to show; ver-

SEC.

12. Provisions when proper report is not received on prescribed date.
40. Attendance by teachers; at round tables, etc., on school days.

ARTICLE IX.**SEC.**

- 2-(a). Levy by board; increased levy upon petition of majority of voters of political subdivision; vote upon petition of one hundred taxpayers for increased levy; present bonded indebtedness; separate levies for.
3. Collection and disbursement of school funds by sheriff; provisions for continuing certain high schools; unconstitutionality of part not to affect validity of remainder of act; inconsistent provisions of law repealed.

Be it enacted by the Legislature of West Virginia:

That sections one and three, article one, are amended and reenacted; section four, article one, is repealed; sections one to eleven, inclusive, article four, are amended and reenacted; sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, twenty-one, twenty-five, thirty-one, thirty-two and thirty-three, article five, are amended and reenacted; sections twenty-six to thirty, inclusive, article five, are repealed; sections one, two, six, seven and eight, article six, are amended and reenacted; sections five, ten, eleven, twelve and forty, article seven, are amended and reenacted; section two-(a) is added to article nine, and section three, article nine, is amended and reenacted, all of chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to the school system so as to permit the establishment of the county unit plan of school organization.

ARTICLE I.

- Section 1. The following words used in this chapter and in
- 2 any proceedings pursuant thereto shall, unless the context
 - 3 clearly indicate a different meaning, be construed as follows:
 - 4 (a) "School" shall mean the pupils and teacher or teachers
 - 5 assembled in one room;
 - 6 (b) "District" shall mean county school district and shall
 - 7 include any independent school district heretofore established by
 - 8 special act or acts of the legislature;
 - 9 (c) "Teacher" shall mean teacher, supervisor, principal,
 - 10 superintendent, public school librarian or any other person regu-

11 larly employed for instructional purposes in a public school in
12 this state;

13 (d) "State board" shall mean the state board of educa-
14 tion;

15 (e) "Board" shall mean the county board of education;

16 (f) "State superintendent" shall mean the state superin-
17 tendent of free schools;

18 (g) "Superintendent" shall mean the county superin-
19 tendent of schools.

Sec. 3. A school district shall include all the territory in one
2 county. Existing magisterial school districts and subdistricts
3 and independent districts are abolished.

Sec. 4. This section is repealed.

ARTICLE IV.

Section 1. The county superintendent shall be elected by
2 the county board of education. The president of the board, im-
3 mediately upon the election of the superintendent, shall certify
4 the election to the state superintendent. The superintendent
5 in office at the time of the passage of this act shall continue in
6 office until the expiration of his present term: *Provided, how-*
7 *ever,* That the county superintendent in office at the time of the
8 passage of this act shall exercise only such of the duties of the
9 county superintendent designated in this article as the board
10 may prescribe. The board may designate a teacher or teachers
11 to perform the remaining duties, if any, required of the superin-
12 tendent by this article: *Provided further,* That the foregoing
13 provision shall apply only during the present term of the super-
14 intendent in office at the time of the passage of this act, or that
15 part of the term as such superintendent may serve, and not
16 thereafter.

Sec. 2. The superintendent, at the time of his election, shall
2 have a bachelor's degree, including at least eight hours' credit in
3 school administration from a college or university for the train-
4 ing of teachers; and at least two years' of experience in public
5 school teaching, or, in lieu of two years' teaching experience,
6 shall have served at least one term as county superintendent in
7 this state.

8 He shall file with the president of the board, before entering
9 upon the discharge of his duties, a health certificate from a repu-
10 table physician certifying that he is physically fit for the duties
11 of his office and that he has no infectious or contagious disease.

Sec. 3. The board may remove the superintendent for cause
2 in its judgment and discretion.

Sec. 4. The board shall fix the annual salary of the superin-
2 tendent, but in no case shall the salary be less than eight hun-
3 dred dollars per year nor more than three thousand dollars per
4 year, exclusive of state aid. The board shall pay the salary
5 from the elementary teachers' fund or the high school teachers'
6 fund, or from both.

Sec. 5. The board shall pay the compensation of the superin-
2 tendent monthly upon orders drawn in the same manner as
3 other bills of the district.

Sec. 6. The office of county financial secretary is abolished.
2 The sheriff or school treasurer shall honor orders on the school
3 fund only as prescribed by section three, article nine of this
4 chapter. The sheriff or treasurer shall also report to the board,
5 at the end of each month, a complete statement of the finances
6 of the district together with the number and amount of each
7 school bond and interest coupon paid during the month.

Sec. 7. The board shall provide the superintendent with a
2 suitable office at the county seat, which office shall also be the
3 office of the board. The board shall supply the office with jani-
4 tor service and with the necessary equipment and supplies.

Sec. 8. The superintendent, with the consent of the board,
2 may appoint clerical assistants necessary for efficient operation
3 of his office. Their salaries shall be paid monthly by the board
4 from the maintenance fund.

Sec. 9. The board may reimburse the superintendent from the
2 maintenance fund, in a sum not to exceed three hundred dollars
3 per year, for traveling expenses incurred in the performance of
4 his duties. But no allowance shall be made except upon sworn
5 itemized statements.

Sec. 10. The county superintendent shall:

- 2 (1) Act as the chief executive officer of the board, and ex-
3 ecute under the direction of the state board all its educational
4 policies;
- 5 (2) Receive applications for teachers and submit them to
6 the board together with his recommendation;
- 7 (3) Assign, transfer, suspend, promote or dismiss teachers,
8 subject to the approval of the board;
- 9 (4) Organize and attend district institutes; organize and
10 direct reading circles and boys' and girls' clubs;

- 11 (5) Close temporarily any school when conditions are detri-
12 mental to the health; safety or welfare of the pupils;
- 13 (6) Certify all expenditures and monthly payrolls of
14 teachers and employees;
- 15 (7) Be the secretary of the board and attend all meetings
16 of the board or its committees, except when his tenure, salary or
17 administration is under consideration;
- 18 (8) Administer oaths and examine under oath witnesses in
19 any proceedings pertaining to the schools of the district, and
20 have the testimony reduced to writing;
- 21 (9) Exercise all other authority granted by this chapter or
22 required by the board or state board;
- 23 (10) Act in case of emergency as the best interests of the
24 school demand.

Sec. 11. The county superintendent shall:

- 2 (1) Visit the schools as often as practical; observe and make
3 suggestions concerning the instruction and class room manage-
4 ment of the schools and their sanitary conditions;
- 5 (2) Report to the board cases of incompetence, neglect of
6 duty, immorality or misconduct in office of any teacher or em-
7 ployee;
- 8 (3) Recommend for condemnation buildings unfit for school
9 use;
- 10 (4) Direct the taking of the school census;
- 11 (5) Call, at his discretion, conferences of principals and
12 teachers to discuss the work of the schools of the district;
- 13 (6) Report to the board the progress and general condition
14 of the schools;
- 15 (7) Make such reports as are required by the state superin-
16 tendent. In case the superintendent fails to report as required,
17 the state superintendent may direct that the superintendent's
18 salary be withheld until an acceptable report is received;
- 19 (8) Perform all other duties prescribed in this chapter or re-
20 quired by the board or the state board.

ARTICLE V.

Section 1. Each county school district shall be under the
2 supervision and control of a county board of education. The
3 board shall consist of five members, citizens of the county, and
4 elected by the voters of the county for a term of four years
5 or until their successors have been elected and qualified: *Pro-*
6 *vided, however,* That no more than two members shall be elected
7 from the same magisterial district.

8 At the next general election after this act goes into effect
9 three members shall be elected for a term of four years, and two
10 shall be elected for a term of two years. The three candidates
11 receiving the highest number of votes shall be declared elected
12 for the four-year terms and the two candidates receiving the
13 next highest number of votes shall be declared elected for the
14 two-year terms. As the terms provided above expire the offices
15 shall be filled for four-year terms.

16 The board shall meet on the first Monday in July next after
17 their election and organize by electing from among their own
18 members a president for a two-year term.

19 On or before the first day of July, nineteen hundred thirty-
20 three, the state superintendent of schools shall appoint a county
21 board for each county, whose members shall be residents of the
22 county in which they are appointed, and who shall serve until
23 their successors shall be elected and qualified, as hereinbefore
24 provided in this section. Such interim board shall take office
25 on July first, nineteen hundred thirty-three.

Sec. 2. The board shall fill by appointment within thirty days
2 any vacancy that occurs in its membership. Such appointments
3 shall continue until the next general election, when the voters
4 shall elect a successor for the unexpired term. In the event
5 that the board does not fill the vacancy within thirty days the
6 state superintendent shall appoint a person to the vacancy.

7 If a member of the board moves out of the district or accepts
8 a position as teacher in any district, he shall immediately vacate
9 his office.

Sec. 3. Every board member shall take the oath prescribed by
2 section five, article four of the constitution, before performing
3 any of the duties of his office. The oath shall be filed with the
4 secretary of the board.

Sec. 4. The board shall meet on the first Monday of July and
2 on the first and third Tuesdays in August and at such other
3 times as the board may fix upon its records. The board shall
4 meet at the court house of the county on the first Monday in
5 May in each year and shall appoint the teachers for their dis-
6 trict. At which time, it shall be the duty of the superintendent
7 of schools to furnish each member of the board an approved
8 list of all qualified teachers for the schools of said district for
9 the ensuing year.

10 Special meetings may be called by the president or any three

11 members, but no business shall be transacted other than that
12 designated in the call.

13 A majority of the members shall constitute the quorum neces-
14 sary for the transaction of official business.

15 Board members shall receive compensation at the rate of five
16 dollars per meeting. But they shall not receive pay for more
17 than twelve meetings in any one year.

18 Members shall also be paid, upon the presentation of an
19 itemized sworn statement, for all necessary traveling expenses
20 incurred on official business, at the order of the board.

Sec. 5. The county board of education shall be a corporation
2 by the name of "The board of education of the county of.....,"
3 and as such may sue and be sued, plead and be impleaded, con-
4 tract and be contracted with. It shall succeed and be subro-
5 gated to all the rights of former magisterial and independent
6 district boards and may institute and maintain any and all ac-
7 tions, suits and proceedings now pending or which might have
8 been brought and prosecuted in the name of any former board
9 for the recovery of any money or property, or damage to any
10 property due to or vested in the former board, and shall also be
11 liable in its corporate capacity for all claims legally existing
12 against the board of which it is a successor. The board shall,
13 according to law, hold and dispose of any real estate or personal
14 property belonging to the former corporation or its predeces-
15 sors, or that may hereafter come into its possession.

16 The board, according to law and the intent of the instrument
17 conferring title, shall receive, hold and dispose of any gift, grant
18 or bequest.

19 All public school property used for school purposes shall be
20 exempt from execution or other process, and free from lien or
21 distress for taxes or municipal, county or state levies.

Sec. 6. The county board shall have title to any land or school
2 site which for five years has been in the undisputed possession
3 of the county board or any board of education of a magisterial
4 district, or subdistrict, or independent district, and to which
5 title cannot be shown by any other claimant. Such land shall be
6 held and used for school purposes, as provided by section eight
7 of this article.

Sec. 7. The board shall ascertain at the beginning of each
2 school year the buildings to be retained for school purposes, and
3 the buildings which because of their condition or location should

4 be sold. The board may sell the undesirable buildings and the
5 land on which they are located, at public auction, after proper
6 notice, and on such terms as it orders, to the highest responsible
7 bidder. But in rural communities the grantor of the lands, his
8 heirs or assigns, shall have the right to purchase at the sale, the
9 land, exclusive of the buildings thereon, and the mineral rights,
10 at the same price for which it was originally sold. The board
11 by the same method prescribed for the sale of school buildings
12 and lands, may also lease for oil or gas or other minerals any
13 lands or school sites owned in fee by it. The proceeds of such
14 sales and rentals shall be placed to the credit of such fund or
15 funds of the district as the board may direct.

Sec. 8. The board shall purchase by condemnation, or other-
2 wise, the lands necessary for school buildings, playgrounds,
3 experiments in agriculture, and other educational purposes, and
4 may make necessary expenditures for the improvement of the
5 land.

6 The board may petition the circuit court to condemn land
7 necessary for educational purposes if the owner refuses to sell,
8 demands an unreasonable price, is non compos mentis, a minor,
9 or a nonresident.

10 Condemnation proceedings shall be in the name of the board
11 and according to the provisions of chapter fifty-four of the code.

Sec. 9. The board shall provide:

2 (1) By purchase, lease, building or otherwise, a sufficient
3 number of suitable school houses and other buildings to meet the
4 educational needs of its district;

5 (2) The necessary furniture, fixtures, apparatus, fuel and
6 all necessary supplies for the schools;

7 (3) For the health and cleanliness of the pupils;

8 (4) For the repair and good order of the school grounds,
9 buildings and equipment.

10 The board may also provide for medical and dental clinics.

Sec. 10. The state board may require all plans and specifi-
2 cations for the erection of school buildings to comply with the
3 requirements of law. They may require all county boards to
4 submit all plans and specifications for their approval.

Sec. 11. The boards of two or more adjoining counties may
2 jointly establish and maintain schools. The title to the school
3 shall be vested in the board of the county in which the school is
4 located. The agreement by which the school is established shall

5 be reduced to writing and entered of record in the minutes of
6 each board.

7 The boards of the several districts shall determine the site of
8 the proposed school and the amount to be expended for its
9 establishment and equipment. The cost shall be apportioned
10 upon the basis of the respective valuations of the taxable prop-
11 erty in each district.

12 The board in the district in which the building is located shall
13 be vested with the control and management of the school.

14 The annual operating cost shall be apportioned among the
15 districts on the basis of the average daily attendance of pupils
16 from each district.

Sec. 12. Boards shall require all persons contracting for the
2 building or repairing of school property, where the contract
3 exceeds one hundred dollars, to execute a bond, with approved
4 security, in double the amount of the contract price.

Sec. 13. The board, subject to the provisions of this chapter
2 and the rules and regulations of the state board, shall have
3 authority to:

4 (1) Control and manage all of the schools and school in-
5 terests of the county;

6 (2) To establish needed high schools;

7 (3) To close any school which is unnecessary and to assign
8 the pupils thereof to other schools;

9 (4) To consolidate schools;

10 (5) To close any elementary school whose average daily at-
11 tendance falls below twenty pupils for two months in succession,
12 and send the pupils to other schools in the district or to schools
13 in adjoining districts. The compensation of teachers in schools
14 so closed, shall cease;

15 To provide at public expense adequate means of transporta-
16 tion for all children of school age who live more than two miles
17 distant from school by the nearest available road or path. The
18 board of any district may expend under such regulations as it
19 establishes, for each child an amount not to exceed the proportion
20 of all school funds of the district that each child would be en-
21 titled to receive if all the funds were distributed equally among
22 all the children of school age in the district upon a per capita
23 basis. No changes in textbooks except those provided by
24 general law shall be made as a result of the passage of this

25 act: *Provided, however,* That at least one year of instruction
26 in the history of the state of West Virginia shall be given
27 prior to the eighth grade.

Sec. 14. White and colored pupils shall not receive instruc-
2 tion in the same school, or in the same building. The board shall
3 establish one free school, or more if necessary, in any part of the
4 county where there are ten or more colored children of school
5 age living within two miles of a point where a school might be
6 established. And when such schools are established for colored
7 children, the teachers thereof shall be supplied from members of
8 their own race. The board may, if practical, establish a school
9 in a part of the county where there are less than ten colored
10 children of school age.

11 The board, for the purpose of carrying out the provision of
12 this section, may transfer pupils from one county to another as
13 provided in section sixteen of this article.

14 Whenever, in any district, the benefit of a free school educa-
15 tion is not secured to the colored children of school age residing
16 therein in the manner mentioned in this section, the funds appli-
17 cable to the support of the free schools in the district shall be
18 divided by the board in the proportion which the number of
19 colored children bears to the number of white children therein,
20 according to the last enumeration made for school purposes, and
21 the share of the former shall be set apart for the education of
22 colored children of school age in the district, and applied for the
23 purpose from time to time in such manner as the board may
24 deem best.

Sec. 15. The board shall provide a term for its schools.

2 The term shall be computed as follows:

- 3 (1) As many months as the revenues supplied by the state
4 will provide;
- 5 (2) And, in addition, as many months as the regular levies
6 authorized by law will support;
- 7 (3) The minimum term for both elementary and high
8 schools shall be nine months or such part thereof as the maxi-
9 mum levy as provided by law and the equalization fund of the
10 state will permit.

11 If the state revenues and regular levies authorized above are
12 insufficient to enable the board of education to provide the
13 minimum term, the board may at any general or special
14 election, if petitioned by at least five percent of the qualified

15 voters in the district, submit the question of additional levies to
16 the voters.

17 If at the election sixty per cent of the qualified voters cast
18 their ballots in favor of the additional levy, the board shall fix
19 the term and lay a levy necessary to pay the cost of the addi-
20 tional term. The additional levy fixed by the election shall not
21 continue longer than three years without submission to the
22 voters. The additional rate shall not exceed by more than
23 fifty per cent the maximum school rate prescribed by article
24 eight, chapter eleven of the code, as amended.

25 The school shall be open to youths between the ages of six
26 and twenty-one for the full school term provided in each dis-
27 trict.

Sec. 16. The board may divide its territory into such sub-
2 districts as are necessary to determine the schools the pupils of
3 its district shall attend. But upon the written request of any
4 parent or guardian, or person legally responsible for any pupil.
5 or for reasons affecting the best interests of the schools, the
6 superintendent may transfer pupils from one school to another
7 within the district. Any aggrieved person may appeal the de-
8 cision of the superintendent to the board, and the decision of
9 the board shall be final.

10 Transfers of pupils from one county to another may be made
11 by the board of the county in which the pupil desiring to be
12 transferred resides; but the transfer shall be subject to the
13 approval of the board of the county to which the pupil wishes
14 to be transferred, except such approval shall not be a condition
15 precedent to the transfer of a pupil resident in a municipality
16 comprised of parts of two or more counties in this state, or
17 resident in an independent school district as the same existed
18 prior to the time this became effective, made up of parts of two
19 or more counties and whether or not within its limits now de-
20 fined is located a municipality or part thereof, but such pupil
21 shall be considered and treated as transferred, as the case or
22 the situation may be, with the right unimpaired to attend the
23 school or schools now established and maintained (if not dis-
24 continued) in such municipality and/or independent school
25 district. In all cases of transfer by the act of the board or by
26 operation of law, either to elementary schools or to high schools,
27 the board making the transfer shall pay to the board to which

28 such transfer is made, reasonable tuition fees, which for
29 elementary schools shall not exceed two and one-half dollars
30 a month, and for junior and senior high schools shall not ex-
31 ceed ten dollars a month. The fee, to be paid out of the
32 teachers' fund, shall not exceed the actual cost of the instruc-
33 tion. No parent, guardian or person acting as parent or
34 guardian shall be required to pay for the transfer or for the
35 tuition of the pupil after the transfer. The board of the dis-
36 trict to which the pupil has been transferred shall promptly,
37 at the first of each month, certify to the board of the district
38 from which the pupil was transferred the correct amount of
39 all tuition fees due and payable for the next preceding month.
40 All tuition fees shall be paid within thirty days of certification,
41 to the district maintaining the school by the district to which
42 the fees are certified. All tuition fees shall be paid out of the
43 teachers' fund of the one district to the teachers' fund of the
44 other.

45 Transfer of pupils from this state to another shall be upon
46 such terms as shall be mutually agreed upon by the board of
47 the transferring district and the authorities of the school to
48 which the transfer is made, and shall be based upon the aggre-
49 gate per capita student cost of the preceding year, of the
50 school to which the transfer is made.

Sec. 21. The board of education of every county may pur-
2 chase the necessary textbooks prescribed to be used in the free
3 schools by the pupils thereof and shall provide such books for
4 the pupils whose parents, in the judgment of the board are
5 financially unable to provide same. If the board of education
6 determines to purchase and furnish such free textbooks to all
7 the pupils of its district it shall waive all right to supplemental
8 state aid as provided in subsection five, section six, article nine
9 of this chapter. The board shall enter an order to that effect
10 upon its records and shall cause such books to be purchased and
11 kept in charge by the superintendent and furnished to the pupils
12 of free schools of its district as hereinafter provided. All such
13 books shall be purchased by the board as prescribed by law, and
14 at the net wholesale price. In such case at the commencement
15 of every term the superintendent shall deliver to the teachers
16 thereof such books as may be necessary for the use of the several
17 pupils therein for the ensuing term of school and take from them

18 receipts showing the number and kind of books so received. It
19 shall be the duty of such teachers to take charge of such books
20 and to distribute them among the pupils of their schools as
21 needed, and such teachers shall have and exercise general con-
22 trol of such books, and at the close of such term and before
23 receiving an order for salary for the last month of such term,
24 shall collect and gather together all the books so used and
25 deliver them to the superintendent.

26 If any of the books delivered to any pupil shall be unneces-
27 sarily injured or destroyed they shall be replaced by the pupil
28 who injured or destroyed them.

Sec. 25. The superintendent as secretary of the board shall:

- 2 (1) Take the oath prescribed in the constitution before per-
3 forming any of the duties of his office;
- 4 (2) Attend all board meetings and record its official pro-
5 ceedings in a book kept for that purpose;
- 6 (3) Record the number of each order issued, the name of the
7 payee, the purpose for which the order was issued, and the
8 amount thereof. Every order shall be signed by the secretary
9 and the president of the board;
- 10 (4) Care for and keep all papers belonging to the board,
11 including evidences of title, contracts and obligations. They
12 shall be kept in the secretary's office, accessibly arranged for
13 reference;
- 14 (5) Record and keep on file all papers and documents per-
15 taining to the business of the board;
- 16 (6) Make a tabular report to the board on or before the
17 twentieth day of July, annually, showing all the statistics and
18 facts required by the blanks furnished by the state superinten-
19 dent. He may collect his material from the annual report of
20 the sheriff, the teachers' register and such other sources as he
21 thinks desirable, and he may accompany his report with such
22 explanation and comment as he deems pertinent;
- 23 (7) Keep the accounts and certify the reports required by
24 law or requested by the board;
- 25 (8) Administer oaths to school officers, teachers, and others
26 making reports;
- 27 (9) Deliver in proper condition to his successor all records
28 and property pertaining to his office;
- 29 (10) Exercise such other duties as are prescribed by law.

Sec. 26. This section is hereby repealed.

Sec. 27. This section is hereby repealed.

Sec. 28. This section is hereby repealed.

Sec. 29. This section is hereby repealed.

Sec. 30. This section is hereby repealed.

Sec. 31. The board may employ janitors, and such other employees as may be necessary. The board shall fix their duties and compensation. Their wages shall be paid from the building fund.

The board may also appoint a custodian for each school building. The custodian shall report the condition of the building and grounds to the board whenever he thinks it necessary. The custodian shall serve without pay.

The board shall have no authority to appoint district trustees.

Sec. 32. The board, upon the recommendation of the superintendent, may employ assistant superintendents for a term of one year. The salary of the assistant superintendent shall be paid from the teachers' fund in monthly installments, and in addition thereto the assistant shall be reimbursed for his necessary traveling expenses when a sworn, itemized monthly statement is presented. An assistant shall not receive more than three hundred dollars in any year for traveling expenses.

The board shall not employ more than one assistant for each two hundred teachers: *Provided, however,* That in such districts in which assistants are employed and fifty or more negro teachers are employed therein, the board may employ one negro assistant superintendent.

The superintendent shall direct the work of the assistant superintendents and define their duties.

The assistant superintendent, at the time of his appointment, shall hold a bachelor's degree from an accredited college or normal school and must have had at least two years' experience as a public school teacher. In no case shall the board of education have authority to employ a supervisor, whether by that name or any other name, any provision of law to the contrary notwithstanding.

The board may also cooperate with the extension division of the college of agriculture in employing an agricultural club agent for the organization and direction of boys' and girls' agricultural clubs.

Sec. 33. The board may fix special salary schedules for the 2 superintendent, assistant superintendents, teachers and other 3 employees so long as the salary schedule does not conflict with 4 the general provisions of this chapter.

ARTICLE VI.

Section 1. The board in any district may establish and main- 2 tain a reasonable number of high schools, junior high schools 3 and the buildings properly connected therewith.

4 They may also employ principals, teachers, janitors and em- 5 ployees as may be required to conduct and operate the schools 6 they have established.

Sec. 2. The boards of two or more adjoining counties may 2 jointly establish and maintain a high school. The building for 3 the joint high school and the site therefor shall be owned jointly 4 in proportion to the amounts contributed by the respective 5 districts.

6 The boards of the districts shall determine the site of the 7 proposed school and the amount to be contributed toward its 8 establishment by the districts concerned. The total cost shall 9 be apportioned on the basis of respective valuations of the tax- 10 able property in each district.

11 All records and agreements concerning the establishment and 12 maintenance of such schools shall be reduced to writing and 13 entered on the minute books of the respective boards.

14 The board in the district in which the building is located 15 shall have the control and management of the school.

16 The annual operating costs shall be apportioned among the 17 districts on the basis of the average daily attendance of pupils 18 from each district.

Sec. 6. The board of a district maintaining a high school 2 which is not accessible to all the pupils eligible to attend, shall 3 either transport them to a high school within the district or pay 4 their tuition fees in high schools of adjoining counties. The 5 tuition shall not exceed ten dollars per month per pupil, or in 6 any case more than the actual cost of instruction. Tuition shall 7 not be paid for more than four years for any pupil.

8 The district in which the pupil resides shall pay the tuition 9 fees from its teachers' fund. No payment shall be made, how- 10 ever, except upon the presentment of a certificate indicating 11 the name of the pupil, the amount of the fees, the months of

12 attendance, and signed by the president of the board and the
13 principal of the school charging the tuition.

14 The tuition or fee for transferring shall not be charged to the
15 parent, guardian, or person legally responsible for the pupil
16 transferred.

Sec. 7. Any board of education desiring to establish and
2 conduct a self supporting dormitory for the accommodation of
3 the pupils attending a high school under its supervision, and
4 of persons employed to teach therein, shall have authority,
5 subject to the approval of the state superintendent of free
6 schools, to do so.

7 The board of education shall place a reputable and respon-
8 sible person, or persons, in charge of such dormitory to conduct
9 the same and furnish meals and lodging to pupils and teachers
10 therein and shall determine the rate that shall be charged pupils
11 and teachers for such accommodations, and shall require of such
12 person a bond in the sum of one thousand dollars for the proper
13 accounting of all money and property coming into their hands
14 and for the proper performance of their duties.

Sec. 8. The board may discontinue any high school which
2 is no longer necessary for the accommodation of the pupils of
3 the county.

ARTICLE VII.

Section 5. All teachers and employees whose salaries are
2 payable out of the teachers' fund shall be paid for their serv-
3 ices monthly by orders drawn on the sheriff or treasurer and
4 duly signed by the president and secretary of the board.

5 The board may withhold the monthly salary of any teacher
6 or employee until he has made the reports required by the
7 board or the state superintendent.

Sec. 10. The superintendent shall require a school census to
2 be taken on or before the twentieth of October of each year.
3 The enumeration shall distinguish between males and females
4 and white and colored. The enumeration shall be made by the
5 teachers of the district; but they shall receive no compensation
6 therefor.

Sec. 11. The enumeration shall be taken and reported in
2 separate classes as follows:

3 (1) All youths who on the first day of July following,
4 will be not less than six nor more than twenty years of age;

5 (2) All youths who on the above date will be not less than
6 six nor more than sixteen years of age;

7 (3) All youths who on the above date will be not less than
8 seven nor more than sixteen years of age;

9 (4) All youths who on the above date will be over fourteen
10 and under sixteen years of age.

11 The person making the report shall verify it and accompany
12 it with an affidavit that he used all reasonable diligence in its
13 preparation and that he believes it to be accurate. He shall
14 deliver the report to the secretary not later than the twentieth
15 day of October. If he fails to do so or the report is not com-
16 plete and accurate, the secretary shall deduct from his month's
17 salary an amount sufficient to defray the expenses of a proper
18 enumeration.

Sec. 12. When a proper report is not received on the date
2 prescribed the secretary shall employ a competent person to
3 make the proper report. The person making the enumeration
4 and report shall receive reasonable compensation for the time
5 actually necessary to prepare the report. Payment shall be
6 made from the teachers' fund by an order of the board drawn
7 on the sheriff.

Sec. 40. The board of any district may approve the at-
2 tendance of its teachers at educational conventions, teachers'
3 round tables, or teachers' meetings on school days when in the
4 judgment of the superintendent it is necessary or desirable.
5 Attendance at such meetings may be substituted for an equal
6 amount of teaching.

ARTICLE IX.

Section 2-(a). The board, as provided by section nine, article
2 eight of chapter eleven, shall impose a levy for the maintenance
3 and operation of all schools in the county. This levy shall be
4 uniform throughout the county and the funds shall be dis-
5 tributed and expended without regard to the locality from
6 which collected: *Provided, however,* That if a majority of the
7 voters of any political subdivision of the county shall file with
8 the board of education of the county of which such political
9 subdivision is a part, at their meeting on the first Tuesday in
10 August, a petition praying for increased salaries, funds for the
11 support and maintenance of libraries, medical and dental clin-
12 ics. supervision. and/or an extension of the school term therein

13 for a given number of months, the board shall extend the term
14 of school for the number of months requested in such petition
15 and shall lay levies sufficiently high on each one hundred dol-
16 lars' valuation of taxable property within such political sub-
17 division according to the last assessment thereof for such pur-
18 pose of/or purposes as specified in the petition, which levies
19 shall be separated and designated as a special maintenance fund
20 levy and a special teachers' fund levy of the political unit for
21 which such levies are laid.

22 All additional levies so authorized shall be made as pro-
23 vided by law and shall in no case exceed the statutory limita-
24 tion or maximum for the various classes of property of the po-
25 litical subdivision authorizing the same.

26 Upon a petition of one hundred taxpayers of any political
27 subdivision of a county to the board of education of the county
28 of which such political subdivision is a part, the board of edu-
29 cation shall call an election within said political subdivision for
30 the purpose of authorizing the county board of education to
31 lay special increased rates of levy on the property of said po-
32 litical subdivision, as provided by law, for educational purposes
33 as may be set forth in the petition and in the call for the elec-
34 tion.

35 The bonded indebtedness incurred by former magisterial
36 school district boards and independent district boards shall re-
37 main the debt of the property originally pledged as security for
38 the payment of the obligation.

39 The county board shall impose separate levies in the manner
40 provided by sections nine and thirteen, article eight, chapter
41 eleven, upon the property in former magisterial districts and
42 independent districts for the payment of current requirements
43 of principal and interest of bonded indebtedness incurred prior
44 to the creation of the county school districts.

Sec. 3. The sheriff shall receive, collect and disburse all
2 levies and other school money for the district. He shall keep
3 accounts of the money belonging to the several funds and shall
4 credit and charge every amount to the fund to which it belongs.
5 The sheriff shall pay money only upon the order of the board.
6 The order shall specify the amount to be paid, the purpose for
7 which it is paid, and the fund to which it shall be charged. The
8 order shall be signed by the president and shall be counter-
9 signed by the secretary.

10 Any high school which has been established and maintained
 11 for teacher training and other educational purposes by any
 12 board or boards of education, in connection with state insti-
 13 tutions of higher learning, shall be continued and maintained
 14 in the manner provided by the act authorizing such school;
 15 except, that the advisory authority formerly vested in the dis-
 16 trict board or boards of education is hereby transferred to the
 17 county board of education; and that the levy for the support
 18 of such school, formerly laid by the district board or boards of
 19 education, shall be laid on all the assessed property of the
 20 county, by the county board of education. All expenditures
 21 from such fund shall be paid on requisition issued by the county
 22 board.

23 If a part of this act is for any reason declared unconstitu-
 24 tional the decision of the court shall not affect the validity of
 25 any remaining portion.

26 All existing provisions of law inconsistent with this act are
 27 hereby repealed.

CHAPTER 9

(House Bill No. 4—By Mr. Hiner)

AN ACT to amend and reenact section six, article nine; section
 seventeen, article five; and section three, article six, chapter
 eighteen of the code of West Virginia, one thousand nine hun-
 dred thirty-one, to provide for the distribution of general
 school funds.

[Passed June 3, 1933; in effect from passage. Approved by the Governor.]

ARTICLE IX.

SEC.

6. General school fund established for support of free schools; sources of revenue for; for what purposes fund may be expended; how number of needed teachers determined; what petition to state superintendent for aid must show; when state aid may be withdrawn; duty of auditor as to fund.

ARTICLE V.

SEC.

17. Definition of standard school; state

SEC.

board of education to fix requirements for standardization; classification by state superintendent.

ARTICLE VI.

SEC.

3. Classification of high schools and secondary school departments of state supported institutions by state superintendent; unconstitutionality of part not to affect validity of remainder of act; inconsistent provisions repealed.

Be it enacted by the Legislature of West Virginia:

That section six, article nine; section seventeen, article five; and section three, article six, chapter eighteen of the code of West Vir-

ginia, one thousand nine hundred thirty-one, be amended and re-enacted to read as follows:

ARTICLE IX.

Section 6. A separate school fund to be called the "general 2 school fund" shall be set apart for the support of the free 3 schools of the state and the revenue from the following sources 4 and not otherwise appropriated shall be paid into it:

5 (1) The proceeds from the capitation tax;

6 (2) The income of the school funds;

7 (3) The net proceeds of all fines and forfeitures which accrued 8 to the state during the previous year, except fines referred to in 9 section six of article eight of this chapter;

10 (4) All moneys arising from the sources named in section four 11 of article twelve of the constitution heretofore going to the 12 "school fund" but as now amended going to the "general school 13 fund;"

14 (5) All interest on public moneys received from state deposi- 15 tories;

16 (6) State license tax on marriages;

17 (7) State tax on forfeitures;

18 (8) State tax on state licenses, except on motor vehicles and 19 on owners, chauffeurs, operators and dealers in motor vehicles, 20 hunting and fishing licenses and state licenses paid directly 21 to the state auditor and secretary of state;

22 (9) All funds from any source paid into the treasury for 23 school purposes and not otherwise appropriated.

24 This fund shall be used for the following purposes accord- 25 ing to the order and preferences indicated below:

26 (1) To pay the salary of the state superintendent of free 27 schools, his necessary traveling expenses not to exceed five hun- 28 dred dollars per year, and the contingent and other expenses 29 of his office;

30 (2) To pay toward the salary of each county superintendent 31 on the basis of twenty cents per pupil in average daily attend- 32 ance for the preceding year, but the maximum amount supplied 33 by the state for the salary of any county superintendent shall 34 not exceed two thousand dollars;

35 (3) To pay to each district a sum sufficient to supplement 36 materially the elementary teachers' fund by paying for each

37 needed teacher for a period of four months, the following
38 amounts:

39 (a) For each teacher holding a third grade certificate,
40 forty dollars per month;

41 (b) For each teacher holding a second grade certificate,
42 fifty-five dollars per month;

43 (c) For each teacher holding a first grade certificate,
44 seventy dollars per month;

45 (d) For each teacher holding a short normal certificate,
46 seventy-five dollars per month;

47 (e) For each teacher holding a standard normal certificate,
48 eighty-five dollars per month;

49 (f) For each teacher holding a certificate of higher grade,
50 ninety dollars per month.

51 The total number of needed teachers in any subdistrict estab-
52 lished by the board shall be determined by dividing the number
53 of pupils in average daily attendance during the preceding year
54 by eighteen, in districts with an average daily attendance of
55 one to five per square mile; by twenty-two, in districts having
56 an average daily attendance of six to nine per square mile; by
57 twenty-five, in districts having an average attendance of ten to
58 nineteen per square mile; by thirty, in districts having an aver-
59 age daily attendance of twenty to thirty-nine per square mile;
60 and by thirty-eight, in districts with an average daily attendance
61 of forty or more per square mile;

62 (4) To pay to each district a sum sufficient to supplement
63 materially the junior and senior high school teachers' fund by
64 paying for each needed teacher for a period of four months, the
65 following amounts:

66 (a) For each teacher holding a standard normal certificate,
67 eighty dollars per month;

68 (b) For each teacher holding a bachelor's degree approved
69 by the state superintendent, ninety dollars per month;

70 (c) For each teacher holding a master's degree approved
71 by the state superintendent, one hundred ten dollars per month.

72 The total number of teachers needed in any district shall be
73 determined by dividing the average daily attendance in junior
74 and senior high schools in the district during the preceding year
75 by twenty-three.

76 (5) To supplement the elementary and high school funds in

77 districts where the maximum levy and the aid granted in sub-
78 sections three and four will not maintain the school and pay the
79 minimum basic salaries to the number of needed teachers for the
80 minimum term, each district may petition the state superin-
81 tendent for aid and must affirmatively show by sworn statement
82 that:

83 (a) The maximum levy on lawfully assessed valuations has
84 been laid in the district;

85 (b) The maximum levy is insufficient, together with the state
86 aid granted by subsections three and four of this section, to
87 maintain the school for the minimum term;

88 (c) The proportion of teachers to pupils is proper;

89 (d) The schedule of teachers' salaries is reasonable;

90 (e) The budget of contingent expenses and building enter-
91 prise is commensurate with the actual needs of the district.

92 Thereupon the state superintendent may, in his discretion,
93 grant so much aid as he thinks reasonable, in view of the con-
94 dition of the district and the request for aid from other districts.

95 (6) State aid granted by subsections three, four and five of
96 this section may be withheld from full time schools in case the
97 average daily attendance falls below twenty, or in case the board
98 fails, or refuses to consolidate when, in the judgment of the
99 state superintendent, consolidation is wise, and when the board
100 fails to meet the standards established by the state board.

101 The auditor, on or before the twentieth day of July in each
102 year, after first deducting the aggregate salary of the state
103 superintendent, his necessary traveling expenses not to exceed
104 five hundred dollars, the contingent and other expenses of his
105 office, and the salaries of the county superintendents, shall
106 ascertain the amount of the general school fund available for
107 distribution and shall certify the same to the state superin-
108 tendent.

109 The state superintendent on or before the first day of August,
110 shall ascertain the needs for the various purposes in the order
111 and preference enumerated, and shall have deposited in the
112 manner prescribed by law, with the sheriff or treasurer of each
113 district the amounts to which the district is entitled.

114 When the state superintendent determines that a district is
115 entitled to supplemental aid under the provisions of subsection
116 five, he shall make requisition upon the state auditor for the

117 necessary amount and the auditor shall issue warrants to the
118 district entitled to receive the supplemental aid.

ARTICLE V.

Section 17. A standard school shall be any one-room or con-
2 solidated school which meets the requirements fixed by the state
3 board of education.

4 The state board of education shall fix the requirements for the
5 standardization of schools and the state superintendent shall
6 publish the requirements and forward them to the district
7 boards of education, the county superintendent, and other school
8 officers.

9 The state superintendent shall classify the schools that meet
10 the requirements as, standard one-room schools, first class and
11 second class; and standard consolidated schools, first class and
12 second class.

ARTICLE VI.

Section 3. All junior high schools and senior high schools
2 which are a part of the school system of the state and all sec-
3 ondary school departments of state supported institutions shall
4 be approved, classified and rated by the state superintendent ac-
5 cording to the rules and regulations prescribed by the state
6 board.

7 If a part of this act is for any reason declared unconstitutional
8 the decision of the court shall not affect the validity of any
9 remaining portion.

10 All existing provisions of law inconsistent with this act are
11 hereby repealed.

CHAPTER 10

(Com. Sub. for House Bill No. 61—Originating in the Committee on
Education)

AN ACT to amend and reenact sections twenty-three, twenty-four,
twenty-five, twenty-six, twenty-seven and thirty, and to repeal
sections twenty-eight, twenty-nine and forty-one, chapter eight-
teen, article seven of the code of West Virginia, one thousand
nine hundred thirty-one, abolishing emergency and third
grade certificates; revising requirements for renewal of first

grade, short course and supervisors' certificates; designating collegiate elementary certificates, superintendents' certificates, high school principals' certificates, high school certificates for junior and senior high schools, invalidating certain other certificates and providing for approval of certificates.

[Passed June 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

23. Provisions concerning first and second grade elementary teachers' certificates; state board of education to prescribe subjects for examination; qualification of applicants for first grade certificates; at first examination for elementary teachers' certificates, examination for subjects in high school course to be held; state superintendent authorized to set up additional standards and prescribe equivalents for requirements for high school and professional work; provisions for normal school certificates; first and second grade elementary certificates valid in all grades of elementary schools; principal of school of two or more rooms must hold first grade certificate or equivalent.
24. State superintendent may issue superintendents' and high school principals' certificates; to what graduates high school certificates may be issued.

SEC.

25. State superintendent may issue supervisors' certificates valid in all schools of the state.
26. To whom state superintendent, upon recommendation of state board of education, may issue temporary first and second grade and short course certificates, valid in elementary schools.
27. Special certificates to librarians, primary teachers, etc.
28. Section repealed.
29. Section repealed.
30. What certificates are renewable for five year periods; provisions for renewal of short course certificates; provisions for renewal of first grade temporary certificates; application for reinstatement of first class certificates; what certificates expire on June 30, 1933; at what date teachers must hold certificate approved by state department of education.
41. Section repealed.

Be it enacted by the Legislature of West Virginia:

That sections twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven and thirty, chapter eighteen, article seven of the code of West Virginia, one thousand nine hundred thirty-one, be revised, amended and reenacted to read as follows:

- Section 23. Subject to all the conditions hereinafter set forth
- 2 in this section, first grade elementary certificates, valid for a
- 3 period of five years, shall be issued to applicants who are other-
- 4 wise qualified and who attain a general average of ninety per
- 5 cent, with no subject below seventy-five per cent; second grade
- 6 elementary certificates, valid for a period of two years, shall
- 7 be issued to applicants who are otherwise qualified and who
- 8 attain a general average of eighty per cent, with no subject
- 9 below sixty-eight per cent.
- 10 The subject in which applicants for such certificates shall be
- 11 examined or otherwise qualified according to law shall be deter-
- 12 mined and prescribed from time to time by the state board of

13 education: *Provided, however,* That after the first day of July,
14 one thousand nine hundred thirty-five, all applicants for first
15 grade certificates shall have graduated from a first class high
16 school or its equivalent and shall have completed at least thirty-
17 two semester hours of college work, not less than nine of which
18 shall be in professional subjects.

19 At the time of holding the first examination for elementary
20 teachers' certificates, the state superintendent of free schools
21 shall hold examinations for all subjects in the high school course
22 of study which he may deem advisable.

23 Upon recommendation of the state board of education, the
24 state superintendent of schools shall have authority to set up
25 additional standards and prescribe equivalents and substitu-
26 tions which shall be accepted in satisfaction of the foregoing
27 requirements for high school and professional work.

28 The state superintendent of free schools shall have authority
29 to issue normal school certificates, valid for five years, to grad-
30 uates in the standard normal course of any state normal school,
31 or other school approved for the offering of this course, to
32 graduates in the normal course of the Bluefield Colored In-
33 stitute and of the West Virginia State College, and to persons
34 who have completed a normal course of study in any school of
35 another state, which, in the judgment of the state board of
36 education, is equivalent in all respects to the standard normal
37 course of study in the state normal schools of this state.

38 First and second grade elementary certificates shall be valid
39 in all the grades of the elementary schools: *Provided,* That no
40 person shall be employed as principal of any school of two or
41 more rooms in the same building who does not hold a first grade
42 certificate or its equivalent.

Sec. 24. The state superintendent of schools shall have
2 authority to issue superintendents' certificates and high school
3 principals' certificates, valid for five years, upon application
4 in due form to applicants who meet the requirements pre-
5 scribed by the state board of education for such certificates.

6 The state superintendent shall also have authority to issue
7 high school certificates, valid for five years, upon application
8 in due form, to graduates of the West Virginia University and
9 to graduates of other approved colleges and universities in this

10 and other states, if the collegiate courses of instruction com-
11 pleted by such graduates have included not less than twenty
12 semester hours in professional subjects: *Provided*, That each
13 high school certificate issued under the provisions of this article
14 shall show the field or fields in which the holder thereof is espe-
15 cially qualified to teach.

16 High school certificates shall be valid in all junior and senior
17 high schools in the state and shall be required in all classified
18 high schools.

Sec. 25. The state superintendent of schools shall have
2 authority to issue supervisors' certificates valid for five years,
3 upon application in due form, to graduates of the West Vir-
4 ginia University, or other approved universities or colleges, and
5 to graduates of the state normal schools or other institutions
6 approved by the state board of education for the offering of
7 the diploma normal course: *Provided*, That the course of in-
8 struction completed by such graduates shall have included not
9 less than twenty semester hours in professional subjects, five
10 semester hours of which shall have been in the subjects of school
11 supervision. Supervisors' certificates shall be valid in all
12 schools of the state.

Sec. 26. Subject to the provisions hereinafter contained, the
2 state superintendent of schools shall have authority, upon the
3 recommendation of the state board of education upon applica-
4 tion in due form, to issue second grade temporary, first grade
5 temporary, and short course certificates valid for one, two and
6 three years, respectively, to persons who are otherwise quali-
7 fied and who have completed at least forty, forty-eight and
8 fifty-six hours, respectively, of the approved curriculum for
9 the standard normal certificate in any of our state normal
10 schools or other schools approved by the state board of educa-
11 tion. The short course certificate and the temporary certificate
12 shall be valid in the elementary schools of West Virginia.

Sec. 27. The state superintendent of free schools shall have
2 authority, upon the recommendation of the state board of edu-
3 cation, to issue special certificates to librarians, kindergarten
4 teachers, primary teachers, and special teachers and supervisors
5 of music, drawing, physical training, home economics, manual
6 training, agriculture and other vocational subjects, and such

7 other subjects as the needs of the schools may require. Special
8 certificates may be issued upon examination in subjects named
9 by the state board of education, or upon satisfactory comple-
10 tion by the applicants therefor of such courses of study as pre-
11 scribed by the state board of education for the issuance of such
12 certificates. Special certificates shall be valid for a period of
13 five years throughout the state for the teaching or for the
14 supervising of special subjects to be designated on such certifi-
15 cates.

Sec. 28. Section twenty-eight is hereby repealed.

Sec. 29. Section twenty-nine is hereby repealed.

Sec. 30. All first grade certificates, normal school certificates,
2 collegiate elementary certificates, superintendents' certificates,
3 high school principals' certificates, high school certificates, su-
4 pervisors' certificates and special certificates, valid for five
5 years, shall, upon their expiration or within the year imme-
6 diately following, be renewable for five year periods: *Provided,*
7 That the holders thereof shall have taught or otherwise been
8 actively engaged in educational work for not less than three
9 years of each five year period, and shall have completed during
10 each five year period after October first, one thousand nine hun-
11 dred thirty-three, not less than six semester hours of work
11-a in an accredited school. It is further provided that all ap-
12 plications for renewal shall be accompanied by a recommenda-
13 tion from the county superintendent of the county where the
14 applicant last taught: *Provided, however,* That if the appli-
15 cant seeking a renewal has cause to believe that the county su-
16 perintendent refuses to give a recommendation without just
17 cause, the applicant shall have the right in such case to appeal
18 to the state superintendent of schools.

19 At the end of the second renewal five year period, the holder
20 of any certificate designated in the preceding paragraph shall
21 receive a similar certificate valid for life, provided the holder
22 of such certificate has complied with the renewal requirements
23 as above provided for each five year period. All certificates
24 issued for a period of five years or longer shall be considered
25 first grade certificates as to renewal and payment of salaries.

26 In any case where a person has held a short course certificate,
27 such certificate shall be renewable prior to October first, one

28 thousand nine hundred thirty-three, in the manner now pro-
29 vided by law. On and after October first, one thousand nine
30 hundred thirty-three, such short course certificates, as are then
31 in force, shall be renewable for three year periods: *Provided,*
32 That the holder thereof shall have taught two years, or other-
33 wise actively engaged in educational work for a period of two
34 years, shall have completed during each three year period not
35 less than six hours of work in an accredited school, and shall be
36 recommended for such renewal by the county superintendent
37 of schools of the county in which the applicant last taught: *Pro-*
38 *vided, however,* That if the applicant seeking a renewal has cause
39 to believe that the county superintendent refuses to give a recom-
40 mendation without just cause, the applicant shall have the right
41 in such case to appeal to the state superintendent of schools.
42 The short course certificate shall not be issued after October
43 first, one thousand nine hundred thirty-three.

44 In any case where a person holds a first grade temporary
45 certificate, such certificate shall be renewable provided the holder
46 shall have taught one year, completed eight semester hours in
47 an approved normal, college or university, and shall be recom-
48 mended for such renewal by the county superintendent of
49 schools of the county in which the one year was taught. The
50 second grade temporary certificate shall not be renewed.

51 In any case where any person has held a first class certificate,
52 in accordance with the provisions of this act and has permitted
53 the same to lapse, such person may apply to the state superin-
54 tendent of free schools for reinstatement for such certificate
55 within a period of three years after the expiration of said cer-
56 tificate. The applicant shall furnish with his application a
57 record showing the completion of not less than six semester
58 hours of work in an accredited school during the life of the
59 certificate, together with a statement signed by the county su-
60 perintendent of schools of the county in which he resides, to
61 the effect that the applicant is a person of good moral character,
62 is in good health, is a suitable person to be entrusted with the
63 care and education of children, and bears the reputation of
64 having been a successful teacher: *Provided, however,* That if the
65 applicant seeking a renewal has cause to believe that the county
66 superintendent refuses to give a recommendation without just

67 cause, the applicant shall have the right in such case to appeal
 68 to the state superintendent of schools. If in the opinion of the
 69 state superintendent of free schools, such applicant is a suitable
 70 person to be entrusted with the care and education of children,
 71 has been successful in the work of teaching, and has complied
 72 with the foregoing reinstatement requirements, such certificate
 73 shall be reinstated in such manner as to replace such applicant
 74 in the relative position he held as to certificate rights on the
 75 thirtieth day of June following the close of the last term of
 76 school taught on such certificate.

77 All certificates of all grades not issued through a regularly
 78 advertised examination and all certificates not issued on grades
 79 earned in high school or other schools approved by the state
 80 board of education, a record of which is filed in the office of the
 81 state superintendent of schools, shall expire on the thirtieth day
 82 of June, one thousand nine hundred thirty-three.

83 After the first day of July, one thousand nine hundred thirty-
 84 four all teachers of this state shall hold certificates approved by
 85 the state department of education.

Sec. 41. Section forty-one is hereby repealed.

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

CHAPTER 11

(Com. Sub. for House Bill No. 113—Originating in the Committee on
 Education)

AN ACT to amend and reenact section two, article seven, chapter
 eighteen of the code of West Virginia, one thousand nine hun-
 dred thirty-one, relating to the basic salaries of teachers.

[Passed June 3, 1933; in effect from passage. Became a law without the approval
 of the Governor.]

Sec.

2. Minimum teachers' salaries; ad-
 vance salaries for teachers who
 have taught more than one regu-
 lar term of school; advance
 salaries for principals of ele-

Sec.

mentary and high schools; basic
 salaries in effect June 1, 1933 to
 again become effective July 1,
 1935.

Be it enacted by the Legislature of West Virginia:

That section two, article seven, chapter eighteen of the code of
 West Virginia, one thousand nine hundred thirty-one, be amended
 and reenacted to read as follows:

Section 2. A board of education shall not contract for the employment of any teacher at a monthly salary less in amount than the monthly amount which the district is entitled to receive for the employment of the teacher under section six, article nine, as amended, of this chapter: *Provided, however,* That boards of education shall provide in the contract advanced salaries as follows:

(1) For teachers who have taught one regular term of school and not more than five regular terms, the rate of salary shall be the basic salary plus at least three dollars a month for the second term; the basic salary plus at least five dollars a month for the third term; the basic salary plus at least seven dollars fifty cents a month for the fourth term; and the basic salary plus at least ten dollars a month for the fifth term; (2) For teachers who have taught five regular terms of school and less than ten regular terms, the rate of salary shall be at least fifteen dollars more a month than the rate of the basic salary of teachers holding similar credentials; (3) For teachers who have taught ten regular terms of school, or more, the rate of salary shall be at least twenty dollars a month more than the rate of the basic salary for teachers holding similar credentials: *Provided further,* That boards of education may fix higher salaries for principals of elementary and high schools consistent with the extra duties and responsibilities of said positions: *And Provided further,* That the basic salaries in effect June first, one thousand nine hundred thirty-three, shall again become effective on and after the first day of July, one thousand nine hundred thirty-five.

CHAPTER 12

(Com. Sub. for House Bill No. 86—Originating in the Committee on Education)

AN ACT to amend and reenact sections two and thirteen, article two; sections one and two, article thirteen; section one, article fourteen; section one, article eighteen, and enact sections sixteen and seventeen, article two, all of chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, abolishing the advisory council to the state board of education and creating a negro board of education to act in conjunction

with the state board of education in the control and supervision of negro schools.

[Passed June 3, 1933; in effect ninety days from passage. Approved by the Governor.]

ARTICLE II.

SEC.

2. Negro state board of education; powers; number and terms of members; secretary of board; salary and expenses of appointive members.
16. Joint powers of state board of education and negro board of education over negro state educational institutions; negro board of education, with approval of state board of education, to employ president, teachers and employees of negro institutions and the boards, jointly, to fix salaries.
17. What report of joint boards of education, concerning negro institutions, to show.

ARTICLE XIII.

SEC.

1. Control of educational affairs of West Virginia state college by the

SEC.

- two boards sitting as one body.
2. State aid to residents of state who are students outside of state; boards jointly to prescribe rules and regulations governing granting of aid.

ARTICLE XIV.

SEC.

1. Control of educational affairs of Bluefield State Teachers college by joint boards of education.

ARTICLE XVIII.

SEC.

1. Control of educational affairs of West Virginia School for Colored Deaf and Blind by joint boards of education; qualification of principal of school; inconsistent acts repealed; advisory council state board of education abolished.

Be it enacted by the Legislature of West Virginia:

That sections two and thirteen, article two; sections one and two, article thirteen, section one, article fourteen and section one, article eighteen, be amended and reenacted to read as follows:

ARTICLE II.

Section 2. There shall be a negro board of education that shall, in conjunction with the state board of education, formulate and carry out the educational policies with respect to the negro youth of the state. Such board shall consist of the state supervisor of colored schools, two board members of the negro race, together with the state superintendent of schools who shall be ex officio member of said board. On or before the first day of July, one thousand nine hundred thirty-three, the governor, with the advice and consent of the senate, shall appoint two members of the negro race to act as the members of the negro board of education, one to serve for a term of four years, one to serve for a term of two years. All appointments to this board thereafter shall be for a term of four years. Said board member shall take office the next following first day of July.

The state supervisor of negro schools shall be secretary of the negro board of education. The two appointive members of such board shall each be entitled to receive from the general school fund upon warrants, drawn by the state superintendent of

19 schools, the same salary as paid each appointive member of the
20 state board of education, payable quarterly, and shall be re-
21 imbursed from said fund for any necessary expenses incident
22 to the performance of his duties, upon presentation of an
23 itemized sworn statement of same.

Sec. 16. The state board of education and the said negro
2 board of education sitting as one body when considering the
3 affairs of negro schools shall have general control, management,
4 and supervision of West Virginia state college, Bluefield state
5 teachers' college, the West Virginia schools for the colored
6 deaf and blind and of any other state educational institution
7 for negroes which now is or may hereafter be created by law.
8 The negro board of education shall employ the president, or
9 principal and the professors, teachers, and other employees of
10 each of the institutions named in this section, subject to the ap-
11 proval of the state board of education, and the joint boards
12 shall fix the yearly or monthly salary to be paid to each person
13 so employed.

Sec. 17. On the first day of October of each year, or as soon
2 thereafter as practicable, the said joint boards of education,
3 through the state superintendent of schools, shall make to the
4 governor a full report concerning the state educational institu-
5 tions under their control and management, which shall show
6 the number of persons employed about each institution, the
7 official designation of each person, the amount and rate of com-
8 pensation paid to him, the amount disbursed by such institution
9 out of any funds under its control, stating the purposes for
10 which expended, the amount expended for each purpose, and
11 the number of days actually engaged by the persons employed
12 about such institutions, including teachers and professors. Such
13 report shall also show the number of students actually attending
14 each of the institutions and the number of students enrolled in
15 each school or department. The said joint boards may make
16 recommendation respecting legislation needed to promote the
17 welfare of such institutions.

ARTICLE XIII.

Section 1. The institution for the instruction of colored stu-
2 dents heretofore established and located at Institute, in Kan-
3 awha county, shall be continued and shall be known as the

4 "West Virginia state college." The educational affairs of said
5 college shall be under the control, supervision, and management
6 of the state board of education and the negro board of educa-
7 tion, the two boards sitting as one body.

8 The said joint board of education shall establish and maintain
9 in the West Virginia state college, in addition to the depart-
10 ments already established, such professional and graduate
11 schools and college courses of study as may be expedient and
12 practicable, and shall prescribe the conditions for graduation
13 therefrom and make rules for the conferring of degrees and for
14 issuing the proper diplomas to those who complete such courses.

15 The West Virginia state college shall have power and au-
16 thority to do extension work in agriculture, home economics,
17 and such other subjects as the said joint board of education
18 may direct among the negro population of West Virginia.

19 The rules and regulations made by the president and faculty
20 of said college for its general government, for the admission of
21 students thereto, and for the standards of scholarship to be
22 maintained therein shall be submitted to the said joint boards
23 of education for their approval.

Sec. 2. All bona fide residents of this state who have been
2 residents of the state for five years, and who have completed
3 courses of study equivalent to two years of college grade prepa-
4 ratory to special courses to be pursued outside of the state, or
5 who have otherwise qualified to enter such courses, and who
6 are now pursuing or may hereafter pursue, courses of study in
7 educational institutions outside of the state the same as those
8 taught in the West Virginia university or other West Virginia
9 schools, and, because of section eight, article twelve of the con-
10 stitution of West Virginia, cannot pursue such course in the
11 West Virginia university, or other state schools, and no other
12 courses are taught in state supported educational institutions
13 provided for them, shall have their annual tuition and fees paid
14 by the state to the amount paid by a nonresident student of
15 the state university or other state supported schools, over and
16 above the amount of any tuition and fees paid by a resident
17 student of the state university or other schools, such tuition
18 cost to be ascertained by the state board of education for the
19 preceding school year and paid upon recognition of the state

20 superintendent of schools out of funds appropriated for that
21 purpose. The negro board of education and the state board of
22 education, acting jointly, shall prescribe rules and regulations
23 governing the granting of aid under this section.

ARTICLE XIV.

Section 1. The Bluefield state teachers' college, heretofore
2 established and located at Bluefield, in Mercer county, shall be
3 continued and shall be known as the "Bluefield state teachers'
4 college." The educational affairs of the Bluefield state teachers'
5 college shall be under the control, supervision and management
6 of the joint boards of education.

7 The rules and regulations made by the president and faculty
8 of said college for its general government, for the admission of
9 students thereto and the standards of scholarship to be main-
10 tained therein shall be submitted to the joint boards of educa-
11 tion for their approval.

12 The negro board of education in conjunction with the state
13 board of education shall establish and maintain in the Bluefield
14 state teachers' college, in addition to the departments already
15 established, such other courses of study as may be expedient
16 and practicable and shall prescribe the conditions for gradua-
17 tion therefrom and make rules for the conferring of degrees and
18 for issuing the proper diplomas to those who complete such
19 courses, as in the case of other state educational institutions.

ARTICLE XVIII.

Section 1. The West Virginia school for the colored deaf and
2 blind, heretofore established and located at Institute, in Kan-
3 awha county, shall be continued and shall be known as the
4 "West Virginia school for the colored deaf and blind." The
5 school shall be maintained for the care and training of the
6 colored deaf and blind of the state, and its educational affairs
7 shall be under the control, supervision and management of the
8 said joint boards of education. The chief executive officer of
9 this school shall be the principal, who shall be a member of the
10 negro race, shall be a graduate of a reputable college, shall have
11 had at least six years' experience as a teacher, and shall be a
12 person of good executive ability.

13 All acts or parts of acts inconsistent herewith are hereby re-

14 pealed; the advisory council of the state board of education is 15 hereby abolished.

CHAPTER 13

(House Bill No. 209—By Mr. Hill)

AN ACT to amend and reenact article nine, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by senate bill number three, passed by the legislature of West Virginia at the extraordinary session, one thousand nine hundred thirty-three, entitled "An Act to amend and reenact sections one and three, article one; to repeal section four, article one; to amend and reenact sections one to eleven, inclusive, article four; to amend and reenact sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, twenty-one, twenty-five, thirty-one, thirty-two and thirty-three, article five; to repeal sections twenty-six to thirty, inclusive, article five; to amend and reenact sections one, two, six, seven and eight, article six; to amend and reenact sections five, ten, eleven, twelve and forty, article seven; to add section two-(a) to article nine, and to amend and reenact section three, article nine, chapter eighteen of said code, relating to the organization of the school system so as to permit the establishment of the county unit plan of school organization," by adding thereto section two-(b) providing for the transfer of funds of magisterial districts and independent school districts to the county board of education.

[Passed June 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

2-(b). Transfer, after July 1, 1933, of all moneys in separate funds, of magisterial districts and independent school districts, to county boards of education; transferred funds to be used in payment of existing indebtedness, bonded or otherwise; any residue to be

SEC.

used for general school purposes, but money collected for replacement or erection of new buildings shall be expended in the school district from which collected; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That article nine, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto section two-(b) to read as follows:

Section 2-(b). On and after July first, one thousand nine hundred and twenty-three, any and all moneys in the separate funds of any magisterial district or independent school district, other than interest and sinking funds, and all moneys which may thereafter be paid into such funds from the collection of delinquent taxes or otherwise, are hereby transferred to the board of education for control, distribution and expenditure; and any such funds so transferred shall be used by said board in payment of any existing legal indebtedness, bonded or otherwise, of any such district, and the residue, if any, for general school purposes without regard to the purpose for which the said moneys were originally collected, except that moneys collected for the purpose of replacement of or the erection of new buildings shall be expended in the magisterial or independent school district from which such moneys were collected.

All acts and parts of acts, both general and special, inconsistent with this act, are hereby expressly repealed.

* CHAPTER 14

(House Bill No. 219—By Mr. Hiner)

AN ACT to amend and reenact section nine, article eight, chapter thirty-eight, acts of the legislature, regular session, one thousand nine hundred thirty-three, being house bill number three hundred fourteen of that session, relating to levies by district boards of education.

[Passed June 3, 1933; In effect from passage. Approved by the Governor.]

<p>SEC. 9. What estimate by board of education for special levy authorized by voters to show; statement to</p>		<p>SEC. be sent to tax commissioner and published; amount of special levy on each class of property.</p>
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Be it enacted by the Legislature of West Virginia:

That section nine, article eight, chapter thirty-eight, acts of the legislature, regular session, one thousand nine hundred thirty-three, being house bill number three hundred fourteen of that session, be amended and reenacted so as to read as follows:

Section 9. Every board of education shall, at the session provided for in section six of this article, if the laying of a levy

*See chapter thirty-eight, acts 1933, regular session.

3 has been authorized by the voters of the district under article
4 nine, chapter eighteen of the code of West Virginia, one thou-
5 sand nine hundred thirty-one, ascertain the condition of the
6 fiscal affairs of the district, as applied to teachers' fund,
7 maintenance and building fund and interest and sinking fund,
8 distinguishing between elementary and high schools and the
9 funds provided for each, and make a statement setting forth:

10 (1) The separate amounts due the various funds, and the
11 amounts that will become due and collectible during the cur-
12 rent fiscal year except from the levy of taxes to be made for
13 the year;

14 (2) Debts legally incurred, subsequent to the ratification of
15 the "tax limitation amendment," and such debts that will be-
16 come due and payable during the current fiscal year, including
17 interest on indebtedness, funded, bonded or otherwise;

18 (3) All other expenditures to be paid out of the levy for
19 the current fiscal year, with proper allowances for delinquent
20 taxes, exonerations and contingencies;

21 (4) The separate amount necessary for each fund and the
22 total to be raised by the levy of taxes for the current fiscal
23 year;

24 (5) The proposed rate of levy in cents on each one hundred
25 dollars' assessed valuation of each class of property;

26 (6) The separate and aggregate amounts of the assessed
27 valuation of real, personal and public utility property within
28 each class.

29 The secretary of the board shall forward immediately, a
30 certified copy of the statement to the tax commissioner and shall
31 publish the statement in a manner similar to that provided in
32 section seven of this article.

33 The session shall then stand adjourned until the third Tues-
34 day in August, at which time it shall reconvene and proceed in
35 a manner similar in all respects to that provided in section
36 seven of this article.

37 The board, after entering the statement as finally approved,
38 in its record of proceedings, shall levy as many cents on each
39 one hundred dollars' assessed valuation of each class of
40 property as will produce the amount necessary for defraying
41 the expenses for the fiscal year as to each of said funds. These

42 levies shall not exceed, on class I property twenty-eight and
43 one-tenth cents; on class II property, fifty-six and three-
44 tenths cents; on class III and on class IV property, one hun-
45 dred twelve and five-tenths cents.

46 When less than the maximum levies are imposed, the levies
47 upon each class of property shall be in the same proportions as
48 the maximums herein authorized.

CHAPTER 15

(Senate Bill No. 64—By Mr. Garrett)

AN ACT to extend the time for returning real estate assessed for
one thousand nine hundred thirty-two taxes delinquent and re-
lief to taxpayers.

[Passed June 3, 1933: in effect from passage. Became a law without the approval
of the Governor.]

SEC.	1. Sheriff, on or before the first Mon- day in August, 1933, to make out alphabetical lists, by districts of	SEC.	three classes, of 1932 taxes which cannot be collected.
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Re it enacted by the Legislature of West Virginia:

Section 1. The sheriff or collector, after ascertaining which
2 of the taxes assessed in his county for the year one thousand
3 nine hundred thirty-two cannot be collected, shall, on or before
4 the first Monday in August, one thousand nine hundred thirty-
5 three, make out alphabetical lists, by districts of three classes,
6 as provided in (a), (b), and (c) of section twenty, article nine,
7 chapter eleven of the code of West Virginia.

CHAPTER 16

(Com. Sub. for House Bill No. 12—Originating in the Committee on
the Judiciary)

AN ACT to provide for the collection and disbursement of taxes
due and unpaid which have been assessed and levied on land
and real estate, which land and real estate has been returned
delinquent and/or forfeited by reason of such nonpayment;
to declare any lien given on forfeited and/or delinquent land
by an owner thereof by mortgage or trust deed whereby
money is obtained to pay off and discharge such delinquencies

and/or forfeitures to the extent of the taxes so paid off and discharged with the money so obtained and received to be a preferred lien and reserving to such lender the lien of the state to the extent of the taxes so paid; to provide for the redemption of the lands from such delinquencies and/or forfeitures; to provide for the redemption of lands sold at delinquent sales and purchased by individuals; to stay suits on forfeited lands; to make the provisions of this act applicable to delinquent municipal real estate not certified to the auditor; to extend the time for redemption of real estate as provided in sections sixteen and thirty, respectively, article ten, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, sold for nonpayment of taxes and purchased by the state for each of the years nineteen hundred twenty-nine, nineteen hundred thirty and nineteen hundred thirty-one; to extend the time in which the auditor may certify to the commissioner of school lands lists of lands purchased for the state at sales thereof for taxes, as provided in section five, article three, chapter thirty-seven of said code, and not heretofore certified; and to repeal chapter seventeen of the acts of the legislature, extraordinary session, one thousand nine hundred thirty-two.

[Passed June 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.

1. Redemption of real estate delinquent or forfeited for the nonpayment of taxes, without interest or costs if paid within twelve months from the effective date of this act; what payment to include; how legal costs accrued by reason of suit to be paid by and credited to commissioner of school lands; how payment made when title contested.
2. Commissioner of school lands to certify to auditor list of lands forfeited for nonpayment of taxes, on which no report has been made by him to the circuit court; redemption from commissioners of school lands; notice of.
3. Circuit clerk to certify to auditor list of lands forfeited for nonpayment of taxes, on which suits are pending or reported by commissioner of school lands, but no suit instituted.
4. When reports mentioned in preceding sections to be made.
5. Redemption from auditor of lands certified, as required by the preceding sections, without fees, costs or interest; reports by auditor to county assessor;

SEC.

- form of receipt by auditor to party redeeming.
6. Filing with clerk of county court of original receipt of auditor by person paying taxes; effect of filing receipt; effect of redemption on title of land redeemed; recordation of receipt by clerk.
7. Lieu of lender of borrowed money used to pay taxes, under mortgage or trust deed; lien of state reserved to lender; recordation of trust deed.
8. Redemption within twenty-four months from date of act of lands purchased by individuals at delinquent sales, for which no deed has been executed; when individual purchasers at sheriff's sales for nonpayment of taxes, may apply for deed.
9. No suit to be instituted by commissioner of school lands until twenty-four months from the effective date of this act; exceptions; when act applies to delinquent municipal real estate not certified to auditor.
10. Extensions for twenty-four months from effective date of this act of time for redemption of real estate

Sec.

11. sold for nonpayment of taxes for 1929, 1930 and 1931. Extension for twenty-four months from effective date of this act of time within which auditor shall certify to commissioner of school lands, lands purchased for

SEC.

12. state for taxes. Chapter seventeen, acts of extraordinary session, one thousand nine hundred thirty-two, repealed: unconstitutionality of part not to affect remainder of act.

Be it enacted by the Legislature of West Virginia:

Section 1. That the owner of any land and real estate in this state, his heirs, devisees or assigns and any person holding a lien thereon, or having the right to charge the same with a debt, which land and real estate has been returned delinquent and/or forfeited for the nonpayment of taxes levied and assessed against the same, including forfeited land and real estate certified to the commissioner of school lands of the respective counties on which suits may or may not have been instituted or may still be pending in which no sale and/or confirmation of sale has been made, may redeem such land and real estate from such delinquency and/or forfeiture by the payment to the auditor of the state of West Virginia of the taxes so levied and assessed, together with all taxes which would have been levied and extended on the land books against said real estate had there been no such forfeiture, without interest or costs, if the same shall be paid within twelve months from the date this act takes effect. Such payment shall include all taxes assessed and in arrears for any and all years prior to the year one thousand nine hundred thirty-two and prior to such redemption, and any legal costs as now provided by statute that have accrued by reason of the prosecution of any suit shall be paid by the commissioner of school lands in the county in which the land is situated, when approved and so ordered by the court by order entered of record, from any funds in his hands, for which said commissioner shall have credit in his settlement of accounts as such commissioner and commissioners of school lands shall be allowed in their settlements such reasonable sums as the court shall determine and allow for work done and services rendered by them and their attorneys in relation to the tracts, lots and parcels of land which have been heretofore certified to them and which have not before this act becomes effective been disposed of, and such sums so allowed may be by order of the court paid out of funds in the hands of the commissioners or which shall come into their hands: *Provided, however,* That where two or more claimants have filed their petition as required by law asking to redeem the same

36 tract or tracts of land, said tract or tracts of land shall not be
37 certified to the auditor by the circuit clerk as provided in section
38 three of this act, nor be redeemed from the auditor as provided
39 in section one of this act, but the party decreed by the court
40 to be entitled to redeem, may redeem said land by paying all
41 costs accumulated as taxed by the clerk thereof, by reason of the
42 contest of title, together with the portion of taxes as above set
43 forth unto the commissioner of school lands.

Sec. 2. It shall be the duty of each commissioner of school
2 lands in this state to certify to the auditor a list of all land
3 and real estate forfeited for nonpayment of taxes assessed there-
4 on, certified to him by the auditor, on which no report has been
5 made by him to the circuit court or any other court in the county
6 having jurisdiction, in such form as is now certified to him for
7 action thereon. The respective commissioners of school lands
8 or any of them may, notwithstanding the other provisions of
9 this act, permit and receive redemption of any or all tracts, lots
10 and parcels of land heretofore certified as forfeited and against
11 which there shall be a suit pending for the sale thereof at the
12 time this act takes effect, but no such commissioner shall receive
13 such redemption unless he shall within thirty days after this
14 act takes effect give notice of such intention to the clerk of the
15 circuit court. Where such notice of the commissioner of school
16 lands shall have been given, the clerk of the circuit court shall
17 not certify to the state auditor the lands against which such
18 suits are pending as provided in section three of this act. Re-
19 demption from commissioners of school lands as to pending
20 cases, may be made by the same parties, upon the same terms,
21 within the same time and shall have the same effect to all intents
22 and purposes as redemptions made from the state auditor when
23 receipts are recorded as provided by this act, and said commis-
24 sioners shall execute receipts and make reports when redemptions
25 are made as herein required by the auditor for like redemp-
26 tions.

Sec. 3. It shall be the duty of each circuit clerk in each
2 county in this state to certify to the auditor a list of all land
3 and real estate forfeited for the nonpayment of taxes assessed
4 thereon, on which suits are pending and not redeemed or sold,
5 or which have been reported by the commissioner of school
6 lands as forfeited for the nonpayment of taxes and on which
7 no suits have been instituted, which certificate shall show in

8 whose name such land was forfeited, the year or years forfeited,
9 the number of acres, the amount of taxes assessed against the
10 same on all funds, and the general description thereof.

Sec. 4. It shall be the duty of the circuit clerks, and the
2 commissioners of school lands, mentioned in the two preceding
3 sections, to make reports, as therein required, within sixty days
4 from the passage of this act.

Sec. 5. It shall be the duty of the auditor of this state to
2 receive payment of the taxes mentioned in the lists certified to
3 him by virtue of sections two and three of this act, and to ac-
4 count for and disburse the same as other taxes received by him,
5 and in the payment of such taxes as is mentioned in section one
6 of this act he shall charge no fees, costs nor interest, and make
7 written reports every thirty days to the assessor of each county
8 of this state of all forfeited lands redeemed, and upon the pay-
9 ment of such taxes to the auditor as aforesaid he shall execute
10 triplicate receipts, retain and file one in his office and deliver
11 two thereof, including the original, to the party paying the
12 same in the following form or to the following effect:

1319.....
14 Received of.....,
15 dollars
16 in full payment of all taxes assessed against..... acres
17 of land situated on.....indistrict,
18 county of....., for the year (s)
19
20 (here give the years for which delinquent and/or forfeited) in
21 the name of.....
22 which are the total taxes assessed against the same, which pay-
23 ment is accepted and given by virtue of chapter of the
24 acts of the extraordinary session of the legislature of one thou-
25 sand nine hundred thirty-three.

26
27 Auditor of West Virginia.

Sec. 6. The person paying the taxes as provided in the pre-
2 ceding section shall file the original receipt as mentioned in said
3 section with the clerk of the county court of the county in which
4 said real estate is situated, and retain a copy thereof, and upon
5 the filing of said receipt with said clerk, the real estate therein
6 mentioned shall be ipso facto redeemed from the delinquency
7 and/or forfeiture of the land therein mentioned, so far only

8 as the title thereto is in the state, as provided in chapter thirty-
9 seven of the code, and which payment shall operate as a release
10 of such forfeiture and/or delinquency of such real estate and
11 of all former taxes and interest charged and chargeable thereon.
12 And such person or persons shall acquire no other title to the
13 land so redeemed than was vested in him immediately before
14 such forfeiture by such redemption, and said redemption shall
15 in no wise affect or impair any right, title, or interest any other
16 person may have in such real estate or any part thereof by pur-
17 chase from the state, or under and by virtue of section three,
18 article thirteen, of the constitution of this state, and shall serve
19 only to divest the state of its title acquired by reason of said
20 delinquencies and/or forfeitures; and the said clerk shall note
21 in his land books such redemption, giving the date thereof, and
22 record said receipts in a book to be kept for that purpose, en-
23 titled, "receipts redeeming delinquent and/or forfeited lands,"
24 and index the same in the name of the owner of the land when
25 the same became delinquent and/or forfeited as well as in the
26 name of the party redeeming the same, if he be a person dif-
27 ferent from the one in whose name the same was returned de-
28 linquent and/or became forfeited.

Sec. 7. If the owner of any real estate mentioned in this act
2 shall borrow money with which to pay the taxes in this act men-
3 tioned and actually pays the same with the money so borrowed
4 and secures the payment thereof to the lender by mortgage or
5 trust deed, such mortgage or trust deed, by reason of the fact
6 that the same secures money used for the payment of taxes on
7 real estate, shall have preference and priority over any other
8 lien existing or created thereon to the extent of the amount of
9 taxes so paid with interest thereon not to exceed six per cent
10 per annum, except subsequent taxes, and the state's lien shall
11 be reserved to the party so loaning the money to the extent of
12 the taxes so paid, with interest thereon as aforesaid: *Provided,*
13 *however,* That such trust deed or mortgage herein mentioned
14 shall be recorded in the office of the clerk of the county court
15 of the county where the real estate is situated within ten days
16 after the payment of such taxes.

Sec. 8. Any lands heretofore purchased by individuals at
2 delinquent sales, made by the sheriff of the respective counties
3 of this state and for which no deed has been executed, may be re-
4 deemed by the former owner, his heirs, devisees or assigns or

5 any person entitled to charge said real estate with a debt, within
6 twenty-four months from the date this act takes effect, upon
7 payment to said purchaser of the taxes, interest and costs as
8 provided in section twelve, article ten, chapter eleven of the
9 code of this state. Individual purchasers of real estate at
10 sheriff's sale for nonpayment of taxes for the years nineteen
11 hundred twenty-nine, nineteen hundred thirty and nineteen
12 hundred thirty-one, may not apply for deeds until the expira-
13 tion of the twenty-four months period for redemption as by this
14 section prescribed, but shall apply for their deeds within six
15 months next following the expiration of said twenty-four months
16 period unless suit is pending and then within six months from
17 termination thereof.

Sec. 9. No suit or suits shall be instituted or prosecuted by
2 any commissioner of school lands of this state until the expira-
3 tion of twenty-four months from the date this act takes effect,
4 unless on the application or with the consent of the owner of
5 such lands, or by direction of the court by order entered of
6 record. Unless otherwise provided by charter or ordinance
7 of a municipality, the general provisions of this act shall like-
8 wise apply to delinquent real estate in a municipality not certi-
9 fied to the auditor when delinquent and to delinquent taxes on
10 such real estate now in the hands of the municipal collector,
11 which may be paid to said collector and such real estate so re-
12 deemed upon the terms and conditions as in this act provided.

Sec. 10. The time within which real estate sold for the non-
2 payment of taxes and purchased by the state may be redeemed
3 as provided in section thirty, article ten, chapter eleven of the
4 code of West Virginia, for each of the years nineteen hundred
5 twenty-nine, nineteen hundred thirty and nineteen hundred
6 thirty-one shall be extended for a period of twenty-four months
7 from the time this act takes effect.

Sec. 11. The time within which the auditor shall certify to
2 the commissioner of school lands of the proper counties of the
3 certificates of the clerks of the county courts of such counties of
4 lands purchased for the state at sales thereof for taxes, as pro-
5 vided in section five, article three, chapter thirty-seven, of the
6 code of West Virginia, and not heretofore certified shall be
7 extended for a period of twenty-four months from the taking
8 effect hereof.

Sec. 12. That chapter seventeen of the acts of the legislature

2 of this state passed at extraordinary session thereof in the year
3 one thousand nine hundred thirty-two, be and the same is here-
4 by repealed.

5 If any section of this act, or any part thereof, shall be held
6 unconstitutional by any court of this state, it shall not affect any
7 other part or provision thereof.

CHAPTER 17

(House Bill No. 55—By Mr. Thomas)

AN ACT to amend and reenact sections twenty and twenty-three, article nine, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to the collection of taxes and delinquent lists in respect thereto; and to amend and reenact sections eight, nine, eleven and twenty-eight, article ten, chapter eleven of said code, relating to the sale of real estate for taxes and the lists and receipts in respect thereto.

[Passed May 9, 1933; in effect from passage. Approved by the Governor.]

ARTICLE IX.

SEC.

20. What sheriff's alphabetical lists by districts, of three classes, of taxes which cannot be collected to show; forms of lists to be prescribed by tax commissioner.
23. Filing of lists by sheriff with county court; certification of lists to auditor; preservation of original lists by clerk; interest rate on taxes; procedure when property redeemed before sale; receipts for payment.

ARTICLE X.

SEC.

8. Form of sheriff's receipt from purchaser for amount of purchase money.
9. Form of lists of sales by sheriff and of property redeemed.
11. Procedure as to list of sale and redemption; penalty for failure to make and return list.
28. Form of list of sales by sheriff of lands purchased for the state; procedure as to list; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That sections twenty and twenty-three, article nine, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, and sections eight, nine, eleven and twenty-eight, article ten, chapter eleven of said code be amended and reenacted to read as follows:

ARTICLE IX.

Section 20. The sheriff or collector, after ascertaining which
2 of the taxes assessed in his county cannot be collected, shall,
3 on or before the first Monday in June next succeeding the year
4 for which such taxes were assessed, make out alphabetical lists,
5 by districts, of three classes:

6 (a) A list of property in the land book improperly placed
7 thereon or not ascertainable, with the amount of taxes charged
8 on such property. The state tax commissioner shall prescribe
9 a proper form for such list, the heading whereof shall read
10 thus:

11 List of property on the land book for the county of.....
12 improperly placed thereon, or not ascertainable, for the year
13

14 And the sheriff or collector on returning such list shall, at
15 the foot thereof, subscribe, the following oath: I, A. B. (sheriff,
16 deputy sheriff or collector), of the county of,
17 do swear that the foregoing list is, I verily believe, correct and
18 just, and that I have received no part of the taxes for which
19 the real estate therein mentioned is returned delinquent, and
20 that I have used due diligence to find property within my
21 county liable to distress for such taxes, but have found none;

22 (b) A list of other real estate which is delinquent for the
23 nonpayment of taxes thereon, which shall be in the same form
24 and with the same oath made and subscribed as in the above
25 first mentioned list, except that the heading shall read thus:
26 List of real estate in the county of delinquent
27 for the nonpayment of taxes thereon for the year.....;

28 (c) A list of such taxes so assessed other than on real estate,
29 as he is unable to collect. The state tax commissioner shall
30 prescribe a proper form for such list, the heading whereof
31 shall read thus: List of persons and property, other than real
32 estate, in the county of, delinquent for the
33 nonpayment of taxes thereon for the year.....

34 And the sheriff or collector returning such list shall, at the
35 foot thereof, subscribe the following oath: I, A. B. (sheriff,
36 deputy sheriff or collector), of the county of,
37 do swear that the foregoing list is, I verily believe, correct and
38 just; that I have received no part of the taxes for which the
39 persons and property therein mentioned are returned delin-
40 quent, and that I have used due diligence to find property with-
41 in my county liable to distress for such taxes, but have found
42 none.

Sec. 23. The sheriff or collector of every county shall, at or
2 before the session of the county court at which the county levy

3 is to be laid, present to such court three lists, mentioned in
 4 section twenty of this article, together with copies thereof, for
 5 examination. The court having become satisfied of the correct-
 6 ness of such lists, or having corrected them if erroneous, shall
 7 direct their clerk to certify the copies of the lists to the auditor.
 8 The original lists shall be preserved by the clerk in his office,
 9 and the list of real estate delinquent shall be bound by the clerk
 10 in a permanent and well-bound book to be kept by him for the
 11 purpose. Such taxes shall bear interest at the rate of one per
 12 cent per month, except as otherwise now provided, or as here-
 13 after provided, by law, and the sheriff shall collect the taxes
 14 and interest. If any taxpayer, whose property is returned de-
 15 linquent, shall pay the taxes, interest and fees, if any, before
 16 the sale hereinafter provided for, the sheriff shall give him the
 17 original tax ticket, or receipt, required by section nineteen of
 18 this article, together with a duplicate thereof, and shall write
 19 or stamp on such original tax ticket, or receipt, and the dupli-
 20 cate thereof, and on the office copy of such tax ticket or receipt,
 21 the following: Heretofore returned as delinquent and now re-
 22 deemed this day of, 19.....; total
 23 taxes \$....., interest or penalty \$....., publication
 24 fee (if any) \$....., sheriff's redemption fee \$.....,
 25 total \$..... The duplicate receipt shall be filed
 26 with the clerk of the county court, who shall note such payment
 27 in the margin of the record of such delinquency. The office
 28 copy of the tax ticket, or receipt, with the foregoing written
 29 or stamped thereon, shall be carefully preserved by the sheriff
 30 as a part of the official records in his office. The sheriff shall
 31 account for all delinquent tax collections in the same way he
 32 accounts for other taxes.

ARTICLE X.

Section 8. The sheriff or collector on receiving from any pur-
 2 chaser the amount of purchase money shall grant to him a
 3 receipt for the same. The state tax commissioner shall prepare
 4 a proper form for such receipt, the heading whereof shall read
 5 thus:

6 Memorandum of real estate sold in the county of
 7 on this day of, 19....., for

8 the nonpayment of taxes charged thereon, in the said county,
9 for the year (or years) 19.....

Sec. 9. The sheriff or collector who made the sale shall
2 forthwith make out a list of sales so made, and of all property
3 redeemed, in the form as prescribed by the state tax commis-
4 sioner, the caption whereof shall read thus:

5 List of real estate sold in the county of in
6 the month (or months, as the case may be), 19....., or re-
7 deemed prior to sale for the nonpayment of the taxes charged
8 thereon, in the said county, for the year (or years, as the case
9 may be), 19... ..

Sec. 11. The list of the sale and redemption of lands with
2 the certificate of oath attached shall, within thirty days after
3 the completion of such sale, be returned to the clerk of the
4 county court, together with one copy thereof, who shall
5 promptly bind the same in a permanent and well-bound book,
6 and transmit the copy of such list to the auditor, who shall note
7 all redemptions in his record. And if any sheriff, or other
8 officer whose duty it is to make out and return such list, shall
9 fail or refuse to do so as herein required, he shall be guilty of
10 a misdemeanor, and, upon conviction thereof, fined not less
11 than fifty nor more than five hundred dollars; and he and his
12 sureties on his official bond shall be liable in an action on such
13 bond for all such damages as may be sustained by any person
14 by reason of such failure; and such sheriff or other officer may,
15 upon the petition of any person interested, be compelled by
16 mandamus to make out and return such list and the proceedings
17 thereon shall be at his cost.

Sec. 28. When any real estate is offered for sale as afore-
2 said, and no person present bids the amount of taxes, interest
3 and costs due thereon, the sheriff or collector shall purchase the
4 same on behalf of the state for the taxes thereon, and the in-
5 terest on the same, and shall make out a list thereof in the form
6 as prescribed by the state tax commissioner, under the following
7 caption:

8 List of real estate charged with taxes and sold in the county
9 of in the month (or months),
10 19..... for the nonpayment of taxes due thereon for the year

11 (or years) and purchased for the state of
12 West Virginia.

13 The officer making out such list shall make oath that it
14 contains a true account of all the real estate within his county
15 purchased by him for the state during the year,
16 19..... and return the list, together with a copy thereof, with
17 a certificate of the oath attached, to the clerk of the county
18 court, within thirty days after such sale, who shall thereupon
19 bind the copy in a permanent and well-bound book and trans-
20 mit the original to the auditor. Upon receiving such list the
21 auditor shall credit the sheriff or collector with the amount for
22 which the real estate therein specified was purchased.

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

CHAPTER 18

(House Bill No. 109—By Mr. Smith, of Wirt)

AN ACT to amend and reenact sections four, five, six, seven, eight, nine, ten, fourteen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty-one, thirty-five and thirty-six, article three, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter forty-nine, acts of one thousand nine hundred thirty-one, relating to the sale of delinquent, forfeited and escheated lands, and to add to said article sections thirty-seven, thirty-eight, thirty-nine and forty relating to the same subject.

[Passed June 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.

4. Office of commissioner of school lands in each county, abolished and auditor made ex officio state commissioner of forfeited lands; powers and duties; present commissioners of school lands to continue in office until December 31, 1935; laws relating to waste, delinquent, forfeited and escheated lands to be administered, as far as possible, through land department of auditor's office; settlements by present commissioners of school lands; what

Sec.

tracts to be retained and finally disposed of in pending suits; audit by tax commissioner of accounts of commissioners of school lands.
5. Record of real estate forfeited or purchased for state and not redeemed, to be kept by state commissioner of forfeited lands; what record to show; duty of county clerk to certify real estate not entered on land books to state commissioner of forfeited lands.

- | SEC. | SEC. |
|---|---|
| 6. Reports by county surveyor to state commissioner of forfeited lands. | cutting or other attorney. |
| 7. Report by escheater of each county to state commissioner of forfeited lands. | 25. Amount and taxation of costs; when paid pro rata; payment of proceeds of sale into state treasury; penalty for failure to pay over and account for money; sheriff or party making sale not to become purchaser. |
| 8. Report by state commissioner of forfeited lands to circuit court of lands liable to be sold for the benefit of the school fund; form of published notice by state commissioner of forfeited lands of lands about to be sold; what report of state commissioner of forfeited lands to show. | 26. Report of party making sale to circuit court of receipts and disbursements; when confirmed, to be certified to state commissioner of forfeited lands and county clerk; what report to show; penalty for failure to make report. |
| 9. Report to be transmitted to and recorded by clerk of county court; duties of clerks of circuit and county courts as to tracts of land adjudicated by circuit court. | 27. Deed to purchaser. |
| 10. When suit to sell lands mentioned in report of state commissioner of forfeited lands may be begun; separate suit on escheated land; parties to suit; who may become defendant in suit by petition; prosecuting attorney to represent state in suits; when another attorney may be employed. | 28. When former owner or lien creditor to recover excess over taxes charged; petition in suit by former owner; payment of excess to be auditor, retention of suit on docket for two years. |
| 14. Procedure when prosecuting attorney is satisfied that lands sought to be sold is not liable for sale. | 29. Redemption by former owner from state commissioner of forfeited lands; certificates of redemption; redemption pending suit; redemption by lien holder; redemption by former owner during pendency of suit by informal application to circuit clerk; redemption by lien holder through circuit clerk; redemption not invalid because no formal petition filed; redemptions certified to county clerk and assessor; payment of money by circuit clerk to sheriff. |
| 18. How suits brought, prosecuted, heard and determined; clerk to attach memorandum to summons; service of summons and memorandum, personally or by publication; original and amended bill; orders, decrees, etc., to be recorded in forfeited lands chancery order book. | 31. Jurisdiction of circuit court to try questions of title, possession and boundary. |
| 19. Report by prosecuting attorney to court before decree for sale; notice of completion of report to attorneys of interested parties; when cause referred to commissioner in chancery; notice by commissioner; form of. | 35. Creditor of person whose lands escheated to state may intervene in proceedings to sell such lands; decree of court for payment of debt; when debt paid from state treasury. |
| 20. Commissioner may file report as to any one or more of tracts mentioned in reference. | 36. State commissioner of forfeited lands to defend suits and to be allowed costs. |
| 21. Confirmation of report and decree of sale. | 37. Publication costs and fees for certificates to be added to taxes. |
| 22. Sales under report to be made by sheriff; when sheriff to purchase land for state; notes for deferred payments of purchase money; lien of and judgment upon notes. | 38. Record of forfeited tracts; purchased by sheriff or state, to be made to state commissioner of forfeited lands. |
| 24. Sheriff to collect remaining proceeds of sale and pay same to state commissioner of forfeited lands; expenses of sale; fees of prose- | 39. How lands in hands of school land commissioners, at time this act becomes effective, to be administered. |
| | 40. If part of act held to be unconstitutional, remaining provisions not affected; inconsistent acts repealed. |

Be it enacted by the Legislature of West Virginia:

That sections four, five, six, seven, eight, nine, ten, fourteen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty-one, thirty-five and thirty-six, article three, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter forty-nine, acts of the legislature,

one thousand nine hundred thirty-one, be amended and reenacted and that sections thirty-seven, thirty-eight, thirty-nine and forty be added thereto to read as follows:

Section 4. Subject to the provision hereinafter contained the office of commissioner of school lands in each county of this state is hereby discontinued and the office of state commissioner of forfeited lands is established. The auditor of the state is hereby made ex officio state commissioner of forfeited lands. The state commissioner of forfeited lands shall have direct supervision and control in all matters of administration of waste and unappropriated, escheated, delinquent and forfeited lands, other than those properly belonging to the circuit court: *Provided*, That for the purpose of handling all tracts or parcels of real estate which have heretofore been certified to them for their action, the present commissioners of school lands in the several counties shall continue to function until the thirty-first day of December, one thousand nine hundred thirty-five, and as now provided by law.

15-a It shall be the duty of the state commissioner of forfeited lands to administer the laws relating to all waste and unappropriated, delinquent, forfeited and escheated lands, doing so, as far as is possible, through the land department of the auditor's office. To effect the purpose of this revision, all administrative features of waste and unappropriated, escheated, delinquent and forfeited lands, not contravening the constitution, are hereby transferred to the control and jurisdiction of the state commissioner of forfeited lands.

Each of the present commissioners of school lands may at any time after the passage of this act and shall be required to make settlement of all matters in their hands, whether suits be pending or otherwise, on or before December thirty-first, one thousand nine hundred thirty-three, and again within sixty days after the thirty-first day of December, one thousand nine hundred thirty-five, and the court shall make such allowance for the work done and services rendered by them and their attorneys as the court shall determine to be proper and right. The court may, by order entered of record, retain, in suits which shall be pending when this act becomes effective, such tracts and parcels of land as to which it shall appear to the

31 court to be proper to be disposed of in such suits, and the tracts
32 and parcels so retained shall be finally disposed of in such suits,
33 which shall be handled by the prosecuting attorney or the
34 attorney appointed in his stead in accordance with the law as
35 it was before the passage of this act, but all other tracts and
36 parcels of land shall be reported to the state commissioner of
37 forfeited lands on or before the thirty-first day of December,
38 one thousand nine hundred thirty-five.

39 For the purpose of settlement, the state commissioner of for-
40 feited lands may call upon the state tax commissioner to audit
41 the accounts of any or all of the commissioners of school lands,
42 and he shall take such legal and necessary actions as may be re-
43 quired to compel settlement and the accounting for and pay-
44 ment of any funds found in such audit to be due from any of
45 such commissioners of school lands.

46 For the purpose of this act the term "land" or "lands", as
47 used herein, shall be construed to mean real estate of any char-
48 acter or nature whatsoever.

Sec. 5. A record of all real estate forfeited for any cause
2 to the state of West Virginia under the constitution and laws
3 thereof or purchased for the state at a sale for taxes and not
4 redeemed or released according to law, which has or shall come
5 to the knowledge of the state commissioner of forfeited lands,
6 shall be kept by him in a well-bound book in his office. in which
7 shall be shown the name of the former owner thereof, if known,
8 and if not, that fact shall be stated; the quantity, or supposed
9 quantity of such real estate; the local or other description
10 thereof as certified to him; for what years the owner thereof was
11 not charged with taxes thereon, and when such real estate be-
12 came forfeited, or if charged, the year for which the land became
12-a forfeited for the nonpayment of taxes. Such record shall
13 be prima facie evidence that the owner of such real estate was
14 not charged with taxes thereon for any of the years stated there-
15 in and that he did not cause such real estate to be entered and
16 charged with taxes as required by law, or if charged, failed
17 to pay the taxes during the time provided by law for such pay-
18 ment, and that such real estate was forfeited and that the title
19 thereto vested in the state at the time specified. In order to
20 enable the state commissioner of forfeited lands to make such

21 record, it shall be the duty of the clerk of the county court of
22 each county in which any such real estate should have been, but
23 was not, entered on the land books and charged with taxes,
24 upon discovering any such failure, after entering the same
25 on his own record, to certify the same and all the facts in re-
26 lation thereto, to the state commissioner of forfeited lands.

Sec. 6. It shall be the duty of the surveyor of each county
2 in this state, as soon as the same shall come to his knowledge, to
3 report to the state commissioner of forfeited lands, all waste
4 and unappropriated and forfeited lands in his county, except
5 the lands under the bed of the Ohio river or any other navigable
6 stream, subject to sale under the provisions of this article, desig-
7 nating particularly the quantity of the tract or parcel and the
8 local situation thereof, together with all information he can
9 procure in relation to the same and of any claim of title thereto.

Sec. 7. It shall be the duty of the escheator of each county
2 in this state to furnish to the state commissioner of forfeited
3 lands a copy of the list which he is required by the provisions
4 of section five, article two of this chapter to prepare, showing
5 all lands within his county of which any person shall have died
6 owning an estate or inheritance, intestate and without any
7 known heir, and which have, therefore, become escheated to
8 the state.

Sec. 8. The state commissioner of forfeited lands shall ten-
2 der and file a written report to the circuit court of each county
3 from time to time, and, at least once in each two years, setting
4 forth a list of all tracts and parcels of land, lying in whole
5 or in part in each county, reported to him by the surveyor and
6 escheator as required by sections six and seven of this article,
7 or which shall otherwise come to his knowledge as having become
8 forfeited by reason of the nonpayment of taxes charged thereon,
9 and not redeemed from the state commissioner of forfeited
10 lands as hereinafter provided, which in his opinion are liable
11 to be sold for the benefit of the school fund. This report shall be
12 made in triplicate and two copies sent to the clerk of the cir-
13 cuit court; at least four months prior to the date of filing such
14 a written report to the circuit court of the lands purchased for
15 the state, forfeited for the nonpayment of taxes and not re-
16 deemed, the state commissioner of forfeited lands shall pre-

17 pare and have published once in two newspapers of opposite
18 political faith of general circulation in such county a forfeited
19 land notice in the following form, the cost of which shall not
20 exceed twenty-five cents per tract for each newspaper to be paid
21 out of the state general school fund upon the warrant of the
22 state auditor, and to be added to the cost of redemption of any
23 such tracts that may thereafter be redeemed.

24 Notice to delinquent taxpayers of forfeited lands about to be
25 sold:

26 The following tracts of land forfeited for the nonpayment of
27 taxes thereon will be proceeded against in the circuit court and
28 sold by the sheriff unless redeemed from the state commissioner
29 of forfeited lands at Charleston, West Virginia, before the....

30 day of....., 19.....

31 County of....., District of.....

32 Name Quantity.....

33 Location

34 The state commissioner of forfeited lands, in such report as
35 herein provided for, shall show, as far as practicable, the fol-
36 lowing:

37 (a) The name of the party, parties, firms or corporations
38 claiming title to such land at the time such report is made; the
39 number of the lots or acres as the case may be; the town, city,
40 district, road, street or waters in or on which such real estate is
41 located, and such other description as may reasonably be given
42 in such report that will aid in identifying or locating the land
43 and the years constituting such forfeiture; the name or names
44 of all known claimants, or adverse claimants, and all known oc-
45 cupants of such real estate or any part thereof;

46 (b) If such report describes any real estate as waste and un-
47 appropriated such report shall also state that such tracts of real
48 estate were waste and unappropriated and that title thereto had
49 not passed from the commonwealth of Virginia or the state of
50 West Virginia, and the names of all claimants or occupants
51 thereof;

52 (c) If such report describes any real estate as escheated, the
53 report shall also state that such tracts of real estate were es-
54 cheated to this state by reason of the owner named therein
55 having died intestate and without any heir, owning an estate of

56 inheritance which shall be specifically described in such report;
57 (d) If such report describes real estate forfeited by reason
58 of the nonpayment of any taxes charged thereon, the report
59 shall state that such tracts of real estate were forfeited for the
60 nonpayment of taxes charged thereon.

Sec. 9. When the report mentioned in the preceding section
2 is filed, the clerk of the circuit court shall transmit to the clerk
3 of the county court of such county an attested copy of such
4 report, which shall be by the clerk of the county court recorded
5 in his office in a well-bound book, which shall be labeled on the
6 back thereof "Report of state commissioner of forfeited lands."
7 Such clerk of the county court shall index each tract or parcel
8 of land so reported in the name of the party or parties from
9 whom the same became forfeited; or, if such parcel or parcels
10 should be waste and unappropriated, the same shall be indexed
11 as to their location, or, if such parcel or parcels should be
12 escheated the same shall be indexed as to the person from whom
13 such lands escheated, and if the name of such person be un-
14 known then as to their location.

15 In any suit pending in the circuit court upon a report made by
16 the state commissioner of forfeited lands, when redemption of
17 a tract or parcel of land has been made under a decree of such
18 court, or where a tract or parcel of land has been decreed and
19 sold, or where the court has decreed a tract or lot of land
20 not forfeited to the state as waste and unappropriated, or not
21 escheated to the state, the clerk of such court shall, after each
22 term thereof, report each tract or parcel of land so adjudicated
23 by such court to the clerk of the county court, who shall, upon
24 the copy of such report so recorded in his office, in the marginal
25 space therein to be provided therefor, note in red ink opposite
26 each tract the disposition thereof made by any decree, showing
27 the date of such decree, the chancery order book and page num-
28 ber where recorded, and its purport in respect to such tract by
29 the words "redeemed," giving the date and by whom redeemed,
30 decreed and sold; giving the date and name of the purchaser,
31 or not liable to sale, as the case may be.

Sec. 10. Every such report shall be recorded in the chancery
2 order book of such court and filed and preserved by the clerk
3 of such court in his office, and at any time after December thirty-

4 first, one thousand nine hundred thirty-five, a suit or suits in
5 chancery shall be commenced and prosecuted at the instance
6 of the state commissioner of forfeited lands by the prosecuting
7 attorney of each county or other attorney, as hereinafter pro-
8 vided for, by and in the name of the state of West Virginia,
9 for the sale of every such tract and parcel of land, so
10 reported, as required by section four, article thirteen of
10-a the constitution of this state. All tracts or parcels of land
11 mentioned in such report, which are claimed to have escheated,
12 shall be proceeded against in a separate suit. All other tracts
13 or parcels of land mentioned in any such report may be in-
14 cluded in one suit, but a separate suit may be brought and
15 prosecuted for the sale of each tract of land exceeding in
16 quantity one thousand acres; and the former owner of any such
17 tract of land at the time of the forfeiture thereof, or the person
18 in whose name the same is forfeited, shall, if known, be made
19 a defendant therein, and all persons claiming title to or interest
20 in any such lands shall also, as far as known, be made defendants
21 therein. And there shall be filed as an exhibit with such bill,
22 which shall be treated as part of the allegations thereof, a cer-
23 tified copy of the state commissioner's report mentioned in sec-
24 tion eight of this article. And any person claiming an interest
25 in any such land or in the proceeds thereof, not so made defend-
26 ant, may file his petition in any such suit stating what interest
27 he claims therein, either in open court or before a commissioner
28 in chancery, while the suit is pending before him, or at rules,
29 and shall thereupon become a defendant therein, and may
30 defend and protect his interest, if he has any therein, to the
31 same extent as if he had originally been made a party defendant
32 therein. It shall be the duty of the prosecuting attorney of
33 each county, under the direction of the state commissioner of
34 forfeited lands, to represent the state in all matters pertaining
35 to the institution and prosecution of all suits mentioned in this
36 section and in any suit for the collection of the purchase money
37 on any land sold in said suit, but in case the prosecuting
38 attorney should not be able to give the matter proper attention
39 then the said state commissioner of forfeited lands may employ
40 another attorney to handle the same.

Sec. 14. If at any time during the pendency of any suit for the

2 sale of forfeited, escheated or waste and unappropriated lands,
3 whether now pending or hereafter brought, the prosecuting
4 attorney or the attorney employed by the state commissioner
5 shall become satisfied that part or the whole of the land sought
6 to be sold therein is not liable to sale for the benefit of the
7 school fund, such attorney shall report in writing to the court
8 the facts and reasons which lead him to that conclusion, which
9 report shall be filed and made part of the record; and if the
10 court, upon consideration thereof, and upon such inquiry as it
11 may make, shall concur in such report, in whole or in part, it
12 shall confirm the same to that extent, and shall dismiss such
13 suit as to the lands embraced in such report as far as it may
14 be confirmed.

Sec. 18. All suits brought and prosecuted under the provi-
2 sions of this article shall be commenced as provided in article
3 three, chapter fifty-six of this code and proceeded in, heard
4 and determined in the same manner, and in all respects, as in
5 other suits in chancery are brought, prosecuted and proceeded
6 in, and shall be subject to the same rules of chancery practice
7 as other suits in chancery in the state courts of this state except
8 as herein otherwise provided.

9 In all suits brought under the provisions of this article, the
10 clerk shall append to the summons a memorandum containing
11 a list of the lands against which suit is brought, together with
12 the location and general local description of each parcel, or in-
13 stead of such memorandum may insert in the summons im-
14 mediately after the name of each defendant a general descrip-
15 tion and location of each parcel of land in which he appears to
16 be interested, and the same shall be served on the defendant by
17 leaving a copy thereof at the residence of those found and by
18 publication of such summons and memorandum, if such be ap-
19 pended, as to those not found, once a week for three successive
20 weeks in a newspaper published in and of general circulation
21 in the county in which said suit is brought, and if no such
22 paper be published in such county then in some newspaper of
23 general circulation therein, and the same shall be sufficient
24 service of such summons and memorandum and shall be all the
25 summons or notice which shall be required in behalf of the state
26 as to any party to said cause and as to all other persons whom-

27 soever, whether named in the bill or not, including all unknown
28 persons, all occupants and claimants, all heirs, devisees, and
29 assigns of former owners, occupants and claimants of said lands,
30 or any part thereof, all trustees, all holders of liens, leases or
31 other encumbrances thereon. Alias summons may be issued
32 and served as above set out with like memoranda appended
33 thereto. The affidavit of the publisher, or of any credible per-
34 son who served the same, that any summons and memorandum
35 appended thereto, or any alias or subsequent summons and
36 memorandum thereto, was so served or published shall be suffi-
37 cient service thereof and return of service.

38 The original bill of the state against land purchased for the
39 state may contain only such parties and such descriptions of
40 the tracts and parcels of land proceeded against as are con-
41 tained in the list of lands purchased for the state and those
42 holding liens or leases thereon, but before decree for sale
43 of any such land shall be made, the prosecuting attorney or
44 other attorney shall file in the circuit court clerk's office a de-
45 scription of each of such tracts and parcels of land sought to be
46 sold, showing the number of the lot or acres as the case may be,
47 the town, city, district, road, street or waters in or on which
48 such real estate is located, and such other description as may
49 reasonably be necessary to identify the land, and the names, if
50 any there be, of such of the heirs, devisees and assignees of the
51 former owner, lessees and lienholders as appears of record in
52 the office of the clerk of the county court, and such description
53 when filed shall be taken and treated as an amendment to the
54 original bill, and summons thereon shall be issued against all
55 such additional parties (but no party theretofore summoned
56 need be included) with memoranda appended thereto showing,
57 as hereinbefore provided, the parcels of land in which the new
58 parties appear to be interested, or in lieu of such memoranda
59 a general description of each parcel may be inserted in the sum-
60 mons immediately after the name of the party appearing to be
61 interested therein, as hereinbefore provided, and such summons
62 shall be served or published, and if such memoranda be ap-
63 pended thereto the same shall be served or published therewith,
64 as hereinbefore provided, and affidavit of such service or pub-
65 lication shall be made, as hereinbefore provided, and no other

66 service thereof or other notice or summons shall be required in
67 behalf of the state.

68 The clerk of the circuit court shall enter all orders and de-
69 crees and all reports, lists, settlements and papers required by
70 this article or by order of the court to be recorded, in a chan-
71 cery order book which shall be designated "Forfeited lands
72 chancery order book" and in which no orders, decrees or pro-
73 ceedings shall be entered except such as relate to waste and
74 unappropriated lands, lands sold, forfeited or escheated to the
75 state. Such order book shall contain an adequate alphabetical
76 index in which shall be entered, in alphabetical order, at the
77 time of their recordation, a notation of all orders, decrees, re-
78 ports, lists and recorded papers, showing the nature thereof,
79 the page where recorded and the names of all parties interested
80 therein.

Sec. 19. Before decree shall be entered for the sale of any
2 tract or parcel of land, the prosecuting attorney or person
3 acting in his stead shall report to the court: A description of
4 the land sufficient to identify the same, the name, or names, of
5 the parties, if the same be known or at the time suit was brought
6 appeared of record in the office of the clerk of the county court,
7 who were the former owners, occupants or claimants thereof,
8 the year or years for which the land was forfeited, the amount
9 of taxes, interest and costs properly charged or chargeable
10 against the same remaining unpaid, and the names of the par-
11 ties entitled to redeem the same; but before filing such report,
12 the said attorneys shall give ten days' notice of the completion
13 of such report to the attorneys of record of all parties interested
14 therein who have appeared in the cause, and that the same will
15 remain in his office for ten days for their examination; and any
16 person desiring to except to said report or any part thereof may
16-a do so by filing such exception with the prosecuting attorney or
17 other attorney acting in his stead within said ten days or by
18 filing the same in court at any time before the entry of the
19 decree of sale. Reference of such cause to a commissioner in
20 chancery shall not be made except, upon motion of the
21 plaintiff or some party interested therein but if the court shall
22 find that a reference is proper, such reference when made
23 shall be only as to the parcel or parcels of land included in the

24 motion, and the cause shall be proceeded in without reference
25 as to all other parcels of land not so included in such motion.
26 When a decree of reference is made in any suit the commis-
27 sioner, before proceeding to the discharge of his duties under
28 such decree, shall give notice to all the parties interested in such
29 reference and to all unknown owners, lessees, lienholders and
30 claimants of the lands, or any part of them, mentioned in the
31 reference, by publication in some newspaper printed in the
32 county in which the suit is brought, or if no such paper be
33 printed therein, then in some newspaper of general circulation
34 in such county, once in each week for three successive weeks,
35 and by posting at the front door of the courthouse of such
36 county, at least three weeks before proceeding to discharge his
37 duties under such decree, of the time and place at which he
38 will so proceed. And such notice when so published and posted
39 shall be equivalent to the personal service thereof on all the
40 parties to the record in such reference, and on all unknown
41 owners and claimants of any tract or parcel of land mentioned
42 in the reference, or any part thereof. Such notice may be in
43 form or effect as follows:

44 The State of West Virginia vs. A., B., C., D., etc. (naming
45 all the defendants mentioned in the reference).

46 The plaintiff and each and all of the above named defendants,
47 and all unknown owners, lessees, lienholders and claimants of
48 any part or parcel of the following tract (or tracts) of lands
49 (here give a general description of each tract of land proceeded
50 against in the reference, and give the name and the last address,
51 if any, known to the commissioner, of the owner or owners in
52 whose names such land is alleged in the bill to be forfeited)
53 mentioned in the plaintiff's bill in the above styled cause, will
54 take notice that, on the....day of....., 19...., at.....,
55 in the county of, I will commence the discharge
56 of my duties under a decree of reference entered in said cause
57 on the day of, 19...., directing me to ascer-
58 tain and report (here insert what is required by the decree to
59 be ascertained and reported), at which time and place, you, and
60 each of you, can attend and protect and defend any interest
61 you may have in the lands, or any of them, in question in this
62 suit.

63 Given under my hand this day of, 19.....

64

65

Commissioner.

Sec. 20. The commissioner shall proceed with all reasonable
2 diligence in the discharge of his duties under such decrees, and
3 he may make and file his report as to any one or more of the
4 tracts, or parts thereof, mentioned in the reference, at any time,
5 without waiting to complete his report as to the whole of such
6 tracts.

Sec. 21. If there be no exception to either of such reports,
2 provided for in sections nineteen and twenty, or if there be
3 exceptions thereto which are overruled, the court shall confirm
4 the same, and decree a sale of the lands, or any part of them
5 therein mentioned, which are subject to sale for the benefit of
6 the school fund, at public auction to the highest bidder, upon
7 such terms and conditions as, in the opinion of the court, will
8 produce the greatest amount of purchase money. And the
9 court may decree the sale of any one or more of the tracts, par-
10 cels, lots, or parts of tracts or lots, mentioned in the bill with-
11 out waiting the termination of the suit as to the other lands
12 mentioned therein. When exceptions are sustained to such re-
13 ports, the same proceedings shall be had herein as in other
14 suits in chancery.

Sec. 22. Every such sale shall be made by the sheriff of the
2 county in which such suit is pending or when the sheriff shall be
3 an interested party by another person named by the court upon
4 such terms, conditions and notice as are provided in the decree
5 of sale. All tracts, lots or parcels of land offered for sale on
6 which there is no bid, or the bid or bids do not equal the taxes,
7 interest and costs shall be purchased by the sheriff for the
8 amount of taxes, interest and cost due thereon, for the state, and
9 such title as was vested in the owner at the time of forfeiture
10 shall become absolutely vested in the state and all such lands shall
11 be administered by the public land corporation of West Virginia.
12 All such tracts, lots or parcels of land shall be thenceforth
13 irredeemable except as may be otherwise provided by the con-
14 stitution, and shall be certified to the state commissioner of
15 forfeited lands.

16 The said sheriff or other party directed by the court as afore-

17 said to make the sale, when the sale is other than for cash, shall
18 take from the purchaser of each parcel of land so purchased his
19 notes with good security, payable to the state of West Virginia,
20 for the deferred payments of purchase money provided for in
21 the decree of sale, with interest from date thereof, and shall
22 make a report thereof to the clerk of the circuit court which de-
23 creed the sale, in which he shall state the name of each purchaser
24 and the particular tract or tracts, lot or lots, or part or parcels,
24-a of any tract or lot purchased by him, and the quantity, as near
25 as may be, so purchased by such purchaser the amount of the
26 purchase money of each tract, lot or parcel, or the part thereof
27 so purchased; the amount of the purchase money paid on each
28 at the time of the purchase, and the amount of notes taken for
29 the residue of the purchase money; the name of the surety in
30 such notes and the time at which they will become due and
31 payable; the gross amount of the money in hand arising from
32 such sales and the cost and legal expense thereof. He shall re-
33 turn with his report all notes and securities taken by him for
34 the purchase money of the real estate sold by him, and the clerk
35 of the court shall endorse thereon the day they will respectively
36 become due and payable, file and preserve the same in his office;
37 such notes and securities shall be a lien upon the real estate
38 for which they were given; and, if not paid when due, the clerk
39 shall, without process or further proceeding, enter in the law
40 order book a judgment against the maker and obligors therein
41 and sureties thereon, in favor of the state of West Virginia,
42 upon such note for the amount remaining unpaid, with interest.
43 Such judgment shall be as final and valid as if entered by the
44 court, except only that the court shall have such control of it
45 as is given by article two, chapter fifty-eight of this code.

46 Execution may issue upon such judgment or a rule may be
47 awarded and the land resold as in other chancery suits.

48 Upon the confirmation of said report, the clerk of the circuit
49 court shall transmit a certified copy of the same to the clerk of
50 the county court of his county or of so much thereof as may be
51 confirmed.

Sec. 24. The sheriff or other person appointed by the court
2 shall collect the remaining proceeds of all sales and after de-
3 ducting the actual costs, shall pay to the state commissioner of

4 forfeited lands the proceeds of all such sales as provided in the
5 next succeeding section.

6 The sheriff or other person appointed by the court shall be
7 allowed by the court the actual expenses necessarily incurred
8 and actually paid by him in the discharge of the duties in mak-
9 ing such sale and the report thereof under this article, to be
10 fixed and adjusted by the court upon the production of vouchers
11 showing the amounts paid and on what account.

12 For the services required herein of the prosecuting attorney
13 or other attorney employed by the state commissioner, as pro-
14 vided for in section ten of this article, he shall receive the docket
15 or attorney's fee taxed in the costs of such cases for the state
16 if they be collected from the defendant or defendants, but not
17 otherwise; which fees shall not exceed fifty per cent of the tax
18 bill and interest which together amount to twenty dollars or
19 less; and the maximum fee in connection with any such bill
20 shall be ten dollars and the minimum fee two dollars: *Provided,*
21 That in any case where in the opinion of the court from proper
22 proof any additional compensation should be allowed the attor-
23 ney for the state the court may with the consent of the state
24 commissioner of forfeited lands so allow it.

Sec. 25. The cost per tract of every such suit shall be taxed
2 by the clerk as hereinbefore provided. The clerk's fee shall be
3 one dollar for each tract and the sheriff's fee for service of each
4 summons shall be seventy-five cents, and shall be paid out of the
5 proceeds of the sale of such real estate, and not otherwise, to
6 the several persons entitled thereto, if sufficient for the purpose;
7 but if such proceeds from each tract are not sufficient to pay
8 such costs, the same shall be paid therefrom to the several per-
9 sons entitled thereto pro rata. The balance of such proceeds
10 of any sale in excess of the costs per tract shall be paid into the
11 treasury of the state for the benefit of the school fund. Any
12 person who shall receive any money under the provisions of
13 this article, which he is required to pay over and account for
14 hereunder, and who shall fail to pay over and account for the
15 same when lawfully required to do so, shall be deemed guilty
16 of larceny, and shall be fined not exceeding double the amount
17 he has failed to pay over and account for, and, at the discre-
18 tion of the court, may be imprisoned in the county jail not ex-

19 ceeding one year. No sheriff or other party ordered to make
20 sale shall, directly or indirectly, become the purchaser of any
21 forfeited land at the sale thereof, and for a violation of this
22 provision he shall be fined not exceeding five hundred dollars.

Sec. 26. The sheriff or other person ordered by the court to
2 make sale shall report to the circuit court of his county an item-
3 ized account of his receipts and disbursements of all funds re-
4 ceived by him under the provisions of this chapter. Whenever
5 any such report is confirmed by the court, it shall be the duty
6 of the circuit clerk to make up in triplicate and to forward to
7 the state commissioner of forfeited lands and the clerk of the
8 county court a duly certified copy of such report and accounts
9 and of the order confirming same within thirty days from the
10 date of such confirmation on a form to be prescribed by the
11 state commissioner of forfeited lands.

12 Such report shall set forth: All the tracts of land forfeited
13 and so sold or escheated and so sold in his county for which no
14 previous report has been made; the names of the parties in
15 which the lands were forfeited; the quantity forfeited, descrip-
16 tion, year forfeited, amount of taxes due when forfeited, and
17 whether sold, redeemed, not liable to sale or a suit pending;
18 date of such action; amount for which sold or redeemed; name
19 of purchaser or redemtor; disbursements, (a) to the auditor,
20 (b) to the sheriff, (c) to the municipality, (d) costs per tract,
21 itemizing the several items thereof. Every such sheriff or cir-
22 cuit clerk or other party failing to make any report required
23 by this section shall be guilty of a misdemeanor and be fined
24 not less than one hundred nor more than one thousand dollars,
25 to be paid into the state treasury to the credit of the general
26 school fund.

Sec. 27. When the whole of the purchase money of any tract
2 or lot of land, or any part or parcel of a tract or lot, pur-
3 chased by any person at any such sale, with the interest due
4 thereon and the costs, if any, incurred in the collection thereof,
5 is fully paid, the sheriff or other person appointed by the court
6 shall, as soon as the sale is confirmed, convey to the purchaser,
7 his heirs, devisees or assigns, or to such persons as he or they
8 may direct, to be evidenced by him or them joining in such
9 deed by a proper deed, all the right, title and interest of the

10 state of West Virginia, in and to the real estate thereby con-
11 veyed, which passed to and vested in the state, under the con-
12 stitution and laws thereof, by reason of the forfeiture of such
13 real estate, or otherwise, which remained in the state at the
14 time of the decree for the sale thereof, regardless of whether
15 the same was sold and purchased or forfeited for any cause,
16 escheated, or waste and unappropriated land.

Sec. 28. The former owner of any such land, his heirs, per-
2 sonal representatives or assigns, or any creditor having a lien
3 on such land at the time of such forfeiture or escheat and still
4 existing, shall be entitled to recover in whole or in part, the
5 excess of the sum for which the land may be sold over the taxes
6 charged and chargeable thereon, or which, if the land had not
7 been forfeited or escheated would have been charged or charge-
8 able thereon since the formation of this state, with interest at
9 the rate of twelve per cent per annum, and the costs of the suit,
10 if his claim be filed in the circuit court that decreed the sale,
11 within two years after the sale is confirmed. Such former owner,
12 his heirs, personal representatives or assigns, or any such credi-
13 tor, may, within the time aforesaid, file his petition in the suit
14 in such circuit court, stating in full his title to or lien upon
15 such lands, accompanied by the evidence thereof, and upon full
16 and satisfactory proof that, at the time the title to such land
17 vested in the state, such former owner had a good and valid
18 title thereto, legal or equitable, superior to that of any other
19 claimant thereof, the court shall order the excess mentioned
20 herein, or so much thereof as he may prove himself entitled to,
21 to be paid to such owner, his heirs, personal representatives,
22 assigns or creditors, as the case may be; and for the purpose of
23 ascertaining the same, the court may refer the several matters
24 in question to a commissioner thereof; and upon a properly
25 certified copy of such order being presented to the auditor, he
26 shall draw his warrant on the treasury, in favor of such owner,
27 his heirs, devisees, personal representatives, assigns or such
28 creditors for such excess. And every such suit shall remain
29 upon the docket of the court for two years after the date of the
30 decree confirming any sale of land therein mentioned, in order
31 that opportunity be given for the filing of such petitions.

Sec. 29. The former owner, his heirs, devisees or assigns of

2 any real estate purchased for and forfeited to the state for the
3 nonpayment of taxes thereon, may, before suit is instituted for
4 the sale thereof, redeem such real estate so far only as the title
5 thereto is in the state, by payment to the state commissioner
6 of forfeited lands the taxes and interest charged or chargeable
7 thereon, costs for publication and a fee of one dollar for certi-
8 ficate of redemption where the taxes and interest are under
9 twenty dollars, three dollars where the taxes and interest are
10 more than twenty dollars and less than one hundred dollars,
11 and five dollars where the taxes and interest are more than
12 one hundred dollars. The certificates of redemption shall be
13 issued in quadruplicate, the original copy of which shall be
14 retained by the state commissioner of forfeited lands, the
15 duplicate copy shall be given to the redemtor, the triplicate
16 copy shall be sent to the clerk of the circuit court and the
17 quadruplicate copy shall be sent to the clerk of the county
18 court. After the first term of the circuit court, after the re-
19 ceipt of such record of redemptions, an order shall be entered
20 by the court, if so required, showing the manner of such re-
21 demption and disposing of such lands so redeemed as if re-
22 demption had been made pending suit; or, the former owner,
23 his heirs, devisees or assigns, of any real estate forfeited for
24 any cause to the state of West Virginia, may at any time dur-
25 ing the pendency of the suit for the sale thereof, and before
26 a decree for the confirmation thereof has been made and
27 entered by the court, file his petition therein in manner and
28 form as provided in the next preceding section in relation to
29 the excess of the proceeds of such sale, praying to be al-
30 lowed to redeem so much only of such real estate as to which
31 the title still remains in the state; and upon the filing of
32 such petition, and upon such proof being made as would
33 entitle the petitioner to the excess of the purchase money of
34 such real estate if the same had been sold, the court may,
35 by a proper decree, permit the petitioner upon the payment
36 into court, the taxes charged and chargeable thereon, or which,
37 if the land had not been forfeited would have been charged
38 or chargeable thereon since the formation of this state, with
39 interest at the rate of twelve per cent per annum, the pub-
40 lication fees and the cost of the suit, to be fixed by the court

41 in its decree, to redeem the real estate mentioned in his pe-
42 tition. And upon such payment being made as aforesaid,
43 the court shall enter its decree declaring the redemption of
44 such real estate by such petitioner, so far only as the title
45 thereto is in the state, as provided in this chapter, and so far
46 as the petitioner has shown himself entitled to redeem the
47 same; which decree shall operate as a release of such for-
48 feiture of such real estate to the extent declared therein and
49 of all former taxes and interest charged and chargeable there-
50 on. And such petitioner shall acquire no other title to the
51 lands so redeemed than was vested in him immediately before
52 such forfeiture, but such redemption shall in nowise affect
53 or impair any right, title or interest any other person may
54 have in such real estate or any part thereof, by purchase
55 from the state, or under and by virtue of section three, article
56 thirteen of the constitution of this state.

57 Any person holding a valid and subsisting lien, lease or other
58 encumbrance on any such forfeited land, or any other per-
59 son being requested in writing so to do by any party entitled
60 to make redemption, upon like petition and like proof, and
61 upon payment to the sheriff of the taxes, interest and costs
62 and filing the sheriff's receipt therefor with the clerk of the
63 circuit court, may be permitted to make like redemption for
64 and in behalf of such former owner, his heirs, devisees or
65 assigns, and the amount so paid shall be a lien by recording an
66 abstract of such redemption within fifteen days of its date in
67 the office of the clerk of the county court on the land so re-
68 deemed, in favor of such lienholder, lessee or other encum-
69 brancer or other person so making redemption, superior to
70 all other liens, leases or other encumbrances except taxes and
71 other governmental assessments, but such lien shall in nowise
72 affect or impair any right, title or interest any other person
73 may have in such real estate or any part thereof, by pur-
74 chase from the state, or under and by virtue of section three,
75 article thirteen of the constitution of this state.

76 The former owner, his heirs, devisees or assigns, of any
77 real estate forfeited for any cause to the state of West Vir-
78 ginia, may, at any time during the pendency of the suit for
79 the sale thereof and before a decree for the confirmation

80 thereof has been made and entered by the court, make in-
81 formal application to the clerk of the circuit court to be al-
82 lowed to redeem so much only of such real estate as to which
83 the title still remains in the state, and pay to the sheriff of
84 the county the amount of taxes, interest and costs properly
85 chargeable on the land sought to be redeemed, and file with
86 such clerk the sheriff's receipt for such money, if it shall
87 appear from the records in the office of the clerk of the county
88 court that such applicant is such former owner or an heir,
89 devisee or assignee thereof, and if there also appear on such
90 records in said county clerk's office a description of the land
91 sought to be redeemed sufficient to identify the same, and
92 those facts do not appear of record in the suit, the clerk of
93 the circuit court shall report those facts to the court, in-
94 cluding a description of the land sought to be redeemed suf-
95 ficient to identify the same and also all the taxes, interest and
96 costs which in his opinion should properly be charged, but if
97 any of those facts appear of record in the suit only such as
98 do not appear shall be reported; and if there be no other
99 person who is a party to the suit, or not being made a party,
100 who has appeared in the suit, claiming title to or the exclu-
101 sive right to redeem such real estate, and if there be no ob-
102 jection thereto, and the court shall find no cause for objection,
103 he may enter his decree declaring the redemption of such real
104 estate by such applicant, so far only as the title thereto is in
105 the state, and so far as the applicant is entitled to redeem
106 the same; which decree shall operate as a release of such for-
107 feiture of such real estate to the extent declared therein and
108 of all former taxes and interest charged and chargeable
109 thereon. And such applicant shall acquire no other title to
110 the land so redeemed than was vested in him immediately
111 before the forfeiture, but such redemption shall in nowise
112 affect or impair any right, title or interest any other person
113 may have in such real estate or any part thereof, by purchase
114 from the state, or under and by virtue of section three, ar-
115 ticle thirteen of the constitution of this state.

116 Any person holding, at the time of the forfeiture, a valid
117 and subsisting lien, lease or other encumbrance on any such
118 forfeited land, or any other person being requested in writing

119 so to do by any party entitled to make redemption, upon like
120 application for and in behalf of the former owner, his heirs,
121 devisees or assigns, may present to such clerk proof of his
122 lien, lease or other encumbrance and make like deposit with
123 the clerk of the circuit court, and if in the opinion of such
124 clerk such applicant's lien, lease or other encumbrance shall
125 be legally established, or that such other person has been so
126 requested, the clerk of the circuit court shall report that fact
127 and also the amount of all taxes, interest and costs which in his
128 opinion is properly chargeable on said land; and if there
129 be no other person who is a party to the suit or, not being
130 made a party, who has appeared in the suit, claiming title to
131 or the exclusive right to redeem such land, and if there be
132 no objection thereto, and the court shall find no cause for
133 objection, he may enter his decree declaring the redemption
134 of such land as provided hereinabove; and the amount paid
135 by such lienholder, lessee, or other encumbrancer, or by
136 such other person shall be a lien on the land so redeemed
137 superior to all other liens, leases and other encumbrances, ex-
138 cept taxes and other governmental assessments, but such lien
139 shall in nowise affect or impair any right, title or interest any
140 other person may have in such real estate or any part thereof,
141 by purchase from the state, or under and by virtue of sec-
142 tion three, article thirteen of the constitution of this state.

143 After payment to the sheriff of all taxes, interest and costs
144 properly chargeable on any such forfeited lands by any per-
145 son entitled to make redemption thereof, and such decree for
146 the redemption thereof shall have been made, such redemp-
147 tion shall not be invalid because no formal petition was
148 filed.

149 At the end of each year the auditor and circuit clerk shall
150 certify all redemptions made under the provisions of this sec-
151 tion to the clerk of the county court and the assessor of the
152 county in which the land is located and such assessor shall
153 enter all such land on the land books for taxation for the en-
154 suing tax year.

155 When the clerk of the circuit court shall receive any money
156 provided to be paid to him by this section, he shall immedi-
157 ately turn it over to the sheriff, who shall make distribution

158 of the same to the proper funds of his county and pay to the
159 state treasurer the portion thereof due the state.

Sec. 31. In every such suit brought under the provisions of
2 this article, the court shall have full jurisdiction, power and
3 authority to hear, try and determine all questions of title, pos-
4 session and boundary which may arise therein, as well as any
5 and all conflicting claims whatever to the real estate in question
6 arising therein; and the court, in its discretion, may at any
7 time, regardless of the evidence, if any, already taken therein,
8 direct an issue to be made up and tried at its bar as to any
9 question, matter or thing arising therein, which, in the opinion
10 of the court, is proper to be tried by a jury and such evidence
11 already taken may be introduced to the jury. And every such
12 issue shall be proceeded in and the trial thereof shall be gov-
13 erned by the law and practice applicable to an issue out of
14 chancery and the court may grant new trials therein as in other
15 cases tried by a jury.

Sec. 35. If any debt of a person whose lands escheated to the
2 state at his death remain unpaid after all the personal estate of
3 such person has been applied to the payment of his debts, the
4 creditor may intervene in any proceeding by the state com-
5 missioner of forfeited lands under this article to sell such lands.
6 If the court shall be of opinion that the said debt, or any part
7 thereof, is due, the amount decreed to be due shall be paid by
8 such commissioner to the creditor. If the proceeds of the sale
9 shall have been paid into, and still remain in, the treasury of
10 the state, or to the benefit of the school fund, the creditor may
11 file his bill in equity against the state commissioner of for-
12 feited lands, to recover such debt, and if the court shall decree
13 that such debt, or any part thereof, is due, the amount decreed
14 to be due shall be paid to the creditor out of the treasury. If
15 such bill in equity be not filed within the period of limitation
16 applicable to such debt, such debt shall be forever barred.

Sec. 36. The state commissioner of forfeited lands shall
2 answer and defend, on the part of the state, any claim or suit
3 against him, under the preceding section, and shall be allowed
4 the costs incurred by him in defending the same.

Sec. 37. The state commissioner of forfeited lands shall add
2 to the total taxes and interest charged or chargeable on each

3 lot, tract or part of tract, forfeited to the state, costs of publi-
 4 cations and the fees for certificates of redemptions as hereinbe-
 5 fore provided. Such fees shall be credited to the general school
 6 fund and be used as appropriated for the necessary expenses
 7 of administering forfeited lands by the state commissioner of
 8 forfeited lands.

Sec. 38. A record of all tracts of forfeited lands offered for
 2 sale as provided for in section twenty-two of this article and
 3 purchased by the sheriff for the state on account of no bids
 4 having been received thereon equal to the taxes, interest and
 5 costs, shall be made from the report of the sale of the circuit
 6 clerk to the commissioner of forfeited lands and shall be kept by
 7 him in a well-bound book which shall show the status or dis-
 8 position of such lands in the marginal space provided therefor.

Sec. 39. All lands forfeited and in the hands of school land
 2 commissioners of the several counties and not finally disposed
 3 of prior to the time this act becomes effective shall be admin-
 4 istered according to the provisions of article three, chapter
 5 thirty-seven of the code, and the amendments thereto, as pro-
 6 vided in chapter forty-nine of the acts of one thousand nine
 7 hundred thirty-one, or as otherwise provided by law. All lands
 8 subsequently forfeited shall be administered according to the
 9 provisions of this act.

Sec. 40. The various provisions of this act shall be construed
 2 as separable and several, and should any of the provisions or
 3 parts thereof be construed or held to be unconstitutional, or for
 4 any other reason invalid, the remaining provisions of this act
 5 shall not be thereby affected.

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

* CHAPTER 19

(House Bill No. 7—By Mr. Norton)

AN ACT to amend and reenact sections three and five of an act
 passed March tenth, one thousand nine hundred thirty-three,
 providing for a convention to pass on the amendment to the
 constitution of the United States providing for the repeal of
 the eighteenth article of amendment to the constitution and the

*See chapter twenty-two, acts regular session 1933, in this volume.

prohibition of the transportation or importation into any state, territory or possession of the United States for delivery or use therein of intoxicating liquors in violation of the laws thereof proposed by the congress for ratification by conventions in the several states.

[Passed April 12, 1833; in effect from passage. Approved by the Governor.]

SEC.

- 3. How election conducted; appointment of election officials; how registration lists made.
- 5. How candidates for office of dele-

SEC.

gate nominated; filling vacancy in nomination; how unpledged candidates nominated.

Be it enacted by the Legislature of West Virginia:

That sections three and five of an act passed March tenth, one thousand nine hundred thirty-three, entitled "An Act to provide for a convention to pass on the amendment to the constitution of the United States providing for the repeal of the eighteenth article of amendment to the constitution and the prohibition of the transportation or importation into any state, territory or possession of the United States for delivery or use therein of intoxicating liquors in violation of the laws thereof proposed by the congress for ratification by conventions in the several states," and identified as senate bill number one hundred seventy-four, be and the same are hereby amended and reenacted to read respectively as follows:

Section 3. Except as in this act otherwise provided such election shall be conducted and the results thereof ascertained and certified in the same manner as in the case of the election of presidential electors in this state, and all provisions of the laws of this state relative to elections except so far as inconsistent with this act are hereby made applicable to such election. The county court of each county shall appoint for each precinct in such county three commissioners of election, and no more, and no poll clerks, for the special election hereby called, and at least one commissioner shall be known to the court to be for ratification and one shall be so known to be against ratification. The commissioners shall designate two of their number, one known to be for ratification and one known to be against ratification, as poll clerks, who shall perform all duties of poll clerks as well as commissioners at such election. Each commissioner of election shall receive one dollar for each day actually employed instead of the compensation provided by statute, which compensation shall be allowed

19 and paid by the county court upon application within ten
20 days after the day of election by the person entitled thereto,
21 attested by the commissioners of election, and not otherwise.
22 It shall not be necessary for the registrars to list or register
23 any of the voters for the special election hereby called and the
24 voters shall be listed and registered by the county court as
25 provided in section ten, article two, chapter three of the code
26 of West Virginia, one thousand nine hundred thirty-one, and
27 the clerk of each county court shall furnish to the election com-
28 missioners of the respective voting precincts one of the registra-
29 tion books filed with him instead of a certified list of voters.

Sec. 5. Nominations of candidates for the office of dele-
2 gate to the convention shall be made as follows:

3 The Democratic state executive committee and the Republi-
4 can state executive committee shall each nominate ten persons
5 who shall have signed a written pledge in triplicate to vote in
6 such convention for ratification of the amendment and filed
7 one counterpart thereof with the secretary of state of West
8 Virginia and two with the secretary of such committee, and
9 ten persons who shall have signed a written pledge in triplicate
10 to vote in such convention against ratification of the amend-
11 ment, and filed one counterpart thereof with the secretary
12 of state of West Virginia and two with the secretary of such
13 committee. In each group of ten each congressional district
14 of the state shall be represented by at least one and not more
15 than two residents thereof. No person shall be nominated by
16 either committee who shall not have filed counterparts of a
17 written pledge as aforesaid on or before the fifteenth day of
18 April, one thousand nine hundred thirty-three, and nomina-
19 tions shall be made by said committees, respectively, and a cer-
20 tificate thereof, showing under separate and distinguishing
21 headings the list of the ten nominees pledged to vote for rati-
22 fication and the ten nominees pledged to vote against ratifica-
23 tion, forwarded to the secretary of state of West Virginia,
24 with one counterpart of the pledge of each person so nomi-
25 nated, on or before the first day of May, one thousand nine
26 hundred thirty-three. The twenty persons so nominated, ten
27 by each of said committees, pledged to vote for ratification,
28 shall be the candidates favoring ratification of the amendment,
29 and the twenty persons so nominated, ten by each of said com-

30 mittees, pledged to vote against ratification of the amendment,
31 shall be the candidates opposing ratification. If a vacancy shall
32 occur in any nomination so made, from death, withdrawal or
33 other cause, the vacancy shall be filled and the name of the
34 candidate certified by the state executive committee which
35 made the original nomination, or the chairman thereof, as the
36 case may be, according to the provisions of chapter three,
37 article four, section twenty-three of the code of West Virginia,
38 one thousand nine hundred thirty-one, and the nominee to fill
39 such vacancy shall be chosen from among persons who shall
40 have filed with such committee a pledge similar to the pledge
41 filed by the original nominee. If either committee shall fail
42 to make and file nominations as hereinbefore provided on or
43 before the first day of May, one thousand nine hundred thirty-
44 three, the secretary of state shall on or before the tenth day
45 of May, one thousand nine hundred thirty-three, make up the
46 lists which such committee should have made, of ten nominees
47 pledged to vote for ratification and ten pledged to vote against
48 ratification, according to the counterpart pledges filed with
49 the secretary of such committee and the secretary of state,
50 drawing names by lot in any case where there shall be more
51 than one person eligible for either list resident in any con-
52 gressional district, and if when a nomination for either list
53 shall have been made from each congressional district there
54 shall remain more than four persons eligible for such list. And
55 the lists so made up by the secretary of state shall be held
56 and serve the same purposes as if made up by such committee
57 failing to do its duty hereunder. If a vacancy shall occur
58 in any nomination so made by the secretary of state, he shall
59 fill the vacancy, drawing the name by lot if there remain more
60 than one person eligible for the list in which the vacancy shall
61 have occurred who shall have filed counterparts of a written
62 pledge as aforesaid.

63 Unpledged candidates for the office of delegate to the con-
64 vention may be nominated by petitions filed with the secre-
65 tary of state of West Virginia on or before the twenty-seventh
66 day of May, one thousand nine hundred thirty-three, and not
67 otherwise. A single petition may nominate any number of
68 nominees, not exceeding the total number of delegates to be
69 elected, shall be signed by not less than two hundred voters,

70 shall show the residence of each signer thereof and shall have
 71 attached the promise in writing of each nominee therein named
 72 that he will remain unpledged. The twenty nominees, whose
 73 nominating petitions have respectively been signed by the
 74 largest number of voters, ties to be decided by lot drawn by
 75 the secretary of state, shall be the unpledged candidates. If
 76 a vacancy shall occur in any nomination so made it shall be
 77 filled by the designation by the secretary of state of the re-
 78 maining nominee whose nominating petitions filed with the
 79 secretary of state as aforesaid shall have been signed by the
 80 largest number of voters, a tie to be decided by lot drawn as
 81 aforesaid.

* CHAPTER 20

(House Bill No. 8—By Mr. Beacom)

AN ACT to amend and reenact section one, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, and to amend article twelve, chapter eleven of said code by enacting and adding thereto thirteen additional sections to be numbered ninety-one, ninety-two, ninety-three, ninety-three-(a), ninety-four, ninety-five, ninety-six, ninety-seven, ninety-eight, ninety-nine, one hundred, one hundred one and one hundred two, to provide for the raising of additional public revenue by a license tax on the business of selling non-intoxicating beer, to define nonintoxicating beer, to classify sellers thereof, and to provide for the collection of such tax, and to repeal chapter twenty-four, acts of the legislature, regular session, one thousand nine hundred thirty-three, being house bill number three hundred fifty-nine of that session, and all other acts and parts of acts, general and special, in conflict with this act or the purpose thereof.

[Passed April 12, 1933: In effect from passage. Approved by the Governor.]

Sec.

1. For what state licenses are required.
91. Definition of nonintoxicating beer and liquors.
92. Definition of the words package dealer, dispenser, manufacturer or brewer, and distributor.
93. Amount of license tax on package dealers, manufacturers or brewers and distributor; initial tax to be paid for each place of

Sec.

- business; license tax on social, etc., clubs, as dispenser; license tax on dining club or buffet cars.
- 93-(a). Manufacturer or wholesale distributor not to have an interest in sale of beer as package dealer or dispenser.
 94. License year.
 95. Tax commissioner to issue licenses; form for application for license as package dealer; bond and re-

*See chapter twenty-two, acts 1933, extraordinary session, in this volume.

SEC.	SEC.
	powered to enact ordinances for enforcement of act.
96. Collection by tax commissioner of unpaid license taxes of manufacturer, brewer or distributor.	100. Municipalities may levy a tax. not to exceed one-half the amount levied by the state, on package dealers, dispensers, manufacturers or brewers and distributors.
97. Records to be kept by manufacturer, brewer or distributor; assessment and collection of unpaid tax and revocation of license; appeal to circuit court.	101. Taxes collected to be paid to treasurer and credited to state fund, general revenue.
98. What application for license as dispenser to show.	102. If part of act void, not to affect remainder of act; chapter twenty-four, acts of regular session, one thousand nine hundred thirty-three (H. B. No. 359), repealed; inconsistent acts repealed.
99. For what license may be revoked; penalty for violations of act; penalty for selling or giving beer to person under the age of sixteen years; municipalities em-	

Be it enacted by the Legislature of West Virginia:

That section one, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, be and the same is hereby amended and reenacted, and article twelve, chapter eleven of the said code be and the same is hereby amended by enacting and adding thereto thirteen additional sections to be numbered sections ninety-one, ninety-two, ninety-three, ninety-three-(a), ninety-four, ninety-five, ninety-six, ninety-seven, ninety-eight, ninety-nine, one hundred, one hundred one and one hundred two, which sections shall read as follows:

- Section 1. No person without a state license therefor, shall
- 2 (a) Keep a hotel, eating house, or restaurant; or
 - 3 (b) Keep, for public use or resort, a bowling alley, pool
 - 4 table, billiard table, bagatelle table, or any table of like kind;
 - 5 or
 - 6 (c) Sell at wholesale or retail patent or proprietary medi-
 - 7 cines in incorporated cities and towns; or
 - 8 (d) Exhibit any circus, menagerie, circus and menagerie
 - 9 combined, theatrical performance, street or other carnival, or
 - 10 public show, to which admission is obtained for money or re-
 - 11 ward, except for the benefit or under the auspices of a volun-
 - 12 teer fire department; or
 - 13 (e) Run or operate, for profit, a merry-go-round, or roller
 - 14 coaster, or scenic railway, or like device, or keep for public use
 - 15 or resort, a shooting gallery, a skating rink; or run, or operate,
 - 16 a cane rack, doll baby rack, knife rack, striking machine, jingle
 - 17 board, punch board, artful dodger, candy wheel, or other scheme
 - 18 or device by which merchandise or other things of value are dis-

- 19 posed of by game of chance, or like device, or human laundry
20 device, or dip device; or
- 21 (f) Act as a hawker or peddler; but bona fide farmers ven-
22 ding farm products shall not be required to have a license; or
- 23 (g) Act as an auctioneer; or
- 24 (h) Practice the business of real estate agent, stockbroker,
25 or other broker, by buying or selling for others, stock, securi-
26 ties, or any other property for a commission or reward; or
- 27 (i) Practice the business of money broker, buying or sell-
28 ing undercurrent or depreciated money or funds; or exchanging
29 one kind of money or funds for another, for benefit or reward;
30 or
- 31 (j) Practice the business of pawnbroker by lending money
32 or other things for profit, for or on account of personal prop-
33 erty deposited with the lender in pledge; or
- 34 (k) Sell, or barter, or offer, or expose, for sale or barter, any
35 patent right; or
- 36 (l) Sell, offer, or expose for sale, to merchants, trading
37 stamps, premium stamps or certificates of like nature or char-
38 acter, or undertake with merchants to redeem such stamps or
39 certificates in money or goods; or
- 40 (m) Being a traveling agent, canvasser or salesman, or itin-
41 erant vendor, sell any sewing machines, pianos, organs, victrolas,
42 phonographs, talking machines, or similar musical instruments,
43 or, sell or contract to sell any books, maps, prints, pamphlets,
44 and periodicals, except such books, pamphlets and periodicals
45 that be of a religious or ethical nature, whether manufactured
46 within or without the state; or
- 47 (n) Sell, offer or expose for sale, or solicit, or receive orders
48 for manufactured tobacco, snuff, cigars, cigarettes, or other
49 preparations of tobacco, or cigarette paper or wrapper, at
50 wholesale or retail; or
- 51 (o) Carry on the business of junk dealer, or act as agent,
52 solicitor, canvasser, or salesman, for any junk dealer; or
- 53 (p) Sell pistols, revolvers, or weapons of like kind; or
- 54 (q) Maintain or occupy any house boat, or like structure
55 or vessel, upon or along the bed, banks or shores of any navi-
56 gable stream; or
- 57 (r) Maintain any slot machine, or other automatic device.

58 which, for the same profit or reward, in each case, and without
59 any violation of the law, furnishes music, or exhibits pictures,
60 or provides facilities for weighing, or supplies any merchandise
61 or other thing or renders any service; but no slot machine or
62 other automatic device with respect to which, or its operation,
63 service, or supplies, there is any element of chance (being a gam-
64 ing table, within the meaning of section one, article ten, chapter
65 sixty-one of this code), shall be protected by any license; or

66 (s) Being a corporation, heretofore or hereafter chartered
67 under the laws of this state, whether its principal place of busi-
68 ness or chief works be within or without the state, do, or attempt
69 to do, any business by virtue of its charter or certificate of in-
70 corporation; or

71 (t) Being a corporation chartered or organized under the
72 laws of any other state or country, hold property or transact
73 business in this state; or being a corporation, hold more than
74 ten thousand acres of land in this state; or

75 (u) Solicit, carry on or practice the business of a collection
76 agency, or association, whether it be a person, firm or corpo-
77 ration; or

78 (v) Keep or maintain, a public park, admission to which
79 is obtained for money or reward; or

80 (w) Carry on the business of a labor agency; or

81 (x) Manufacture, sell or distribute, either at retail or whole-
82 sale, any and all preparations of every kind, character or na-
83 ture, such as are prepared, mixed and sold at a soda fountain,
84 and all such preparations as bevo, pablo, milo, moxie, ginger ale,
85 near beer, coca cola, pop, and all other preparations of like
86 nature and character commonly known as soft drinks; or

87 (y) Keep or maintain, for public use or resort, a taxi-cab
88 stand or any place of like character; or

89 (z) Manufacture, sell or distribute, either at retail or whole-
90 sale, nonintoxicating beer as defined in section ninety-one of this
91 act.

92 Nothing in this article contained, and no license or payment
93 under the provisions hereof, shall be taken to legalize any act
94 which otherwise may be in violation of law, or exempt any per-
95 son from any penalty prescribed for such violation.

Sec. 91. The words "nonintoxicating beer," as used in this

2 act, shall be construed to embrace all beer, lager beer, ale, por-
3 ter, malt liquors, and all other mixtures and preparations of
4 like nature containing not more than three and two-tenths per
5 cent of alcohol by weight, which are hereby declared to be
6 nonintoxicating; and the word "liquors" as used in chapter
7 sixty of the code of West Virginia shall not be construed to
8 include or embrace any beer, lager beer, ale, porter, malt liquors,
9 or any other mixture or preparation of like nature containing
10 not more than three and two-tenths per cent of alcohol by weight.

Sec. 92. The words "package dealer," as used in this act,
2 shall mean and include any person, firm, association, partner-
3 ship, or corporation selling, delivering or otherwise distributing
4 within the state of West Virginia nonintoxicating beer for con-
5 sumption at a place other than his, its, or their established and
6 licensed place of business in original packages containing not
7 less than six bottles of not more than twelve fluid ounces each,
8 and in total quantities at each sale of not more than forty-eight
9 bottles of twelve fluid ounces each. The word "dispenser," as
10 used in this act, shall mean and include any person, firm, asso-
11 ciation, partnership or corporation, selling, serving, delivering
12 or otherwise dispensing nonintoxicating beer, whether in glass
13 bottles or on draught, for consumption at his, its, or their estab-
14 lished and licensed place of business. The words "manufac-
15 turer or brewer," as used in this act, shall mean and include
16 any person, firm, association, partnership or corporation manu-
17 facturing, in this state, nonintoxicating beer for sale at whole-
18 sale. The word "distributor," as used in this act, shall mean
19 and include any person, firm, association, partnership, or cor-
20 poration, other than a manufacturer or brewer, jobbing or dis-
21 tributing nonintoxicating beer to a package dealer or dispenser
22 at wholesale.

Sec. 93. There is hereby levied and imposed upon package
2 dealers, as herein defined, an annual license tax of fifty dollars.
3 and upon dispensers, as herein defined, an annual license tax of
4 one hundred dollars. There is hereby levied and imposed upon
5 manufacturers or brewers, as herein defined, manufacturing
6 nonintoxicating beer within this state, an initial license tax
7 of five hundred dollars per year and, whether such nonintoxi-

8 eating beer be kept or sold in barrels or other containers, an
9 additional tax of one dollar on each barrel of thirty-one gallons,
10 and in like ratio on each part barrel so manufactured in this
11 state. There is hereby levied and imposed upon distributors, as
12 herein defined, an initial license tax of two hundred fifty dollars
13 per year, and an additional tax of one dollar on each barrel, and
14 in like ratio on each part barrel of nonintoxicating beer, whether
15 distributed in barrels or other containers, so distributed in this
16 state: *Provided, however,* That the barrel tax herein levied
17 shall, as to nonintoxicating beer made in West Virginia, be paid
18 by the manufacturer or brewer, and the barrel tax on non-
19 intoxicating beer made outside of West Virginia shall be paid
20 by the original consignee thereof within this state, who shall
21 be deemed the distributor for the purposes of this act, and no
22 nonintoxicating beer manufactured, sold or distributed in West
23 Virginia shall be subject to more than one barrel tax.

24 Each such package dealer, dispenser, manufacturer or brewer
25 and distributor being engaged in the business of selling, de-
26 livering or otherwise distributing nonintoxicating beer, and
27 having more than one place of business within the state of West
28 Virginia, shall pay the full amount of the initial tax hereby
29 imposed for each such place of business: *Provided further,*
30 That any social, fraternal or business clubs not operating for
31 profit, and having been in continuous operation for five years
32 or more prior to the enactment of this law, shall pay an annual
33 license tax of fifty dollars, as a dispenser hereunder: *And pro-*
34 *vided further,* That railroads operating in this state may dis-
35 pense nonintoxicating beer upon payment of an annual license
36 tax of ten dollars for each dining, club or buffet car in which
37 it is dispensed.

Sec. 93-(a). No person, firm or corporation having an in-
2 terest in the manufacture or wholesale distribution of non-
3 intoxicating beer shall be permitted, either directly or indi-
4 rectly, to be connected with, or have an interest in the sale or
5 dispensing of nonintoxicating beer, either under a package
6 dealer or a dispenser's license.

Sec. 94. Licenses for the sale of nonintoxicating beer shall
2 be for the term of one year commencing on the first day of July
3 of each year and ending on the thirtieth day of June of the

4 following year. If granted for a less period than one year the
5 initial state tax thereon shall be computed quarterly from the
6 annual tax in proportion to such time as the license has to run:
7 *Provided*, That all licenses issued prior to the first day of July,
8 one thousand nine hundred thirty-three, shall be issued to ex-
9 pire on the thirtieth day of June, one thousand nine hundred
10 thirty-four, and the initial tax assessed upon any such license
11 shall be for one and one-fourth year.

Sec. 95. All licenses under this act for manufacturers, brew-
2 ers, distributors, package dealers and dispensers shall be issued
3 by the tax commissioner.

4 Each such package dealer, on or before the first day of July
5 of any year, shall make out and deliver to the state tax com-
6 missioner upon a blank to be furnished by such commissioner
7 for that purpose, a statement showing the name of such package
8 dealer, a brief and accurate description of the place or places
9 where his business as such package dealer is conducted, and by
10 whom owned. Such statement shall be signed and sworn to be-
11 fore a notary public or other officer empowered to take such
12 acknowledgment to deeds.

13 Every manufacturer or brewer and distributor, applying
14 for a license under this act for the period expiring on the
15 thirtieth day of June, one thousand nine hundred thirty-four,
16 shall furnish a bond with approved security, payable to the
17 state of West Virginia in the minimum amount of one thousand
18 dollars and within the discretion of the tax commissioner in
19 the maximum amount of ten thousand dollars, conditioned for
20 the payment of any and all additional taxes accruing during
21 the period of such license.

22 On or before the tenth day of each calendar month during
23 the license tax period ending on the thirtieth day of June, one
24 thousand nine hundred thirty-four, every such manufacturer
25 or brewer and distributor shall make a report in writing, under
26 oath, to the tax commissioner, in such form as may be required
27 by him, showing the number of barrels of nonintoxicating beer
28 manufactured or distributed by such manufacturer or brewer
29 or distributor for the preceding calendar month or part thereof
30 during which such manufacturer or brewer or distributor was
31 engaged in business, and at the same time pay the tax thereon
32 levied by this act.

33 On or before the thirtieth day of June, one thousand nine
34 hundred thirty-four, and on or before the thirtieth day of June
35 in each succeeding year, every manufacturer or brewer and
36 distributor desiring a license under the terms of this act shall
37 file with the application for such license a report in writing,
38 under oath, showing the estimated number of barrels of non-
39 intoxicating beer to be manufactured, sold or distributed during
40 the next succeeding license tax year, based upon the average
41 number of barrels manufactured, sold or distributed during the
42 preceding five years or such part thereof as such manufacturer
43 or brewer or distributor has been engaged in business; and in
44 addition to the initial tax shall pay the tax levied by this act
45 on such estimated annual production, sale or distribution of
46 nonintoxicating beer for the succeeding year. Within thirty
47 days after the end of any license tax year each manufacturer
48 or brewer and distributor shall make report in writing, under
49 oath, to the tax commissioner, in such form as may be required
50 by him, showing the number of barrels of nonintoxicating beer
51 manufactured or distributed by such manufacturer or brewer
52 or distributor for the preceding license tax year, or part there-
53 of, during which such manufacturer or brewer or distributor
54 was engaged in business. If the actual number of barrels
55 manufactured, sold, or distributed shall exceed the estimate
56 on which the tax was assessed such manufacturer or brewer or
57 distributor at the time of filing such report shall pay the tax
58 commissioner a further tax on such excess, to be ascertained by
59 applying the rate fixed by this act; or if the actual number of
60 barrels be less than the estimate on which the tax was assessed
61 then there shall be refunded out of the state treasury a sum
62 to be ascertained by applying the rate fixed by this act.

Sec. 96. If any manufacturer or brewer or distributor whose
2 report to the tax commissioner provided for in the next pre-
3 ceding section hereof shows him, it or them to be liable for any
4 unpaid license taxes shall fail to pay the same to the tax com-
5 missioner as provided therein the tax commissioner shall be
6 authorized to distrain immediately therefor, or collect the
7 amount thereof in any appropriate legal proceeding instituted
8 in the circuit court of the county wherein the seat of govern-
9 ment is located, and in addition the state shall have a lien on
10 all the property of such manufacturer or brewer or distributor

11 for the full amount of the unpaid tax; and in addition the tax
12 commissioner may revoke the license of any such manufacturer
13 or brewer or distributor so failing to pay any such tax.*

Sec. 97. Every manufacturer or brewer and distributor
2 shall maintain and keep and preserve for a period of two years
3 such record or records of nonintoxicating beer manufactured,
4 sold or distributed in this state, together with such invoices,
5 records, receipts, bills of lading and other pertinent papers
6 as may be required by the tax commissioner, and the tax com-
7 missioner shall have authority by himself or through his duly
8 designated agent to inspect the books, accounts, records and
9 memoranda of any manufacturer or brewer and distributor
10 licensed under the provisions of this act, and to examine under
11 oath any officer, agent or employe of any manufacturer or
12 brewer and distributor. The tax commissioner may require the
13 production, within this state at such time and place as he may
14 designate, of any books, accounts, papers or records kept within
15 or without the state, or verified copies in lieu thereof, in order
16 that an examination thereof may be made by the tax commis-
17 sioner or his duly designated agents. If as the result of such
18 examination it shall be found that any nonintoxicating beer
19 subject to the payment of a license tax, has been manufactured
20 or brewed, sold or distributed, by any manufacturer or brewer
21 or distributor, upon which the tax has not been paid, the tax
22 commissioner shall make an assessment of the amount of the
23 tax so found to be due, and in addition thereto and as a part
24 thereof shall assess a penalty of fifty per cent of the amount
25 of such tax and shall notify such manufacturer or brewer or
26 distributor of the additional amount due. If the same remains
27 unpaid for a period of thirty days the tax commissioner shall
28 have authority to revoke any license held at the time by the
29 licensee and in addition thereto to collect the amount found
30 to be due by any appropriate legal proceedings in the circuit
31 court of the county in which the seat of government is located,
32 unless an appeal is taken from the action of the tax commis-
33 sioner as hereinafter provided.

34 Within thirty days after the receipt of any additional amount
35 claimed to be due by any brewer or manufacturer or distribu-
36 tor, as shown by an examination by the tax commissioner, the

37 licensee shall have the right to an appeal from his findings to
38 the circuit court of the county in which the seat of government
39 is located and such appeal shall be heard by the said circuit
40 court de novo. Whether the finding of the tax commissioner
41 is affirmed or reversed the circuit court shall enter an order
42 accordingly and either party shall then have the right of appeal
43 to the supreme court of appeals of the state.

Sec. 98. A license shall be issued by the authorities so em-
2 powered in this act to any person, firm, association, partnership
3 or corporation who, applies for a dispenser's license and who
4 submits a written application for a license, which application
5 shall state under oath:

5-a As to individuals:

5-b (a) That he has been a resident of the state for five years or
6 more and the name, and residence address of the applicant, and
7 the length of time he has lived at such residence;

8 (b) That he is a citizen of the United States;

9 (c) The place of birth of the applicant, and if the appli-
10 cant is a naturalized citizen, the time and place of such naturali-
11 zation;

12 (d) That the applicant has never been convicted of felony;

12-a As to all applicants:

13 (a) The location of the place or building where the applicant
14 intends to operate;

15 (b) The name of the owner of the building and if such owner
16 is not the applicant, that such applicant is the actual lessee of
17 the premises;

18 (c) That the place or building where he intends to operate
19 reasonably conforms to all laws and health and fire regulations,
20 applicable thereto, and is a safe and proper place or building;

Sec. 99. The tax commissioner may revoke the license of any
2 licensee, subject to an appeal of any licensee to a court of com-
3 petent jurisdiction whenever any licensee is aggrieved:

4 (1) When disorderly or immoral practices are permitted or
5 intoxicating liquor is sold on the premises;

6 (2) Where the word "saloon" is printed, painted or placed
7 upon the door, window or in any other public place on or about
8 the premises or when the word "saloon" is used in any adver-
9 tisement by the licensee;

10 (3) When circumstances happen or become known to the
11 properly empowered authorities under this act which, had they
12 happened or been known at the time of the application for the
13 license would have legally justified such authorities in refusing
14 the license.

15 Any person who violates any provisions of this act or who
16 makes a false statement concerning any material fact in sub-
17 mitting an application for a license or for a renewal of a li-
18 cense or in any hearing concerning the revocation thereof, shall
19 be punished for each offense by a fine of not less than twenty-
20 five dollars nor more than five hundred dollars or imprison-
21 ment in the county jail for not less than thirty days or more
22 than six months, or by both such fine and imprisonment.

23 Any person, other than parent or guardian, firm, association,
24 partnership or corporation holding a license under this act who
25 shall sell or give any nonintoxicating beer to any person under
26 the age of sixteen years, knowing, or having reason to believe
27 that such person is under the age of sixteen years, shall be guilty
28 of a misdemeanor, and upon conviction thereof shall be fined
29 by the court not less than twenty-five, nor more than one hun-
30 dred dollars.

31 Cities and incorporated towns are hereby specifically em-
32 powered to enact ordinances for the enforcement of this act,
33 in conformity with the provisions of this act.

Sec. 100. Municipal corporations in this state shall have
2 authority to levy a tax under the provisions of this act upon any
3 package dealer, dispenser, manufacturer or brewer and dis-
4 tributor of nonintoxicating beer; but the amount of the tax
5 levied by such municipal corporation shall in no event exceed
6 one-half the amount fixed herein to be levied by the state.

Sec. 101. All taxes collected under the provisions of this act
2 shall be paid to the treasurer of the state in the manner now pro-
3 vided by law, and credited to the state fund, general revenue.

Sec. 102. The sections of this act and every part of such
2 sections are hereby declared to be independent sections and
3 parts of sections, and the holding of any section or any part
4 thereof to be void or ineffective shall not affect any other sec-
5 tion or part of section.

6 Chapter twenty-four, acts of the legislature, regular session.

7 one thousand nine hundred thirty-three, being house bill number
8 three hundred fifty-nine of that session, all acts and parts of acts
9 regulating or prohibiting advertising of nonintoxicating beer
10 in any and all publications in this state, and all other acts and
11 parts of acts, general or special, coming within the purview of
12 this act and inconsistent therewith are hereby repealed.

• CHAPTER 21

(House Bill No. 78—By Mr. Thomas)

AN ACT to amend and reenact section one, article one, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by house bill number three hundred fifty-nine, enacted into law by the legislature of West Virginia on the eleventh day of March, one thousand nine hundred thirty-three, in effect ninety days from passage, defining the word "liquors;" to reenact section five, article one, chapter sixty of said code, as amended and reenacted by house bill number two hundred ten, enacted into law by the legislature of West Virginia on the ninth day of March, one thousand nine hundred thirty-three, and to provide more effectively for the collection of revenue from the manufacture, distribution and sale of intoxicating liquors and nonintoxicating liquors and beverages as herein defined.

WHEREAS, The regular session of the legislature of West Virginia, one thousand nine hundred thirty-three, enacted house bill number three hundred fifty-nine, providing, among other things, for the raising of additional revenue by a tax upon the sale of non-intoxicating beer; and

WHEREAS, At this extraordinary session of said legislature, house bill number eight has been enacted into law, defining and providing for the raising of additional public revenue by the imposition of a tax on the manufacture, distribution and sale of nonintoxicating beer, and repealing said house bill number three hundred fifty-nine; and

WHEREAS, The constitutionality of the laws aforesaid has been

*See chapter twenty-three, acts 1933, regular session, in this volume.

so challenged as to interfere with and obstruct the collection of the revenues provided for therein; therefore

[Passed May 10, 1933; in effect from passage. Approved by the Governor.]

SEC.

1. Definition of the word liquor: liquors, wines, beers, etc., containing 3.2 per cent of alcohol by weight, or less, declared to be nonintoxicating; tax commissioner to determine what liquids, etc., containing more than 3.2 per cent of alcohol will produce intoxication.
5. When the manufacture and sale of certain liquids, liquors, etc., is not prohibited by act; permit re-

SEC.

quired to manufacture, sell, etc., liquors as defined in section one of this article; forms of applications and permits to be prepared by tax commissioner; fees for permits; stamps to be used in sales of spirituous liquors by druggists; when permits expire; manufacture, etc., of liquors to be in accordance with federal regulations.

Be it enacted by the Legislature of West Virginia:

That section one, article one, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by house bill number three hundred fifty-nine, enacted into law on the eleventh day of March, one thousand nine hundred thirty-three, be amended and reenacted; and that section five, article one, chapter sixty of said code, as amended and reenacted by house bill number two hundred ten, enacted into law on the ninth day of March, one thousand nine hundred thirty-three, be reenacted, each to read as follows:

Section 1. The word "liquors," as used in this chapter, shall
 2 be construed to mean and embrace all spirituous liquors, vinous
 3 liquors, wine, porter, malt liquors, beer, lager beer, ale and
 4 mixtures or preparations of like nature containing more than
 5 three and two-tenths per cent of alcohol by weight; also all
 6 liquids, mixtures or preparations, whether patented or not, con-
 7 taining more than three and two-tenths per cent of alcohol, by
 8 weight, which will produce intoxication. All such liquors,
 9 wines, beers, malt or brewed drinks, and mixtures or prepara-
 10 tions of like nature, containing three and two-tenths per cent
 11 of alcohol, by weight, or less, are hereby declared to be non-
 12 intoxicating, and together with liquids, mixtures or prepara-
 13 tions whether patented or not, containing more than three and
 14 two-tenths per cent of alcohol by weight, which will not pro-
 15 duce intoxication, are not to be considered as, or held to be,
 16 embraced within the word "liquors" as used in this chapter:
 17 *Provided,* That in the issuance of permits for the sale of
 18 liquors as provided in section five of this chapter the state tax
 19 commissioner shall have authority to determine what liquids,

20 mixtures, liquids and preparations containing more than three
21 and two-tenths per cent of alcohol, by weight, will produce
22 intoxication.

Sec. 5. The provisions of this chapter shall not be con-
2 strued to prevent anyone from manufacturing (other than by
3 "moonshine still"), from fruit grown exclusively in this state,
4 nonintoxicating wine for his own domestic consumption; or to
5 prevent the manufacture from fruit grown exclusively within
6 this state of vinegar and nonintoxicating cider for use or sale;
7 or to prevent the manufacture and sale of pure grain alcohol,
8 at wholesale, to druggists, hospitals, sanitariums, laboratories
9 and manufacturers of medicinal, pharmaceutical, scientific and
10 medicinal purposes, or of wine for sacramental purposes by
11 religious bodies; or to prevent the manufacture and sale of
12 spirituous liquors to druggists, or to prevent the sale and keep-
13 ing and storing for sale by druggists of wine for sacramental
14 purposes by religious bodies, or any United States pharma-
15 copoeia or national formulary preparation in conformity with
16 the West Virginia pharmacy law, or any preparation which is
17 exempted by the provisions of the national pure food law; or
18 to prevent the sale by druggists, through pharmacists, of pure
19 grain alcohol for medicinal, scientific, pharmaceutical and
20 mechanical purposes; or to prevent the use of such alcohol by
21 physicians, dentists and veterinarians in the practice of their
22 profession; or to prevent the medication and sale of pure grain
23 alcohol according to formulae and under regulations of the
24 national prohibition act; or to prevent the sale by druggists,
25 through pharmacists, of spirituous liquors under prescriptions
26 properly issued by licensed physicians in conformity and in ac-
27 cordance with the provisions of title II of the act of congress
28 known as national prohibition act, passed October twenty-eight,
29 one thousand nine hundred nineteen, or any subsequent amend-
30 ment thereto; or to prevent the purchase and use in the manu-
31 facture of medicinal preparations and compounds by wholesale
32 druggists only of sherry wine in quantities not exceeding twenty-
33 five wine gallons during any period of ninety days:

34 *Provided*, That no one shall manufacture, sell, keep for sale,
35 purchase or transport any liquors, as defined in section one of
36 this article and as herein excepted, without first obtaining a
37 permit from the tax commissioner so to do. Forms of applica-

38 tions and permits shall be prepared by the tax commissioner
39 and a fee for each permit issued shall be collected by him as
40 follows:

41 (a) All manufacturers of liquors and wholesale dealers
42 therein shall pay a fee of fifty dollars for each permit;

43 (b) All purchasers in wholesale quantities of ethyl alcohol
44 in any form, whether pure, medicated or denatured, for use as
45 herein provided, shall pay a fee of ten dollars for each permit;

46 (c) All purchasers in wholesale quantities of liquors as de-
47 fined in section one of this article for sale at retail, except duly
48 licensed druggists, shall pay a fee of two dollars for each permit;

49 (d) All persons except duly licensed druggists registering
50 stills and given permits to use the same for lawful purposes
51 shall pay a fee of five dollars for each permit: *Provided*, That
52 any still used only for the manufacture of chemicals, including
53 water, in which the process of distillation is a common and nec-
54 essary operation, and which still shall not be used for the
55 distillation of ethyl alcohol in any form, shall be required to
56 be registered, but the owner and operator thereof shall not be
57 required to obtain a permit therefor, or to pay license tax
58 thereon. No fee shall be required for a permit to obtain wine
59 for sacramental or religious rites;

60 (e) All purchasers of spirituous liquors shall be required to
61 pay a fee of fifty cents per pint, such fee to be represented by
62 a stamp furnished to druggists and duly cancelled by the ini-
63 tials in ink of the person affixing the same. Said stamp shall be
64 prepared by the state tax commissioner and sold by him to the
65 parties permitted by law to handle the same. The persons for
66 whom the prescriptions are given shall pay for the stamps
67 affixed thereto.

68 Permits shall be issued for the calendar year and shall expire
69 on the thirty-first day of December next following the issuance
70 thereof. All moneys received by the state tax commissioner
71 shall belong to the state and shall be by him immediately paid
72 into the state treasury:

73 *Provided further*, That such liquors shall be manufactured,
74 sold, kept for sale, transported and used under permits issued
75 by the federal prohibition commissioner and in accordance with
76 regulations issued in pursuance of the national prohibition act.

*CHAPTER 22

(House Bill No. 87—By Mr. Belknap)

AN ACT to amend and reenact sections ninety-two, ninety-nine, one hundred and one hundred one, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as said chapter eleven was amended by house bill number eight, extraordinary session of the legislature, one thousand nine hundred thirty-three, entitled "An act to amend and reenact section one, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, and to amend article twelve, chapter eleven of said code by enacting and adding thereto thirteen additional sections to be numbered ninety-one, ninety-two, ninety-three, ninety-three-(a), ninety-four, ninety-five, ninety-six, ninety-seven, ninety-eight, ninety-nine, one hundred, one hundred one and one hundred two, to provide for the raising of additional public revenue by a license tax on the business of selling nonintoxicating beer, to define nonintoxicating beer, to classify sellers thereof, and to provide for the collection of such tax, and to repeal chapter twenty-four, acts of the legislature, regular session, one thousand nine hundred thirty-three, being house bill number three hundred fifty-nine of that session, and all other acts and parts of acts, general and special, in conflict with this act or the purpose thereof," and to repeal all acts and parts of acts in conflict therewith.

[Passed May 9, 1933; in effect from passage. Approved by the Governor.]

<p>SEC. 92. Definition of words, package dealer, dispenser, manufacturer or brewer and distributor.</p> <p>99. For what licenses may be revoked; penalty for violation of pro-ing or giving beer to persons visions of act; penalty for sell-under sixteen years of age; municipalities empowered to enact</p>	<p>SEC. ordinances for enforcement of act.</p> <p>100. Municipal tax not to exceed one-half of the amount of the state tax.</p> <p>101. Taxes imposed by act to be paid to treasurer and credited to state fund, general revenue; conflicting acts repealed.</p>
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Be it enacted by the Legislature of West Virginia:

That sections ninety-two, ninety-nine, one hundred and one hundred one, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by house bill number eight, extraordinary session of the legislature,

*See chapter twenty, acts 1933 extraordinary session, in this volume.

one thousand nine hundred thirty-three, entitled "An act to amend and reenact section one, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, and to amend article twelve, chapter eleven of said code by enacting and adding thereto thirteen additional sections to be numbered ninety-one, ninety-two, ninety-three, ninety-three-(a), ninety-four, ninety-five, ninety-six, ninety-seven, ninety-eight, ninety-nine, one hundred, one hundred one and one hundred two, to provide for the raising of additional public revenue by a license tax on the business of selling nonintoxicating beer, to define nonintoxicating beer, to classify sellers thereof, and to provide for the collection of such tax, and to repeal chapter twenty-four, acts of the legislature, regular session, one thousand nine hundred thirty-three, being house bill number three hundred fifty-nine of that session, and all other acts and parts of acts, general and special, in conflict with this act or the purpose thereof," be amended and reenacted to read as follows:

Section 92. The words "package dealer," as used in this act, shall mean and include any person, firm, association, partnership or corporation selling, delivering or otherwise distributing within the state of West Virginia nonintoxicating beer for consumption at a place other than his, its, or their established and licensed place of business in original packages containing not less than six bottles of not more than twelve fluid ounces each, and in total quantities at each sale of not more than forty-eight bottles of twelve fluid ounces each or in one-half barrels or less. The word "dispenser," as used in this act, shall mean and include any person, firm, association, partnership or corporation, selling, serving, delivering or otherwise dispensing nonintoxicating beer, whether in glass bottles or on draught, in quantities of not more than five bottles of twelve fluid ounces each, or any amount greater than five such bottles, where the same is consumed at his, its or their established and licensed place of business. The words "manufacturer or brewer," as used in this act, shall mean and include any person, firm, association, partnership or corporation manufacturing in this state, nonintoxicating beer for sale at wholesale. The word "distributor," as used in this act, shall mean and include any person, firm, association, partnership, or corporation, other than

23 a manufacturer or brewer, jobbing or distributing nonintoxicat-
24 ing beer to a package dealer or dispenser at wholesale.

Sec. 99. The tax commissioner may revoke the license of any
2 licensee, subject to an appeal of any licensee to a court of com-
3 petent jurisdiction whenever any licensee is aggrieved:

4 (1) When disorderly or immoral practices or other violations
5 of law are permitted or intoxicating liquor is sold unlawfully on
6 the premises;

7 (2) Where the word "saloon" is printed, painted or placed
8 upon the door, window or in any other public place on or about
9 the premises or when the word "saloon" is used in any advertise-
10 ment by the licensee;

11 (3) When circumstances happen or become known to the
12 properly empowered authorities under this act which, had they
13 happened or been known at the time of the application for the
14 license would have legally justified such authorities in refusing
15 the license;

16 (4) Where any package dealer or dispenser shall sell or dis-
17 pense nonintoxicating beer purchased from any other person
18 other than a licensed distributor under the laws of this state,
19 without having first paid the barrel tax therefor herein imposed.

20 Any person who violates any provisions of this act or who
21 makes a false statement concerning any material fact in sub-
22 mitting an application for a license or for a renewal of a license
23 or in any hearing concerning the revocation thereof, shall be
24 punished for each offense by a fine of not less than twenty-five
25 dollars nor more than five hundred dollars or imprisonment in
26 the county jail for not less than thirty days or more than six
27 months or by both such fine and imprisonment.

28 Any person, other than parent or guardian, firm, association,
29 partnership or corporation holding a license under this act who
30 shall sell or give any nonintoxicating beer to any person under
31 the age of sixteen years, knowing, or having reason to believe,
32 that such person is under the age of sixteen years, shall be guilty
33 of a misdemeanor, and upon conviction thereof shall be fined by
34 the court not less than twenty-five nor more than one hundred
35 dollars.

36 Cities and incorporated towns are hereby specifically em-
37 powered to enact ordinances for the enforcement of this act in
38 conformity with the provisions of this act.

Sec. 100. Municipal corporations in this state shall have authority to levy a license tax under the provisions of this act upon any package dealer, dispenser, manufacturer or brewer and distributor of nonintoxicating beer; but the amount of the license tax levied by such municipal corporation shall in no event exceed one-half the amount fixed herein to be levied by the state as an annual license tax upon package dealers and dispensers and initial license tax per year upon manufacturers and brewers and distributors.

Sec. 101. All taxes imposed and collected under the provisions of this act from nonintoxicating beer shall be paid to the treasurer of the state in the manner now provided by law, and credited to the state fund, general revenue.

All acts or parts of acts in conflict with the foregoing act are hereby repealed.

CHAPTER 23

(House Bill No. 180—By Mr. Thomas)

AN ACT to amend article one, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto section five-(a), providing for a tax on the sale of wine and vinous liquors containing three and two-tenths per cent of alcohol by weight, or less, and providing for the issuance of permits for the sale thereof, and for imposing a tax on wine and vinous liquors.

[Passed June 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.

5-(a). Forms of application and permit for the manufacture or sale, etc., of wine or vinous liquors; fees for permits; tax stamps to be

Sec.

cancelled by purchaser; expiration of permits; payment of taxes into state treasury.

Be it enacted by the Legislature of West Virginia:

That article one, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding section five-(a) thereto, to read as follows:

Section 5-(a). Except as provided in section five of this article, no one shall manufacture for sale, sell, keep for sale, purchase or transport for sale, any wine or vinous liquors,

4 commonly used for beverage purposes, containing three and
 5 two-tenths per cent of alcohol by weight, or less, without first
 6 obtaining a permit from the tax commissioner so to do. Forms
 7 of applications and permits shall be prepared by the tax com-
 8 missioner, and his fee for each permit issued shall be collected
 9 by him as follows: (a) All manufacturers and wholesale
 10 dealers therein shall pay a fee of twenty-five dollars for each per-
 11 mit; (b) all retail dealers shall pay a fee of ten dollars for each
 12 permit; except regularly registered druggists.

13 All purchasers of wine and vinous liquors and wine tonics
 14 advertised and used as beverages, containing more than three
 15 and two-tenths per cent of alcohol by weight shall be required
 16 to pay a fee of twenty-five cents per quart, such fee to be
 17 represented by a stamp furnished to retail dealers and duly
 18 cancelled by the initials, in ink, of the person affixing the same.
 19 Said stamps shall be prepared by the tax commissioner, and
 20 sold by him to the parties permitted by law to handle such
 21 wines and liquors.

22 Permits shall be issued for the calendar year and shall expire
 23 on the thirty-first day of December next following the issuance
 24 thereof. All moneys received by the tax commissioner shall
 25 belong to the state and shall be by him immediately paid into
 26 the state treasury.

27 All acts or parts of acts in conflict herewith are hereby re-
 28 pealed.

CHAPTER 24

(House Bill No. 30—By Mr. Smith, of Harrison)

AN ACT providing for the incorporation of sanitary districts and
 granting certain powers thereto.

[Passed May 11, 1933; in effect from passage. Approved by the Governor.]

SEC.

1. Incorporation of sanitary districts, containing one or more municipalities, for sewage disposal; submission of question of incorporation to the voters; what petition to state; publication or posting of time and place of hearing on petition by county court; how proposed boundaries may be changed by county court on hearing; order of court for, and election on incorporation of district; form of ballot; declaration of

SEC.

result; how expenses of the special election paid.
 2. Appointment, number, qualifications, terms and bonds of trustees appointed by county court and municipality for district; filling vacancy in board of trustees; place of residence of trustees; board of trustees a body corporate; quorum of board; organization, meetings, rules and regulations and books of board.
 3. Power of board to employ or ap-

SEC.

- point a clerk and other officers; compensation of member of board of trustees not to exceed three hundred dollars yearly; trustee or employee not to be interested in contract of board.
4. Publication of ordinance imposing penalty or making appropriation; how ordinances, orders and resolutions received as evidence.
 5. Construction, repairing and maintaining sewage treatment plant and necessary appurtenances by board; all territory in sanitary district to be served by such plant; municipality within sanitary district may construct drains and sewers within its corporate limits; before main or trunk sewer constructed by municipality, plan to be filed with board of trustees; use of territory outside of district by board; purification of sewage flowing into water course; board not to operate waterworks system.
 6. Sanitary districts to proceed as rapidly as possible to provide sewers and sewage purification plants; penalty for failure; duty of state water commission or state department of health; duty of attorney general or prosecuting attorney.
 7. Collections for maintenance and operative cost of works for industrial sewage; how service rates determined.
 8. Condemnation proceedings by sanitary districts; compensation for property taken; sanitary district may sell, etc., property.
 9. Revenue or tax obligation bonds

SEC.

- may be issued by sanitary district; limitation on amount; election on; publication and posting of notice of election; election officials; form of ballot.
10. Before incurring indebtedness, board to provide for service charges and/or direct annual tax to pay interest and principal; service charges to be just and equitable; other service charges and/or direct annual tax; amount; tax authorized by the voters of the district; certification and collection of taxes; interest rate to be paid by depositary.
 11. Contracts exceeding five hundred dollars to be let to lowest bidder; publication of notice and plans and drawing concerning; certified check of bidder; rejection of bids; manner and cost of building additions or extensions.
 12. When territory outside of district may use system.
 13. How additional contiguous territory may be added to sanitary district; when proposed district lies in more than one county; special election to extend boundaries; form of ballot.
 14. How territory may be disconnected from sanitary district; petition for; when territory to be disconnected lies in more than one county; election on withdrawal of territory.
 15. If any part of act invalid, remainder not affected.

Be it enacted by the Legislature of West Virginia:

Section 1. That whenever any area of contiguous territory shall contain one or more incorporated cities, towns and/or villages, and shall be so situated that the construction and maintenance of a plant or plants for the purification and treatment of sewage and the maintenance of one or more outlets for the drainage thereof, after having been so treated and purified by and through such plant or plants will conduce to the preservation of the public health, comfort and convenience, the same may be incorporated as a sanitary district under this act in the manner following, to-wit:

Any four hundred legal voters, resident within the limits of such proposed sanitary district, may petition the county court of the county in which the proposed sanitary district, or the major portion thereof, is located, to cause the question to be submitted to the legal voters of such proposed sanitary district,

16 whether such proposed territory shall be organized as a sani-
17 tary district under this act; such petition shall be addressed to
18 the county court and shall contain a definite description of the
19 boundaries of the territory to be embraced in the such sanitary
20 district, and the name of such proposed sanitary district: *Pro-*
21 *vided, however,* That no territory shall be included within more
22 than one sanitary district organized under this act.

23 Notice shall be given by such county court within ten days
24 after receiving the petition, of the time and place when a hear-
25 ing on the petition for a sanitary district will be held, by publi-
26 cation inserted once each week in two newspapers of opposite
26-a political faith published in such proposed sanitary district, or
26-b in one newspaper if only one political faith is represented by
27 newspapers in such proposed sanitary district, at least twenty
28 days prior to such meeting, and if no such newspaper is published
29 in such proposed sanitary district, then by posting at least five
30 copies of such notice in such proposed sanitary district at least
31 twenty days before such hearing: *Provided, however,* That the
32 hearing on the petition for a sanitary district shall be held not
33 later than thirty days after the county court receives the said
34 petition. At such hearing the president of the county court
35 shall preside, and all persons resident within the limits of such
36 proposed sanitary district shall have an opportunity to be heard
37 upon the question of the location and boundary of such pro-
38 posed sanitary district, and to make suggestions regarding the
39 same, and the said county court, after hearing statements, evi-
40 dence and suggestions, shall fix and determine the limits and
41 boundaries of such proposed sanitary district as stated in the
42 original petition, unless by a vote of the majority of the legal
43 voters resident within the limits of such proposed sanitary dis-
44 trict, present at the said hearing, it should be decided to alter
45 and amend such petition to change and redetermine the limits
46 and boundaries of such proposed sanitary district.

47 After such determination by the county court, the same shall
48 be incorporated in an order which shall be spread at length
49 upon the records of the county court. Upon the entering of
50 such order, the county court shall submit to the legal voters of
51 the proposed sanitary district, the question of organization and
52 establishment of the proposed sanitary district as determined

53 by said county court, at a special election, to be held within
54 sixty days after the entering of such order, notice whereof shall
55 be given by the county court at least twenty days prior thereto
56 by publication once each week for two successive weeks in two
56-a newspapers of opposite political faith published in such sani-
56-b tary district, or in one newspaper if only one political faith is
57 represented by newspapers in the said sanitary district, or if no
58 daily or weekly newspaper is published in such proposed sanitary
59 district, then by posting at least five copies of such notice in said
60 sanitary district at least twenty days before such election.
61 Such notice to specify briefly the purpose of such election, with
62 a description of such proposed sanitary district, and the time
63 and place for holding such election.

64 Each legal voter resident within such proposed sanitary dis-
65 trict shall have the right to cast a ballot at such election. Bal-
66 lots at elections held under this section shall be in substantially
67 the following form, to-wit:

68 For sanitary district.

69 Against sanitary district.

70 The ballots so cast shall be issued, received, returned and
71 canvassed in the same manner and by the same officers as is
72 provided by law in the case of ballots cast for county officers,
73 except as herein modified. The county court shall cause a state-
74 ment of the result of such election to be spread on the records
75 of the county court. If a majority of the votes cast upon the
76 question of the incorporation of the proposed sanitary district
77 shall be in favor of the proposed sanitary district, such pro-
78 posed sanitary district shall thenceforth be deemed an organ-
79 ized sanitary district under this act. All courts in this state
80 shall take judicial notice of the existence of all sanitary dis-
81 tricts organized under this act.

82 The expenses of holding said special election shall be paid
83 by the county court of said county, in which said proposed
84 sanitary district, or the major portion thereof, is located, out of
85 the general funds of said county: *Provided, however,* That in
86 the event such sanitary district is established and incorporated
87 under this act, then said sanitary district shall repay to said

88 county the expenses incurred in holding said special election
89 within two years from the date of incorporating such sanitary
90 district.

Sec. 2. The county court of the county in which the said
2 district or a major portion thereof is located, shall, by and with
3 the approval of the majority of the council of the municipality
4 situate within the said sanitary district, which at the last official
5 census was shown to have the largest population, and within a
6 period of twenty days after the adoption of said act, appoint
7 a board of trustees, consisting of three members, who shall be
8 residents and qualified voters in said district, for the govern-
9 ment, control and management of the affairs and business of
10 each sanitary district organized under this act. The trustees
11 shall hold their office respectively for one, two and three years,
12 from the first Monday of May next after their appointment and
13 until their successors are appointed and have qualified, and
14 thereafter on or before the second Monday in April of each
15 year the said county court by and with the approval of the
16 majority of the council of the municipality situate within the
17 said sanitary district, which at the last official census was shown
18 to have the largest population, shall appoint one trustee whose
19 term shall be for three years commencing the first Monday in
20 May of the year in which they are respectively appointed. The
21 length of the term of the first trustees shall be determined by
22 lot at their first meeting.

23 Said county court shall require each of said trustees to enter
24 into bond, with security to be approved by such county court,
25 in such sum as said county court may determine.

26 Whenever a vacancy in said board of trustees shall occur,
27 either from death, resignation, refusal to qualify, or for any
28 other reason, the county court by and with the approval of the
29 majority of the council of the municipality situate within the
30 said sanitary district, which at the last official census was shown
31 to have the largest population, shall have power to fill such
32 vacancy by appointment; and such person so appointed shall
33 qualify for office in the manner hereinbefore stated and shall
34 thereupon assume the duties of the office for the unexpired
35 term to which such person was appointed: *Provided, however,*
36 That the membership of the board of trustees shall at all times

37 consist of two members who shall be residents and qualified
38 voters of the municipality situate within the said sanitary dis-
39 trict, which at the last official census was shown to have the
40 largest population, and that the third member shall at all times
41 be a resident and qualified voter within the said sanitary dis-
42 trict, but from outside the corporate limits of the municipality
43 situate within the said sanitary district, which at the last offi-
44 cial census was shown to have the largest population.

45 Said trustees shall, from the time of their appointment. as
46 provided in this act, be construed to be in law and in equity a
47 body corporate and politic by the name and style of "The
48 board of trustees of the (insert name of county in which dis-
49 trict is located) sanitary district," and as such and in such
50 name may prosecute and defend suits and have all other duties,
51 rights and powers incident to corporations, not inconsistent
52 with the provisions of this act.

53 A majority of the board of trustees shall constitute a quorum,
54 but a smaller amount may adjourn from day to day. A con-
55 currence of the majority shall be necessary to any action of
56 such board.

57 The trustees appointed in pursuance of the foregoing provi-
58 sions of this act shall, immediately after their appointment and
59 at their first meeting in May of each year thereafter, elect one
60 of their number as president, whose duty shall be to preside
61 over all meetings of said board, and to call special meetings
62 of said board when he or a majority of said board deem such
63 meetings necessary and in case said president should fail or
64 refuse to call such meeting or meetings, then such meeting or
65 meetings may be called by a majority of said board. Said board
66 of trustees shall adopt rules and regulations for the conduct
67 of the business of said board, and shall fix a stated time at
68 which the regular meetings of said board shall be held. Said
69 board of trustees shall establish an office within said district and
70 shall cause to be kept a full, complete, accurate and itemized
71 account of all its expenditures and appropriations and complete
72 record of all its proceedings, ordinances, orders, resolutions,
73 rules and regulations.

Sec. 3. Said board of trustees shall have the right and
2 power to employ a clerk, treasurer, chief engineer and attorney

3 for such sanitary district, which officers shall hold their respec-
4 tive offices during the pleasure of such board, and shall give
5 such bonds for the faithful performance of their duties as may
6 be required by said board.

7 Said board shall also have power to employ and prescribe
8 the duties and fix the compensation of all necessary officers and
9 employees of said sanitary district: *Provided, however,* That
10 a member of said board of trustees shall in no case receive a
11 sum to exceed the sum of three hundred dollars per annum.

12 No trustee or employee of such sanitary district shall be di-
13 rectly or indirectly interested in any contract, work or business
14 of sanitary district, or the sale of any article, the expense, price
15 or consideration of which is paid by said sanitary district, nor
16 in the purchase of any real estate or other property belonging
17 to the sanitary district, or which shall be sold for taxes or as-
18 sessments, or by virtue of legal process at the suit of said sani-
19 tary district: *Provided,* That nothing herein shall be construed
20 as prohibiting the appointment or selection of any person as
21 trustee or employee whose only interest in said sanitary dis-
22 trict is as an owner of real estate in said sanitary district or of
23 contributing to the payment of taxes levied by said sanitary
24 district.

Sec. 4. All ordinances imposing any penalty or making any
2 appropriations shall, within one month after they are passed,
3 be published at least once each week for two successive weeks in
4 two newspapers of opposite political faith published in such sani-
5 tary district, or in one newspaper if only one political faith is
6 represented by newspapers in such sanitary district, or if no
7 such newspaper of general circulation is published therein, by
8 posting copies of the same in three public places in the sanitary
9 district; and no such ordinance shall take effect until ten days
10 after it is so published, and all other ordinances, orders and reso-
11 lutions shall take effect from and after their passage unless other-
12 wise provided therein.

13 All ordinances, orders and resolutions, and the date of publi-
14 cation thereof, may be proven by certificate of the clerk under
15 the seal of the corporation, and when printed in book or pam-
16 phlet form, and purporting to be published by the board of
17 trustees, such book or pamphlet shall be received as evidence of

18 the passage and legal publication of such ordinances, orders
19 and resolutions, as of the dates mentioned in such book or pam-
20 phlet in all courts and places without further proof.

Sec. 5. The board of trustees of any sanitary district or-
2 ganized under this act shall have power to build and construct
3 and to defray the costs of providing for the disposal of the
4 sewage thereof including the sewage and drainage of any in-
5 corporated city, town, or village within the boundaries of such
6 sanitary district, and to save and preserve the water supplied
7 to the inhabitants of such district from contamination and for
8 that purpose may build, construct, enlarge, repair, maintain
9 and operate a sewage treatment plant or plants together with
10 such intercepting sewers, trunk sewers, lateral sewers, pumping
11 and ejector stations, force mains, outfall sewer or sewers, chan-
12 nels, drains, and all other necessary or useful and convenient
13 appurtenances in connection therewith: *Provided*, That such
14 works established or constructed by said sanitary district shall
15 serve and benefit the entire territory within the sanitary dis-
16 trict and not otherwise: *Provided further*, That nothing in this
17 act shall be construed to limit the power of the municipalities
18 included in said sanitary district from constructing and estab-
19 lishing drains and sewers within the corporate limits of such
20 municipality: *And provided further*, That before any general
21 outlet, main or trunk sewer shall be constructed by any such
22 municipality, included in said sanitary district, a plan or profile
23 of any such proposed general outlet, main or trunk sewer shall
24 be filed in the office of the board of trustees of said sanitary
25 district and be approved by said board. Such main channels,
26 drains, ditches and outlets for carrying off and disposing of the
27 drainage, including the sewage of such sanitary district, to-
28 gether with such adjuncts and additions thereto as may be nec-
29 essary or proper to cause such channels or outlets to accomplish
30 the end for which they were designed, and such disposal plants
31 and works for disposing of the sewage of said sanitary district
32 may extend outside the territory included within such sanitary
33 district and the rights and powers of said board of trustees over
34 the portion of such channel or outlet or sewage disposal plant,
35 or works, lying outside of such sanitary district, shall be the
36 same as those vested in said board over said portions of such

37 channels or outlets, plants or works, within the said sanitary
38 district.

39 Such board may also treat and purify such sewage so that
40 when the same shall flow into any lake or other water course,
41 it will not injuriously contaminate the waters thereof, and may
42 adopt any other feasible method to accomplish the object for
43 which such sanitary district may be created, and may also pro-
44 vide means whereby the said sanitary district may reach and
45 procure supplies of water for diluting and flushing purposes:
46 *Provided, however,* That nothing herein contained shall be con-
47 strued to empower and authorize such board of trustees to op-
48 erate a system of waterworks for the purpose of furnishing
49 or delivering water to any such municipality or to the inhabit-
50 ants thereof.

Sec. 6. All sanitary districts organized under the provisions
2 of this act shall proceed as rapidly as possible to provide sewers
3 and a plant or plants for the treatment or purification of its
4 sewage, which plant or plants shall be of suitable kind and suffi-
5 cient capacity to properly treat and purify such sewage so as
6 to conduce to the preservation of the public health, comfort and
7 convenience and to render said sewage harmless, insofar as is
8 reasonably possible, to animal, fish and plant life. Any viola-
9 tion of this proviso and any failure to observe and follow same,
10 by any sanitary district organized under this act, shall be held,
11 and is hereby declared, to be a misdemeanor on the part of the
12 sanitary district and upon conviction, said sanitary district
13 shall be punished by such fine as law and equity may require,
14 and the trustees thereof may be removed from office as trustees
15 of said sanitary district by an order of the court before whom
16 the cause is heard. It shall be the duty of the state water com-
17 mission or state department of health or other body having
18 proper supervision of such matters, to cause the foregoing pro-
19 visions to be enforced; and upon complaint of said commission
20 or department it shall be the duty of the attorney general
21 or prosecuting attorney of the county in which such violation
22 may occur, to institute and prosecute such cause by indictment
23 or in the manner provided by law.

Sec. 7. In providing works for industrial sewage, commonly
2 called industrial wastes, in the manner above provided, whether

3 said industrial sewage is disposed of in combination with mu-
4 nicipal sewage or independently, said sanitary district shall
5 have power to apportion and collect therefor, from the pro-
6 ducer thereof, fair additional construction, maintenance and
7 operating costs over and above those covered by normal taxes
8 and/or service rates or charges, and in case of dispute as to the
9 fairness of such additional construction, maintenance and oper-
10 ating costs, then the same shall be determined by a board of three
11 engineers, one appointed by said sanitary district, one appointed
12 by such producer or producers, or their legal representatives, and
13 the third to be appointed by the two engineers as above described.
14 In the event the two engineers so selected shall fail to agree upon
15 a third engineer, then upon petition of either of the parties the
16 circuit judge shall appoint such third engineer. A decision of a
17 majority of said board shall be binding on both parties and the
18 cost of services of said board shall be shared by both parties
19 equally.

Sec. 8. Such sanitary district may acquire by purchase, con-
2 demnation, or otherwise, any and all real and personal prop-
3 erty, right-of-way and privilege, either within or without its
4 corporate limits, that may be necessary for its corporate pur-
5 poses. The compensation to be paid for such use may be a gross
6 sum, or it may be in the form of an annual rental, to be paid
7 in yearly installments as and in the manner provided by the
8 judgment or decree of the court wherein such proceedings may
9 be had: *Provided, however,* That when such compensation is
10 fixed at a gross sum all moneys for the purchase and condemna-
11 tion of any property shall be paid before possession is taken or
12 any work done thereon, and provided in case an appeal is taken
13 by either party from the court in which such condemnation is
14 ordered, whereby the damages are not finally determined, the
15 amount of the damages awarded by such court shall be de-
16 posited with the clerk of such court, subject to the orders of
17 such court, when the amount of damages shall be finally deter-
18 mined. All condemnation proceedings brought hereunder shall
19 be governed by the statutes prescribing the procedure in case
20 of eminent domain as provided by chapter fifty-four of the code
21 of West Virginia, one thousand nine hundred thirty-one, as now
22 or hereafter amended. Said sanitary district shall have the

23 power to sell, convey, vacate and release the said real and per-
24 sonal property, right-of-way and privileges acquired by it when
25 the same is no longer required for the purposes of said sanitary
26 district.

Sec. 9. Said sanitary district may borrow money for cor-
2 porate purposes and may issue revenue and/or tax obligation
3 bonds therefor, but shall not become indebted in any manner,
4 or for any purpose whatsoever, beyond an amount in the ag-
5 gregate to exceed five per cent of the valuation of the taxable
6 property within said district, to be ascertained by the last as-
7 sessment for state and county taxes, previous to incurring of
8 said indebtedness. Whenever the board of trustees of such sani-
9 tary district desires to issue bonds hereunder they shall order
10 an election to be held in such sanitary district upon the ques-
11 tion. Notice of such election shall be given by said board of
12 trustees for at least twenty days prior to said election by pub-
13 lication once each week for two successive weeks in two news-
13-a papers of opposite political faith published in such sanitary
13-b district, or in one newspaper if only one political faith is
14 represented by newspapers in the said sanitary district.
15 Such election notice shall also be posted in at least five
16 public places at least twenty days prior to the election. The
17 notices of election shall state the amount of bonds to be issued
18 and the polling places at which the election shall be held. The
19 board of trustees shall appoint judges and clerks for such elec-
20 tion, and the return of such election shall be filed with the clerk
21 of the board of trustees and be canvassed and the result ascer-
22 tained by said board and entered upon the records of the sani-
23 tary district. If it shall appear that a majority of the voters
24 voting at said election on said question shall have voted in favor
25 of the issue of the said bonds, the board of trustees shall order
26 and direct the execution of the bonds for and on behalf of said
27 sanitary district. All bonds issued hereunder shall mature in
28 not exceeding thirty annual installments. The ballots at elec-
29 tions held under this section shall be in substantially the follow-
30 ing form, to-wit:

31 Proposition to issue bonds ofsanitary
32 district to the amount of dollars.

33 Yes

34 No.

Sec. 10. At the time of, or before incurring any indebtedness, the board of trustees shall provide for the establishment and collection of service charges and/or a direct annual tax sufficient to pay the interest on such debt as it falls due, and also to pay and discharge the principal thereof as the same shall fall due, and at least within thirty years from the time of contracting the same. The trustees shall have power and it shall be their duty to establish and maintain just and equitable rates or charges for the use of, and the service rendered by such works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses such works by or through any part of the sewerage system of the sanitary district, or that in any way uses or is served or benefited by such works, and may change and readjust such rates or charges from time to time. Such rates or charges shall be sufficient in each year for the payment of bond interest and principal requirements and the proper and reasonable expense of operation, repair, replacements and maintenance of the works so acquired or constructed from the proceeds of the revenue bonds hereby authorized to be issued.

The board of trustees may levy and collect other service charges and/or direct annual taxes for corporate purposes upon property within the territorial limits of such sanitary district, the aggregate amount of such direct annual taxes shall not exceed one-third of one per cent of the value of the taxable property within the corporate limits, as the same shall be assessed and equalized for the state and county taxes of the year in which the levy is made: *Provided, however,* That a like direct annual tax in addition thereto may be levied when such additional tax has been authorized by the legal voters of such district at an election duly called therefor. Such election shall be governed by the terms of this act relating to elections held to decide on the proposition of issuing bonds of said district. The right to levy such additional tax, heretofore or hereafter authorized by the legal voters, may at any time after one or more tax

36 levies thereunder, be terminated by a majority vote of the elec-
37 tors of such sanitary district at an election called for that pur-
38 pose by the board of trustees of such sanitary district; it shall
39 be the duty of the trustees of any of such sanitary district to
40 submit the proposition to terminate such additional taxing
41 power when petitioned so to do by not less than ten per cent
42 of the legal voters of such sanitary district.

43 Said board of trustees shall cause the amount required to be
44 raised by taxation in each year to be certified to the county
45 clerk in the manner and at the time provided by the general
46 revenue law. All taxes so levied and certified shall be collected
47 and enforced in the same manner and by the same officers as
48 state and county taxes, and shall be paid over by the officer
49 collecting the same to the treasurer of the sanitary district in
50 the manner and at the time provided by the general revenue
51 law.

52 The treasurer shall, when the moneys of the district are de-
53 posited with any bank or other depository, require such bank
54 or other depository to pay the same rates of interest for such
55 moneys deposited as such bank or other depository is accus-
56 tomed to pay depositors under like circumstances, in the usual
57 course of business.

Sec. 11. All contracts for work to be done by such sanitary
2 district, the expense of which will exceed five hundred dollars,
3 shall be let to the lowest responsible bidder therefor. The board
4 of trustees shall cause to be published once each week for two suc-
5 cessive weeks in two newspapers of opposite political faith pub-
6 lished in such sanitary district, or in one newspaper if only one
6-a political faith is represented by newspapers in the said
6-b sanitary district, a notice informing the public and con-
7 tractors of the general nature of the work and of the fact
8 that detailed plans, drawings and specifications are on file in
9 the office of such board of trustees and calling for sealed pro-
10 posals for the construction of the work to be done at a date not
11 earlier than ten days after the last of such publications. Said
12 board of trustees shall require each bidder to deposit with his
13 respective bid a certified check for an amount not less than two
14 and one-half per cent of the engineer's estimate of such work
15 to insure the execution of the contract for which such bid is

16 made. The board of trustees may impose such conditions as it
17 may deem necessary upon the bidders with regard to bond and
18 surety, guaranteeing the good faith and responsibility of such
19 bidders, and the faithful performance of such work according
20 to contract, or for any other purpose. The board of trustees
21 shall have the right to reject any and all bids, but if it does
22 reject all bids, before other bids may be received notices shall
23 be published as originally required. The board of trustees shall
24 have power to let portions of said proposed work under differ-
25 ent contracts.

26 Any additions or extensions to any sewage disposal plant, or
27 sewers or drains or any other work constructed under the pro-
28 visions of this act, shall be built under contract entered into
29 under the provisions of this section in the same manner as the
30 contract for the original plant or work. The cost of such addi-
31 tions or extensions, and of any additional lands or rights-of-
32 way acquired by said board, may be met by the sale of addi-
33 tional bonds to be issued and sold by the trustees, and the levy
34 of taxes and/or the collection of service charges to retire such
35 bonds, all as provided in this act.

Sec. 12. Any sanitary district formed hereunder shall have
2 the right to permit territory lying outside its limits, whether
3 within any other sanitary district or not, to drain into and use
4 any channel or drain made by it, upon such payments, terms
5 and conditions as may be mutually agreed upon, and any sani-
6 tary district formed hereunder is hereby given full power and
7 authority to contract for the right to use any drain or channel
8 which may be made by any other sanitary district, upon such
9 terms as may be mutually agreed upon, and to raise the money
10 called for by any such contract in the same way and to the same
11 extent as such district is authorized to raise money for any
12 other corporate purposes.

Sec. 13. Additional contiguous territory may be added to
2 any sanitary district organized under this act in the manner
3 following, to-wit: Ten per cent or more of the legal voters
4 resident within the limits of such proposed addition to such
5 sanitary district may petition the county court of the county
6 in which the original petition for the formation of said sanitary
7 district was filed, to cause the question to be submitted to the

8 legal voters of such proposed additional territory whether said
9 proposed additional territory shall become a part of any con-
10 tiguous sanitary district organized under this act and whether
11 such additional territory and the taxpayers thereof shall assume
12 a proportionate share of the bonded indebtedness, if any, of
13 such sanitary district. Such petition shall be addressed to the
14 county court of the county in which the original petition for
15 the formation of the said sanitary district was filed, and shall
16 contain a definite description of the boundaries of the territory
17 sought to be added: *Provided*, That no territory disqualified in
18 section one of this act shall be included.

19 Upon filing such petition in the office of the county clerk of
20 the county of which the original petition for the organization of
21 such sanitary district was filed, it shall be the duty of the county
22 court of the county in which the original petition for the for-
23 mation of the said sanitary district was filed, to call to its as-
24 sistance the county courts of all the counties in which portions
25 of such sanitary district and the proposed addition or additions
26 thereto are situated, and such county courts after electing a
27 presiding officer from among themselves, shall constitute them-
28 selves a board of commissioners which shall have the power and
29 authority to consider the limits and boundaries of such pro-
30 posed additional territory, in the same manner as provided for
31 locating, fixing and deciding of the limits and boundaries of
32 the original sanitary district, as provided in section one of this
33 act. If such sanitary district as originally organized and the
34 proposed addition or additions are located in one county, the
35 county court of such county shall act in the same capacity and
36 manner as provided for in locating, fixing and deciding of the
37 limits and boundaries of the original sanitary district, as pro-
38 vided in section one of this act.

39 Notice shall be given by the county court of the time and
40 place when and where all persons interested will be heard sub-
41 stantially as provided in and by section one of this act. The
42 conduct of the hearing and the manner of conducting the sub-
43 sequent election on the question whether the proposed addi-
44 tional territory shall become a part of such sanitary district
45 and the issuance, reception, return and canvassing of the bal-
46 lots shall be, as nearly as possible, in accordance with the pro-

47 visions of section one of this act; the ballot for the election
48 provided for in this section shall be substantially as follows,
49 to-wit:

50 For joining sanitary district and assuming a propor-

51 tionate share of bonded indebtedness, if any.

52 Against joining sanitary district and assuming a pro-

53 portionate share of bonded indebtedness, if any.

54 If a majority of votes cast at such election shall be in favor
55 of becoming a part of such sanitary district and if the trustees
56 of such sanitary district accept the proposed additional terri-
57 tory by ordinance annexing the same, the county court shall
58 enter an appropriate order in the records of the county court,
59 and such additional territory shall thenceforth be deemed an
60 integral part of such sanitary district. Any such sanitary dis-
61 trict upon petition addressed to such county court, signed by a
62 majority of the owners of lands constituting such territory who
63 shall have arrived at lawful age and who represent a majority
64 in area of such territory, which said petition shall contain a
65 definite description of the boundaries of such territory and shall
66 set forth the willingness of the petitioners that such territory
67 and the taxpayers thereof assume a proportionate share of the
68 bonded indebtedness, if any, of such sanitary district. Upon
69 the filing of such petition and notice of, and hearing, and deci-
70 sion upon the same by the aforesaid county court or board of
71 commissioners, all as hereinbefore provided, such county court
72 or board of commissioners shall enter an order or orders con-
73 taining its findings and decision as to the boundaries of the ter-
74 ritory to be annexed; and thereupon, if the board of trustees
75 of such sanitary district shall pass an ordinance annexing the
76 territory described in such order to said sanitary district, said
77 county court shall enter an appropriate order as hereinbefore
78 provided, and such additional territory shall thenceforth be
79 deemed an integral part of such sanitary district.

Sec. 14. Any contiguous territory located within the
2 boundaries of any sanitary district organized under this act,
3 and upon the border of such sanitary district, may become dis-
4 connected from such sanitary district in the manner following,

5 to-wit: Ten per cent or more of the legal voters resident in
6 the territory sought to be disconnected from such sanitary dis-
7 trict may petition the county court of the county in which the
8 original petition for the organization of said sanitary district
9 was filed, to cause the question of such disconnection to be sub-
10 mitted to the legal voters of such territory whether such terri-
11 tory shall be disconnected. Said petition shall be addressed to
12 the county court of the county in which the original petition
13 for the formation of such sanitary district was filed and shall
14 contain a definite description of the boundaries of such territory
15 to be disconnected and recite as a fact, that there is no bonded
16 indebtedness of such sanitary district incurred while such ter-
17 ritory to be disconnected was a part of such sanitary district
18 and that such territory to be disconnected is not, at the time
19 of the filing of such petition, and will not be, either benefited or
20 served by any work or improvement either then existing
21 or then authorized by said sanitary district. Upon filing
22 such petition in the office of the county clerk of the county
23 in which the original petition for the formation of such sani-
24 tary district has been filed it shall be the duty of the county
25 court of the county in which the original petition for the for-
26 mation of such sanitary district was filed, to consider the
27 boundaries of such territory and the facts upon which the peti-
28 tion is founded, and shall consider the limits and boundaries
29 of such proposed territory, in the same manner as provided for
30 locating, fixing and deciding of the limits and boundaries of the
31 original sanitary district, as provided in section one of this act.
32 If any part of the territory proposed to be disconnected is sit-
33 uated in another county or counties other than that county in
34 which the original petition was filed, then it shall be the duty
35 of the said county court of the county in which the original
36 petition was filed to call to its assistance the county courts of
37 counties in which portions of such territory proposed to be dis-
38 connected is situated; such county courts shall constitute them-
39 selves a board of commissioners, and after electing a presiding
40 officer from among themselves, shall consider the boundaries of
41 such territory and the facts upon which the petition is founded,
42 and shall consider the limits and boundaries of such proposed
43 territory to be disconnected, in the same manner as provided

44 for locating, fixing and deciding of the limits and boundaries
45 of the original sanitary district, as provided in section one of
46 this act: *Provided, however,* That it shall be the duty of the
47 county court or the board of commissioners to deny the prayer
48 of the petition for the disconnecting of any territory from the
49 original sanitary district, if the material allegations therein
50 contained are not founded in fact.

51 Notice shall be given by the county court of the time and
52 place, when and where all persons interested will be heard sub-
53 stantially as provided in section one of this act. The conduct
54 of the hearing and the manner of conducting the subsequent
55 election on the question whether such territory shall become
56 disconnected and the issuance, reception, return and canvassing
57 of the ballots shall be, as nearly as possible, in accordance with
58 the provisions of section one of this act; the ballots for the elec-
59 tion provided for in this section shall be substantially as fol-
60 lows, to-wit:

61 For disconnection from sanitary district.

62 Against disconnection from sanitary district.

63 If a majority of the votes cast at such election shall be in
64 favor of disconnection, and if the trustees of such sanitary dis-
65 trict shall, by ordinance, disconnect such territory, thereupon
66 the county court of the county in which the original petition for
67 the formation of such sanitary district was filed, shall enter an
68 appropriate order in the records of the said county court and
69 thereafter such territory shall henceforth be deemed discon-
70 nected from such sanitary district.

Sec. 15. If any clause, sentence, paragraph, section or part
2 of this act shall for any reason be adjudged or decreed to be
3 invalid by any court of competent jurisdiction, such judgment
4 or decree shall not affect, impair or invalidate the remainder of
5 this act, but shall be confined in its operation to the clause,
6 sentence, paragraph, section or part hereof directly involved in
7 the controversy in which said judgment or decree shall have
8 been rendered.

CHAPTER 25

(House Bill No. 29—By Mr. Smith, of Harrison)

AN ACT to authorize municipal corporations and/or sanitary districts to construct, own, equip, operate, maintain and improve works for the collection and/or treatment, purification and disposal of sewage; to authorize charges against owners of premises for the use of such works and to provide for the collection of same; to authorize municipal corporations and/or sanitary districts to issue revenue bonds payable solely from the revenues of such works and to make such bonds exempt from taxation; to authorize contracts for the use of such works by other municipal corporations and political subdivisions, and charges against owners of premises therein served thereby and a lien against such premises.

[Passed May 11, 1933; In effect from passage. Approved by the Governor.]

SEC.	SEC.
1. Municipalities and sanitary districts may acquire, operate, etc., sewage, collection and treatment plants, pumping stations, etc., and issue revenue bonds to pay costs.	bonds; disposition of surplus; additional bonds; temporary bonds.
2. Definition of terms used in act; sanitary board, appointed by governing board.	11. Governing body may issue additional bonds to extend or improve works.
3. Powers of sanitary board; contracts relating to financing to be approved by governing board; what contracts must be advertised for bids; power of sanitary board as to extensions and improvements; public works damaged or destroyed to be replaced by board.	12. When additional bonds have equal priority with original bonds.
4. How necessary preliminary expenses of surveys, etc., to be paid; reimbursement of municipal funds used.	13. How revenue from bonds applied.
5. Ordinance of governing body before construction or acquirement of works.	14. Provisions for securing bonds by a trust indenture; what such indenture may show.
6. Publication and posting and bearing upon ordinance; when protest is filed.	15. Creation of sinking fund for payment of bonds and interest; to be a first charge upon net revenue; after payments in sinking fund, transfer of balance of net revenues.
7. Condemnation proceeding by municipality; title to property condemned; how condemned property paid for; acquisition of property by purchase.	16. Rates for service rendered by works; public hearing on establishment of rates; notice of hearing; change or readjustment of rates; lien of rates; civil action to recover.
8. What cost of the works to include.	17. Municipality to be subject to established rates.
9. Contracts and obligations incurred under act to be paid for by revenue bonds of municipality, said bonds not to be a corporate indebtedness within statutory or constitutional limitations.	18. Works, by ordinance of governing body, to be placed under supervision of sanitary body; qualifications, terms and bonds of members of sanitary board; organization and compensation of sanitary board.
10. Interest on and redemption of bonds; form, interest coupons, denomination, negotiability, tax exemption, registration, and execution of revenue bonds; sale price and use of proceeds of	19. Municipality may contract with other municipalities for service of works; powers of lessee under contract as to rates; construction of intercepting sewers by owner or lessee.
	20. Discharge of lien on property acquired.
	21. Action on certificates or attached coupons against municipality; appointment and powers of receiver.
	22. Powers conferred by act in addition

SEC.

to existing powers; jurisdiction for ten miles outside corporate limits.

23. Act, as full authority for construction, etc., of works and issue of bonds; powers of state depart-

SEC.

24. Act to be construed liberally.

25. Provisions of act separable; if part illegal, remaining part of act not affected.

Be it enacted by the Legislature of West Virginia:

Section 1. That any municipal corporation and/or sanitary district in the state of West Virginia is hereby authorized and empowered to own, acquire, construct, equip, operate and maintain within and/or without the corporate limits of such municipal corporation, a sewage collection system and/or a sewage treatment plant or plants, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations, and all other appurtenances necessary or useful and convenient for the collection and/or treatment, purification and disposal, in a sanitary manner, of the liquid and solid waste, sewage, night soil and industrial waste of such municipal corporation and/or sanitary district, and shall have authority to acquire by gift, grant, purchase, condemnation, or otherwise, all necessary lands, rights-of-way and property therefor, within and/or without the corporate limits of such municipal corporation and/or sanitary district, and to issue revenue bonds to pay the cost of such works and property. No obligation shall be incurred by the municipal corporation and/or sanitary district in such construction or acquisition except such as is payable solely from the funds provided under the authority of this act.

Sec. 2. The construction, acquisition, improvement, equipment, custody, operation and maintenance of any such works for the collection, treatment or disposal of sewage and the collection of revenues therefrom for the service rendered thereby, shall be under the supervision and control of a sanitary board appointed by the governing body as set forth in section eighteen of this act. The term "works" as used in this act shall be construed to mean and include a works for the collection and/or treatment, purification and disposal of sewage, in its entirety or any integral part thereof. The term "municipality" as used in this act shall be construed to mean any municipal corporation, incorporated city, town, village or sanitary district in the state of West Virginia. The term "governing body" as used in this act shall be construed to mean the mayor and council or

14 other legally constituted governing body of any municipality.
15 The term "board" when hereinafter used in this act shall be con-
16 strued to mean the sanitary board as set up in section eighteen
17 of this act.

Sec. 3. The board shall have power to take all steps and pro-
2 ceedings and to make and enter into all contracts or agreements
3 necessary or incidental to the performance of its duties and the
4 execution of its powers under this act: *Provided*, That any
5 contract relating to the financing of the acquisition or construc-
6 tion of any such works, or any trust indenture as hereinafter
7 provided for, shall be approved by the governing body of such
8 municipality before the same shall be effective. The board may
9 employ engineers, architects, inspectors, superintendents, man-
10 ager, collectors, attorneys, and such other employees as in its
11 judgment may be necessary in the execution of its powers and
12 duties, and may fix their compensation, all of whom shall do
13 such work as the board shall direct. All such compensation and
14 all expenses incurred in carrying out the provisions of this act
15 shall be paid solely from funds provided under the authority of
16 this act, and the board shall not exercise or carry out any author-
17 ity or power herein given it so as to bind said board or said
18 municipality beyond the extent to which money shall have been
19 or may be provided under the authority of this act. No con-
20 tract or agreement with any contractor or contractors for labor
21 and/or material, exceeding in amount the sum of one thousand
22 dollars, shall be made without advertising for bids, which bids
23 shall be publicly opened and award made to the best bidder,
24 with power in the board to reject any or all bids. After the
25 construction, installation, and completion of the works, or the
26 acquisition thereof, the board shall operate, manage and con-
27 trol the same and may order and complete any extensions, better-
28 ments and improvements of and to the works that the board may
29 deem expedient, if funds therefor be available or are made avail-
30 able as provided in this act, and shall establish rules and regu-
31 lations for the use and operation of the works, and of other
32 sewers and drains connected therewith so far as they may affect
33 the operation of such works, and do all things necessary or
34 expedient for the successful operation thereof. All public
35 ways or public works damaged or destroyed by the board in
36 carrying out its authority under this act shall be restored or re-

37 paired by the board and placed in their original condition, as
38 nearly as practicable, if requested so to do by proper authority,
39 out of the funds provided by this act.

Sec. 4. All necessary preliminary expenses actually incurred
2 by the board of any municipality in the making of surveys,
3 estimates of costs and of revenue, employment of engineers or
4 other employees, the giving of notices, taking of options and
5 all other expenses of whatsoever nature, necessary to be paid
6 prior to the issue and delivery of the revenue bonds pursuant
7 to the provisions of this act, may be met and paid in the fol-
8 lowing manner. Said board may from time to time certify such
9 items of expense to the clerk or recorder of said municipality,
10 directing him to pay the several amounts thereof, and thereupon
11 said clerk or recorder shall at once draw a warrant or warrants
12 upon the treasurer of said municipality, which warrant or war-
13 rants shall be paid out of the general funds of said municipality
14 not otherwise appropriated, without a special appropriation being
15 made therefor by the governing body; or, in case there are no
16 general funds of such municipality not otherwise appropriated,
17 the clerk or recorder shall recommend to the governing body
17-a the temporary transfer from other funds of such municipality
18 of a sufficient amount to meet such items of expense, or the mak-
19 ing of a temporary loan for such purpose, and such governing
20 body shall thereupon at once make such transfer of funds, or
21 authorize such temporary loan in the same manner that other
22 temporary loans are made by such municipality: *Provided, how-*
23 *ever,* That the fund or funds of such municipality from which
24 such payments are made shall be fully reimbursed and repaid
25 by said board out of the first proceeds of the sale of revenue
26 bonds hereinafter provided for, and before any other disburse-
27 ments are made therefrom, and the amount so advanced to pay
28 such preliminary expenses, shall be a first charge against the
29 proceeds resulting from the sale of such revenue bonds until
30 the same has been repaid as herein provided.

Sec. 5. Before any municipality shall construct or acquire
2 any works under this act, the governing body shall upon petition
3 of the board, enact an ordinance or ordinances which shall: (a)
4 Set forth a brief and general description of the works and, if
5 the same are to be constructed, a reference to the preliminary
6 report which shall heretofore have been prepared and filed by

7 an engineer chosen by the board as aforesaid; (b) set forth
8 the cost thereof estimated by the engineer chosen as aforesaid;
9 (c) order the construction or acquisition of such works; (d)
10 direct that revenue bonds of the municipality shall be issued
11 pursuant to this act in such an amount as may be found neces-
12 sary to pay the cost of the works; and (e) contain such other pro-
13 visions as may be necessary in the premises.

Sec. 6. After such ordinance shall have been adopted same
2 shall be published once each week for two successive weeks in
3 two newspapers of opposite political faith published in such
4 municipality, or in one newspaper if only one political faith
5 is represented by newspapers in the said municipality, or if
6 there be no newspaper so published, then such ordinance shall
7 be posted in at least three public places therein, with a notice
8 to all persons concerned stating that said ordinance has been
9 adopted, and that the municipality contemplates the issuance
10 of the bonds described in the ordinance, and that any person
11 interested may appear before the governing body upon a cer-
12 tain date which shall not be less than ten days subsequent to
13 the publication or posting of such ordinance and notice, and
14 present protests. At such hearing all objections and suggestions
15 shall be heard and the governing body shall take such action as
16 it shall deem proper in the premises: *Provided, however,* That
17 if at such a hearing written protest is filed by thirty per cent
18 or more of the owners of real estate situate in said municipality,
19 then the governing body of said municipality shall not take fur-
20 ther action unless four-fifths of the qualified members of the
21 said governing body assent thereto.

Sec. 7. Every such municipality shall have power to con-
2 demn any such works to be acquired and any land, rights, ease-
3 ments, franchises and other property, real or personal, deemed
4 necessary or convenient for the construction of any such works,
5 or for extensions, improvements, or additions thereto, and in con-
6 nection therewith may have and exercise all the rights, powers
7 and privileges of eminent domain granted to municipal corpo-
8 rations under the laws relating thereto. Title to property
9 condemned shall be taken in the name of the municipality. Pro-
10 ceedings for such appropriation of property shall be under and
11 pursuant to the provisions of chapter fifty-four, of the code of
12 West Virginia, one thousand nine hundred thirty-one, and acts

13 amendatory and supplemental thereto: *Provided*, That the
14 municipality shall be under no obligation to accept and pay for
15 any property condemned, and shall in no event pay for any
16 property condemned or purchased, except from the funds pro-
17 vided pursuant to this act; and in any proceedings to condemn,
18 such orders may be made as may be just to the municipality
19 and to the owners of the property to be condemned, and an
20 undertaking or other security may be required securing such
21 owners against any loss or damage to be sustained by reason
22 of the failure of the municipality to accept and pay for the
23 property, but such undertaking or security shall impose no li-
24 ability upon the municipality except such as may be paid from
25 the funds provided under the authority of this act. In event of
26 the acquisition by purchase the board may obtain and exercise
27 an option from the owner or owners of said property for the
28 purchase thereof, or may enter into a contract for the purchase
29 thereof, and such purchase may be made upon such terms and
30 conditions, and in such manner as the board may deem proper.
31 In event of the acquisition of any works already constructed by
32 purchase or condemnation, the board at or before the time of
33 the adoption of the ordinance described in section five hereof,
34 shall cause to be determined what repairs, replacements, ad-
35 ditions, and betterments will be necessary in order that such
36 works may be effective for their purpose, and an estimate of
37 the cost of such improvements shall be included in the estimate
38 of cost required by section five hereof, and such improvement
39 shall be made upon the acquisition of the works and as a part
40 of the cost thereof.

Sec. 8. The cost of the works shall be deemed to include the
2 cost of acquisition or construction thereof, the cost of all prop-
3 erty, rights, easements, and franchises deemed necessary or
4 convenient therefor and for the improvements determined upon
5 as provided in this act; interest upon bonds prior to and during
6 construction or acquisition and for six months after completion
7 of construction or of acquisition of the improvement last men-
8 tioned; engineering and legal expenses; expense for estimates
9 of cost and of revenues; expenses for plans, specifications and
10 surveys; other expenses necessary or incident to determining
11 the feasibility or practicability of the enterprise, administrative
12 expense, and such other expenses as may be necessary or inci-

13 dent to the financing herein authorized and the construction or
14 acquisition of the works and the placing of the works in oper-
15 ation and the performance of the things herein required or per-
16 mitted in connection with any thereof.

Sec. 9. Nothing in this act contained shall be so construed as
2 to authorize or permit any municipality to make any contract or
3 to incur any obligation of any kind or nature except such as shall
4 be payable solely from the funds provided under this act. Funds
5 for the payment of the entire cost of the works shall be pro-
6 vided by the issuance of revenue bonds of the municipality, the
7 principal and interest of which shall be payable solely from the
8 fund herein provided for such payment, and said bonds shall
9 not, in any respect, be a corporate indebtedness of such munici-
10 pality, within the meaning of any statutory or constitutional limi-
11 tations thereon. All the details of such bonds shall be determined
12 by ordinance or ordinances of the municipality.

Sec. 10. Such revenue bonds shall bear interest at not more
2 than six per cent per annum, payable annually or at shorter
3 intervals, and shall mature at such time or times as may be de-
4 termined by ordinance. Such bonds may be made redeemable
5 before maturity at the option of the municipality, to be exer-
6 cised by said board, at not more than the par value thereof and
7 a premium of five per cent, under such terms and conditions as
8 may be fixed by the ordinance authorizing the issuance of the
9 bonds. The principal and interest of the bonds may be made
10 payable in any lawful medium. Said ordinance shall determine
11 the form of the bonds, including the interest coupons to be at-
12 tached thereto, and shall fix the denomination or denominations
13 of such bonds and the place or places of payment of the prin-
14 cipal and interest thereof, which may be at any bank or trust
15 company within or without the state. The bonds shall contain
16 a statement on their face that the municipality shall not be
17 obligated to pay the same or the interest thereon except from the
18 special fund provided from the net revenues of the work. All
19-20 such bonds shall be, and shall have and are hereby declared
21 to have all the qualities and incidents of, negotiable instruments
22 under the negotiable instruments law of the state. Said bonds
23 shall be exempt from all taxation, state, county and municipal.
24 Provisions may be made for the registration of any of the bonds
25 in the name of the owner as to principal alone. Such bonds

26 shall be executed by the proper legally constituted authorities
27 of the municipality and be sealed with the corporate seal of the
28 municipality, and in case any of the officers whose signatures
29 appear on the bonds or coupons shall cease to be such officers,
30 before delivery of such bonds, such signatures shall nevertheless
31 be valid and sufficient for all purposes the same as if they had
32 remained in office until such delivery. Said bonds shall be sold
33 at not less than ninety cents on the dollar and the proceeds
34 derived therefrom shall be used exclusively for the purposes
35 for which said bonds are issued and same may be sold at one
36 time or in parcels as funds are needed. Any surplus of bond
37 proceeds over and above the cost of the works shall be paid
38 into the sinking fund hereinafter provided. If the proceeds
39 of the bonds, by error of calculation or otherwise, shall be less
40 than the cost of the works, additional bonds may in like manner
41 be issued to provide the amount of such deficit and, unless other-
42 wise provided in said ordinance authorizing the issuance of the
43 bonds first issued or in the trust indenture hereinafter author-
44 ized, shall be deemed to be of the same issue and shall be en-
45 titled to payment, without preference or priority of the bonds
46 first issued. Prior to the preparation of the definite bonds,
47 temporary bonds may under like restrictions be issued with or
48 without coupons, exchangeable for definite bonds upon the is-
49 suance of the latter.

Sec. 11. The governing body may provide by said ordinance
2 authorizing the issuance of the bonds or in the trust indenture
3 hereinafter referred to, that additional bonds may thereafter
4 be authorized and issued, at one time or from time to time under
5 such limitations and restrictions as may be set forth in said
6 ordinance and/or trust indenture, for the purpose of extending,
7 improving or bettering the works when deemed necessary in
8 the public interest, such additional bonds to be secured and be
9 payable from the revenues of the works equally with all other
10 bonds issued pursuant to said ordinance without preference or
11 distinction between any one bond and any other definite bonds
12 upon the issuance of the latter.

Sec. 12. The governing body may provide by said ordinance
2 authorizing the issuance of the bonds or in the trust indenture
3 hereinafter referred to, that additional bonds may thereafter be
4 authorized and issued, at one time or from time to time, under

5 such limitations and restrictions as may be set forth in said
6 ordinance and/or trust indenture, for the purpose of extending,
7 improving or bettering the works when deemed necessary in
8 the public interest, such additional bonds to be secured and be
9 payable from the revenues of the works equally with all other
10 bonds issued pursuant to said ordinance without preference or
11 distinction between any one bond and any other bond by reason
12 of priority of issuance or otherwise.

Sec. 13. All moneys received from any bonds issued pursuant
2 to this act, after reimbursements and repayment to said munici-
3 pality of all amounts advanced for preliminary expenses as
4 provided in section four of this act, shall be applied solely to the
5 payment of the cost of the work, extensions, improvements or
6 betterments, or to the appurtenant sinking fund and there shall
7 be and hereby is created and granted a lien upon such moneys,
8 until so applied, in favor of the holders of the bonds or the trus-
9 tees hereinafter provided for.

Sec. 14. In the discretion of the governing body such bonds
2 may be secured by a trust indenture by and between the munici-
3 pality and a corporate trustee, which may be any trust company
4 or bank having the powers of a trust company within the state
5 of West Virginia but no such trust indenture shall convey or
6 mortgage the works or any part thereof. The ordinance author-
7 izing the revenue bonds and fixing the details thereof may pro-
8 vide that such trust indenture may contain such provisions for
9 protecting and enforcing the rights and remedies of the bond
10 holders as may be reasonable and proper, not in violation of law,
11 including covenants setting forth the duties of the municipality
12 and the board in relation to the construction or acquisition of
13 the works and the improvement, operation, repair, maintenance
14 and insurance thereof, and the custody, safeguarding and
15 application of all moneys, and may provide that the works
16 shall be contracted for, constructed and paid for under the
17 supervision and approval of consulting engineers employed or
18 designated by the board and satisfactory to the original bond
19 purchasers, successors, assigns or nominees, who may be given
20 the right to require the security given by contractors and by
21 any depository of the proceeds of bonds or revenues of the works
22 or other moneys pertaining thereto be satisfactory to such pur-
23 chasers, successors, assigns or nominees. Such indenture may

24 set forth the rights and remedies of the bondholders and/or
25 such trustee, restricting the individual right of action of bond-
26 holders as is customary in trust indentures securing bonds and
27 debentures of corporations. Except as in this act otherwise pro-
28 vided, the governing body may provide by ordinance or in such
29 trust indenture for the payment of the proceeds of the sale of
30 the bonds and the revenues of the works to such officer, board
31 or depository as it may determine for the custody thereof, and
32 for the method of disbursement thereof, with such safeguards
33 and restrictions as it may determine.

Sec. 15. At or before the issuance of any such bonds the gov-
2 erning body shall by said ordinance create a sinking fund for the
3 payment of the bonds and the interest thereon and the payment
4 of the charges of banks or trust companies for making payment
5 of such bonds or interest, and shall set aside and pledge a suf-
6 ficient amount of the net revenues of the works, hereby defined
7 to mean the revenues of the works remaining after the payment
8 of the reasonable expense of operation, repair and maintenance
9 such amount to be paid by the board into said sinking fund at
10 intervals to be determined by ordinance prior to issuance of the
11 bonds for: (a) the interest upon such bonds as such interest shall
12 fall due; and (b) the necessary fiscal agency charges for paying
13 bonds and interest; (c) the payment of the bonds as they fall due,
14 or, if all bonds mature at one time, the proper maintenance of a
15 sinking fund sufficient for the payment thereof at such time; and
16 (d) a margin for safety and for the payment of premiums upon
17 bonds retired by call or purchase as herein provided, which mar-
18 gin, together with any unused surplus of such margin carried
18-a forward from the preceding year, shall equal ten per cent of all
19 other amounts so required to be paid into the sinking fund. Such
20 required payments shall constitute a first charge upon all the
21 net revenues of the works. Prior to the issuance of the bonds the
22 board may by ordinance be given the right to use or direct the
23 trustee to use such sinking fund or any part thereof in the pur-
24 chase of any of the outstanding bonds payable therefrom at the
25 market price thereof, but not exceeding the price, if any, at
26 which the same shall in the same year be payable or redeemable
27 and all bonds redeemed or purchased shall forthwith be can-
28 celled and shall not again be issued. After the payments into
29 the sinking fund as herein required, the board may at any time

30 in its discretion transfer all or any part of the balance of the net
31 revenues, after reserving an amount deemed by the board suf-
32 ficient for operation, repair and maintenance for an ensuing
33 period of not less than twelve months and for depreciation, into
34 the sinking fund or into a fund for extensions, betterments and
35 additions to the works.

Sec. 16. The governing body shall have power, and it shall be
2 its duty, by ordinance to establish and maintain just and equit-
3 able rates or charges for the use of and the service rendered by
4 such works, to be paid by the owner of each and every lot, parcel
5 of real estate or building that is connected with and uses such
6 works by or through any part of the sewerage system of the
7 municipality, or that in any way uses or is served by such works
8 and may change and readjust such rates or charges from time to
9 time. Such rates or charges shall be sufficient in each year for
10 the payment of the proper and reasonable expense of operation,
11 repair, replacements and maintenance of the works and for the
12 payment of the sums herein required to be paid into the sink-
13 ing fund. Revenues collected pursuant to this section shall be
14 deemed the revenues of the works. No such rates or charges
15 shall be established until after a public hearing, at which all
16 the users of the works and owners of property served or to be
17 served thereby and others interested shall have an opportunity
18 to be heard concerning the proposed rates or charges. After intro-
19 duction of the ordinance fixing such rates or charges, and before
20 the same is finally enacted, notice of such hearing, setting forth
21 the proposed schedule of such rates or charges, shall be given
22 by one publication one each week for two successive weeks in two
23 newspapers of opposite political faith published in such munici-
24 pality, or in one newspaper if only one political faith is repre-
25 sented by newspapers in the said municipality, at least ten days
26 before the date fixed in such notice for the hearing, which may be
26-a adjourned from time to time. After such hearing the ordinance
27 establishing rates or charges, either as originally introduced or
28 as modified and amended, shall be passed and put into effect. A
29 copy of the schedule of such rates and charges so established
30 shall be kept on file in the office of the board having charge of the
31 operation of such works, and also in the office of the clerk of the
32 municipality, and shall be open to inspection by all parties in-
33 terested. The rates or charges so established for any class of

34 users or property served shall be extended to cover any addi-
35 tional premises thereafter served which fall within the same
36 class, without the necessity of any hearing or notice. Any
37 change or readjustment of such rates or charges may be made
38 in the same manner as such rates or charges were originally
39 established as hereinbefore provided: *Provided, however,* That
40 if such change or readjustment be made substantially pro rata
41 as to all classes of service, no hearing or notice shall be required.
42 The aggregate of the rates or charges shall always be sufficient
43 for such expense of operation, repair, and maintenance and for
44 such sinking fund payments. All such rates or charges if not
45 paid when due shall constitute a lien upon the premises served
46 by such works. If any service rate or charge so established shall
47 not be paid within thirty days after the same is due, the amount
48 thereof, together with a penalty of ten per cent, and a reason-
49 able attorney's fee, may be recovered by the board in a civil
50 action in the name of the municipality, and in connection with
51 such action said lien may be foreclosed against such lot, parcel
52 of land or building, in accordance with the laws relating thereto.

Sec. 17. The municipality shall be subject to the same charges
2 and rates established as hereinbefore provided, or to charges and
3 rates established in harmony therewith, for service rendered the
4 municipality, and shall pay such rates or charges when due from
5 corporate funds and the same shall be deemed to be a part of the
6 revenues of the works as herein defined, and be applied as herein
7 provided for the application of such revenues.

Sec. 18. The governing body shall provide by ordinance that
2 the custody, administration, operation and maintenance of such
3 works shall be under the supervision and control of a sanitary
4 board, created as herein provided. Such sanitary board shall
5 be composed of the mayor of the municipality and two persons
6 appointed by the governing body, one of which must be a regis-
7 tered professional engineer. The engineer member of the board
8 need not be a resident of said municipality. No officer or em-
9 ployee of the municipality whether holding a paid or unpaid
10 office, shall be eligible to appointment on said sanitary board
11 until at least one year after the expiration of the term of his
12 public office. Said appointees shall originally be appointed
13 for terms of two and three years respectively, and upon the ex-
14 piration of each such term and each succeeding term, an appoint-

15 ment of a successor shall be made in like manner for a term of
16 three years. Vacancies shall be filled for an unexpired term in the
17 same manner as the original appointment. Each member shall
18 give such bond, if any, as may be required by ordinance. Such
19 mayor shall act as chairman of the sanitary board, which shall
20 select a vice chairman from its members and shall designate a
21 secretary and treasurer (but the secretary and the treasurer
22 may be one and the same), who need not be a member or mem-
23 bers of the sanitary board. The vice chairman, secretary and
24 treasurer shall hold office as such at the will of the sanitary
25 board. The members of the sanitary board shall receive such
26 compensation for their services, either as a salary or as pay-
27 ments for meetings attended, as the governing body may de-
28 termine, not in excess of twenty-five dollars per month for each
29 member, and shall be entitled to payment for their reasonable
30 expenses incurred in the performance of their duties. The gov-
31 erning body shall fix the reasonable compensation of the secre-
32 tary and treasurer in its discretion, and shall fix the amount of
33 bond to be given by the treasurer. All compensation, together
34 with the expenses in this section referred to, shall be paid solely
35 from funds provided under the authority of this act. The
36 sanitary board shall have power to establish by-laws, rules and
37 regulations for its own government.

Sec. 19. Any municipality operating a sewage collection
2 system and/or a sewage disposal plant or plants as defined in
3 this act, or which as herein provided has ordered the con-
4 struction or acquisition of such works (in this section called
5 the owner), is hereby authorized to contract with one or more
6 other municipal corporations or political subdivisions within
7 the state (in this section called the lessee), and such lessees
8 are hereby authorized to enter into such contracts with such
9 owners, for the service of such works to such lessees and their
10 inhabitants, but only to the extent of the capacity of the works
11 without impairing the usefulness thereof to the owners, upon
12 such terms and conditions as may be fixed by the boards and ap-
13 proved by ordinances of the respective contracting parties:
14 *Provided, however,* That no such contract shall be made for
15 a period of more than fifteen years or in violation of the pro-
16 visions of said ordinance authorizing bonds hereunder or in
17 violation of the provisions of said trust indenture. The lessee

18 shall by ordinance have power to establish, change and adjust
19 rates and charges for the service rendered therein by the works
20 against the owners of the premises served, in the manner here-
21 inbefore provided for establishing, changing and adjusting
22 rates and charges for the service rendered in the municipality
23 where the works are owned and operated, and such rates or
24 charges shall be collectible and shall be a lien as herein pro-
25 vided for rates and charges made by the owner. The neces-
26 sary intercepting sewers and appurtenant works for connect-
27 ing the works of the owner with the sewerage system of the lessee
28 shall be constructed by the owner and/or the lessee upon such
29 terms and conditions as may be set forth in said contract, and
30 the cost or that part of the cost thereof which is to be borne by
31 the owner may be paid as a part of the cost of the works from
32 the proceeds of bonds issued under this act unless otherwise
33 provided by said ordinance or trust indenture prior to the is-
34 suance of the bonds. The income received by the owner under
35 any such contract shall, if so provided in said ordinance or
36 trust indenture, be deemed to be a part of the revenues of the
37 works as in this act defined and be applied as herein provided
38 for the application of such revenues.

Sec. 20. No property shall be acquired under this act upon
2 which any lien or other encumbrance exists, unless at the time
3 such property is acquired a sufficient sum of money be de-
4 posited in trust to pay and redeem such lien or encumbrance
5 in full.

Sec. 21. Any holder of any such certificates or any of the
2 coupons attached thereto, and the trustee, if any, except to the
3 extent the rights herein given may be restricted by said ordi-
4 nance authorizing issuance of the bonds or by the trust inden-
5 ture, may either at law or in equity, by suit, action, mandamus
6 or other proceeding protect and enforce any and all rights
7 granted hereunder or under such ordinance or trust indenture,
8 and may enforce and compel performance of all duties re-
9 quired by this act or by such ordinance or trust indenture to
10 be performed by the municipality issuing the bonds or by the
11 board or any officer, including the making and collecting of
12 reasonable and sufficient charges and rates for service rendered
13 by the works. If there be any failure to pay the principal or
14 interest of any of the bonds on the date therein named for

15 such payment, any court having jurisdiction of the action may
16 appoint a receiver to administer the works on behalf of the
17 municipality and the bondholders and/or trustee, except as
18 so restricted, with power to charge and collect rates sufficient
19 to provide for the payment of the expenses of operation, re-
20 pair and maintenance and also to pay any bonds and interest
21 outstanding and to apply the revenues in conformity with
22 this act and the said ordinance and/or trust indenture.

Sec. 22. The authority herein given shall be in addition to
2 and not in derogation of any power existing in any munici-
3 pality under any statutory or charter provisions which it may
4 now have or hereafter adopt. For all purposes of this act,
5 all municipal corporations shall have jurisdiction for ten miles
6 outside the corporate limits thereof.

Sec. 23. This act, shall, without reference to any other
2 statute, be deemed full authority for the construction, acqui-
3 sition, improvement, equipment, maintenance, operation and
4 repair of the works herein provided for and for the issuance
5 and sale of the bonds by this act authorized, and shall be con-
6 strued as an additional and alternative method therefor and
7 for the financing thereof, and no petition or election or other
8 or further proceeding in respect to the construction or acqui-
9 sition of the works or to the issuance or sale of bonds under
10 this act and no publication of any resolution, ordinance, notice
11 or proceeding relating to such construction or acquisition or to
12 the issuance or sale of such bonds shall be required except such
13 as are prescribed by this act, any provisions of other statutes
14 of the state to the contrary notwithstanding: *Provided, how-*
15 *ever,* That all functions, powers and duties of the state de-
16 partment of health shall remain unaffected by this act.

Sec. 24. This act being necessary for the public health,
2 safety and welfare, it shall be liberally construed to effectuate
3 the purpose thereof.

Sec. 25. The sections and provisions of this act are separable
2 and are not matters of mutual essential inducement, and it is
3 the intention to confer the whole or any part of the powers
4 herein provided for, and if any of the sections or provisions or
5 parts thereof is for any reason illegal, it is the intention that
6 the remaining sections and provisions or parts thereof shall
7 remain in full force and effect.

CHAPTER 26

(House Bill No. 31—By Mr. Smith, of Harrison)

AN ACT to authorize municipal corporations to establish, construct, acquire, extend, operate, maintain and improve waterworks systems and defray the cost of such construction, acquisition, extensions and improvements by issuing bonds secured by and payable from the revenues of such systems.

[Passed May 11, 1933; in effect from passage. Approved by the Governor.]

SEC.

1. Municipalities may purchase, construct and operate waterworks system or improve same.
2. Powers of act cumulative; definitions of words and terms.
3. Estimate of cost, and ordinance to provide for issuance of revenue bonds; ordinance to specify form and negotiability of bonds; tax exemption; interest on and maturity of bonds; service rates; revenues set aside to pay bonds and interest; service rates to be sufficient to provide for interest on and payment of bonds and for operation of system.
4. Publication and posting of adoption of ordinance; hearing on question of issuing bonds; action upon written protest of thirty per cent of realty owners.
5. Amount, negotiability and execution of bonds.
6. Bonds to be paid solely from revenues derived from waterworks systems.
7. Lien of bonds on system; enforcement of liens; receivership to enforce.
8. Rates for water must be sufficient to pay principal and interest of bonds, depreciation, operation and maintenance charges; how surplus disposed of.

SEC.

9. Right of eminent domain to acquire waterworks system; when approval of public service commission necessary; when certificate of public convenience and necessity from public service commission necessary.
10. Revenue bonds for improvements and betterments; what ordinance concerning to show.
11. Service charges to be sufficient, while bonds are outstanding to pay operating costs, depreciation and interest and principal of bonds; ordinance to pledge revenues; amounts set apart in special fund to be remitted to state sinking fund commission; amount of bonds; when proceeds of bonds less than cost of property, additional bonds may be issued; surplus of proceeds to be converted into bond fund.
12. Holder of bond may compel performance of duties by governing body; receivership upon default in payment of bond.
13. Powers under act are additional and alternative method for financing works.
14. Act to be liberally construed.
15. Provisions of act separable and invalidity of part not to affect remainder.

Be it enacted by the Legislature of West Virginia:

Section 1. That any municipal corporation in the state of West Virginia may purchase, construct and operate a waterworks system or construct betterments and improvements to its waterworks system as in this act provided.

Sec. 2. This act shall be construed as cumulative authority for the purchase or construction and operation of a waterworks system or for the construction of betterments and improvements thereto, and shall not be construed to repeal any existing laws with respect thereof. The term "waterworks" as used in this act shall be construed to mean and include a

7 waterworks system in its entirety or any integral part thereof,
8 including mains, hydrants, meters, valves, standpipes, stor-
9 age tanks, pumping stations, intakes, wells, impounding reser-
10 voirs or purification plants. The term "municipality" as used
11 in this act shall be construed to mean any municipal corpora-
12 tion, incorporated city, town or village in the state of West
13 Virginia. The term "governing body" as used in this act shall
14 be construed to mean the legally constituted governing body
15 of the municipality.

Sec. 3. Whenever the municipality shall determine to pur-
2 chase, improve or construct a waterworks system under the
3 provisions of this act, it shall cause an estimate to be made
4 of the cost thereof, and shall, by ordinance, provide for the
5 issuance of revenue bonds under the provisions of this act,
6 which ordinance shall set forth a brief description of the con-
7 templated improvement, the estimated cost thereof, the amount,
8 rate of interest, time and place of payment and other details
9 in connection with the issuance of the bonds. Such bonds shall
10 be in such form and shall be negotiated in such manner and
11 upon such terms as the governing body of such city or town
12 may by ordinance specify. All such bonds shall be exempt from
13 taxation by the state of West Virginia or any county or munici-
14 pality therein. Such bonds shall bear interest at not more than
15 six per cent per annum, payable semi-annually, and shall be
16 payable at such times and place not exceeding thirty-four years
17 from their date as shall be prescribed in the ordinance pro-
18 viding for their issuance. Such ordinance shall also declare
19 that a statutory mortgage lien shall exist upon the property
20 so to be acquired or constructed, fix a minimum rate or rates
21 for water to be collected prior to the payment of all of said
22 bonds, and shall pledge the revenues derived from the water-
23 works system for the purpose of paying such bonds and in-
24 terest thereon, which pledge shall definitely fix and determine
25 the amount of revenues which shall be necessary to be set
26 apart and applied to the payment of the principal of, and in-
27 terest on the bonds and the proportion of the balance of such
28 revenues and income which are to be set aside as a proper
29 and adequate depreciation account, and the remainder shall
30 be set aside for the reasonable and proper operation thereof.
31 The rates to be charged for the services from such waterworks

32 shall be sufficient to provide for the payment of interest upon
33 all bonds and to create a sinking fund to pay the principal
34 thereof as and when the same become due, and to provide for
35 the operation and maintenance of the system, and to provide
36 an adequate depreciation fund.

Sec. 4. After such ordinance shall have been adopted same
2 shall be published once each week for two successive weeks in
3 two newspapers of opposite political faith published in such
4 municipality, or in one newspaper if only one political faith is
5 represented by newspapers in the said municipality, or if there
6 be no newspaper so published, then such ordinance shall be
7 posted in at least three public places therein, with a notice to
8 all persons concerned, stating that said ordinance has been
9 adopted, and that the municipality contemplates the issuance
10 of the bonds described in the ordinance, and that any person
11 interested may appear before the governing body, upon a cer-
12 tain date which shall not be less than ten days subsequent to the
13 publication or posting of such ordinance and notice, and present
14 protests. At such hearing all objections and suggestions shall
15 be heard and the governing body shall take such action as it
16 shall deem proper in the premises: *Provided, however,* That if
17 at such hearing written protest is filed by thirty per cent or
18 more of the owners of real estate situate in said municipality,
19 then the governing body of said municipality shall not take
20 further action unless four-fifths of the qualified members of said
21 governing body assent thereto.

Sec. 5. Bonds herein provided for shall be issued in such
2 amounts as may be necessary to provide sufficient funds to pay
3 all costs of construction or acquisition, including engineering,
4 legal and other expenses, together with interest to a date six
5 months subsequent to the estimated date of completion. Bonds
6 issued under the provisions of this act are hereby declared
7 to be negotiable instruments, and same shall be executed by the
8 proper legally constituted authorities of the municipality and
9 be sealed with the corporate seal of the municipality, and in
10 case any of the officers whose signatures appear on the bonds
11 or coupons shall cease to be such officers before delivery of such
12 bonds, such signatures shall nevertheless be valid and sufficient
13 for all purposes the same as if they had remained in office
14 until such delivery. Said bonds shall not be negotiated at a

15 price lower than a price which computed to maturity upon
16 standard tables of bond values will show a net return of six
17 per cent per annum to the purchaser upon the amount paid
18 therefor.

Sec. 6. Bonds issued under the provisions of this act shall
2 be payable solely from the revenues derived from such water-
3 works systems, and such bonds shall not in any event consti-
4 tute an indebtedness of such municipality within the meaning
5 of the constitutional provisions or limitations, and it shall be
6 plainly stated on the face of each bond that the same has been
7 issued under the provisions of this act, and that it does not con-
8 stitute an indebtedness of such municipality within any con-
9 stitutional or statutory limitation.

Sec. 7. There shall be and there is hereby created a statu-
2 tory mortgage lien upon the waterworks system so acquired or
3-8 constructed from the proceeds of bonds hereby authorized to be
9 issued, which shall exist in favor of the holder of said bonds and
10 each of them, and to and in favor of the holder of the coupons
11 attached to said bonds, and such waterworks system shall re-
12 main subject to such statutory mortgage lien until payment in
13 full of the principal and interest of said bonds. Any holder
14 of bonds issued under the provisions of this act or of any
15 coupons representing interest accrued thereon, may, either at
16 law or in equity, enforce the statutory mortgage lien hereby
17 conferred, and may, by proper suit, compel the performance
18 of the duties of the officials of the issuing municipality set
19 forth in this act. If there be default in the payment of the
20 principal of and/or interest upon any of said bonds, any court
21 having jurisdiction in any proper action may appoint a re-
22 ceiver to administer said waterworks system on behalf of the
23 municipality with power to charge and collect rates sufficient
24 to provide for the payment of said bonds and interest thereon,
25 and for the payment of the operating expenses and to apply
26 the income and revenues in conformity with this act and the
27 ordinance providing for the issuance of such bonds.

Sec. 8. Rates for water fixed precedent to the issuance of
2 bonds shall not be reduced until all of said bonds shall have
3 been fully paid, and may, whenever necessary, be increased in
4 amounts sufficient to provide for the payment of such bonds,
5 both principal and interest, and to provide proper funds for the

6 depreciation account and operation and maintenance charges.
7 If any surplus shall be accumulated in the operating and main-
8 tenance fund which shall be in excess of the cost of maintaining
9 and operating the plant during the remainder of the fiscal year
10 then current, and the cost of maintaining and operating the
11 said plant during the fiscal year then next ensuing, then any
12 such excess may be transferred to either the depreciation ac-
13 count or to the bond and interest redemption account, and if
14 any surplus shall be accumulated in the depreciation account
15 over and above that which the municipality shall find may be
16 necessary for the probable replacements which may be needed
17 during the then present fiscal year, and the next ensuing fiscal
18 year, such excess may be transferred to the bond and interest
19 redemption account, and if surplus shall exist in the bonds and
20 interest redemption account same shall be applied insofar as
21 possible in the purchase or retirement of outstanding revenue
22 bonds payable from such account.

Sec. 9. For the purpose of acquiring any waterworks sys-
2 tem under the provisions of this act, or for the purpose of ac-
3 quiring any property necessary therefor, the municipality shall
4 have the right of eminent domain as is provided by chapter
5 fifty-four of the code of West Virginia, one thousand nine hun-
6 dred thirty-one, as now or hereafter amended: *Provided, how-*
7 *ever,* That such right of eminent domain for the acquisition of
8 a complete privately owned waterworks system shall not be
9 exercised under the provisions of this act without prior ap-
10 proval of the public service commission of West Virginia, and
11 in no event shall any municipality establish or construct a mu-
12 nicipal waterworks system under the provisions of this act to
13 supply service in competition with an existing privately owned
14 waterworks system in such municipality unless a certificate of
15 public convenience and necessity therefor shall have been issued
16 by the public service commission of West Virginia.

Sec. 10. Whenever any municipality now or hereafter shall
2 own and operate a waterworks system, whether constructed
3 under the provisions of this act or not, and shall desire to con-
4 struct improvements and betterments thereto, it may issue reve-
5 nue bonds under the provisions of this act to pay for same, and
6 the procedure therefor, including the fixing of rates and the

7 computation of the amount thereof, shall be the same as in this
8 act provided for the issuance of bonds for acquisition or con-
9 struction of a waterworks system in a municipality which has
10 not heretofore owned and operated a waterworks system: *Pro-*
11 *vided, however,* That in the ordinance declaring the in-
12 tention to issue the bonds and providing details in con-
13-14 nection therewith, the governing body shall provide, find
15 and declare in addition to the other requirements set out in this
16 act, the value of the then existing system and the value of the
17 property proposed to be constructed, and the revenues derived
18 from the entire system when the contemplated betterments and
19 improvements are completed, shall be divided according to such
20 values and so much of the revenue as is in proportion to the
21 value of such betterments and improvements as against the
22 value of the previous existing plant as so determined, shall be
23 set aside and used solely and only for the purpose of paying
24 the revenue bonds issued for such betterments, together with
25 costs of the operation and the depreciation thereof, and such
26 revenue shall be deemed to be income derived exclusively from
27 such betterments and improvements.

Sec. 11. Every municipality issuing bonds under the pro-
2 visions of this act shall thereafter, so long as any of such bonds
3 remain outstanding, operate and maintain its waterworks as
4 hereinafter provided and shall charge, collect and account for
5 revenues therefrom as will be sufficient to pay all operating
6 costs, provide a depreciation fund, retire the bonds and pay
7 the interest requirements of the bonds as the same become due.
8 The ordinance pursuant to which any such bonds are issued
9 shall pledge the revenues derived from the waterworks to the
10 purposes aforesaid and shall definitely fix and determine the
11 amount of revenues which shall be necessary and set
12 apart in a special fund for the bond requirements. The
13 amounts as and when so set apart into said special fund for the
14 bond requirements shall be remitted to the state sinking fund
15 commission to be retained and paid out by said commission con-
16 sistent with the provisions of this act and the ordinance pur-
17 suant to which such bonds have been issued. The bonds hereby
18 authorized shall be issued in such amounts as may be deter-
19 mined necessary to provide funds for the purpose for which
20 they are authorized, and in determining the amount of bonds

21 to be issued it shall be proper to include interest on the bonds
22 for a period not beyond six months from the estimated con-
23 struction period for the improvement. If the proceeds of bonds
24 because of error or otherwise shall be less than the cost of the
25 property or improvement for which authorized, additional
26 bonds may be issued to provide the amount of such deficit and
27 such additional bonds shall be deemed to be of the same issue
28 and shall be entitled to payment from the same fund without
29 preference or priority over the bonds first authorized and
30 issued. If the proceeds of bonds shall exceed the cost of the
31 property or improvement, the surplus shall be converted into
32 the fund for the retirement of the bonds and payment of the
33 interest thereon.

Sec. 12. Any holder of any of the bonds issued under the
2 provisions of this act or of any coupons representing interest
3 accrued thereon, may, either at law or in equity, by proper
4 suit, compel the performance of the duties of the governing
5 body of the municipality having bonds outstanding under the
6 provisions of this act as such duties are imposed by this act or
7 by the ordinance pursuant to which such bonds were issued. If
8 there be default in the payment of the principal of and/or in-
9 terest upon any of such bonds, any court having jurisdiction
10 in any proper action shall appoint a receiver to administer said
11 waterworks system on behalf of the municipality with power
12 to charge and collect rates sufficient to provide for the retire-
13 ment of the bonds and pay the interest thereon, and for the
14 payment of the operating expenses, and such receiver shall
15 apply the income and revenues in conformity with this act and
16 the ordinance pursuant to which such bonds have been issued.

Sec. 13. This act shall, without reference to any other
2 statute be deemed full authority for the construction, acquisi-
3 tion, improvement, equipment, maintenance, operation and re-
4 pair of the works herein provided for and for the issuance and
5 sale of the bonds by this act authorized, and shall be construed
6 as an additional and alternative method therefor and for the
7 financing thereof, and no petition or election or other or fur-
8 ther proceeding in respect to the construction or acquisition of
9 the works or to the issuance or sale of bonds under this act and
10 no publication of any resolution, ordinance, notice or proceed-

11 ing relating to such construction or acquisition or to the issu-
 12 ance or sale of such bonds shall be required except such as are
 13 prescribed by this act, any provisions of other statutes of the
 14 state to the contrary notwithstanding: *Provided, however,* That
 15 all functions, powers and duties of the state department of
 16 health shall remain unaffected by this act.

Sec. 14. This act being necessary for the public health,
 2 safety and welfare, it shall be liberally construed to effectuate
 3 the purposes thereof.

Sec. 15. The sections and provisions of this act are separ-
 2 able and are not matters of mutual essential inducement, and
 3 it is the intention to confer the whole or any part of the powers
 4 herein provided for, and if any of the sections or provisions or
 5 parts thereof is for any reason illegal, it is the intention that the
 6 remaining sections and provisions or parts thereof shall remain
 7 in full force and effect.

CHAPTER 27

(House Bill No. 189—By Mr. Yoke)

AN ACT repealing section twenty, article four, chapter eight of
 the code of West Virginia, one thousand nine hundred thirty-
 one, and enacting a new section twenty, article four, chapter
 eight in lieu thereof, authorizing and empowering municipal
 corporations organized under special charters to provide special
 services to the inhabitants thereof, in the interest of public
 health, safety, comfort and well being; by ordinance duly and
 regularly adopted to regulate such services; to levy and collect
 rates, fees and rentals for such services; and providing for a
 referendum on such ordinance, when demanded, before the pro-
 visions thereof are made effective.

[Passed June 3, 1933; in effect from passage. Became a law without the approval
 of the Governor.]

SEC.

20. When revenues of municipality not
 sufficient, special rate may be
 fixed for special service, includ-
 ing police and fire protection,
 lighting, sewage disposal, etc.;
 publication and posting of ordi-

SEC.

nance establishing such rates;
 when ordinance must be ratified
 by voters; publication of notice
 of election on; powers herein are
 supplemental to powers given in
 charters.

Be it enacted by the Legislature of West Virginia:

That section twenty, article four, chapter eight of the code of

West Virginia, one thousand nine hundred thirty-one, be and the same is hereby repealed; and that there be enacted in lieu thereof section twenty, article four of said chapter of said code as follows:

Section 20. Whenever in the judgment of the municipal authority of any municipal corporation organized under special charter in this state the public health, safety, comfort and/or well being demands the continuance, maintenance, installation or improvement of any essential or special service, including police and fire protection, street lighting, sewerage and sewage disposal, garbage collection and disposal, street cleaning, and the public revenues of such municipality are not sufficient for the purpose, the municipal authority may by proper ordinance provide for the continuance, maintenance, installation and/or improvement of such special service, together with suitable regulations governing such service, and may impose upon the users of such special service such rates, fees and rentals as are necessary to pay the cost of such special service, and may provide for the collection of such rates, fees and rentals in the same manner as municipal taxes are collected, or otherwise, as the municipal authority shall elect, and may provide penalties for any violation of such ordinance.

Provided, however, That any ordinance enacted under the provisions of this act shall be published at least once a week for two successive weeks in two newspapers published in such municipality, or if there be only one newspaper published therein then in that newspaper, or if there be no such newspaper published then by posting copies of such ordinance for a like period in at least ten conspicuous places in such municipality, and in the event ten per cent of the registered voters by written petition duly signed by them and filed with the municipal authority within fifteen days after the expiration of such publishing or posting protest against such ordinance, the ordinance shall not become effective until it shall be ratified by a majority of the votes cast by the duly qualified voters of such municipality at an election duly and regularly held as provided by the laws and ordinances of the municipality and the result of such election ascertained and declared. Such election shall be held after notice of such submission shall be given by publication or posting of the same for two successive weeks next prior to the date of

37 such election as above provided for the publication of the ordi-
38 nance when adopted.

39 The powers hereby given to such municipalities and to the
40 authorities thereof are in addition to and supplemental of the
41 powers named in the respective charters thereof.

CHAPTER 28

(House Bill No. 166—By Mr. Norton)

AN ACT to amend chapter twenty, acts of the legislature of West Virginia, extraordinary session, one thousand nine hundred thirty-two, relating to the reduction in the salary of each and every holder of a public office, position or place of public employment in the state of West Virginia or any of its subdivisions by adding thereto an additional section designated as section two.

[Passed June 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.

2. Municipal salary reductions provided by chapter twenty, acts one thousand nine hundred thirty-two, to be computed on salary

SEC.

schedule in force for fiscal year ending June thirtieth, one thousand nine hundred thirty-two.

Be it enacted by the Legislature of West Virginia:

That chapter twenty, acts of the legislature of West Virginia, extraordinary session, one thousand nine hundred thirty-two, be amended by adding thereto an additional section designated as section two, to read as follows:

Section 2. That as to all officers and employees of municipalities in the state the salary reductions provided for in section one, chapter twenty of the acts of the legislature of West Virginia, extraordinary session, one thousand nine hundred thirty-two, shall be computed only upon the salary schedule in effect for the fiscal year ending June thirty, one thousand nine hundred thirty-two.

CHAPTER 29

(House Bill No. 202—By Mr. Smith, of Wirt)

AN ACT to provide for the submission to the voters of the state

of an amendment to the constitution of the state of West Virginia, as follows: Amending section two, article ten.

[Passed June 3, 1933; in effect ninety days from passage. Approved by the Governor.]

SEC.

1. Question of ratification or rejection of amendment to the constitution submitted to voters at one thousand nine hundred thirty-four general election.
2. Proposed amendment.
3. Name of amendment.
4. Form of ballot on amendment; how election conducted and returned.
5. Certificates of election commissioners; delivered to clerk of county court with ballots; de-

SEC.

- livery to county commissioners; certificate of commissioners as as board of canvassers; delivery of certificate to clerk of county court and secretary of state.
6. Delivery of certificates to governor; proclamation of result by governor.
7. Publication of proposed amendment by governor; how cost of publication paid.

Be it enacted by the Legislature of West Virginia:

Section 1. That the question of the ratification or rejection of an amendment to the constitution of West Virginia, proposed in accordance with the provisions of section two, article fourteen of said constitution, shall be submitted to the voters of the state at the next general election, to be held in the year one thousand nine hundred thirty-four, which proposed amendment is as follows:

Sec. 2. The legislature shall levy an annual capitation tax of one dollar upon each inhabitant of the state who has attained the age of twenty-one years, which shall be annually appropriated to the support of free schools, and payment of such capitation tax and the presentation of a receipt therefor may be made a qualification for voting in all elections in such manner and form as the legislature may by law direct.

Persons afflicted with bodily infirmity may be exempted from this tax.

In the event of any inconsistency between any of the provisions of this section and any of the other provisions of the constitution, the provisions of this section shall prevail.

Sec. 3. For convenience in referring to the said proposed amendment and in the preparation of the form of the ballot hereinafter provided for, said proposed amendment is hereby designated as follows: To be known as the "capitation amendment."

Sec. 4. For the purpose of enabling the voters of the state to vote on the question of said proposed amendment to the constitution at the general election to be held in the year one

4 thousand nine hundred thirty-four, the board of ballot com-
5 missioners of each county is hereby required to place upon,
6 and at the foot of, the official ballots to be voted at said elec-
7 tion, the following:

8 Ballot on constitutional "capitation amendment," amend-
9 ing section two, article ten.

10 For ratification of "capitation amendment."

11 Against ratification of "capitation amendment."

12 The election on the proposed amendment, at each place of
13 voting, shall be superintended, conducted and returned, and
14 the result thereof ascertained by the same officers and in the
15 same manner as the election of officers to be voted for at said
16 election; and all of the provisions of law relating to general
17 elections, including all duties to be performed by any officer or
18 board, as far as applicable and not inconsistent with anything
19 herein contained, shall apply to the election held under the pro-
20 visions of this act, except when it is herein otherwise provided.
21 The ballots cast on the question of said proposed amendment
22 shall be counted as other ballots cast at said election.

Sec. 5. As soon as the result is ascertained the commis-
2 sioners, or a majority of them, and the canvassers (if there be
3 any), or a majority of them, at each place of voting, shall make
4 out and sign two certificates thereof in the following form or to
5 the following effect:

6 "We, the undersigned who acted as commissioners (or
7 canvassers, as the case may be), of the election held at pre-
8 cinct number, in the district of.....,
9 in the county of, on the day of
10 November, one thousand nine hundred thirty-four, upon the
11 question of the ratification or rejection of the proposed consti-
12 tutional amendment to section two, article ten, do hereby certi-
13 fy that the result of said election is as follows:

14 Amending section two of article ten:

15 For ratification of "capitation amendment".....votes.

16 Against ratification of "capitation amendment".....votes.

17 Given under our hands this day of November, one thou-
18 sand nine hundred thirty-four."

19 The said two certificates shall correspond with each other in

20 all respects, and contain the full and true returns of said elec-
21 tion at each place of voting on said question. The said com-
22 missioners, or any one of them (or said canvassers, or any one
23 of them, as the case may be), shall within four days, excluding
24 Sunday, after that on which said election was held, deliver
25 one of said certificates to the clerk of the county court of his
26 county, together with the ballots, and the other to the clerk
27 of the circuit court of the county.

28 The said certificates, together with the ballots cast on
29 the question of said proposed amendment, shall be laid before
30 the commissioners of the county court at the courthouse at the
31 same time the ballots, poll books and the certificates of the
32 election for the members of the legislature are laid before them;
33 and as soon as the result of said election in the county upon the
34 question of such ratification or rejection is ascertained, two
35 certificates of such result shall be made out and signed by said
36 commissioners, as a board of canvassers, in the following form
37 or to the following effect:

38 "We, the board of canvassers of the county of.....,
39 having carefully and impartially examined the returns of the
40 election held in said county, in each district thereof, on the...
41 day of November, one thousand nine hundred thirty-four, do
42 certify that the result of the election in said county, on the
43 question of the ratification or rejection of the proposed consti-
44 tutional amendment to section two, article ten, is as follows:
45 For ratification of "capitation amendment".....votes.
46 Against ratification of "capitation amendment".....votes.
47 Given under our hands this..... day of,
48 one thousand nine hundred thirty-four."

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

Sec. 6. On the twenty-fifth day after the election is held,
2 or as soon thereafter as practicable, the said certificates shall
3 be laid before the governor, whose duty it shall be to ascertain
4 therefrom the result of said election in the state, and declare the
5 same by proclamation published in one or more newspapers
6 printed at the seat of government. If a majority of the votes

7 cast at said election upon said question be for the ratification
8 of the said amendment, the proposed amendment so ratified
9 shall be of force and effect from and after the time of such
10 ratification as part of the constitution of the state.

Sec. 7. The governor shall cause the said proposed amend-
2 ment, with the proper designation for the same as hereinbe-
3 fore adopted, to be published one time, at least three months
4 before such election, in some newspaper in every county in this
5 state in which a newspaper is printed, at a price to be agreed
6 upon in advance in writing, and the cost of such advertising
7 shall in the first instance, if found necessary by him, be paid
8 out of the governor's contingent fund and be afterwards re-
9 paid to such fund by appropriation of the legislature.

CHAPTER 30

(House Bill No. 152—By Mr. Butcher)

AN ACT to provide for the submission to the voters of the state
of an amendment to the constitution of the state of West Vir-
ginia, as follows: Amending section one of article seven.

[Passed June 3, 1933: In effect ninety days from passage. Approved by the
Governor.]

Sec.

1. Question of ratification or rejection of amendment to the constitution submitted to the voters at one thousand nine hundred thirty-four general election; proposed amendment.
2. Name of amendment.
3. Form of ballot on amendment; how election conducted and returned.
4. Certificates of election commissioners; delivered to clerk of county court with ballots; delivery to

Sec.

- county commissioners; certificate of county commissioners as board of canvassers; delivery to clerk of county court and secretary of state.
5. Delivery of certificates to governor; proclamation of result by governor.
6. Publication of proposed amendment by governor; how cost of publication paid.

Be it enacted by the Legislature of West Virginia:

Section 1. That the question of the ratification or rejection
2 of an amendment to the constitution of West Virginia, pro-
3 posed in accordance with the provisions of section two, article
4 fourteen of said constitution, shall be submitted to the voters
5 of the state at the next general election, to be held in the year
6 one thousand nine hundred thirty-four, which proposed amend-
7 ment is as follows:

Proposed Amendment

Section 1. The executive department shall consist of a governor, secretary of state, state superintendent of free schools, auditor, treasurer, commissioner of agriculture and attorney general, who shall be, ex officio, reporter of the court of appeals. Their terms of office shall be four years and shall commence on the first Monday after the second Wednesday of January next after their election. They shall reside at the seat of government during their terms of office, keep there the public records, books and papers pertaining to their respective offices and shall perform such duties as may be prescribed by law.

Sec. 2. For convenience in referring to the said proposed amendment and in the preparation of the form of the ballot hereinafter provided for, said proposed amendment is hereby designated as follows: To be known as the "lame duck amendment."

Sec. 3. For the purpose of enabling the voters of the state to vote on the question of said proposed amendment to the constitution at the general election to be held in the year one thousand nine hundred thirty-four, the board of ballot commissioners of each county is hereby required to place upon, and at the foot of, the official ballots to be voted at said election, the following:

Ballot on constitutional "lame duck amendment," amending section one, article seven.

For ratification of lame duck amendment.

Against ratification of lame duck amendment.

The election on the proposed amendment, at each place of voting, shall be superintended, conducted and returned, and the result thereof ascertained by the same officers and in the same manner as the election of officers to be voted for at said election; and all of the provisions of law relating to general elections, including all duties to be performed by any officer or board, as far as applicable and not inconsistent with anything herein contained, shall apply to the election held under the provisions of this act, except when it is herein otherwise provided. The ballots cast on the question of said proposed

22 amendment shall be counted as other ballots cast at said elec-
23 tion.

Sec. 4. As soon as the result is ascertained the commis-
2 sioners, or a majority of them, and the canvassers (if there be
3 any), or a majority of them, at each place of voting, shall
4 make out and sign two certificates thereof in the following
5 form or to the following effect: "We, the undersigned, who
6 acted as commissioners (or canvassers, as the case may be),
7 of the election held at precinct number, in the district
8 of, in the county of, on the
9 day of November, one thousand nine hundred thirty-four, upon
10 the question of the ratification or rejection of the proposed
11 constitutional amendment to section one, article seven do
12 hereby certify that the result of said election is as follows:

13 Amending section one of article seven:

14 For ratification of lame duck amendment votes.

15 Against ratification of lame duck amendment votes.

16 Given under our hands this day of November, one
17 thousand nine hundred thirty-four."

18 The said two certificates shall correspond with each other
19 in all respects, and contain the full and true returns of said
20 election at each place of voting on said question. The said
21 commissioners, or any one of them (or said canvassers, or any
22 one of them, as the case may be), shall within four days, ex-
23 cluding Sunday, after that on which said election was held,
24 deliver one of said certificates to the clerk of the county court
25 of his county, together with the ballots, and the other to the
26 clerk of the circuit court of the county.

27 The said certificates, together with the ballots cast on the
28 question of said proposed amendment, shall be laid before the
29 commissioners of the county court at the courthouse at the
30 same time the ballots, poll books and the certificates of the
31 election for the members of the legislature are laid before
32 them; and as soon as the result of said election in the county
33 upon the question of such ratification or rejection is ascer-
34 tained, two certificates of such result shall be made out and
35 signed by said commissioners, as a board of canvassers, in the
36 following form or to the following effect:

37 "We, the board of canvassers of the county of,

38 having carefully and impartially examined the returns of the
39 election held in said county, in each district thereof, on the
40 day of November, one thousand nine hundred thirty-
41 four, do certify that the result of the election in said county,
42 on the question of the ratification or rejection of the proposed
43 constitutional amendment to section one of article seven is as
44 follows:

45 For ratification of lame duck amendment votes.

46 Against ratification of lame duck amendment votes.

47 Given under our hands this day of,
48 one thousand nine hundred thirty-four.”

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

Sec. 5. On the twenty-fifth day after the election is held, or as
2 soon thereafter as practicable, the said certificates shall be laid
3 before the governor, whose duty it shall be to ascertain there-
4 from the result of said election in the state, and declare the same
5 by proclamation published in one or more newspapers printed
6 at the seat of government. If a majority of the votes cast at
7 said election upon said question be for the ratification of the
8 said amendment, the proposed amendment so ratified shall be of
9 force and effect from and after the time of such ratification as
10 part of the constitution of the state.

Sec. 6. The governor shall cause the said proposed amend-
2 ment, with the proper designation for the same as hereinbefore
3 adopted, to be published one time, at least three months before
4 such election, in some newspaper in every county in this state
5 in which a newspaper is printed, at a price to be agreed upon in
6 advance in writing, and the cost of such advertising shall in the
7 first instance, if found necessary by him, be paid out of the
8 governor's contingent fund and be afterwards repaid to such
9 fund by appropriation of the legislature.

CHAPTER 31

(House Bill No. 54—By Mr. Norton)

AN ACT to amend section five, article one, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, relating to the supervision of companies under the control of the state insurance commissioner.

[Passed June 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.

5. Examination of companies, etc., doing insurance business in state, by insurance commissioner; order of commissioner to discontinue illegal or improper business methods; commissioner's investigation and control to be continuous; temporary regulations

SEC.

to protect business in this state against discriminatory regulations in other states; certified copies of orders of commissioner to companies, etc.; if any provision of act invalid, remainder not affected; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 5. The insurance commissioner may from time to time examine the methods of business of any company, corporation, association, partnership or combination of persons doing any kind or form of insurance business in this state, and may require them to answer such questions as he may think necessary for the purpose of such inquiry; and if, in his opinion, after due notice and hearing, any such company, corporation, association, partnership or combination of persons is doing business in an illegal, improper or unjust manner, or failing to adjust and pay losses and obligations when they become due, excepting claims to which there is a substantial defense, he may order it to discontinue such illegal or improper method of doing business and may order it to adjust and pay its losses and obligations as they become due.

14-a And in order to foster and protect the businesses conducted under the supervision of the insurance commissioner of this state, and to put this legislative policy into effect, the insurance commissioner is authorized and directed to maintain a continuous investigation of the regulation and control of such businesses generally. When, because of regulations in other states, an emergency arises which endangers the stability of such businesses within this state, the commissioner, after investigation and determination, shall have the authority to make from time to time such temporary regulations as may be neces-

24 sary to protect such businesses carried on in this state against
25 discrimination because of regulations existing in other states.

26 The commissioner shall promptly send certified copies of all
27 orders issued under the authority of this section to each com-
28 pany, corporation, association, partnership or combination of
29 persons under his control, supervision or regulation.

30 If any provision of this act or the application thereof to any
31 person or circumstance is held unconstitutional or otherwise
32 invalid, the remaining provisions of the act and the application
33 of such provisions to other persons or circumstances shall not
34 be affected thereby.

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

CHAPTER 32

(House Bill No. 119—Originating in the Committee on Insurance)

AN ACT to amend article two, chapter thirty-three of the code of
West Virginia, one thousand nine hundred thirty-one, by
adding to said article two a new section to be numbered section
forty-five, relating to the insolvency of insurance companies.

[Passed May 15, 1933; in effect from passage. Approved by the Governor.]

Sec.

45. Insurance commissioner may insti-
tute proceedings in circuit court
of Kanawha county against in-

Sec.

solvent company under his super-
vision.

Be it enacted by the Legislature of West Virginia:

Section 45. Whenever any company under the supervision
2 and regulation of the insurance commissioner shall become in-
3 solvent or shall be in such financial condition as not to be able
4 to pay its creditors in this state, the commissioner of insurance
5 may file a bill in the circuit court of Kanawha county for the ad-
6 ministering of the assets of such company as an insolvent, and
7 for the purpose of taking possession of its property in this
8 state and the distribution of its assets among those entitled there-
9 to according to their respective right.

CHAPTER 33

(Com. Sub. for Senate Bill No. 1—Originating in the Committee
on Finance)

AN ACT to provide for the raising of additional public revenue by amending and reenacting article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to business and occupation taxes, by repealing all of sections one through seventeen, inclusive, and enacting and reenacting sections one through twenty-three, inclusive; and providing for and imposing a privilege tax upon the exercise of certain privileges in the state, by repealing sections eighty-one through eighty-four, inclusive, article twelve, chapter eleven of said code; and enacting a new article to be designated article twelve-(a), chapter eleven of said code.

[Passed May 26, 1933; in effect from passage. Approved by the Governor.]

ARTICLE XIII.

SEC.

1. Definition of words and phrases.
- 2(a). Annual privilege tax on persons producing for sale, profit or commercial use, any natural resource product; amount and measure of tax.
- 2(b). Annual privilege tax on manufacturer or compounder of articles and commodities or electric power; amount and measure of tax; measure of tax when product transported from state before sale; rules for determining tax on sales from one to another affiliated companies or persons.
- 2(c). Tax on business of selling tangible property; businesses and transactions not included; amount of tax as to both retailer and wholesaler.
- 2(d). Tax on public service or utility businesses; exceptions; amount of and method of determining tax.
- 2(e). Amount of tax on business of contracting.
- 2(f). Amount of tax on business of banking.
- 2(g). Amount of tax on business of operating theatre, moving picture show, race track or other amusements offered to the public.
- 2(h). Amount of tax on any service business or calling not otherwise specifically taxed under this act.
- 2(i). Amount of tax on income derived from any business, profession, occupation, etc., not included in preceding subdivisions or other provisions of act; business of horticulture, agriculture, and grazing excepted; certain gross income not to be added or deducted in computation of tax; return of gross proceeds of retail sales by one selling his natural resource or manufactured

SEC.

- products at retail; exception as to sales to manufacturers, wholesalers or jobbers and of sales of mineral products; exception as to manufacturers selling their products for delivery outside the state; return by person producing coal and other natural resource products, who uses or consumes same in his business.
3. Tax exemption except as to privileges taxable under section two (1); exemption for fractional part of year; exemptions from gross income from tax levied under section two(1); exemption as to married person and one having dependents; who to make returns; exemption of certain companies, organizations, etc., from tax.
4. Taxes levied hereunder payable in quarterly installments; estimate of quarterly installment by taxpayers and remittance to tax commissioner; when total tax does not exceed one hundred dollars, may pay quarterly or yearly.
5. Return by taxpayer and remittance to tax commissioner; oath to return; extension by tax commissioner of time for making annual return.
6. Correction by tax commissioner of taxpayers' error in computing tax; collection of additional tax or refund of excess paid.
7. Proceeding by tax commissioner to assess tax when return is not made.
8. Appeal by taxpayer making return to board of public works from assessment of tax made by tax commissioner; hearing upon petition; recovery by action against tax commissioner of amount of tax improperly charged; taxation of costs; payment by auditor of amount of judgment

- Sec. obtained; upon what grounds injunction may be awarded to restrain collection of tax; when injunction may not issue.
9. Assessment of taxes and returns required to be for end of calendar year; exceptions.
 10. Taxes imposed by article to be in addition to other licenses and taxes.
 11. Form of remittances for taxes; receipt of tax commissioner to taxpayer; payment of tax into state treasury.
 12. Priority of lien of tax due and unpaid; five per cent penalty for thirty day default; additional penalty for continuing default.
 13. Action in circuit court by tax commissioner to collect taxes and penalties.
 14. Lien of tax upon property of person selling out or quitting business; return by one so selling or quitting within thirty days after sale; successor in business to withhold sufficient purchase money to pay tax; when successor in business personally liable for tax.
 15. When secretary of state shall withhold certificate of dissolution or withdrawal of corporation.
 16. In contracts on behalf of state or political subdivision, final settlement not to be made with contractor until tax commissioner certifies taxes due have been paid.
 17. Priority of tax claim in distribution in receivership, bankruptcy or otherwise, of property; when person charged with administration of estate personally liable for tax.
 18. Appointment by tax commissioner, with approval of governor, of not more than twelve agents for collection of delinquent taxes, etc.; salary of agent.
 19. Certificate by tax commissioner to clerk of county court of assessment of taxes; recordation of certificate; certificate by tax commissioner to taxpayer and county clerk when delinquent tax paid; recordation of certificate and release of lien.
 20. Distraint by tax commissioner for taxes and penalties; may require assistance of sheriff, compensation of sheriff; report of collection to tax commissioner.
 21. Penalty for refusing to make, or making false return, etc.; concurrent jurisdiction of circuit or criminal courts.

- SEC.
22. Tax commissioner to administer article and prescribe forms and rules of procedure; assistance of prosecuting attorney of county when suit is brought.
 23. If part of article invalid, remainder not affected.

ARTICLE XII-A.

SEC.

1. Definition of terms and phrases.
2. Amount of tax on railroad corporations; the privilege tax to be on business conducted entirely within the state; no public corporation of state to levy a license or privilege tax on business taxed under this section.
3. Privilege tax on operating steamboat or other floating property; amount and determination of tax; this tax additional to other license taxes.
4. Privilege tax on gross income of motor vehicle carrier, railroad car corporation, express company, pipe line corporation, telephone and telegraph corporation.
5. Additional privilege tax on net income of businesses included in section four, and on railroad corporations; method of computing tax; exception from tax.
6. Tax commissioner to prescribe form of return; what return to show; oath to return.
7. Assessment of taxes to be for end of calendar year; exceptions.
8. When tax imposed by this article to be paid; may be paid in equal quarterly installments.
9. Tax imposed by this article to be in addition to other license taxes or charges.
10. Tax imposed by article to be a lien on property of taxpayer; penalty for delinquency.
11. Notice by tax commissioner to taxpayer of delinquency; how cost of publication paid; certification to secretary of state of list of taxpayers delinquent under this article; duty of attorney general to institute suit in Kanawha county against delinquent taxpayers; allegations of bill; decree for taxes and costs; forfeiting or revoking franchise if decree not paid; injunction restraining defendant from exercising privilege or transacting business until decree paid.
12. Penalty for failure to make, or making false return, etc.
13. If part of article invalid, remainder not affected.

Be it enacted by the Legislature of West Virginia:

That sections one through seventeen, inclusive, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, be and are hereby repealed and sections one through twenty-three, inclusive, be and are hereby enacted in lieu

thereof; and that sections eighty-one through eighty-four, inclusive, article twelve, chapter eleven of said code be and are hereby repealed and article twelve-(a) be and is hereby enacted and added to chapter eleven.

Section 1. When used in this article, the term "person" 2 or the term "company" herein used interchangeably, in- 3 cludes any individual, firm, copartnership, joint adventure, 4 association, corporation, trust or any other group or combina- 5 tion acting as a unit, and the plural as well as the singular 6 number, unless the intention to give a more limited meaning 7 is disclosed by the context.

8 "Tax year" or "taxable year" means either the calendar 9 year, or the taxpayer's fiscal year when permission is ob- 10 tained from the tax commissioner to use same as the tax 11 period in lieu of the calendar year.

12 "Sale" or "sales" includes the exchange of properties as 13 well as the sale thereof for money, every closed transaction 14 constituting a sale.

15 "Taxpayer" means any person liable for any tax here- 16 under.

17 "Gross income" means the gross receipts of the taxpayer 18 received as compensation for personal services and the gross 19 receipts of the taxpayer derived from trade, business, com- 20 merce or sales and the value proceeding or accruing from 21 the sale of tangible property (real or personal), or service, 22 or both, and all receipts by reason of the investment of the 23 capital of the business engaged in, including interest, discount, 24 rentals, royalties, fees or other emoluments however designated 25 and without any deductions on account of the cost of property 26 sold, the cost of materials used, labor costs, taxes, royalties, in- 27 terest or discount paid or any other expense whatsoever.

28 "Business," as used in this article, shall include all activi- 29 ties engaged in or caused to be engaged in with the object 30 of gain or economic benefit either direct or indirect. The 31 production of raw materials or manufactured products, 32 which are used or consumed in the main business, shall be 33 deemed business engaged in taxable in the class in which 34 it falls.

35 "Gross proceeds of sales" means the value actually pro- 36 ceeding from the sale of tangible property without any deduc- 37 tion on account of the cost of property sold or expenses of

38 any kind. The words "gross income" and "gross
39 proceeds of sales" shall not be construed to include cash
40 discounts allowed and taken on sales; the proceeds of sale
41 of goods, wares or merchandise returned by customers when
42 the sale price is refunded either in cash or by credit; or the
43 sale price of any article accepted as part payment on any
44 new article sold, if the full sale price of the new article is
45 included in the "gross income" or "gross proceeds of sales".

46 "Service business or calling" shall include all nonprofes-
47 sional activities engaged in for other persons for a consid-
48 eration, which involve the rendering of a service as distin-
49 guished from the production or sale of tangible property, but
50 shall not include the services rendered by an employee to his
51 employer.

52 The classification of "wholesaler" or "jobber" shall apply
53 only to a person doing a regularly organized jobbing business,
54 known to the trade as such, selling to licensed retail merchants
55 or jobbers, or to others in wholesale quantities and at wholesale
56 prices.

Sec. 2. There is hereby levied and shall be collected
2 annual privilege taxes against the persons, on account of
3 the business and other activities, and in the amounts to be
4 determined by the application of rates against values or
5 gross income, as follows:

6 (a) Upon every person engaging or continuing within
7 this state in the business of producing for sale, profit or
8 commercial use any natural resource products, the amount
9 of such tax to be equal to the value of the articles pro-
10 duced as shown by the gross proceeds derived from the sale
11 thereof by the producer, except as hereinafter provided,
12 multiplied by the respective rates as follows: Coal, one per
13 cent; limestone or sandstone, quarried or mined, one and one-
14 half per cent; oil, three per cent; natural gas, in excess of the
15 value of five thousand dollars, six per cent; blast furnace slag,
16 three per cent; sand, gravel or other mineral product, not
17 quarried or mined, three per cent; timber, one and one-half
18 per cent; other natural resource products, two per cent. The
19 measure of this tax is the value of the entire production in this
20 state, regardless of the place of sale or the fact that delivery
21 may be made to points outside the state.

22 (b) Upon every person engaging or continuing within

23 this state in the business of manufacturing, compounding,
24 or preparing for sale, profit, or commercial use, either di-
25 rectly or through the activity of others in whole or part,
26 any article or articles, substance or substances, commodity
27 or commodities, or electric power not produced by public
28 utilities taxable under other provisions of this section, the
29 amount of the tax to be equal to the value of the articles, sub-
30 stance, commodities or electric power manufactured, com-
31 pounded or prepared for sale, as shown by the gross pro-
32 ceeds derived from the sale thereof by the manufacturer
33 or person compounding or preparing the same ex-
34 cept as hereinafter provided), multiplied by a rate
35 of three-tenths of one per cent. The measure of
36 this tax is the value of the entire product manufactured,
37 compounded, or prepared in this state for sale, profit or
38 commercial use, regardless of the place of sale or the fact
39 that deliveries may be made to points outside the state.

40 If any person liable for any tax under subdivisions (a)
41 or (b) shall ship or transport his products or any part
42 thereof out of the state without making sale of such products,
43 the value of the products in the condition or form in which
44 they exist immediately before transportation out of the state
45 shall be the basis for the assessment of the tax imposed in said
46 subdivisions; and the tax commissioner shall prescribe equita-
47 ble and uniform rules for ascertaining such value.

48 In determining value, however, as regards sales from one
49 to another of affiliated companies or persons, or under other
50 circumstances where the relation between the buyer and
51 seller is such that the gross proceeds from the sale are not
52 indicative of the true value of the subject matter of the
53 sale, the tax commissioner shall prescribe uniform and
54 equitable rules for determining the value upon which such
55 privilege tax shall be levied, corresponding as nearly as pos-
56 sible to the gross proceeds from the sale of similar products
57 of like quality or character where no common interest exists
58 between the buyer and seller but the circumstances and
59 conditions are otherwise similar;

60 (c) Upon every person engaging or continuing within this
61 state in the business of selling any tangible property whatso-
62 ever, real or personal, except sales by any person engaging or
63 continuing in the business of horticulture, agriculture or graz-

64 ing, stocks, bonds or other evidences of indebtedness, there is
65 likewise hereby levied, and shall be collected, a tax equivalent
66 to three-fourths of one per cent of the gross income of the
67 business, except that in the case of a wholesaler or jobber, the
68 tax shall be equal to fifteen one-hundredths of one per cent of
69 the gross income of the business;

70 (d) Upon any person engaging or continuing within this
71 state in any public service or utility business, except rail-
72 road, railroad car, express, pipe line, telephone and tele-
73 graph companies, water carriers by steamboat or steamship
74 and motor vehicle carriers, there is likewise hereby levied and
75 shall be collected taxes on account of the business engaged in
76 equal to the gross income of the business multiplied by the
77 respective rates as follows: Street and interurban and electric
78 railways, one per cent; water companies, four per cent, except
79 as to income from municipally owned water plants; electric
80 light and power companies, four per cent on sales and demand
81 charges for domestic purposes and commercial lighting and
82 three per cent on sales and demand charges for all other pur-
83 poses, except as to income from municipally owned plants pro-
84 ducing or purchasing electricity and distributing same;
85 natural gas companies, three per cent on the gross income, said
86 gross income for this purpose to be determined by deducting
87 from gross income from all sales to consumers the amount of
88 the tax paid by the taxpayer under subdivision (a) of this
89 section; toll bridge companies, three per cent; and upon
90 all other public service or utility business, two per
91 cent. The measure of this tax shall not include gross in-
92 come derived from commerce between this state and other
93 states of the United States or between this state and foreign
94 countries.

95 (e) Upon every person engaging or continuing within
96 this state in the business of contracting, the tax shall be equal
97 to two per cent of the gross income of the business;

98 (f) Upon every person engaging or continuing within this
99 state in the business of banking, the tax shall be equal to five-
100 tenths of one per cent of the gross income of the business;

101 (g) Upon every person engaging or continuing within this
102 state in the business of operating a theater, opera house,
103 moving picture show, vaudeville, amusement park, dance hall,
104 skating rink, race track, radio broadcasting station or any

105 other place at which amusements are offered to the public, the
106 tax shall be equal to one and one-half per cent of the gross in-
107 come of the business;

108 (h) Upon every person engaging or continuing within
109 this state in any service business or calling not otherwise
110 specifically taxed under this act, there is likewise hereby levied
111 and shall be collected a tax equal to one per cent of the gross
112 income of any such business;

113 (i) Upon every person engaging or continuing within
114 this state in any business, profession, trade, occupation or
115 calling not included in the preceding subdivisions or any other
116 provision of this act (but not including a person engaging or
117 continuing in the business of horticulture, agriculture or graz-
118 ing) there is likewise hereby levied and shall be collected, a
119 tax equal to one per cent of the gross income of any such
120 activity. This subdivision shall apply to the gross incomes of
121 persons taxable under other subdivisions hereof not derived
122 from the exercise of privileges taxable thereunder.

123 Gross income included in the measure of the tax under sub-
124 divisions (a) and (b) hereof, except in the case of production
125 of natural gas, shall neither be added nor deducted in com-
126 puting the tax levied under the other subdivisions of this
127 article.

128 A person exercising any privilege taxable under subdivi-
129 sions (a) or (b) of this section and engaging in the business
130 of selling his natural resource or manufactured products at
131 retail in this state shall be required to make returns of the
132 gross proceeds of such retail sales and pay the tax imposed in
133 subdivision (c) of this section for the privilege of engaging
134 in the business of selling such natural resource or manufac-
135 tured products at retail in this state. But any person exercis-
136 ing any privilege taxable under subdivisions (a) or (b) of this
137 section and engaging in the business of selling his natural re-
138 source or manufactured products to manufacturers, whole-
139 salers or jobbers, and in the case of limestone, sand, gravel or
140 other mineral product, to commercial consumers, shall not
141 be required to pay the tax imposed in subdivision (c) of this
142 section for the privilege of selling such natural resource prod-
143 ucts or manufactured products at wholesale.

144 Manufacturers exercising any privilege taxable under sub-
145 division (b) of this section shall not be required to pay the

146 tax imposed in subdivision (c) of this section for the priv-
147 ilege of selling their manufactured products for delivery out-
148 side of this state, but the gross income derived from the sale
149 of such manufactured products outside of this state shall be
150 included in determining the measure of the tax imposed on
151 such manufacturer in said subdivision (b).

152 A person exercising privileges taxable under the other
153 subdivisions of this section, producing coal, oil, natural gas,
154 minerals, timber or other natural resource products the pro-
155 duction of which is taxable under subdivision (a), and using
156 or consuming same in his business, shall be deemed to be en-
157 gaged in the business of mining and producing coal, oil,
158 natural gas, minerals, timber or other natural resource
159 products for sale profit or commercial use, and shall be re-
160 quired to make returns on account of the production of the
161 business showing the gross proceeds or equivalent in accord-
162 ance with uniform and equitable rules for determining the
163 value upon which such privilege tax shall be levied, corre-
164 sponding as nearly as possible to the gross proceeds from the
165 sale of similar products of like quality or character by other
166 taxpayers, which rules the tax commissioner shall prescribe.

Sec. 3. There shall be an exemption in every case, except as
2 to the privileges taxable under section two (i) of this article,
3 of twenty-five dollars in amount of tax computed under the
4 provisions of this article. A person exercising a privilege
5 taxable hereunder for a fractional part of a tax year shall
6 be entitled to an exemption of the sum bearing the proportion
7 to twenty-five dollars that the period of time the privilege is
8 exercised bears to a whole year. Only one exemption shall
9 be allowed to any one person, whether he exercise one or more
10 privileges taxable hereunder.

11 In computing the tax levied under section two (i) of this
12 article, there shall be deducted from gross income an exemption
13 of six dollars in amount of tax, plus an exemption of four
14 dollars in the case of a married person living with a spouse
15 actually dependent upon such person for support, and an addi-
16 tional exemption of two dollars for each person actually de-
17 pendent upon the taxpayer; but the maximum exemption in
18 every case shall be twenty-four dollars. A person exercising
19 any privilege taxable under section two (i) of this article,
20 whose gross income exceeds six hundred dollars, if single or

21 if married and not living with husband or wife, or whose
22 gross income exceeds one thousand dollars, if married and
23 living with husband or wife dependent upon such person for
24 support, shall file a return or returns as required by sections
25 four and five of this article.

26 The provisions of this article shall not apply to: (a) In-
27 surance companies which pay the state of West Virginia a
28 tax upon premiums; (b) mutual savings banks not having a
29 capital stock represented by shares and nonprofit mutual
30 building and loan associations operated for the exclusive
31 benefit of their members; (c) nonprofit cemetery companies
32 organized and operated for the exclusive benefit of their
33 members; (d) societies, organizations and associations organ-
34 ized and operated for the exclusive benefit of their members
35 and not for profit; and (e) corporations, associations and
36 societies organized and operated exclusively for religious or
37 charitable purposes.

Sec. 4. The taxes levied hereunder shall be payable in
2 quarterly installments on or before the expiration of thirty
3 days from the end of the quarter in which they accrue. The
4 taxpayer shall, within thirty days from the expiration of each
5 quarter, make out an estimate of the tax for which he is liable
6 for such quarter, verify the same by oath, and mail the same
7 together with a remittance in the form required by section
8 eleven of this article for the amount of the tax, to the office
9 of the tax commissioner. The tax commissioner, if he deems it
10 necessary to insure payment of the tax, may require return
11 and payment under this section for other than quarter year
12 periods. In estimating the amount of the tax due for each
13 quarter the taxpayer may deduct one-fourth of the total ex-
14 emption allowed for the year. When the total tax for which
15 any person is liable under this article does not exceed the sum
16 of one hundred dollars in any year, the taxpayer may pay the
17 same quarterly as aforesaid or pay the same at the end of the
18 month next following the close of the tax year.

Sec. 5. On or before thirty days after the end of the tax
2 year each person liable for the payment of a tax under section
3 two of this article shall make a return showing the gross
4 proceeds of sales or gross income of business, trade or calling,
5 and compute the amount of tax chargeable against him in

6 accordance with the provisions of this article and deduct the
7 amount of quarterly payments (as hereinbefore provided),
8 if any, and transmit with his report a remittance in the form
9 required by section eleven of this article covering the residue
10 of the tax chargeable against him to the office of the tax com-
11 sioner; such return shall be verified by the oath of the
12 taxpayer, if made by an individual, or by the oath of the
13 president, vice president, secretary or treasurer of a corpora-
14 tion, if made on behalf of a corporation. If made on behalf
15 of a partnership, joint adventure, association, trust, or any
16 other group or combination acting as a unit, any individual
17 delegated by such firm, copartnership, joint adventure,
18 association, trust or any other group or combination acting
19 as a unit shall make the oath on behalf of the taxpayer. If
20 for any reason it is not practicable for the individual tax-
21 payer to make the oath, the same may be made by any duly
22 authorized agent. The tax commissioner, for good cause
23 shown, may extend the time for making the annual return
24 on the application of any taxpayer and grant such reasonable
25 additional time within which to make the same as may, by
26 him, be deemed advisable.

Sec. 6. If the taxpayer shall make any error in computing
2 the tax assessable against him, the tax commissioner shall
3 correct such error or reassess the proper amount of taxes,
4 and notify the taxpayer of his action by mailing to him
5 promptly a copy of the corrected assessment, and any addi-
6 tional tax for which such taxpayer may be liable shall be
7 paid within ten days after the receipt of such statement.

8 If the amount already paid exceeds that which should
9 have been paid on the basis of the tax so recomputed, the
10 excess so paid shall be immediately refunded to the taxpayer
11 upon the requisition of the tax commissioner to the state auditor,
12 who shall issue his warrant on the treasurer, which shall be
13 payable out of any funds available for the purpose. The tax-
14 payer may, at his election, apply an overpayment credit to
15 taxes subsequently accruing hereunder.

Sec. 7. If any person fail or refuse to make a return,
2 either in whole or in part, or if the tax commissioner has
3 reasonable ground to believe that any return made is so
4 deficient as not to form the basis of a satisfactory assessment

5 of the tax, he may proceed as he deems best to obtain infor-
6 mation on which to base the assessment of the tax. The tax
7 commissioner may by himself or his duly appointed agent,
8 make examination of the books, records and papers, and
9 audit the accounts of any such person, and may take the
10 evidence, administered by himself or his agent, on oath, of
11 any person who he may believe shall be in possession of
12 any relevant information. As soon as possible after procur-
13 ing such information as he may be able to obtain as to any
14 person failing or refusing to make a return, the tax commis-
15 sioner shall proceed to assess the tax and shall notify the
16 person assessed of the amount of the tax. The assessment of
17 the tax by the tax commissioner shall be final as to any person
18 who refused to make a return.

Sec. 8. If any person, having made the return and paid
2 the tax as provided by this article, feels aggrieved by the
3 assessment so made upon him for any year by the tax com-
4 missioner, he may apply to the board of public works by peti-
5 tion, in writing, within thirty days after notice is mailed to
6 him by the tax commissioner, for a hearing and a correction of
7 the amount of the tax so assessed upon him by the tax com-
8 missioner, in which petition shall be set forth the reasons why
9 such hearings should be granted and the amount such tax
10 should be reduced. The board shall promptly consider such
11 petition, and may grant such hearing or deny the same. If
12 denied, the petitioner shall be forthwith notified thereof; if
13 granted, the board shall notify the petitioner of the time and
14 place fixed for such hearing. After such hearing, the board
15 may make such order in the matter as may appear to it just
16 and lawful, and shall furnish a copy of such order to the peti-
17 tioner. Any person improperly charged with any tax and
18 required to pay the same may recover the amount paid, to-
19 gether with interest, in any proper action or suit against the
20 tax commissioner, and the circuit court of the county in
21 which the taxpayer resides or is located shall have original
22 jurisdiction of any action to recover any tax improperly col-
23 lected. It shall not be necessary for the taxpayer to protest
24 against the payment of the tax or to make any demand to
25 have the same refunded in order to maintain such suit. In
26 any suit to recover taxes paid or to collect taxes, the court
27 shall adjudge costs to such extent and in such manner as

28 may be deemed equitable. Upon presentation of a certified
29 copy of a judgment so obtained, the auditor shall issue his
30 warrant upon any funds in the treasury available for the pay-
31 ment thereof.

32 No injunction shall be awarded by any court or judge to
33 restrain the collection of the taxes imposed by this article,
34 or any part of them, due from any person, except upon the
35 ground that the assessment thereof was in violation of the
36 constitution of the United States, or of this state; or that
37 the same were fraudulently assessed; or that there was a
38 mistake made in the amount of taxes assessed upon such
39 person. In the latter case, no such injunction shall be
40 awarded, unless application shall first have been made to the
41 board of public works to correct the alleged mistake and the
42 board shall have refused to do so, which fact shall be stated
43 in the bill, and unless the complainant shall have paid into
44 the treasury of the state all taxes appearing by the bill of
45 complaint to be owing.

Sec. 9. The assessment of taxes herein made and the re-
2 turns required therefor shall be for the year ending on the
3 thirty-first day of December. If the taxpayer, in exercising a
4 privilege taxable under this article, keeps the books reflecting
5 the same on a basis other than the calendar year, he may, with
6 the assent of the tax commissioner, make his annual returns
7 and pay taxes for the year covering his accounting period, as
8 shown by the method of keeping his books.

Sec. 10. The tax imposed by this article shall be in addition
2 to all other licenses and taxes levied by law as a condition
3 precedent to engaging in any business, trade or calling. A
4 person exercising a privilege taxable under this article, subject
5 to the payment of all licenses and charges which are condition
6 precedent to exercising the privilege taxed, may exercise the
7 privilege for the current tax year upon the condition that he
8 shall pay the tax accruing under this article.

Sec. 11. All remittances of taxes imposed by this article
2 shall be made to the tax commissioner, by bank draft, certified
3 check, cashier's check, money order, or certificate of deposit,
4 who shall issue his receipts therefor to the taxpayers and
5 shall pay the moneys into the state treasury to be kept and
6 accounted for as provided by law.

Sec. 12. A tax due and unpaid under this article shall be
2 a debt due the state and shall be a lien upon the property
3 used in the business or occupation upon which it is imposed.
4 The lien shall have the same priority as the lien of the general
5 property tax. A penalty of five per cent of the tax shall be
6 added for any default for thirty days or less and for each
7 succeeding thirty days elapsing before payment there
8 shall be added an additional penalty of one per cent. The
9 additional one per cent penalty shall not apply until a ten day
10 notice of delinquency shall have been sent to the taxpayer.

Sec. 13. The tax commissioner may by himself, or a duly
2 appointed agent mentioned in section twenty-two of this article,
3 collect taxes due and unpaid under this article, together with all
4 accrued penalties, by action in assumpsit, motion for judgment,
5 or other appropriate proceeding in the circuit court of the
6 county in which the privilege taxed had been exercised. After
7 delinquency shall have continued sixty days, the tax commis-
8 sioner may proceed, by himself or agent, in the circuit court of
9 the county in which the privilege taxed had been exercised to
10 obtain an injunction restraining the further exercise of the
11 privilege until full payment shall have been made of all taxes
12 and penalties due under this article. In any proceeding under
13 this section upon judgment or decree for the plaintiff he shall
14 be awarded his costs.

Sec. 14. The tax imposed by this article shall be a lien
2 upon the property of any person subject to the provisions
3 hereof who shall sell out his business or stock of goods, or
4 shall quit business, and such person shall be required to make
5 the return provided for under section five of this article with-
6 in thirty days after the date he sold out his business or stock
7 of goods, or quit business, and his successor in business shall
8 be required to withhold sufficient of the purchase money to
9 cover the amount of such taxes due and unpaid until such
10 time as the former owner shall produce a receipt from the
11 tax commissioner showing that the taxes have been paid. If
12 the purchaser of a business or stock of goods shall fail to
13 withhold purchase money as above provided, and the taxes
14 shall be due and unpaid after the thirty day period allowed,
15 he shall be personally liable for the payment of the taxes
16 accrued and unpaid on account of the operation of the business
17 by the former owner.

Sec. 15. The secretary of state shall withhold the issuance of any certificate of dissolution or withdrawal in the case of any corporation organized under the laws of this state, or organized under the laws of another state and admitted to do business in this state, until the receipt of a notice from the tax commissioner to the effect that the tax levied under this article against any such corporation has been paid or provided for, if any such corporation is a taxpayer under this article, or until he shall be notified by the tax commissioner that the applicant is not subject to pay a tax hereunder.

Sec. 16. All state, county and district officers and agents making contracts on behalf of the state of West Virginia or any political subdivision thereof shall withhold payment in the final settlement of such contracts until the receipt of a certificate from the tax commissioner to the effect that all taxes levied or accrued under this act against the contractor with respect to such contracts have been paid.

Sec. 17. In the distribution, voluntary or compulsory, in receivership, bankruptcy or otherwise, of the estate of any person, firm or corporation, all taxes due and unpaid under this article shall be paid from the first money available for distribution in priority to all claims, except taxes and debts due the United States. Any person charged with the administration of an estate who shall violate the provisions of this section shall be personally liable for any taxes accrued and unpaid under this article, which are chargeable against the person, firm or corporation whose estate is in administration.

Sec. 18. The tax commissioner may, with the approval of the governor, appoint not more than twelve agents for the entire state for the collection of delinquent taxes, delinquent license taxes and all penalties; all delinquent taxes, delinquent license taxes and all penalties so collected shall be, by the tax commissioner, covered into the state treasury to the credit of the state general fund. The salary of every such agent appointed shall be determined by the state tax commissioner by and with the approval of the governor.

Sec. 19. The tax commissioner for the more effective collection of the tax may file with the clerk of the county court of any county a certified copy of an assessment of taxes under this article. A certificate so filed shall be recorded in a book provided for the purpose and thereafter shall constitute bind-

6 ing notice of the lien created by this article upon all lands of
7 the taxpayer located in the county as against all parties whose
8 interest arose after such recordation. Upon payment of taxes
9 delinquent under this article the lien of which shall have been
10 recorded the tax commissioner shall certify in duplicate the
11 fact and amount of payment and the balance due, if any, and
12 shall forward the certificates, one to the taxpayer and one to
13 the clerk of the county court of the county where the taxpayer
14 shall have been listed as delinquent. The clerk of the county
15 court shall record the certificate in the book in which releases
16 are recorded, without payment of any additional fee. From
17 the date that such a certificate is admitted to record the land
18 of the taxpayer in the county shall be free from any lien for
19 taxes under this article accrued to the date that the certificate
20 was issued.

Sec. 20. The tax commissioner may distrain upon any
2 goods, chattels, or intangibles represented by negotiable evi-
3 dences of indebtedness, of any taxpayer delinquent under
4 this article for the amount of all taxes and penalties accrued
5 and unpaid hereunder. The commissioner may require the
6 assistance of the sheriff of any county of the state in levying
7 such distress in the county of which such sheriff is an officer.
8 A sheriff so collecting taxes due hereunder shall be entitled
9 to compensation in the amount of all penalties collected over
10 and above the principal amount of the tax due, but in no
11 case shall such compensation exceed twenty-five dollars. All
12 taxes and penalties so collected shall be reported within ten
13 days after collection to the tax commissioner, who shall pre-
14 scribe by general regulation the manner of remittance of
15 such funds and of allowing the collecting officer the com-
16 pensation due him under this section.

Sec. 21. It shall be unlawful for any person to refuse to
2 make the return provided to be made in section five of this
3 article; or to make any false or fraudulent return or false
4 statement in any return, with intent to defraud the state or
5 to evade the payment of the tax, or any part thereof, im-
6 posed by this article; or for any person to aid or abet another
7 in any attempt to evade the payment of the tax, or any part
8 thereof, imposed by this article; or for the president, vice
9 president, secretary or treasurer of any corporation to make
10 or permit to be made for any corporation or association any

11 false return, or any false statement in any return required
12 in this article, with the intent to evade the payment of any
13 tax hereunder. And any person violating any of the pro-
14 visions of this section shall be guilty of a misdemeanor and,
15 on conviction thereof, shall be fined not more than one thou-
16 sand dollars or imprisoned not exceeding one year in the
17 county jail or punished by both fine and imprisonment, at
18 the discretion of the court, within the limitations aforesaid.
19 In addition to the foregoing penalties, any person who shall
20 knowingly swear to or verify any false or fraudulent return,
21 or any return containing any false or fraudulent statement,
22 with the intent aforesaid, shall be guilty of the offense of
23 false swearing, and, on conviction thereof, shall be punished
24 in the manner provided by law. Any corporation for which
25 a false return, or a return containing a false statement, as
26 aforesaid, shall be made, shall be guilty of a misdemeanor
27 and shall be punished by a fine of not more than one thousand
28 dollars. The circuit and criminal courts of the county in
29 which the offender resides, or, if a corporation, in which it
30 carries on business, shall have concurrent jurisdiction to en-
31 force this section.

Sec. 22. The administration of this article is vested in
2 and shall be exercised by the tax commissioner who shall pre-
3 scribe forms and reasonable rules of procedure in conformity
4 with this article for the making of returns and for the ascer-
5 tainment, assessment and collection of the taxes imposed
6 hereunder; and the enforcement of any of the provisions of
7 this article in any of the courts of the state shall be under
8 the exclusive jurisdiction of the tax commissioner, who shall
9 require the assistance of and act through the prosecuting
10 attorney of any county where suit is brought; but the prose-
11 cuting attorney of any county shall receive no fees or com-
12 pensation for services rendered in enforcing this article in
13 addition to the salary paid by the county to such officer.

Sec. 23. If a part of this article is for any reason declared
2 unconstitutional, or otherwise invalid, the decision of the
3 court shall not affect the validity of any remaining portion.

ARTICLE XII-A.

Section 1. When used in this article the term "company"
2 shall include any partnership, joint adventure, joint stock
3 company or association.

4 The phrase "motor vehicle carrier" shall mean any person
5 engaged in the transportation of passengers or property, or
6 both, for compensation by motor propelled vehicle for the
7 operation of which a permit or certificate of convenience or
8 convenience and necessity is required by law.

9 The term "ton-mile" shall be a unit of transportation
10 meaning transportation of one net ton in weight a distance
11 of one mile.

12 The term "passenger-mile" means the transportation of
13 one passenger a distance of one mile.

14 The term "car-mile" means the operation of a railroad car
15 over a distance of one mile.

16 The term "barrel-mile" means the transportation of the
17 equivalent of a barrel of oil a distance of one mile.

18 The phrase "one thousand cubic feet-mile" means the
19 transportation of one thousand cubic feet of gas, measured
20 at sixty degrees Fahrenheit and a pressure of thirty inches
21 of mercury a distance of one mile.

22 The term "wire-mile" means the equivalent of a single
23 metallic telephone or telegraph conductor one mile in length.

Sec. 2. Every railroad corporation doing business in the
2 state shall pay an annual privilege tax for each calendar year
3 for the privilege of doing business in the state. The tax shall
4 be five-tenths of one per cent of the value of the total prop-
5 erty, tangible and intangible, of the corporation in the state as
6 determined by the assessment made during the calendar year
7 by the board of public works for the purposes of the general
8 property tax.

9 It is the purpose of this section to levy a privilege tax upon
10 railroad corporations for the privilege of engaging in busi-
11 ness conducted entirely within this state, and it is not intended
12 to impose any tax or charge upon interstate or foreign com-
13 merce. The return required for purposes of the general prop-
14 erty tax shall suffice for purposes of this section.

15 No public corporation of the state shall levy a license or
16 privilege tax on the business taxed under this section.

Sec. 3. Every person or corporation operating a steamboat,
2 steamship or other floating property for the transportation
3 of passengers or freight, and doing business within the state
4 shall pay to the state an annual privilege tax for each calendar
5 year. The tax shall be two and one-half per cent of the gross in-

6 come from business beginning and ending entirely within the
7 state and a like percentage of its remaining gross income earned
8 within the state, to be determined as follows:

9 Ascertain the total gross income from all business not con-
10 fined to this state which begins, ends or passes through the
11 state and determine both the total ton-miles of freight so
12 hauled and the ton-miles of such business actually done within
13 the limits of this state. The tax shall be assessed against a
14 sum bearing the proportion to the amount of gross income
15 so determined that the ton-miles of such business done in this
16 state bear to the total ton-miles of such business. This tax
17 shall be in addition to all other license taxes or charges to
18 which such taxpayers are subject under the law of this state,
19 and shall be measured in terms of gross income for the year
20 ending December thirty-first preceding.

Sec. 4. Every motor vehicle carrier operating on the
2 public highways of this state and every railroad car corpora-
3 tion, express corporation or company, pipe line corporation,
4 telephone and telegraph corporation doing business in the
5 state shall pay to the state an annual privilege tax for each
6 calendar year for the privilege of doing business in the state.
7 This tax shall be equal to the gross income from all business
8 beginning and ending within the state multiplied by the
9 respective rates as follows: Motor vehicle carriers, railroad
10 car corporations, express corporations or companies, one and
11 one half per cent; pipe line corporations, three and one-half
12 per cent; telephone corporations two and three-fourths per
13 cent; and telegraph corporations, five per cent.

Sec. 5. In addition to the tax imposed in the preceding
2 sections, every motor vehicle carrier operating on the public
3 highways of the state and every railroad corporation, rail-
4 road car corporation, express corporation or company, pipe
5 line corporation, telephone and telegraph corporation doing
6 business in this state shall pay an annual privilege tax for
7 each calendar year for the privilege of doing business in the
8 state, to be determined as follows:

9 (a) The tax as to motor vehicle carriers shall be equal
10 to one and one-half per cent of the net income earned within
11 the state, such income to be determined by ascertaining a
12 sum bearing the proportion to the total net income from
13 passenger and freight traffic that the business done in West

14 Virginia, measured in passenger-miles of passengers carried in
15 the state as to passenger traffic, and in ton-miles as to freight
16 traffic, bears to all business done, measured in like fashion;

17 (b) The tax as to railroad corporations shall be equal to
18 four per cent of the net income earned within the state, such
19 income to be determined by ascertaining a sum bearing the
20 proportion to total net income of the corporation that its busi-
21 ness done in West Virginia, measured in ton-miles, bears to
22 all business done, measured in like fashion;

23 (c) The tax as to railroad car corporations and as to ex-
24 press corporations or companies shall be one and one-half per
25 cent of net income earned within the state, such income to be
26 determined by ascertaining a sum bearing the proportion to
27 the total net income of the corporation or company that its
28 business done in West Virginia, measured in car-miles of car
29 operation, bears to all business done, measured in like fashion;

30 (d) The tax as to pipe line corporations shall be three and
31 one-half per cent of net income earned within the state, such
32 income to be determined by ascertaining a sum bearing the pro-
33 portion to the total net income of the corporation that its busi-
34 ness done in West Virginia, measured in barrel-miles in the
35 case of oil and of thousand cubic feet-miles in the case of gas,
36 bears to all business done, measured in like fashion;

37 (e) The tax as to telephone and telegraph corporations shall
38 be two and three-fourths per cent of net income earned within
39 the state as to telephone corporations, and five per cent as to
40 telegraph corporations, such income to be determined by
41 ascertaining a sum bearing the proportion to the total net
42 income of the corporation that its business done in West Vir-
43 ginia, measured in wire-miles, bears to all business done,
44 measured in like fashion;

45 (f) In computing the tax imposed by this section the total
46 net income of a taxpayer, who shall have been taxed under
47 the preceding section, shall be reduced by an amount bearing
48 the proportion to such total net income that the gross income
49 of the taxpayer which is the measure of the tax under the pre-
50 ceding section bears to its total gross income from all business
51 done wherever conducted. This section shall not apply to a
52 taxpayer taxed under the preceding section and engaged exclu-
53 sively in business within this state.

Sec. 6. The taxpayer under this article shall file an annual

2 return with the state tax commissioner upon a form pre-
3 scribed by the commissioner setting out the following and
4 such other information as that officer may deem necessary
5 or useful in aid of the assessment and computation of the tax:

6 (1) The gross income, from all business done within the
7 state, namely, business beginning and ending entirely within
8 the state;

9 (2) The total gross income of the business wherever con-
10 ducted;

11 (3) The net income of the business wherever conducted.
12 For this purpose the determination of net income for purposes
13 of the net income tax due the government of the United States
14 under the laws of the United States shall be taken as final;

15 (4) The total amount of business done in this state, meas-
16 ured in the units hereinbefore prescribed. The tax commissioner
17 may designate a single month in the tax year as the period for
18 which the amount of business done in this state, measured in
19 the units hereinbefore prescribed, shall be reported and shall
20 fix the total amount of business done in the state for the whole
21 tax year by multiplying the amount determined for the desig-
22 nated month by twelve. For the tax period from the date
23 this act takes effect through December thirty-first, one thou-
24 sand nine hundred thirty-three, the tax commissioner may
25 designate any month in that period for purposes hereof;

26 (5) The total amount of business done, wherever con-
27 ducted, measured in the units hereinbefore prescribed.

28 Every return shall be signed and sworn to by the taxpayer,
29 if a natural person, and if a corporation, shall be signed and
30 sworn to by its president, vice president, secretary or principal
31 accounting officer. A return may be made at the same time
32 and as a supplement to the return required for purposes of
33 the general property tax and the tax commissioner may make
34 use of relevant information in both in assessing the tax im-
35 posed by this article.

Sec. 7. The assessment of taxes under this article and the
2 returns required therefor shall be for the year ending on the
3 thirty-first day of December. If the taxpayer in exercising
4 a privilege taxable under this article, keeps the books reflect-
5 ing the same on a basis other than the calendar year, he may,
6 with the assent of the tax commissioner, make his annual
7 returns and pay taxes for the year covering his accounting

8 period as shown by the method of keeping his books. In
9 case of the exercise of a privilege taxable hereunder for a
10 fractional part of a tax year, the tax shall be computed in
11 like proportion to the tax for a full year.

Sec. 8. The total amount of tax imposed by this article
2 shall be paid on or before the first day of April following
3 the close of the calendar year, or if the return should be
4 made on the basis of a taxpayer's fiscal year, then, on the
5 first day of the fourth month following the close of the fiscal
6 year. The taxpayer may by writing, filed with the tax com-
7 missioner, elect to pay the tax in four equal quarterly install-
8 ments in which case the first installment shall be paid on the
9 date hereinabove prescribed, the second installment shall be
10 paid on the first day of the fourth month, the third install-
11 ment shall be paid on the first day of the seventh month, and
12 the fourth installment on the first day of the tenth month,
13 after such date.

Sec. 9. The tax imposed under this article shall be in
2 addition to all license taxes or charges to which the privileges
3 taxed herein are subject under the law of this state. It is
4 the purpose of this article to rest a fair share of the tax
5 burden, commensurate with the benefits received, upon those
6 exercising privileges taxed hereby within this state.

Sec. 10. The amount of the tax imposed by this article
2 shall be a debt due the state and shall be a lien on all the
3 property and assets of the taxpayers within the state prior
4 to all other liens and charges except the lien of property
5 taxes with which the lien hereby created shall be on a parity.
6 A penalty of one per cent per month shall be added to the
7 amount of the tax for each month of delinquency and shall be
8 secured by the lien herein provided.

Sec. 11. The tax commissioner shall, between the first
2 and fifteenth day of February in every year, mail a notice
3 of delinquency, together with a statement of the total amount
4 of taxes and penalties due, to the last known postoffice
5 address of each delinquent taxpayer. The cost of publication
6 hereunder shall be paid by the tax commissioner, when al-
7 lowed by the board of public works, out of the moneys in the
8 treasury.

9 Not less than thirty days after giving notice of delinquency
10 as provided in the preceding paragraph the tax commis-

11 sioner shall certify to the secretary of state a list of all
12 taxpayers delinquent under this article. The secretary of
13 state shall preserve the list in his office and a certificate
14 from him that any taxpayer mentioned in such certificate is
15 delinquent in the payment of the tax imposed by this article
16 shall be prima facie evidence thereof. Within thirty days
17 after receipt of such certificate by the secretary of state it
18 shall be the duty of the attorney general to institute a suit
19 in equity in Kanawha county, in the name of the state, in
20 which such delinquent taxpayers shall be made defendants.
21 In the bill so filed it shall be sufficient to allege that the de-
22 fendants have failed to pay taxes hereunder, and that each
23 of them justly owes the state the amount of privilege tax and
24 penalties stated therein, which amount shall be computed up
25 to the first day of the month succeeding that in which the
26 bill was filed. No such defendant shall plead that the tax
27 commissioner failed to give notice as prescribed in this section.

28 If upon the hearing of such suit it shall appear to the
29 court that any defendant has failed to pay any such tax and
30 accrued penalties, the court shall enter a decree against such
31 defendant for the amount due, including the costs of the
32 proceeding or such portion thereof as the court shall appor-
33 tion to be paid by such defendant. If the decree be not paid
34 when made the court shall enter a decree forfeiting the
35 charter, rights and franchise of such defendant, if it be a
36 domestic corporation, revoking the franchises and privileges
37 to hold property and transact business in the state, if it be
38 a foreign corporation, and revoking all franchises, licenses
39 and privileges to conduct the business engaged in if such
40 defendant be an individual. The money decreed may be col-
41 lected by the tax commissioner as other claims due the state
42 are collected.

43 The court may on motion of the attorney general grant an
44 injunction against any such defendant restraining the exer-
45 cise of any privilege or the transaction of any business within
46 the state until such decree including the costs be paid. When
47 two or more taxpayers are included in one suit the court
48 shall apportion the cost thereof among them as it may deem
49 just.

Sec. 12. It shall be unlawful for any person to refuse to
2 make the return required to be made by section six of this

3 article; or to make any false or fraudulent return or false
4 statement in any return, with intent to defraud the state or
5 to evade the payment of the tax, or any part thereof, im-
6 posed by this article; or for any person to aid or abet another
7 in any attempt to evade the payment of the tax, or any part
8 thereof, imposed by this article; or for the president, vice
9 president, secretary or treasurer of any corporation to make,
10 or permit to be made, for any corporation or association any
11 false return or any false statement in any return required
12 in this article, with the intent to evade the payment of any
13 tax hereunder. A person violating any of the provisions
14 of this section shall be guilty of a misdemeanor, and, on
15 conviction thereof, shall be fined not more than one thousand
16 dollars or imprisoned not exceeding one year in the county
17 jail or punished by both fine and imprisonment, at the dis-
18 cretion of the court, within the limitations aforesaid. In
19 addition to the foregoing penalties, any person who shall
20 knowingly swear to or verify any false or fraudulent return,
21 or any return containing any false or fraudulent statement,
22 with the intent aforesaid, shall be guilty of the offense of
23 false swearing, and, on conviction thereof, shall be punished
24 in the manner provided by law. Any corporation for which
25 a false return, or a return containing a false statement as
26 aforesaid shall be made, shall be guilty of a misdemeanor
27 and may be punished by a fine of not more than one thou-
28 sand dollars. The circuit and criminal courts of the county
29 in which the offender resides, or, if a corporation, in which
30 it carries on business, shall have concurrent jurisdiction to
31 enforce this section.

Sec. 13. If a part of this article is for any reason de-
2 clared unconstitutional, or otherwise invalid, the decision of
3 the court shall not affect the validity of any remaining
4 portion.

CHAPTER 34

(Senate Bill No. 28—By Mr. Taylor)

AN ACT to amend and reenact section forty-nine, article twelve, chapter eleven, of the code of West Virginia, one thousand nine hundred thirty-one, relating to license taxes on taxicab stands, merry-go-rounds and other amusement devices.

[Passed May 25, 1933; in effect from passage. Approved by the Governor.]

SEC.

29. License tax on taxicab stands, merry-go-rounds and other amusement devices; amount of tax when doll baby rack, artful dodger, etc., operated within a

SEC.

street or other carnival in the vicinity of another street or carnival; period for which license is granted.

Be it enacted by the Legislature of West Virginia:

That section forty-nine, article twelve, chapter eleven, of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 49. On every license to keep or maintain a taxicab stand or any place of like kind or character, the sum of ten dollars per year. On every license to operate a roller coaster, a merry-go-round, scenic railway, or like device, for one week, ten dollars; for three months, thirty dollars; for six months, fifty dollars; and for one year, one hundred dollars. On every license to run or operate a doll baby rack, or cane rack, or knife rack, striking machine, jingle board, punch board, artful dodger, candy wheel, or other scheme or device by which merchandise or other thing of value is disposed of by game of chance, or like device, or human laundry device, or dip device, the tax shall be five dollars for one week; twenty dollars for four months; thirty dollars for six months, and fifty dollars for one year: *Provided, however,* That in the event a doll baby rack, or cane rack, or knife rack, striking machine, jingle board, punch board, artful dodger, candy wheel or other scheme or device by which merchandise or other thing of value is disposed of by game of chance or like device or human laundry device, or dip device are run or operated within a street or other carnival or show or in the vicinity of a street or other carnival or show the license tax shall be as charged in section sixty-three of this article: *Provided further,* That licenses under this section may be issued for the periods provided in

24 section seventeen of this article and the license tax charged as
25 provided therein.

CHAPTER 35

(Com. Sub. for House Bill No. 10—Originating in the Committee
on the Judiciary)

AN ACT to amend and reenact section fifty-seven, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter fifty-five of the acts of the legislature of one thousand nine hundred thirty-one, relating to hawkers and peddlers.

[Passed May 10, 1933; in effect ninety days from passage. Approved by the Governor.]

SEC.

57. License tax on hawkers and peddlers; display of license or license plate; definition of words peddler and hawker; exceptions;

SEC.

license receipt from county clerk to show exemption; penalty for hawker or peddler doing business without license.

Be it enacted by the Legislature of West Virginia:

That section fifty-seven, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter fifty-five of the acts of the legislature of one thousand nine hundred thirty-one, relating to hawkers and peddlers be amended and reenacted to read as follows:

Section 57. On every license to act as hawker or peddler, if
2 the person licensed travel without a horse or vehicle, one hun-
3 dred dollars; if he travel with one horse, with or without a
4 wagon or other vehicle, two hundred dollars; if he travel with
5 two or more horses, with or without a vehicle, or if he travel
6 with a motor vehicle of two tons capacity or less, three hun-
7 dred dollars, and a like sum for each and every additional
8 vehicle; or, if he travel with a motor vehicle of more than two
9 tons capacity, one hundred dollars for each additional ton or
10 fraction thereof, and a like sum for each and every vehicle.
11 Such license or the license plate hereinafter set out, shall be
12 placed in some conspicuous place in his wagon or other vehicle
13 or about his pack.
14 Except as hereinafter expressly provided the words "ped-

15 dler and hawker," for the purpose of this article shall mean
16 and include all persons, firms, associations or corporations who
17 or which offer for sale, or sell and deliver at the same time,
18 goods, wares, merchandise, agricultural, horticultural, and/or
19 other products and articles to merchants, wholesale dealers, re-
20 tailers or consumers, except those selling from or at a bona fide
21 fixed and stationary place of business, or those having such
22 place of business within the state of West Virginia: *Provided*,
23 *however*, That nothing in this article shall be construed as
24 levying a license on farmers or others, selling products of their
25 own production, individually or collectively: *And provided*
26 *further*, That nothing in this article shall be construed as levy-
27 ing a license tax on an agent or traveling salesman of a manu-
28 facturer or wholesaler who may directly supply articles manu-
29 factured or handled by such manufacturer or wholesaler to cus-
30 tomers engaged in merchandising at retail at bona fide fixed and
31 stationary places of business: *Provided further*, That each
32 farmer or citizen as hereinabove exempt, except as hereinafter
33 provided, shall obtain from the clerk of any county court a
34 license receipt, without cost, showing that he is so exempt, and
35 which shall run for the period of one year after the issuance
36 thereof, but he shall make an affidavit as to the facts entitling
37 him to such exemption on a form to be prescribed by the tax
38 commissioner of this state: *And provided further*, That the
39 above provisions as to obtaining license receipt showing exemp-
40 tion, shall not be obligatory upon but only permissible as to any
41 farmer or citizen for operation solely within the county of his
42 residence or county adjoining thereto. If any person for him-
43 self or for another person shall sell goods, wares and merchan-
44 dise and/or other products set out above, as a hawker or peddler,
45 without having such license as required above, he shall be guilty
46 of a misdemeanor, and upon conviction shall be fined in a sum
47 of not less than twenty-five dollars nor more than one hundred
48 dollars, or be confined in the county jail not exceeding sixty
49 days or both such fine and imprisonment, in the discretion of
50 the court; and each day or part thereof upon which said person
51 or persons shall act as a peddler or hawker without such license
52 or license receipt, shall constitute a separate offense hereunder.

*CHAPTER 36

(House Bill No. 115—By Mr. Hiner)

AN ACT to amend and reenact sections one, two, three, four, five, eleven, thirteen and twenty, article eleven, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to inheritance, transfer and estate taxes, and to add thereto new sections to be designated sections fourteen-(a) and twenty-eight.

[Passed June 3, 1933; in effect from passage. Approved by the Governor.]

SEC.

1. Upon what transfers of property, in trust or otherwise, a tax is imposed.
2. Rate of tax according to, or lack of, relationship, when property does not exceed fifty thousand dollars in value.
3. Rate of tax on excess over fifty thousand dollars.
- 4(a). Transfers to state or political subdivision exempt.
- 4(b). Transfer of less than one hundred dollars exempt.
- 4(c). Exemptions on property transferred to widow of a deceased person.
- 4(d). Exemptions on property transferred to other persons within classes prescribed in section four(a).
5. Definition of market value; allowances for certain debts in fixing market value; deduction from market value of value at which assessed for inheritance or transfer tax within three years prior to death of decedent.
11. Discount if tax paid within six months after death of transferor; when tax bears interest and penalty; suspension of payment of tax; penalties and interest when necessary litigation pending.

SEC.

13. Reports by county courts and clerks in decedent estates to tax commissioner; what report to show; report to tax commissioner by any other person; reports to be confidential; tax commissioner to enforce act and collect taxes.
- 14-(a). No domestic corporation to transfer bonds or stocks standing in name of decedent until tax commissioner consents; when such corporation personally liable for tax and penalty; when foreign corporation personally liable for tax; reports by corporations when required by tax commissioner.
20. When tax commissioner, with assistance of prosecuting attorney, to collect tax by court action; action of assumpsit to collect taxes; prosecuting attorney to receive no additional compensation for his services; amount of statutory attorney fee to be assessed and paid into state treasury; when tax commissioner may compromise amount of tax.
28. Additional tax on net estate of resident or nonresident dying after passage of act; how amount of additional tax computed.

Be it enacted by the Legislature of West Virginia:

That sections one, two, three, four, five, eleven, thirteen and twenty, article eleven, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, are hereby amended and reenacted and sections fourteen-(a) and twenty-eight, are hereby added thereto, to read as follows:

Section 1. A tax, payable into the treasury of the state, shall
 2 be imposed upon the transfer, in trust, or otherwise, of any
 3 property, or interest therein, real, personal, or mixed, if such
 4 transfer be; (a) By will or by laws of this state regulating

*See chapter forty-two, acts 1933 regular session, in this volume.

5 descent and distribution from any person who is a resident of
6 the state at the time of his death and who shall die seized or
7 possessed of property; (b) By will or by laws regulating descent
8 and distribution of property within the state, or within its
9 taxing jurisdiction, and the decedent was a nonresident of the
10 state at the time of his death; (c) By a resident, or be of
11 property within the state, or within its jurisdiction, by a non-
12 resident, by deed, grant, bargain, sale or gift, made in contem-
13 plation of the death of the grantor, bargainor or donor, or
14 intended to take effect in possession or enjoyment at or after
15 such death. Every transfer by deed, grant, bargain, sale or
16 gift, made within three years prior to the death of the grantor,
17 bargainor, vendor, or donor, of value of five hundred dollars, or
18 in excess thereof, at the time of such transfer in the nature of
19 final disposition, or distribution of an estate, and without ade-
20 quate valuable consideration, shall be construed to have been
21 made in contemplation of death within the meaning of this
22 article; (d) If any person shall transfer any property which he
23 owns, or shall cause any property, to which he is absolutely
24 entitled, to be transferred to, or vested in himself and any other
25 person jointly so that the title therein, or in some part thereof,
26 vest no survivorship in such other person, a transfer shall be
27 deemed to occur and to be taxable under the provisions of this
28 article upon the vesting of such title; (e) Whenever any person
29 shall exercise a power of appointment derived from any dispo-
30 sition of property made, such appointment when made shall be
31 deemed a transfer taxable under the provisions of this article,
32 in the same manner as though the property to which such ap-
33 pointment relates belonged absolutely to the donee of such
34 power and had been bequeathed or devised by such donee by
35 will; and whenever any person possessing such a power of ap-
36 pointment so derived shall omit or fail to exercise the same
37 within the time provided therefor, in whole or in part, a transfer
38 taxable under the provisions of this article shall be deemed to
39 take place to the extent of such omission or failure, in the same
40 manner as though the person thereby becoming entitled to the
41 possession or enjoyment of the property to which such power
42 related had succeeded thereto by a will of the donee of the

43 power failing to exercise such power, and shall take effect at
44 the time of such omission or failure.

Sec. 2. When the property or any beneficial interest therein
2 passes by any such transfer where the amount of the property
3 considered as a unit shall exceed in value the exemption herein-
4 after specified, and shall not exceed in value fifty thousand
5 dollars, the tax hereby imposed shall be; (a) Where the person
6 or persons entitled to any beneficial interest in such property
7 shall be the wife, husband, child, stepchild, or the descendants
8 of a living or deceased child per stirpes, or father or mother of
9 the decedent, at the rate of three per cent of the market value
10 of such interest in such property; (b) Where the person or
11 persons entitled to any beneficial interest in such property
12 shall be the brother or sister of the decedent, and the term
13 brother or sister shall include a brother or sister of the
14 half blood, at the rate of four per cent of the market value of
15 such interest in such property; (c) Where the person or per-
16 sons entitled to any beneficial interest in such property shall
17 be further removed in relationship from the decedent than
18 brother or sister, the rate of seven per cent of the market
19 value of such interest in such property; (d) Where the person
20 or persons entitled to any beneficial interest in such property
21 shall be of no blood relation or strangers to the decedent, or
22 institutions, corporate or otherwise, the rate of ten per cent of
23 the market value of such interest in such property.

Sec. 3. When the market value of any such property con-
2 sidered as a unit exceeds fifty thousand dollars, the rate of tax
3 upon such excess shall be as follows: (a) Upon all in excess
4 of fifty thousand dollars, up to and not exceeding one hundred
5 fifty thousand dollars, the rate shall be as follows: Transfers
6 to those persons in (subdivision) (a) of section two, five per
7 cent; transfers to those persons in (subdivision) (b) of section
8 two, six per cent; transfers to those persons in (subdivision)
9 (c) of section two, nine per cent; transfers to those persons in
10 (subdivision) (d) of section two, twelve per cent; (b) Upon all
11 in excess of one hundred fifty thousand dollars, up to and not
12 exceeding three hundred thousand dollars, the rate shall be
13 as follows: Transfers to those persons in (subdivision) (a) of
14 section two, seven per cent; transfers to those persons in (sub-

15 division (b) of section two, eight per cent; transfers to those
16 persons in subdivision (c) of section two, eleven per cent; trans-
17 fers to those persons in subdivision (d) of section two, fourteen
18 per cent; (c) Upon all in excess of three hundred thousand
19 dollars, up to and not exceeding five hundred thousand dollars,
20 the rate shall be as follows: Transfers to those persons in sub-
21 division (a) of section two, nine per cent; transfers to those
22 persons in subdivision (b) of section two, ten per cent; trans-
23 fers to those persons in subdivision (c) of section two, fifteen
24 per cent; transfers to those persons in subdivision (d) of sec-
25 tion two, eighteen per cent; (d) Upon all in excess of five hun-
26 dred thousand dollars, up to and not exceeding one million
27 dollars, the rate shall be as follows: Transfers to those persons
28 in subdivision (a) of section two, eleven per cent; transfers
29 to those persons in subdivision (b) of section two, fourteen per
30 cent; transfers to those persons in subdivision (c) of section
31 two, twenty per cent; transfers to those persons in subdivision
32 (d) of section two, twenty-four per cent; (e) Upon all in
33 excess of one million dollars the rates shall be as follows:
34 Transfers to those persons in subdivision (a) of section two,
35 thirteen per cent; transfers to those persons in subdivision (b)
36 of section two, eighteen per cent; transfers to those persons in
37 subdivision (c) of section two, twenty-five per cent; transfers
38 to those persons in subdivision (d) of section two, thirty per
39 cent.

Sec. 4. (a) All property transferred to the state or to any
2 county, school district, or municipal corporation thereof for
3 public purposes shall be exempt from taxation under this article.

4 (b) No transfer of less than one hundred dollars shall be
5 taxable under this article. For this purpose all transfers from
6 a decedent to the same transferee shall be treated as a unit.

7 (c) Property transferred to a widow of a deceased person
8 shall be allowed exemptions from taxes under this article as
9 follows: (1) Transfers not in excess of fifteen thousand dol-
10 lars shall be entirely exempt; (2) Transfers in excess of fifteen
11 thousand dollars up to and not exceeding twenty-five thousand
12 dollars shall have an exemption determined by subtracting from
13 fifteen thousand dollars, the difference between fifteen thousand
14 dollars and the amount of the transfer; (3) There shall be no

15 exemption in the case of a transfer in excess of twenty-five
16 thousand dollars.

17 (d) Property transferred to any person within the classes
18 described in subdivision (a) of section two other than a wife
19 shall be allowed exemption from taxes under this article as
20 follows: (1) Transfers not in excess of five thousand dollars
21 shall be entirely exempt; (2) Transfers in excess of five thou-
22 sand dollars up to and not exceeding ten thousand dollars shall
23 have an exemption determined by subtracting from five thou-
24 sand dollars, the difference between five thousand dollars and
25 the amount of the transfer; (3) Transfers in excess of ten
26 thousand dollars shall be allowed no exemption.

27 The descendants of any child referred to in subdivision (a)
28 of section two shall be allowed the exemption of the person they
29 represent per stirpes and not per capita.

Sec. 5. The market value of property is its actual market
2 value after deducting debts and encumbrances for which the
3 same is liable, and to the payment of which it shall actually
4 be subjected. In fixing such market value, allowances shall not
5 be made for debts incurred by the decedent, or encumbrances
6 made by him, unless such debts or encumbrances were incurred
7 or created in good faith for an adequate consideration, nor for
8 any debt in respect whereof there is a right to reimbursement
9 from any other estate or person, unless such reimbursement
10 from any other estate or person cannot be obtained.

11 For the purpose of the tax there shall be deducted from the
12 market value of the property transferred the value at which
13 it was assessed for any inheritance or transfer tax paid to the
14 state of West Virginia upon a transfer to the decedent at any
15 time within three years prior to the death of the decedent. This
16 paragraph shall apply only to transferees designated in sub-
17 divisions (a) and (b) of section two of this article.

Sec. 11. All taxes imposed by this article shall be due and
2 payable at the death of the transferor and if paid within six
3 months after the death of the transferor a discount of three
4 per cent shall be allowed and deducted. If not paid within
5 twelve months after the death of the transferor taxes due under
6 this article shall bear interest at the rate of ten per centum
7 per annum, to be computed from the expiration of twelve
8 months from the date of the death of the transferor until paid,

9 and a penalty of five per cent shall be added. The tax commis-
10 sioner may suspend payment of such taxes, penalties and inter-
11 est if there be necessary litigation pending at the time such
12 taxes are due and payable, which involves the estate, or for
13 other good and sufficient cause. Suits and actions brought for
14 the purpose of defeating the payment of any such taxes, pen-
15 alties and interest, shall not be deemed necessary litigation
16 within the meaning of this section.

Sec. 13. The county courts of all counties of the state, or the
2 clerks thereof, shall make reports in all decedent estates and in
3 all cases where a transfer otherwise occurs when required by
4 the tax commissioner. Such clerks may ascertain when a trans-
5 fer has occurred by reference to the filing of a will, the ap-
6 pointment of a fiduciary, or the admission to record of a deed
7 or other writing intended to take effect in possession or enjoy-
8 ment, at or after the death of the maker thereof, or appearing
9 to be in contemplation of his death, or be based on any infor-
10 mation otherwise derived, and shall report the same to the tax
11 commissioner. Such a report shall be made quarterly as soon
12 as possible after the first day of January, April, July and
13 October in each year, and shall relate to all such matters as
14 were not covered by any previous report. A special report may
15 be made by the clerk at any time. If there be no reason to
16 believe that any such transfer has been made since the date of
17 the last preceding report, that fact shall be stated in such
18 quarterly report, but if there be reason to believe that such a
19 transfer has been made, such quarterly or special report shall
20 show the nature thereof; the name of the decedent, devisor,
21 grantor, vendor, bargainor or donor the name or other descrip-
22 tion, and the address, of the person or corporation to or for
23 whose use or benefit any property may be transferred, and the
24 relationship, if any, between such person and the person from
25 whom the property is transferred, as far as the court or clerk
26 may have any information respecting such matters; the nature
27 of the property transferred, with such general description and
28 approximate valuation as the court or clerk may be able to
29 give. Any other person, whether interested in such property
30 or not, may make a like report to the tax commissioner. Every
31 such report, whether by the clerk or by any other person, shall
32 be filed by the tax commissioner, and retained in his office until
33 the tax be paid on the transfers therein mentioned, or until it

34 shall be ascertained that they are not subject to tax, and shall
35 then be destroyed; and at all times such report shall be con-
36 fidential and privileged, and its contents shall not be inspected
37 or made known by any one, except by the tax commissioner as
38 to any report made by a clerk, when there shall be a question
39 whether such clerk has complied with the provisions of this
40 article.

41 The tax commissioner shall have full authority of enforce-
42 ment and collection of all taxes due under this act and shall
43 make such rules and regulations, from time to time, as may be
44 necessary for the interpretation and enforcement thereof, the
45 forms to be used and the reports to be filed hereunder.

Sec. 14-(a). No corporation incorporated under the law of
2 this state, and no registration or transfer agent thereof, shall
3 register or transfer any bonds or stock of the corporation stand-
4 ing in the name of a decedent or joint names of a decedent and
5 one or more persons or in trust for a decedent until ten days
6 notice to the tax commissioner of the time of the transfer and
7 until the tax commissioner shall consent thereto in writing. A
8 corporation or agent registering bonds or making a transfer
9 without the consent of the tax commissioner under this section
10 shall be liable for any tax thereafter assessed on account of
11 the transfer of such securities together with accrued interest
12 and a penalty of one thousand dollars. This liability may be
13 enforced in the manner provided in section twenty of this
14 article.

15 If a corporation not incorporated in this state and owning
16 property in the state, or the registration or transfer agent there-
17 of, shall register or transfer on its books bonds or stock of the
18 corporation standing in the name of a resident decedent before
19 taxes accruing under this article with respect to the transfer
20 of such bonds or stock on the death of the decedent have been
21 paid, such corporation or agent shall become liable for the pay-
22 ment of such taxes. Property held by such a corporation or
23 agent in this state shall be subject to execution to satisfy any
24 liability of the corporation or agent under this section. A
25 receipt or certificate of authority signed by the tax commis-
26 sioner shall be full protection to either a domestic or a foreign
27 corporation or agent thereof in the transfer of any such bonds
28 or stock.

29 The tax commissioner shall have authority to require that

30 any reports necessary to a proper enforcement of this article
31 be made by any corporation subject to the provisions of this
32 section.

Sec. 20. If any such taxes, hereinbefore provided for, shall
2 not be paid within sixty days from the time they become pay-
3 able, or if there be an appeal with respect to the same or pay-
4 ment thereof be prevented by litigation or other unavoidable
5 cause, within sixty days after the decision of such appeal or
6 the end of such litigation or other cause of delay, the tax
7 commissioner shall, on behalf of the state, and with the assist-
8 ance of the prosecuting attorney of the county, proceed in the
9 circuit court, by bill in chancery to enforce the lien of such
10 taxes upon any real property subject to such lien, and to ob-
11 tain the sale thereof, or of so much thereof as may be necessary
12 to satisfy such lien, and by other appropriate proceedings to
13 enforce the lien of such taxes upon any other property subject
14 to such lien, and relief shall be given by such circuit court
15 accordingly. In addition to any other remedy for the collec-
16 tion of any tax upon such transfer, the same may be recovered
17 in an action of assumpsit on behalf of the state of West Vir-
18 ginia against any person liable for such tax, and the tax com-
19 missioner is authorized to bring such action in any circuit court
20 or before any justice having jurisdiction, and the prosecuting
21 attorney shall conduct the prosecution thereof. The prosecuting
22 attorney shall receive no compensation for this service in addi-
23 tion to his regular salary. There shall be assessed a statutory
24 fee of not less than fifteen or more than fifty dollars in every
25 law suit instituted for the collection of such taxes, and of not
26 less than twenty-five nor more than one hundred dollars in
27 each chancery suit instituted for this purpose, such fees in
28 each case to be fixed by the circuit court, which said amounts
29 shall be collected and paid into the treasury of the state in like
30 manner as such inheritance tax. The tax commissioner may
31 compromise and settle the amounts of any such tax when there
32 is a controversy as to the relationship between the former owner
33 of the property and the person to whom it is transferred.

Sec. 28. It is the purpose of this section to impose an estate
2 tax and to take full advantage of the credit allowed by laws of
3 the United States because of transfer or death taxes actually
4 paid to this state. There is, therefore, imposed hereby a tax in
5 addition to any inheritance tax under the laws of this state

6 upon the net estate of every decedent, whether resident or non-
7 resident, dying after the enactment of this act. In the case
8 of non-residents, the tax shall be on only so much of the net
9 estates as represents property or funds having a taxable situs
10 in this state.

11 The amount of the tax shall be computed by determining the
12 full amount of the federal tax due upon a transfer in accordance
13 with laws of congress in force at the time of the death of the
14 decedent, and by calculating that percentage of the federal tax
15 allowed as credit because of the payment of this tax to the state.
16 The rules and regulations for determining the amount of the
17 net estate upon the transfer of which the tax is imposed, shall
18 be the same as the rules and regulations adopted by the com-
19 missioner of internal revenue for determining the net estate
20 under laws of congress.

21 The administrative provisions of this article relating to the
22 collection of the state inheritance tax shall apply, so far as
23 applicable, to the collection of the tax imposed by this section.

CHAPTER 37

(House Bill No. 33—By Mr. Tallman)

AN ACT to amend article five, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto sections fourteen, fifteen, sixteen, seventeen, eighteen and nineteen, providing revenue by the licensing of drug stores and pharmacies.

[Passed May 18, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.	Sec.
14. Pharmacies or drug stores to be annually registered; permit by board of pharmacy to operate; what application for permit to show; separate application for each place of business; amount of fee with application; amount of renewal fee; expiration of permits; permits not transferable; registered pharmacist to conduct business.	17. Each pharmacy to own and have on file latest decennial edition of United States Pharmacopoeia and latest edition of National Formulary.
15. Rules and regulations of board of pharmacy; revocation of permits.	18. Penalty for violation of provisions of section fourteen.
16. Duty of prosecuting attorney to	19. Provisions of section fourteen not to apply to sale of patent or proprietary medicines nor to drugs, etc., usually sold in stores.

Be it enacted by the Legislature of West Virginia:

That article five, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto

sections fourteen, fifteen, sixteen, seventeen, eighteen and nineteen to read as follows:

Section 14. The board of pharmacy shall require and provide for the annual registration of every pharmacy or drug store, as defined, doing business in this state. Any person, firm, corporation or copartnership desiring to operate, maintain, open or establish a pharmacy or drug store, as defined, in this state, shall apply to the board of pharmacy for a permit to do so. The application for such permit or license shall be made on a form prescribed and furnished by the board of pharmacy, which, when properly executed, shall indicate the owner, manager, trustee, lessee, receiver or other person or persons desiring such permit, as well as the location of such pharmacy or drug store, including street and number and such other information as the board of pharmacy may require. If it is desired to operate, maintain, open or establish more than one pharmacy or drug store, separate applications shall be made and separate permits or licenses shall be issued for each. Every application for a permit shall be accompanied by the required fee of five dollars, which amount shall be paid annually as the fee for renewal of such permit or license. If an application is found satisfactory, the secretary of the board of pharmacy shall issue to the applicant a permit or license for each pharmacy or drug store for which an application is made. Permits or licenses issued under this section shall not be transferable and shall expire on June thirtieth of each calendar year, and if application for renewal of permit or license is not made or a new one granted on or before the first day of September, the old permit or license shall lapse and become null and void. Every such place of business so registered shall be in direct charge of registered pharmacists and operate in compliance with the general provisions governing the practice of pharmacy and the operation of drug stores.

Sec. 15. The board of pharmacy shall make such rules and regulations, not inconsistent with law, as necessary to carry out the purposes and enforce the provisions of this article and is hereby authorized to revoke any permit or license issued under the provisions of this act at any time, when examination or inspection of the pharmacy or drug store shall disclose that such place of business is not being conducted according to law.

Sec. 16. It shall be the duty of each county prosecuting attorney to whom the board of pharmacy shall report any violations of this, or any other act, now in force pertaining to the practice of pharmacy, or, as defined, to cause appropriate proceedings to be commenced and prosecuted for the enforcement of the penalties as in such case may be provided.

Sec. 17. Every pharmacy or drug store, as defined, shall own and have on file at all times the latest decennial edition of the United States Pharmacopeia and the latest edition of the National Formulary or some other publication embodying their texts in full, and no license shall be issued until there is compliance with this rule.

Sec. 18. Any person, firm, partnership or corporation who shall violate any of the provisions of section fourteen shall be deemed guilty of a misdemeanor and upon conviction thereof for the first offense shall be fined not to exceed one hundred dollars, and upon conviction of a second offense shall be fined not less than two hundred dollars, or shall be imprisoned in jail six months, or both such fine and imprisonment, in the discretion of the court, and each day and every day that such violation continues shall constitute a separate offense.

Sec. 19. The provisions of section fourteen shall have no application to the sale of patent or proprietary medicines nor to such ordinary drugs in original retail packages, extracts or dyestuffs as are usually sold in a country or city store.

CHAPTER 38

(Senate Bill No. 37—By Mr. Mathews)

AN ACT to amend and reenact section twelve, article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, by deleting the reference to the deduction of indebtedness.

[Passed May 25, 1933; in effect from passage. Approved by the Governor.]

SEC.

12. Written report verified by oath of president or chief accounting officer of railroads and other public utility companies, bank-

SEC.

ing institutions, etc., to county assessor; what report to show: form of oath.

Be it enacted by the Legislature of West Virginia:

That section twelve, article three, chapter eleven of the code of

West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 12. Each incorporated company foreign or domestic having its principal office or chief place of business in this state, or owning property subject to taxation in this state, except railroad, telegraph and express companies, telephone companies, pipe line, car line companies and other public utility companies, banking institutions, national banking associations and industrial loan companies, shall annually, between the first day of the assessment year and the first day of May, make a written report, verified by the oath of the president or chief accounting officer, to the assessor of the county in which its principal office or chief place of business is situated, showing the following items, viz: (a) The amount of capital authorized to be employed by it; (b) the amount of cash capital paid on each share of stock; (c) the amount of money on hand or on deposit anywhere subject to its check or draft, on the first day of the assessment year; (d) the amount of credits and investments other than its own capital stock held by it on said date, with their true and actual value; (e) the quantity, location and true and actual value of all of its real estate, and the magisterial district or districts in which it is located; (f) the kinds, quantity and true and actual value of all its tangible property in each magisterial district in which it is located.

The oath required for this section shall be substantially as follows, viz:

State of West Virginia, county of.....
....., ss:

I,, president (treasurer or manager) of (here insert name of corporation), do solemnly swear (or affirm) that the foregoing is, to the best of my knowledge and judgment, true in all respects; that it contains a statement of all the real estate and personal property, including moneys, credits and investments belonging to said corporation; that the value affixed to such property is, in my opinion, its true and actual value, by which I mean the price at which it would sell if voluntarily offered for sale on such terms as are usually employed in selling such property, and not the price which might be realized at a forced or auction sale; and said corporation has not, to my knowledge, during the sixty-day period immediately prior to the first day of the assessment year

40 converted any of its assets into nontaxable securities or notes or
41 other evidence of indebtedness for the purpose of evading the
42 assessment of taxes thereon ; so help me, God.

43

44 The officer administering such oath shall append thereto the
45 following certificate, viz :

46 Subscribed and sworn to before me by.....

47 this the day of, 19.....

CHAPTER 39

(House Bill No. 135—By Mr. Smith, of Wirt)

AN ACT to give county courts power to transfer county road funds
to general county funds for use in defraying county expenses.

[Passed May 23, 1933 ; in effect from passage. Became a law without the approval
of the Governor.]

SEC.

1. County courts, after June 15, 1933,
authorized to transfer county
road and bridge funds to gen-

SEC.

eral county fund to defray gen-
eral county expenses.

Be it enacted by the Legislature of West Virginia:

Section 1. All county courts, and other bodies acting in lieu
2 thereof, in administering the internal police and fiscal affairs of
3 their counties, are hereby vested with the privilege and power,
4 on and after June fifteenth, one thousand nine hundred thirty-
5 three, to transfer from the county road and bridge funds to the
6 general county funds all sums heretofore levied for road and
7 bridge purposes, which shall not have been expended for such
8 purposes at the time when the act creating the new state road
9 system, passed at the special session of the legislature in the
10 month of May, one thousand nine hundred thirty-three, becomes
11 effective.

12 When so transferred said fund may be used in defraying
13 general county expenses.

*Repealed by chapter fifty-nine, acts of this session.

CHAPTER 40

(House Bill No. 2—By Mr. Hiner)

AN ACT to amend section two, and add sections twenty-six, twenty-seven and twenty-eight to article one; to amend sections one to fourteen, inclusive, article two; to add article two-(a); to amend sections one and six and add section six-(a) to article three; to repeal sections one to eighteen, inclusive, article four and substitute therefor sections one to thirty-eight, inclusive; to amend sections eight and nine and add section eight-(a) to article five; to amend article eight by adding sections twenty-eight to thirty-five, inclusive; to repeal article nine; to repeal sections one to eight, inclusive, article ten and substitute therefor sections one to twenty-five, inclusive; to repeal articles eleven, twelve, thirteen and fourteen; to amend sections one to eight, inclusive, article fifteen; all of chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, relating to roads and highways.

[Passed May 16, 1933; in effect from passage. Approved by the Governor.]

ARTICLE I.

SEC.

2. Definition of words and phrases.
26. Definition of primary roads.
27. Definition of secondary roads.
28. Definition of state road and public road.

ARTICLE II.

SEC.

1. The state road commission of West Virginia a body corporate.
2. Commission to consist of state road commissioner and four members, appointed by the governor; present commissioners to continue until new appointees qualified.
3. Governor, with advice and consent of the senate, to appoint members.
4. Qualification of members; how office of members vacated by political activity.
5. Terms of members.
6. Oath of members.
7. Compensation and expenses of members.
8. Recess appointments by governor to fill vacancies; expiration; filling vacancies occurring during regular session of legislature.
9. Office and meeting place of commission in capitol building.
10. Regular and special meetings of commission.
11. Powers and duties of commission as advisory body to road commissioner.

SEC.

12. When commissioner desires advice of commission.
13. Road commissioner to furnish supplies to commission.
14. When proceedings of commission incorporated in commissioner's report to governor.

ARTICLE II-A.

SEC.

1. During legislative session of 1937 and every four years thereafter, governor to appoint state road commissioner; governor to appoint, as soon as possible after adoption of this act, a road commissioner for term expiring July 1, 1937.
2. Who may not hold office of commissioner; disqualification of engineers, superintendents and foremen; disqualification of commissioner, engineers, etc., through political activity.
3. Term of commissioner; commissioner to devote entire time to duties of office.
4. Recess appointment of commissioner; expiration; filling vacancy occurring during session of legislature.
5. Oath and bond of commissioner.
6. Offices of commissioner in capitol building.
7. Salary of commissioner; traveling expenses, how paid.
8. Appointment of assistants and employees by commissioner; ap-

SEC.

- pointment, qualifications, duties, salaries and removal of county road supervisors and assistant road supervisors; oath and bond of any employee handling funds or having custody of equipment and supplies; maximum compensation of assistants and employees; assistant and employees to serve at will and pleasure of commissioner.
9. Additional sole powers of commissioner.
 10. College of engineering, director of experiment station and heads of departments of science, West Virginia University, to assist commissioner, without extra compensation for the service.
 11. Commissioner, in conjunction with West Virginia University, may annually hold a school of good roads.
 12. Commissioner to administer vehicle laws of state; to issue licenses, receipts, etc.; to devise an accounting system to accurately show sources of all money received by him and purposes for which expended.
 13. Reciprocal agreements by commissioner with other states concerning trucks, etc.
 14. What powers and duties may be delegated by commissioner to appointees or employees.
 15. Procedure in hearings and proceedings before commissioner; how aid of circuit court invoked.
 16. Duty of attorney general and his assistants and prosecuting attorneys to render legal service to commissioner.
 17. When authority of commissioner prevails in conflict of powers and duties.

ARTICLE III.

SEC.

1. Sources of state road fund; payment into state treasury; for what purposes it may be expended.
2. Annual ascertainment of available funds; setting aside twenty per cent as a reserve fund; how federal road aid to be expended; disposition of unexpended reserve fund; purposes for which remaining eighty per cent of road fund may be expended.
- 3-(a). How funds for secondary roads allotted; deduction from county allotment of amounts advanced to county for payment of rights-of-way remaining unpaid.

ARTICLE IV.

SEC.

1. State road system consists of primary and secondary roads under control of commissioner; county courts to retain superintendence and administration of roads, bridges, and public landings remaining under their jurisdiction.
2. Commissioner to take over, on July

SEC.

1. 1933, county district roads as part of the state road system.
3. Surveys and maps of secondary roads of each county.
4. Specified powers of commissioner over state roads.
5. Right of eminent domain lodged in commissioner.
6. Cost of acquiring rights-of-way for road purposes to be paid out of state road fund.
7. Certain information to be filed with clerk of county court by commissioner.
8. Use of road bed of state road by railroad, laying of drainage and other pipes, or by telephone company, etc., prohibited except under regulations of commission; provisions when a railroad crosses a state road.
9. Commissioner to have power to require steam or electric railroads to separate grades or relocate state road.
10. What order separating grade or relocating road to show.
11. Filing of protest against order by railroad company; hearing on protest.
12. When railroad company affected by order to file plans, etc., with commissioner.
13. Railroad company to secure bids and let contract for work upon approval of plans by commissioner.
14. Cost of plans, securing bids and separating grades borne equally by railroad and state.
15. Road commissioner may reject bids and company shall secure new bids; commissioner or company may reject bids and elect to do the work.
16. As work progresses, commissioner to pay the company state's share of cost; commissioner, at his expense, may furnish engineer to act with engineer of company.
17. Company to maintain, except surface of road bed, that part of work lying within rights-of-way of company.
18. What advertisement and proposals for paving state roads to show.
19. When commissioner not required to award contract for work, materials and supplies; commissioner to file copy of plans of road work with clerk of county court; advertisement for sealed proposals when work done by contract; certified check or bond of bidder; contract let to lowest responsible bidder; if bids rejected, commissioner may do work with his own forces or prison labor.
20. Execution of contract and bond by successful bidder; action on bond; forfeiture of certified check or bond by successful bidder not executing contract; return of checks or bonds to unsuccessful bidder; commissioner to furnish clerk of county court with copy of contract and bond.
21. Contracts to be signed by commis-

20.

- sloner and contractor and be approved as to form by attorney general.
22. Contracts not to be let to one in combination in restraint of trade or limiting competition in bidding; penalty.
 23. When seller of palnt, culverts, etc., must furnish certificate under oath showing chemical constituents, etc., of materials; penalty for false certificate; contract may be cancelled by reason of false statement.
 24. Testing and approval of materials or supplies by commissioner.
 25. Commissioner may establish quarries, cement and other plants and acquire land; commissioner may rent, condemn or purchase quarries, gravel, etc., deposits, wharves and storage places; transport, repair or manufacture materials; purchase necessary machinery; make contracts necessary to operate plant; cost to be paid out of state road fund; commissioner may sell surplus materials, products or equipment; commissioner may establish and operate, jointly with authorities of other states, cement, brick, etc., plants.
 26. Commissioner may designate, as connecting part of primary road, municipal bridge or street; designated connecting part to be maintained at cost of state; existing free bridges, forming a connecting link between counties and state routes, adopted as part of state road system.
 27. Commissioner to control, except by regulating traffic, connecting parts within municipalities.
 28. Notice to municipality and laying of necessary pipes, etc., before reconstruction of primary road within municipality; when commissioner may lay pipes and make connections and charge cost to municipality.
 29. Taking over streets not to affect existing or future franchises.
 30. Taking over of street not to affect existing contract for construction, etc.
 31. Commissioner to govern width and grade of street, opening of pavement for repair of service lines, etc.; authority of municipal authorities over streets taken as primary road.
 32. Streets designated as primary roads to be taken over by commissioner on July 1, 1933.
 33. Unsafe bridges on state roads to be condemned, closed or repaired.
 34. Contracts with adjoining state for interstate bridges; commissioner to file report with governor, showing plans, estimated cost, etc., of bridge.
 35. When commissioner may divert non-navigable stream.
 36. When commissioner may build and maintain sidewalks along state roads; commissioner may permit others to build such sidewalks;

Sec.

- penalty for injuring or failing to repair sidewalks.
37. State not to be made defendant in action to recover damages because of defective construction or condition of state road or bridge.
 38. Penalty for violating provisions of article or rules and regulations of commissioner.

ARTICLE V.

Sec.

8. Contracts for convict labor.
- 8-(a). Contracts with sheriff for jail prisoners; what contract to show; use, maintenance and care of prisoners requisitioned from sheriff.
9. Regulations governing the use of convict labor.

ARTICLE VIII.

Sec.

29. Municipalities not to make ordinance concerning size and weight limits of vehicles on streets designated as primary roads; municipality may regulate traffic on and at street intersections; if connecting link has one way traffic, commissioner not required to maintain additional streets; mandamus by commissioner against municipality.
30. Power of road commission and municipalities to classify roads and streets and restrict and regulate the use of tractors and commercial vehicles thereon; printing and distribution of orders and ordinances concerning; when road, etc., classified and use of commercial vehicles regulated; general law subordinated; definition of commercial vehicle; penalty for use of such road, etc., in violation of ordinance restriction, etc.
31. Commissioner and municipalities may prohibit or restrict traffic under certain weather conditions; promulgation of ordinances concerning; restriction to be indicated by signs.
32. Restriction on power of political subdivision as to streets and roads; powers of municipalities on streets not designated as connecting parts.
33. When excessive cost of repairs and maintenance may be assessed against person using road.
34. Liability for destructive use of road or street.
35. When maximum safe load or weight that may pass over bridge must be shown by notices posted at each end of bridge; when no liability exists by breaking a bridge if maximum safe load or weight is exceeded; when user of bridge liable for damages.

ARTICLE IX.

This article and all its sections repealed.

ARTICLE X.

Sec.

1. Power of county court over bridges, approaches and public landings: county court to relinquish to commissioner, on July 1, 1933, authority over county district roads; commissioner may purchase or rent road equipment and material from county court.
2. Extent of power of county court over roads, bridges and public landings.
3. Exercise of power of eminent domain by county court.
4. County court to keep road record book and financial road record in form prescribed by commissioner; what records to show.
5. Authority of county court as to protection of road beds.
6. Inspection, condemnation, closing or repair of bridges by county court.
7. Powers of county courts and municipalities in elimination of grade crossings.
8. Advertisement by county court of contract to construct or maintain road or bridge or for purchase of supplies and equipment.
9. Provisions concerning and letting road and bridge work to contract by county court; bond of contractor; publication of bids and bidders with name and bid of successful bidder; court may reject bids and have work done in another manner; court may accept either of two bids of equal amount; court may reserve twenty per cent of contract until work approved; penalty for opening bids at undesignated place or time or making known name of bidder and amount bid.
10. What contracts county court may not enter into.
11. County court may request certificate of purity of chemical constituent of materials or supplies offered for purchase; penalty for making false certificate; contract may be cancelled by reason of false statement.
12. When work not done by contract, county court may appoint competent superintendent and fix compensation.
13. County court to use only materials standardized, tested and approved by commissioner.
14. County court to see that appointees and employees perform duties, expend money and perform labor only as ordered by court.
15. County court may establish stone quarries, etc.
16. Claims of contractors and others to be presented to, investigated by court and paid by sheriff on its order.
17. Action against county court or municipality for damages occasioned by defective road, bridge or street; levy to pay judgment, if obtained; mandamus to compel laying of levy or paying of judgment.
18. Action for damage by reason of de-

Sec.

- fective turnpike, road or bridge, belonging to any person or company or to any county court.
19. Determination by county court of amount necessary for roads, bridges and public landings for succeeding fiscal year.
20. Amount to be included in general county levy.
21. Existing bonded indebtedness of county or magisterial district for road purposes, to remain debt of property originally pledged as security; county and magisterial district levies for payment of bonded indebtedness.
22. How counties and political subdivisions may vote bonds for paying state road within their boundaries; funds to be expended and roads maintained by commissioner.
23. Capitation tax levy by county court; proceeds credited to state road fund and expended in county where raised; taxpayer may work out capitation tax.
24. Delinquent lists of taxes uncollected under provisions of article.
25. Penalty for violating provisions of article.

ARTICLE XI.

This article and all its sections repealed.

ARTICLE XII.

This article and all its sections repealed.

ARTICLE XIII.

This article and all its sections repealed.

ARTICLE XIV.

This article and all its sections repealed.

ARTICLE XV.

Sec.

1. Sentence of imprisonment in county jail may include sentence to labor on roads, etc., under control of county court; municipality to pay jailer for board of municipal prisoners.
2. Sentence to road work may be omitted.
3. Working and treatment of county prisoners; border lines of county to be considered the walls of jail.
4. Trial and sentence of prisoners escaping while working under provisions of this article.
5. Number, wages of and control over prison guards; monthly statement by jail keeper to clerk of county court, showing number of prisoners and number of days work performed by prisoners.
6. Form of commitment when accused sentenced to labor on roads.
7. One charged with misdemeanor unable to furnish bail bond may elect to labor on road; order permitting; if convicted and sentenced to jail to be credited with number of days he has

SEC.

labored; if fined to be credited on fine for days labored at one dollar per day; if acquitted to be paid one dollar per day for days labored.

SEC.

8. Deduction from sentence for labor and good conduct; if any part of act invalid, remainder not affected.

Be it enacted by the Legislature of West Virginia:

That section two, article one, is amended and sections twenty-six, twenty-seven and twenty-eight added to article one; sections one to fourteen, inclusive, article two, are amended; article two-(a) is added; sections one and six, article three are amended, and section six-(a) added thereto; sections one to eighteen, inclusive, article four, are repealed and sections one to thirty-eight, inclusive, substituted therefor; sections eight and nine, article five are amended and section eight-(a) is added thereto; sections twenty-nine to thirty-five, inclusive, are added to article eight; article nine is repealed; sections one to eight, inclusive, article ten, are repealed, and sections one to twenty-five, inclusive, are substituted therefor; articles eleven, twelve, thirteen and fourteen are repealed; sections one to eight, inclusive, article fifteen, are amended, so that the above mentioned articles and sections of chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, shall read as follows:

ARTICLE I

Section 2. The words and terms "commission," "road commission," or "state road commission," shall refer to and mean "The State Road Commission of West Virginia." Wherever reference is made to the "commission" the power or duty prescribed shall apply to the "state road commissioner," unless the context clearly requires a different meaning.

Sec. 26. "Primary roads" shall mean all roads under the control and operation of the state road commission, or are designated as state roads, at the time of the adoption of this act and roads hereafter designated as primary roads.

Sec. 27. "Secondary roads" shall mean all roads and bridges now operated as a part of the county-district road system, except bridges and approaches maintained by county courts within municipalities.

Sec. 28. "State road" shall include all roads classified and prescribed as "primary roads" and "secondary roads." "Pub-

3 lic roads" shall mean all other roads and bridges under the
4 control of the county court or the governing body of a municipi-
5 pality.

ARTICLE II

Section 1. "The State Road Commission of West Virginia"
2 shall be a corporation, and, as such may sue and be sued, con-
3 tract and be contracted with, and it shall have a common seal.

Sec. 2. The commission shall consist of the state road com-
2 missioner and four members appointed by the governor, by and
3 with the advice and consent of the senate. Commissioners in
4 office at the time this act goes into effect shall continue in office
5 until the new appointees have been appointed and qualified.

Sec. 3. The governor shall, with the advice and consent of the
2 Senate, appoint the members of the state road commission.

Sec. 4. No person while in the employ of, or holding, or who
2 has within twelve months held any official relation to, any per-
3 son, firm or corporation selling or furnishing any materials
4 entering into the construction, reconstruction, repair or main-
5 tenance of any road or highway of this state, or any part there-
6 of, or who is pecuniarily interested therein, as a stockholder or
7 otherwise, shall be a member of the state road commission; nor
8 shall any member of the commission be a candidate for or hold
9 any public office other than that of member of the commission.
10 A member of the commission shall not be a member of any po-
11 litical committee while a member of the commission. In case
12 any member of the commission becomes a candidate for or is
13 appointed to any other public office or any political committee,
14 his office as a member of the commission shall automatically be
15 vacated.

Sec. 5. The term of office of the members of the commission
2 shall be four years. The first appointments made under this
3 act shall be as follows: Two members for two years and two
4 members for four years. As these terms expire the offices shall
5 be filled for four year terms.

Sec. 6. Members of the commission shall take and subscribe
2 to the oath prescribed by the constitution before entering upon
3 their duties. The oaths shall be filed with the secretary of state.

Sec. 7. The members of the commission shall receive an
2 honorarium of ten dollars for each day actually served and the

3 actual expenses incurred in performing their duties. The
4 honorarium shall not exceed three hundred dollars per year.

Sec. 8. All vacancies in the state road commission that occur
2 while the legislature is not in session shall be filled by appoint-
3 ment by the governor. This appointment, however, shall ex-
4 pire at the end of thirty days from the date on which the legis-
5 lature next convenes in regular session. Prior to the expira-
6 tion of the thirty days the governor shall transmit to the sen-
7 ate for its approval an appointment for the unexpired portion of
8 the regular term. Vacancies occurring during a regular ses-
9 sion of the legislature shall be filled as regular appointments
10 before the end of the session and for the unexpired portion of
11 the regular term.

Sec. 9. The offices and meeting place of the state road com-
2 mission shall be in the office of the state road commissioner in
3 the capitol building.

Sec. 10. The commission shall hold two regular meetings, on
2 the third Monday in January and the third Monday in July
3 of each year. Special meetings may be convened on the call
4 either of the state road commissioner or of the governor.

Sec. 11. The state road commission shall be an advisory body
2 to the state road commissioner and shall have the following
3 powers and duties:

- 4 (1) To consider and study the entire field of legislation
5 and administration concerning roads and highways, and motor
6 vehicle regulation;
- 7 (2) To advise the commissioner concerning the highway
8 needs of particular localities or districts of the state;
- 9 (3) To recommend policies and practices to the commis-
10 sioner relative to any duty imposed upon him by law;
- 11 (4) To investigate the conduct and the work of the depart-
12 ment, and for this purpose it shall have access at any time to all
13 books, papers, documents and records of the department;
- 14 (5) To advise or make recommendations to the governor
15 and legislature relative to the highway policy of the state;
- 16 (6) To keep minutes of the transactions of each session,
17 regular or special, which shall be public records and filed with
18 the department.

Sec. 12. The commissioner may submit to the commission, or
2 any committee thereof, at any regular or special meeting, any

3 matter upon which he desires the advice or opinion of the com-
4 mission.

Sec. 13. The state road commissioner shall furnish the com-
2 mission with all articles and supplies required for the public
3 use and necessary to enable the commission to perform the duties
4 imposed upon it by law. Such articles and supplies shall be ob-
5 tained by the commission in the same manner in which the
6 regular supplies for the department are obtained and the same
7 shall be considered and accounted for as if obtained for the
8 use of the commissioner.

Sec. 14. Upon the request of the commission, the commis-
2 sioner shall incorporate the proceedings of the commission in
3 his biennial report to the governor.

ARTICLE II-A

Section 1. The governor shall, during the legislative session
2 of one thousand nine hundred thirty-seven, and every four
3 years thereafter, appoint, with the advice and consent of the
4 senate, a state road commissioner.

5 As soon as possible after the adoption of this act the gover-
6 nor shall appoint a road commissioner whose term shall last
7 until the first day of July, one thousand nine hundred thirty-
8 seven.

Sec. 2. No person while in the employ of, or holding any
2 official relation to, any person, firm or corporation selling or
3 furnishing any materials entering into the construction, recon-
4 struction, repair or maintenance of any road or highway of
5 this state, or any part thereof, or who is pecuniarily interested
6 therein, as a stockholder or otherwise, shall hold the office of
7 commissioner; nor shall the commission appoint any person or
8 persons as engineers, superintendents or foremen who sustain
9 such relation to such person, firm or corporation; nor shall such
10 engineers, superintendents or foremen thereafter become in any
11 way connected with or interested in any such person, firm or
12 corporation while in the employ of the commission; nor shall
13 any commissioner, or any engineer, superintendent or foreman
14 appointed by the commission, be a candidate for or hold any
15 public office, other than that of commissioner or of employment
16 under the commission, or be a member of any political com-
17 mittee while acting as such commissioner, or while employed by

18 him. In case any commissioner, or any servant or employee of
19 the commission, be a candidate for or hold any other public
20 office, or be a member of any political committee, his office as a
21 commissioner or position as employee, as the case may be, shall
22 automatically be vacated.

Sec. 3. The term of office of the commissioner shall be four
2 years, commencing on July first of the year of appointment.

3 The commissioner shall devote his entire time to the duties
4 of his office.

Sec. 4. All vacancies in the office of the commissioner that
2 occur while the legislature is not in session shall be filled by ap-
3 pointment by the governor, which appointment shall expire at
4 the end of thirty days after the date on which the legislature
5 next convenes. Prior to the expiration of the thirty days the
6 governor shall transmit to the senate for its approval an ap-
7 pointment for the unexpired portion of the regular term. Vacan-
8 cies occurring during a session of the legislature shall be filled
9 as regular appointments before the end of the session and for
10 the unexpired portion of the regular term.

Sec. 5. The commissioner before entering upon the duties
2 of his office shall take and subscribe to the oath prescribed by
3 the constitution. He shall also execute a bond in the penalty
4 of twenty-five thousand dollars, conditioned according to law,
5 and approved by the governor. The bond and the oath shall
6 be filed with the secretary of state.

Sec. 6. The offices of the commissioner shall be located in
2 the state capitol building. The commissioner shall keep his
3 offices open at all reasonable times for the transaction of
4 public business.

Sec. 7. The commissioner shall receive a salary of six thou-
2 sand dollars and the necessary traveling expenses incident to
3 the performance of his duties. Requisition for traveling ex-
4 penses shall be accompanied by a sworn and itemized statement
5 which shall be filed with the auditor and permanently pre-
6 served as a public record.

Sec. 8. The commissioner shall employ such assistants and
2 employees as may be necessary to the efficient operation of his
3 department. The road commissioner shall appoint for each
4 county a road supervisor and such assistant road supervisors as

5 he shall deem necessary, each of whom shall be a resident of such
6 county, and who shall possess all of the qualifications which may
7 from time to time be prescribed for such positions by the road
8 commissioner, and the duties and salaries of such supervisor and
9 assistants shall be fixed by the road commissioner, who shall have
10 authority to remove the same at his will and pleasure without
11 assigning cause therefor.

12 The commissioner shall require every employee who collects
13 fees or handles funds or who has custody of equipment and
14 supplies belonging to the state to take the constitutional oath
15 and give an official bond, properly conditioned and signed by
16 sufficient sureties in a sum to be fixed by the commissioner,
17 which bond shall be approved by him and filed in the office of
18 the secretary of state.

19 The commissioner shall fix their compensation, but the total
20 compensation paid to assistants and employees shall not exceed
21 in any one year the appropriation made by the legislature for
22 that purpose. All assistants and employees shall be appointed, or
23 employed, to serve at the will and pleasure of the commissioner.

Sec. 9. The commissioner, in addition to the other powers
2 granted by this chapter, shall have the sole authority to:

3 (1) Exercise general supervision over the state road pro-
4 gram and the construction and maintenance of the state roads;

5 (2) Make rules and regulations for the government of his
6 department;

7 (3) Sign and execute, in the name of "The State Road Com-
8 mission" any contract or agreement with the federal govern-
9 ment or its departments, subdivisions of the state, corporations,
10 associations, copartnerships and individuals;

11 (4) Supervise the fiscal affairs and responsibilities of the
12 department;

13 (5) Make a general road or highway plan of the state and
14 compile and publish information relative to the mileage, char-
15 acter and condition of the roads;

16 (6) Determine the various methods of road construction best
17 adapted to the various sections in the state and establish stand-
18 ards for the construction and maintenance of roads and high-
19 ways;

- 20 (7) Conduct investigations and experiments, hold public
21 meetings and attend meetings and conventions inside or outside
22 of the state as may, in his judgment, tend to promote better
23 highway construction;
- 24 (8) Cooperate with state and national organizations in ex-
25 periments and work for the advancement of highway construc-
26 tion;
- 27 (9) Enter private lands to make surveys or inspections for
28 road purposes;
- 29 (10) Acquire land necessary for roads and road mainte-
30 nance;
- 31 (11) Procure photostatic copies of any or all public records
32 on file at the state capitol of Virginia which the commissioner
33 may deem necessary or proper in ascertaining the location of
34 rights-of-way of public roads located or established in what is
35 now the state of West Virginia. A copy of any such photo-
36 static copies so made, when certified by the commissioner, may
37 be admitted as evidence in lieu of the original in any of the
38 courts of this state;
- 39 (12) Administer the motor vehicle law of this state as pro-
40 vided for in section twelve of this article;
- 41 (13) Keep a complete and accurate record of all proceedings,
42 record and file all bonds and contracts taken or entered into,
43 and assume responsibility for the custody and preservation of
44 all papers and documents pertaining to his office. Rules and
45 regulations shall be recorded in a book especially kept for that
46 purpose, and may be in his discretion published for general
47 circulation. All other records and entries necessary to show
48 the official conduct of the department shall be preserved and
49 shall be public records and open for inspection during business
50 hours;
- 51 (14) Purchase as provided by law all equipment necessary
52 for the conduct of his department. Dispose of any equipment
53 either by public or private sale when such equipment can no
54 longer be used to advantage. The proceeds of such sale shall
55 be paid to the state treasurer and credited to the state road
56 fund;
- 57 (15) Conduct hearings as provided by this chapter;
- 58 (16) Report to the governor each year all information rela-

59 tive to the operation of the department and the construction
60 and maintenance of the state roads. Make such other reports
61 and recommendations as may be required by the governor or
62 which in his judgment would be beneficial to the general public ;
63 and

64 (17) Exercise any other power that may be necessary or
65 proper for the orderly conduct of his business and the effective
66 discharge of his duties. Invoke any legal or equitable remedies
67 for the enforcement of his orders or the provisions of this de-
68 partment.

Sec. 10. At the request of the state road commissioner, the
2 dean of the college of engineering of West Virginia university,
3 the director of the experiment station of the university and the
4 heads of the several departments of science shall render to the
5 commissioner all necessary aid and assistance in the perform-
6 ance of his duties, as the requirements of their respective offices
7 and positions will permit, without extra charge or compensation
8 for the service.

Sec. 11. The state road commissioner, in conjunction with
2 the West Virginia university, may hold annually a school of
3 good roads of not less than three days' duration, for the mem-
4 bers and employees of the state road commissioner. The com-
5 missioner shall fix the time for holding such schools and may
6 conduct them at the West Virginia university or at any other
7 place in the state: *Provided, however,* That no expense shall be
8 incurred to the state.

Sec. 12. The commissioner shall have charge of the adminis-
2 tration of the vehicle laws of this state, including the collection
3 of all license fees and charges, forfeitures, costs and all other
4 fees and charges arising therefrom or incident thereto. He
5 shall issue all licenses, permits, registration certificates, receipts
6 and other official documents provided for by this chapter; shall
7 issue all necessary notices, and keep all books, maps, documents,
8 and papers; shall devise a system of accounting which shall
9 show accurately and concisely the amounts of all moneys re-
10 ceived and paid out by him, the sources from which received,
11 the purposes for which paid out, upon what roads or bridges,
12 whether for construction, reconstruction or maintenance, and
13 in what county expended.

Sec. 13. The state road commissioner may enter into such reciprocal contracts and agreements as he may deem proper or expedient with the proper authorities of other states, regulating the use, on the roads and highways of this state, of trucks, automobiles and any other vehicles owned in such other states and duly licensed under the laws thereof. The commissioner may confer and advise with the proper officers and legislative bodies of this and other states and federal districts of the United States, to promote reciprocal agreements under which the registration of vehicles owned in this state, and the licenses of operators and chauffeurs residing in this state shall be recognized by other states and federal districts.

Sec. 14. All powers and duties vested in the commissioner, except the power to sign contracts, may be exercised by the appointees or employees of the commissioner, under his direction; but the commissioner shall be responsible for their acts.

Sec. 15. In all hearings and proceedings before the commissioner, the evidence of witnesses and the production of documentary evidence may be required at any designated place of hearing and summons may be issued by him. In case of disobedience to a summons or other process so issued, the commissioner or any party to the proceedings before the commissioner may invoke the aid of any circuit court in requiring the evidence and testimony of witnesses and the production of papers, books and documents. And upon proper showing, such court shall issue an order requiring such persons to appear before the commissioner and produce all books and papers, and give evidence touching the matter in question. Any person failing to obey such order may be punished by such court as for contempt. A claim that any such testimony or evidence may tend to incriminate the person giving the same shall not excuse such witness from testifying, but such witness shall not be prosecuted for any offense concerning which he is compelled hereunder to testify.

Sec. 16. It shall be the duty of the attorney general of this state and of his assistants, and of the prosecuting attorneys of the several counties, to render to the commissioner, without additional compensation, such legal services as it shall require of them in the discharge of his duties under the provisions of this chapter.

Sec. 17. Whenever in any of the provisions of this chapter
2 the same powers and duties have been conferred on, or pre-
3 scribed for, two or more officials or agencies, or whenever any
4 question as to the conflict of authority shall arise, the power and
5 authority of the state road commissioner shall prevail.

ARTICLE III

Section 1. There shall be a state road fund, which shall con-
2 sist of the proceeds of all state license taxes imposed upon
3 automobiles or other motor or steam driven vehicles; the regis-
4 tration fees imposed upon all owners, chauffeurs, operators and
5 dealers in automobiles or other motor driven vehicles; all sums
6 of money which may be donated to such fund; all proceeds
7 derived from the sale of state bonds issued pursuant to any
8 resolution or act of the legislature carrying into effect the
9 "road amendment" to the constitution of this state, adopted
10 in the month of November, one thousand nine hundred twenty
11 and the "road amendment" to the constitution of this state,
12 adopted in the month of November, one thousand nine hundred
13 twenty-eight; all moneys and funds appropriated to it by the
14 legislature; all moneys and funds allotted or appropriated by
15 the federal government to this state for road construction and
16 maintenance pursuant to any act of the congress of the United
17 States; the proceeds of all taxes imposed upon and collected
18 from any person, firm or corporation and of all taxes or charges
19 imposed upon and collected from any county, district or munici-
20 pality for the benefit of such fund; the proceeds of all judg-
21 ments, decrees or awards recovered and collected from any
22 person, firm or corporation for damages done to, or sustained
23 by, any of the state roads or parts thereof; all moneys recovered
24 or received by reason of the violation of any contract respect-
25 ing the building, construction or maintenance of any state
26 road; all penalties and forfeitures imposed, recovered or re-
27 ceived by reason thereof; and any and all other moneys and
28 funds appropriated to, imposed and collected for the benefit
29 of such fund, or collected by virtue of any statute and payable
30 to such fund.

31 When any money is collected from any of the sources afore-
32 said, it shall be paid into the state treasury by the officer whose
33 duty it is to collect and account for the same, and credited to

34 the state road fund, and shall be used only for the purposes
35 named in this chapter, that is to say: (a) To pay the principal
36 and interest due on all state bonds issued for the benefit of said
37 fund, and set aside and appropriated for that purpose; (b) to
38 pay the expenses of the administration of the road department;
39 (c) to pay the cost of maintenance, construction, reconstruction
40 and improvement of all primary roads; (d) to pay the cost,
41 maintenance, construction, reconstruction and improvement
42 of all secondary roads.

Sec. 6. On or before the first day of July of each year the
2 state road commissioner shall ascertain and determine the total
3 amount of available funds for expenditure in the whole state
4 for the construction and reconstruction of state roads during
5 such annual period. Of the amount so ascertained the commis-
6 sioner may set aside as a "reserve fund" not to exceed twenty
7 per cent thereof, to be used and expended by him in his dis-
8 cretion in making desirable connections or economizing in con-
9 struction.

10 All moneys received from the federal government for road
11 construction shall be expended as provided, or as may hereafter
12 be provided by act of congress.

13 If at the end of any annual period, any money in the reserve
14 fund remains unexpended or unappropriated, it shall be placed
15 in the general fund for reserve and distribution during the next
16 biennial period.

17 The remaining eighty per cent, or, if such reserve fund is not
18 set aside, then all the funds shall be appropriated in the follow-
19 ing order and preference:

20 (1) For the construction, reconstruction, maintenance of the
21 primary roads, and to comply with the requirements for the
22 receipt of aid from the federal government. The funds available
23 under chapter one of the acts of the legislature, one thousand
24 nine hundred thirty-one, shall be distributed and expended as
25 provided by that act;

26 (2) For the maintenance of all secondary roads, as provided
27 in section six-(a) of this article;

28 (3) For the construction and reconstruction of the secondary
29 roads as prescribed in section six-(a) of this article.

Sec. 6-(a) The state road commissioner shall expend funds

2 for the maintenance of secondary roads and for their construc-
3 tion and reconstruction justly among the several counties, and
4 as will best serve the interests of the state and the convenience
5 of its inhabitants; giving equal consideration in the alloca-
6 tion of funds, to the ratio of the county's population to the
7 population of the state and the ratio of secondary road mileage
8 in the county to the total secondary road mileage of the state:
9 *Provided*, That any money heretofore advanced to any county
10 for payment for rights-of-way, and which has not been repaid by
11 such county to the state road commission at the time this act
12 becomes effective, shall be a charge against and shall be deducted
13 from any funds allocated to such county, as herein provided, for
14 construction, reconstruction or maintenance of secondary roads
15 in such county, and not more than eighty per cent annually of
16 such state road funds so allocated shall be paid to such county
17 before or until all such advancements made to such county have
18 been so repaid to the state road commission.

ARTICLE IV

Section 1. The state road system shall consist of the pri-
2 mary and secondary roads of the state as defined in article
3 one of this chapter. The authority and control over the state
4 roads shall be vested in the state road commissioner.

5 The county courts shall retain the superintendence and ad-
6 ministration of roads and bridges and public landings that
7 remain under their jurisdiction as provided by section one,
8 article ten of this chapter.

Sec. 2. The commissioner shall take over the county-district
2 roads on the first day of July, one thousand nine hundred
3 thirty-three, and shall assume charge of their further con-
4 struction, reconstruction and maintenance as a part of the
5 state road system.

Sec. 3. Upon the adoption of this act, the commissioner shall,
2 when by him deemed necessary, make surveys to determine the
3 relative importance, service and condition of the secondary
4 roads. Wherever adequate maps do not exist, the commissioner
5 shall prepare a map of the secondary roads of each county as
6 the work progresses and file a copy of the map in the office of
7 the clerk of the county court with an order of the commission

8 showing the official act and giving a general description of the
9 roads in the county.

Sec. 4. The authority and control over the state roads vested
2 in the state road commissioner shall include the power to:

3 (1) Locate and relocate any primary or secondary road;
4 and upon the petition of any interested party or upon his own
5 initiative create, extend or establish any new road that shall be
6 necessary.

7 In the classification and the improvement of secondary roads
8 the road commissioner shall consult and advise with the county
9 court of the county in which the roads are situated before classi-
10 fying or improving such roads. In the event that agreement
11 between the road commissioner and the county court on these
12 matters is not reached, the matters in difference shall be sub-
13 mitted to the state road commission for decision;

13-a (2) Upon petition and hearing, or after due investigation,
13-b upon his own initiative, discontinue any road no longer neces-
13-c sary;

14 (3) Construct, reconstruct, repair and maintain the state
15 roads;

16 (4) Allocate the cost of retaining walls for the protection
17 of a state road or its right-of-way to the cost of construction,
18 reconstruction, improvement or maintenance;

19 (5) Close any state road while under construction or repair
20 and provide for a temporary road during the course of con-
21 struction or repair;

22 (6) Adjust damages occasioned by the construction, recon-
23 struction or repair of any state road or the establishment of
24 any temporary road;

25 (7) Fix standard widths for rights-of-way, bridges and
26 approaches; fix the grades on all state roads; and provide for
27 the acquisition of land necessary for cuts and fills;

28 (8) Purchase or lease all necessary machinery, equipment
29 or materials, and acquire all necessary ground and buildings
30 for their storage;

31 (9) Purchase, produce and sell road materials as provided by
32 section twenty-five of this article;

33 (10) Test and standardize materials used in the construction
34 and maintenance of state roads;

- 35 (11) Establish a uniform system of road signs and markers ;
36 (12) Classify and designate by number the routes within the
37 primary and secondary road system ;
38 (13) Institute complaints before the public service commis-
39 sion concerning intrastate freight rates, car service, and move-
40 ment of road materials and machinery ;
41 (14) Make such administrative rules and regulations as are
42 necessary to give effect to the powers granted by this chapter.

Sec. 5. The state road commissioner may acquire by right
2 of eminent domain any land or water, or any interest therein, or
3 any rights, ways or easements thereon or thereover, for the pur-
4 pose of constructing, widening, straightening, grading or alter-
5 ing any state road or for the purposes enumerated in section
6 twenty-five of this article, or to provide a detour or temporary
7 road or bridge while a road is in the process of construction,
8 reconstruction, improvement or repair, or for any other pur-
9 poses authorized by any provision of this chapter, whenever a
10 just compensation cannot be agreed upon by the owner or
11 claimant of such property, for such taking, use or damage.

12 The proceedings for the purposes aforesaid may be instituted
13 in the name of the commissioner, and prosecuted and determined
14 as provided in chapter fifty-four.

Sec. 6. The cost of acquiring all rights-of-way for road pur-
2 poses shall be paid out of the state road fund.

Sec. 7. The state road commissioner shall promptly file
2 with the clerk of the county court of each county, all changes
3 in titles to rights-of-way, maps, plats, surveys and all discon-
4 tinuances of state roads within the county.

Sec. 8. No railroad or electric or other railway shall be con-
2 structed upon the roadbed of any state road, except to cross
3 the same, nor shall any person, firm or corporation enter upon
4 or construct any works in or upon such road, or lay or main-
5 tain thereon or thereunder any drainage, sewer or water pipes,
6 gas pipes, electric conduits or other pipes, nor shall any tele-
7 phone, telegraph or electric line or power pole, or any other
8 structure whatsoever, be erected upon, in or over any portion of
9 a state road, except under such restrictions, conditions and regu-
10 lations as may be prescribed by the state road commissioner.
11 Whenever any railroad or electric or other railway, heretofore

12 or hereafter constructed, shall cross any state road, it shall be
13 required to keep its own roadbed, and the bed of the road or
14 highway at such crossing, in proper repair, or else to construct
15 and maintain an overhead or undergrade crossing, subject to
16 the approval of the state road commissioner; and the tracks
17 of such railroad or railway at grade crossings shall be so con-
18 structed as to give a safe and easy approach to and across the
19 same, and when the construction of such approaches is made
20 necessary by a change in the railroad grade at the grade cross-
21 ing, the cost shall be upon the railway company.

Sec. 9. The state road commissioner shall have the juris-
2 diction and the power, whenever in his judgment it is neces-
3 sary for the safety of the traveling public, to order any rail-
4 road company, either steam or electric, owning or operating
5 a railroad in this state, to separate the grades or relocate a
6 road where any state road crosses at grade the railroad tracks
7 of such railroad company, and shall have the power to determine
8 the location of the crossing or road to be substituted, the grade
9 thereof, and whether it shall pass over or under the railroad
10 track or tracks, and also the power to relocate any road or
11 street so that grade crossings may be eliminated.

Sec. 10. Whenever, in the judgment of the state road com-
2 missioner, it is necessary for the safety of the traveling public
3 that the grades of a railroad and any state road should be
4 separated or a road relocated for that purpose, the state road
5 commissioner shall make a proper order to that effect and fur-
6 nish a copy thereof by registered mail to the president or at-
7 torney of record of the railroad affected by such order. Such
8 order shall specify the location of the crossing or road to be
9 substituted, the grade thereof and whether it shall pass over
10 or under the railroad tracks of the railroad company affected
11 by such order, the width of the crossing ordered to be con-
12 structed, and the angle at which the crossing so constructed
13 shall meet and converge into the roadbed on either side of the
14 railway tracks.

Sec. 11. Any railroad company dissatisfied with the order
2 of the state road commissioner directing the separation or elimi-
3 nation of grades at any point, may, within thirty days after the
4 receipt by the president or attorney of record of such railroad
5 company of a copy of the order directing the separation or

6-7 elimination at such grades, file with the state road commis-
8 sioner a protest giving the reasons of said railroad why such
9 order should not be enforced. On the filing of such protest, the
10 state road commissioner shall set down for hearing the matter in
11 issue. On the hearing of the protest the state road commissioner
12 shall hear all evidence which may be offered by any party upon
13 the reasonableness of the separation or elimination of the grades,
14 and if the commissioner, from the evidence, shall find that the
15 construction of the work is necessary, he shall enter an order
16 to that effect, and direct that the work shall be proceeded with
17 in accordance with this article. Any party affected may avail
18 himself of any proceedings competent to test the validity of
19 the order.

Sec. 12. Within sixty days after the entry of any order by
2 the state road commissioner, directing a separation or elimina-
3 tion of grades at any point, as herein provided, unless legal
4 proceedings be taken, the railroad company affected by such
5 order shall, in the case of a separation of grades, prepare and
6 present to the state road commissioner for his approval, plans,
7 specifications and estimates of cost of the necessary approaches
8 thereto.

Sec. 13. Upon the approval of such plans and specifications
2 by the state road commissioner, the railroad company affected
3 shall secure sealed bids for the construction of such work, and
4 within thirty days after the approval of such plans shall re-
5 ceive and open such bids, after having notified the road com-
6 missioner five days in advance of the day on which such bids
7 shall be opened. The work shall be let to the lowest responsible
8 bidder, subject to the provisions hereinafter contained. The
9 successful bidder shall be required to prosecute the work to
10 completion with reasonable diligence.

Sec. 14. The cost of preparing the plans, specifications and
2 estimates of cost, of securing bids and of the work of sepa-
3 rating the grades shall be borne equally by the railroad company
4 and the state.

Sec. 15. The state road commissioner shall have the authority
2 to order the rejection of any or all bids submitted for the con-
3 struction of any work ordered to be done under the provisions of
4 this article, and the railroad company shall secure new bids.
5 The state road commissioner or the railroad company affected

6 shall have the power to reject any and all bids, and elect to do
7 the work itself, in which event there shall not be charged to the
8 railroad company or to the state road commissioner any sum in
9 excess of what it would have been required to pay had the con-
10 tract been let to the lowest responsible bidder.

Sec. 16. In all cases the state road commissioner shall, as
2 the work progresses, pay to the railroad company affected its
3 share of the cost of such work as herein provided, which pay-
4 ment shall be made upon estimates furnished by the chief engi-
5 neer of such railroad company. The state road commissioner
6 shall have the right to furnish an engineer, at his expense, who
7 shall act in cooperation with the engineering department of the
8 railroad company affected in the supervision of such work.

Sec. 17. All that part of the work constructed under this
2 article, lying within the right-of-way of the railroad company,
3 after the construction of the same, shall be maintained at the
4 expense of the railroad company, except that the railroad
5 company shall not be required to keep up the surface of the
6 roadbed of such road.

Sec. 18. Before the state road commissioner shall advertise
2 for any contract for the paving of any state road, he shall de-
3 termine upon and approve plans and specifications for the con-
4 struction of standard types of paving suitable for the project
5 contemplated, and shall include in the advertisement and pro-
6 posals for such work the types of paving approved.

Sec. 19. All work of construction and reconstruction of
2 state roads and bridges, and the furnishing of all materials and
3 supplies therefor, and for the repair thereof, unless manufac-
4 tured or assembled by the commissioner shall be done and fur-
5 nished pursuant to contract, except that the commissioner
6 shall not be required to award any contract for work or for
7 materials or supplies for an amount less than three thousand
8 dollars. When the commissioner is about to construct, recon-
9 struct, or improve any road or highway, he shall file with the
10 clerk of the county court, or of the municipality, as the case
11 may be, in which such road lies, a certified copy of the plans
12 and specifications therefor, and a notice that the commissioner
13 is about to enter upon and proceed with the work in question.
14 If the work is to be done, or the materials therefor are to be
15 furnished by contract, the commissioner shall thereupon ad-

16 vertise once each week for at least two successive weeks in two
17 newspapers of opposite politics, if there be such, but if not, then
18 in one newspaper published in each county or municipality in
19 which the road lies, and once in at least one daily newspaper
20 published in the city of Charleston, and in such other journals
21 or magazines as may to the commissioner seem advisable, for
22 sealed proposals for the construction or other improvement of
23 such road, and for the furnishing of materials therefor, accu-
24 rately describing the same, and stating the time and place for
25 opening such proposals, and reserving the right to reject any
26 and all proposals. To all such proposals there shall be attached
27 the certified check of the bidder, or bidder's bond acceptable to
28 the commissioner, in such amount as the commissioner shall
29 specify in the advertisement, but not to exceed five per cent of
30 the aggregate amount of the bid; but such amount shall never
31 be less than five hundred dollars. Such proposals shall be
32 publicly opened and read at the time and place specified in the
33 advertisement, and the contract for such work, or for the sup-
34 plies or materials required therefor shall, if let, be awarded by
35 the commissioner to the lowest responsible bidder for the type
36 of construction selected. In case the commissioner shall reject
37 all bids, he may thereafter do the work with his own forces or
38 with prison labor, or may readvertise in the same manner as
39 before and let a contract for such work pursuant thereto. But
40 nothing in this section shall be so construed as to prevent the
41 commissioner from building, constructing, reconstructing or re-
42 pairing a road to any extent with prison labor without first
43 advertising and rejecting bids therefor.

Sec. 20. In any case where a contract for work and ma-
2 terials shall be let as a result of competitive bidding, the suc-
3 cessful bidder shall promptly and within twenty days after
4 notice of award execute a formal contract to be approved as to
5 its form, terms and conditions by the commissioner, and shall
6 also execute and deliver to the commissioner a good and suf-
7 ficient surety or collateral bond, payable to the state of West
8 Virginia, to be approved by the commissioner, in such amount as
9 the commissioner may require, but not to exceed the contract
10 price, conditioned that such contractor shall well and truly
11 perform his contract and shall pay in full to the persons en-

12 titled thereto for all material, gas, oil, repairs, supplies, equip-
13 ment, and labor used by him in and about the performance
14 of such contract. An action, either at law or in equity, may
14-a be maintained upon such bond for a breach thereof by
15 any person for whose benefit the same was executed or by
16 his assignee. The bidder who has the contract awarded to him
17 and who fails within twenty days after notice of the award
18 to execute the required contract and bond shall forfeit such
19 check or bond, and the check or bond shall be taken and con-
20 sidered as liquidated damages and not as a penalty for failure
21 of such bidder to execute such contract and bond. Upon the
22 execution of such contract and bond by the successful bidder
23 his check or bond shall be returned to him. The checks or
24 bonds of the unsuccessful bidders shall be returned to them
25 promptly after the bids are opened and the contract awarded
26 to the successful bidder. A duplicate copy of such contract and
27 bond shall be furnished by the state road commissioner in loose
28 leaf form, to the clerk of the county court of the county in
29 which such contract is to be performed and it shall be the
30 duty of the clerk to bind and preserve the same in his office,
31 and index the same in the name of the commissioner and of the
32 contractor.

Sec. 21. Every contract made by the state road commissioner
2 shall be made in the name of the state by "The State Road
3 Commission" and shall be signed by the state road commissioner
4 and by the contractor and be approved as to form and regularity
5 by the attorney general or by other competent counsel.

Sec. 22. Contracts authorized by this chapter shall not be
2 let to any person, association of persons, firm, company or cor-
3 poration, connected, directly or indirectly, with any combina-
4 tion in the form of an unlawful trust in restraint of trade, or
5 who has an understanding, directly or indirectly, to limit, in
6 any manner, competition in bidding upon the construction of
7 any state road or bridge, or for furnishing any materials. Any
8 such combination or unlawful trust is hereby forbidden. Any
9 person, association of persons, firm or corporation entering into,
10 or being a part of, any such combination or unlawful trust shall
11 be guilty of a misdemeanor, and, upon conviction thereof, shall
12 be fined not exceeding one thousand dollars; and every person,

13 county or state officer, or any employee of any county of the
14 state, or of the state road commissioner or other person con-
15 nected therewith, directly or indirectly, and any officer or mem-
16 ber of a corporation, who shall be engaged in any way in pro-
17 moting any such combination or unlawful trust, or in aiding or
18 abetting the same, or knowingly committing any acts in pur-
19 suance thereof, in addition to being subject to the fine aforesaid,
20 may, in the discretion of the court, be imprisoned not exceed-
21 ing six months.

Sec. 23. Any person, firm or corporation offering for sale
2 or selling to the state any paints, metal or metal culverts, fence
3 or fencing, or any other materials or supplies for use upon or
4 in the construction of any road or bridge or part thereof, shall,
5 if requested, furnish therewith a certificate under oath, showing
6 its purity, chemical constituents, and the percentage of im-
7 purities contained therein. Any person, firm or corporation
8 knowingly making or furnishing a false certificate shall be
9 guilty of perjury.

10 Any contract made by reason of any false statement or rep-
11 resentation may be cancelled by order of the court.

Sec. 24. Materials or supplies shall be used in the construc-
2 tion, reconstruction, improvement, repair, or maintenance of
3 state roads only when tested, standardized and approved in
4 writing by the state road commissioner.

Sec. 25. For the purpose of obtaining materials to be used
2 in the construction and maintenance of state roads and high-
3 ways, the state road commissioner is hereby authorized and
4 empowered, on behalf of the state, to establish stone quarries,
5 stone crushing plants, brick kilns, cement plants, and other
6 plants deemed by him needful or necessary in the prosecution
7 of his work, and to acquire lands and appurtenances requisite
8 thereto. The commissioner shall also have the power to rent,
9 purchase, condemn or acquire by any other lawful method, stone
10 quarries, gravel, clay, sand, and other deposits, with rights-of-
11 way thereto, and wharves, landings, switches and storage places
12 for shipping or receiving materials; hire or purchase all means
13 of transportation for the same; remove such materials from
14 such lands and other places; prepare such materials for use;
15 manufacture such materials into road making products; pur-

16 chase all necessary machinery, tools and other equipment; make
17 such contracts and employ such labor as may be needful or nec-
18 essary to establish and operate such plants; acquire, prepare,
19 manufacture and transport such materials for use, and to do
20 all other things needful or necessary in connection with the
21 purchase, production, accumulation and distribution of such ma-
22 terials for the uses aforesaid. All costs and expenses incidental
23 thereto shall be paid out of the state road fund. The commis-
24 sioner may sell the surplus of such materials, products or equip-
25 ment to any county or municipality of the state, or to any per-
26 son, firm or corporation, at not less than actual cost, when the
27 same are to be used exclusively in the building of roads, streets
28 and alleys in this state. The commissioner shall pay to the
29 state treasurer the funds received therefor, to be credited to the
30 state road fund.

31 The commissioner is empowered to enter into contracts with
32 the proper authorities of other states to establish, jointly, plants
33 for the preparation and manufacture of cement, brick, stone
34 and other materials to be used in the construction of roads as
35 provided herein, and to operate jointly such plants, acquire all
36 materials and do all other things necessary for such operation,
37 and the disposition of the products thereof, for the more eco-
38 nomic prosecution of the work of building and maintaining
39 public roads.

Sec. 26. The state road commissioner shall designate and
2 may, at any time, relocate and redesignate as a connecting part
3 of a primary road, any bridge or street within a municipal
4 corporation. The commissioner shall construct, reconstruct,
5 improve and maintain the designated connecting part at the
6 cost and expense of the state: *Provided, however,* That any
7 existing free bridge forming a connecting link between two
8 counties and two state routes is hereby adopted as part of the
9 state road system and shall hereafter be maintained by the state.

Sec. 27. The state road commissioner shall exercise the same
2 control over connecting parts in municipalities, except the
3 regulation of traffic, that he exercises over the state road system
4 generally, but he shall assume no greater duty or obligation
5 in the construction, reconstruction and maintenance of streets
6 as primary roads than he is required to assume in the case of
7 state roads outside of municipalities.

Sec. 28. Before the state road commissioner shall construct, 2 reconstruct, improve or repair a section of a primary road 3 within a municipality he shall give to the municipality notice 4 and a reasonable opportunity to lay all necessary pipes and 5 make all necessary connections for any purpose, where the duty 6 is imposed by law upon the municipality. The municipality 7 shall, by ordinance, compel all public service companies and 8 abutting property owners to lay all necessary pipes and to 9 make all necessary connections along and in the line of the sec- 10 tion of the primary road, before the construction, reconstruc- 11 tion, or improvement is started.

12 In the event that the municipality after it has been served 13 with notice in writing by the commissioner of his intention to 14 improve such street and has been requested to lay all necessary 15 pipes and make all necessary connections shall fail to comply 16 with such request, within sixty days after service of such notice, 17 the commissioner may thereupon lay such pipes and make such 18 connections and necessary cost and expense thereof shall be 19 chargeable by the commissioner against the municipality. Upon 20 the neglect or refusal of the municipality or public service 21 company to pay such costs and expenses within sixty days 22 after the completion of the laying of such pipes and making 23 such connections the commissioner may collect the same by 24 proper action in any court having jurisdiction. But the costs 25 and expenses shall not be chargeable against the municipality 26 to the extent that the same would impose an indebtedness 27 against the municipality in excess of the amount allowed by 28 existing law.

Sec. 29. The taking over of streets as provided in section 2 twenty-six shall not affect any franchise now existing or here- 3 after granted.

Sec. 30. The taking over of any street as a primary road 2 shall not affect any existing contract for construction, recon- 3 struction or improvement.

Sec. 31. The state road commissioner may, by reasonable 2 rules and regulations, govern the widths and grades of streets 3 designated as primary roads. He may regulate the opening of 4 pavement for the construction or repair of service lines or 5 substructures, and may require adequate bond to secure the

6 proper replacement of the pavement. He may also make other
7 reasonable regulations concerning the construction and mainte-
8 nance of the street.

9 In the absence of regulations by the commissioner, the mu-
10 nicipal authorities may continue to exercise the same authority
11 that they have over other streets within their jurisdiction.

Sec. 32. The state road commissioner shall take over streets
2 designated as primary roads within municipalities on the first
3 day of July, one thousand nine hundred thirty-three.

Sec. 33. The commissioner shall inspect all bridges upon
2 state roads. If any bridge is found to be unsafe, the commis-
3 sioner shall promptly condemn, close and repair it.

Sec. 34. When it is necessary and proper to connect a state
2 road with a public highway of an adjoining state, the state road
3 commissioner, with the approval of the governor, is authorized
4 to enter into a contract with the proper authorities of the ad-
5 joining state for the joint purchase, erection, and maintenance
6 of a bridge across the stream separating this state from the
7 adjoining state. The commissioner shall file with the governor
8 a report in writing, with necessary maps, plans and specifica-
9 tions of the bridge, showing the estimated cost, and all other
10 facts that he may deem necessary, or that may be required by
11 the governor.

Sec. 35. The state road commissioner, incidental to the
2 construction and maintenance of state roads, shall have the
3 power and authority to change or divert any stream of water
4 which is not navigable, in order to avoid or facilitate the cross-
5 ing thereof, or to economize in the construction or maintenance
6 of any such road, or to protect the same from damage. To
7 effect a change or diversion of any such stream, he may exercise
8 the right of eminent domain.

Sec. 36. Whenever the safety or convenience of the travel-
2 ing public demands it, the state road commissioner may con-
3 struct and maintain sidewalks along state roads. Any person,
4 at his own expense, may build, with the permission of the state
5 road commissioner, a sidewalk along any state road for the free
6 use of the public. The commissioner shall order the sidewalk
7 removed if it interferes with the public travel. Any person
8 who, without authority, injures or destroys any such sidewalk

9 and fails to repair the same, shall be guilty of a misdemeanor,
10 and, on conviction thereof, shall be fined not less than five nor
11 more than fifty dollars.

Sec. 37. The state shall not be made the defendant in any
2 proceeding to recover damages because of the defective con-
3 struction or condition of any state road or bridge.

Sec. 38. Except as otherwise provided, a person violating
2 any of the provisions of this article or any of the rules or
3 regulations of the state road commissioner shall be guilty of a
4 misdemeanor, and upon conviction shall be fined not less than
5 ten nor more than one hundred dollars, or be imprisoned not
6 less than five nor more than thirty days, or both.

ARTICLE V

Section 8. Only such contracts shall be renewed, or new con-
2 tracts made, between the state and individuals for the employ-
3 ment of convicts confined in the state penitentiary as may be
4 necessary to employ all convicts not otherwise employed under
5 the provisions of this article.

Sec. 8-(a). The state road commissioner may contract with
2 the sheriff of any county for the services of persons sentenced
3 to the county jail according to section six, article eleven, and not
4 needed for work on county projects.

5 Such contract shall state the number of prisoners desired,
6 which shall not be less than ten, and the length of time which
7 the commissioner shall contract for their use. Prisoners so
8 contracted for shall not be used outside of the county in which
9 they were imprisoned.

10 So far as applicable, the contract governing the use, main-
11 tenance and care of prisoners in the state road force shall gov-
12 ern the use, maintenance and care of prisoners requisitioned
13 from the sheriff, except that so far as possible county prisoners
14 shall be segregated and used upon different projects from
15 prisoners from the state penitentiary.

Sec. 9. All penitentiary convicts employed on state roads
2 under contract with the state road commissioner shall be
3 transported from and to the penitentiary under the direction
4 of the warden thereof. Such prisoners may be transported any-
5 where in the state for road work. The state road commissioner
6 shall provide suitable quarters for such convict road force, to

7 be constructed, when practicable, with convict labor. He shall
8 supply such force with all necessary food, cooking utensils, beds
9 and bedding, and provide means of transportation for such con-
10 victs and such camp equipment, when necessary, from place
11 to place or to and from the work of such convicts. The con-
12 tract between the state board of control and the state road com-
13 missioner for convict road work may provide for payment out of
14 the state road fund of the expenses of the transportation and
15 wages of prisoners engaged in road work and for their mainte-
16 nance, clothing, food, quarters, guards and supplies.

ARTICLE VIII

Section 29. Municipal authorities shall not make or en-
2 force any ordinance, order, rule or regulation decreasing or
3 increasing the size and weight limits of vehicles upon the
4 streets designated as a connecting part of any primary road
5 contrary to general law. But any incorporated city or town
6 shall have the power to regulate or forbid the parking of
7 vehicles upon any such designated streets within its limits,
8 and to regulate the progress of traffic at street intersections in
9 congested districts thereof. In case a municipality restricts to
10 one direction traffic upon a connecting link of a primary road
11 and thereby necessitates the designation of other streets as
12 connecting links, the state road commissioner shall not be re-
13 quired to maintain such additional streets unless he shall ex-
14 pressly assume the obligation. The commissioner shall have
15 authority to apply to any court having jurisdiction for a man-
16 damus to compel any municipality to perform its duties under
17 this section.

Sec. 30. The state road commission, as to state roads, and
2 the councils or other municipal authorities acting in lieu there-
3 of of all incorporated municipalities, as to the streets and
4 alleys of their respective municipalities (except as to streets
5 forming a part of or connecting link in the primary road sys-
6 tem), shall have the power and authority to classify their re-
7 spective roads, streets and alleys, and to regulate and restrict
8 the use of tractors, traction engines and commercial vehicles
9 thereon, and may designate such class of vehicle, and the weight
10 thereof, including load, that may travel thereon or pass over
11 the same.

12 All orders, ordinances, by-laws, rules and regulations so made,
13 adopted and promulgated shall be made a matter of record by
14 the body adopting the same, and signed by the state road com-
15 missioner, or the mayor and recorder of such municipality or
16 other corresponding officers thereof. Such orders, ordinances,
17 by-laws, rules and regulations, when and as promulgated and
18 authorized, shall be printed by the commissioner, or municipal
19 body by whom adopted, for free distribution within the state
20 or the political subdivision to which they apply. A printed
21 copy of such orders, ordinances, by-laws, rules and regulations,
22 when made by the road commissioner, shall be filed with the
23 secretary of state and a copy sent to the clerk of the county
24 court of each county affected thereby. Printed copies of such
25 orders, ordinances, by-laws, rules or regulations, when made
26 by the council or other governing body of a municipality, shall
27 be filed with its recorder or other corresponding officer, and
28 copies delivered to all police and other municipal officers in
29 the municipality. Copies of any such order, ordinance, by-
30 law, rule or regulation, made and entered by any of the bodies
31 aforesaid, shall be delivered to any person interested, free of
32 charge, upon request. The printing and distribution of any
33 such order, by-law, rule or regulation shall be sufficient notice
34 to the public of the provisions, requirements and effect thereof.
35 Every general regulation adopted by any of the bodies afore-
36 said shall state the date on which it takes effect, which shall
37 not be less than thirty days after its adoption and promulga-
38 tion.

39 When any road, street or alley is classified as aforesaid and
40 the use of commercial vehicles thereon is regulated or restricted,
41 or the class of vehicle and the weight, including load thereof,
42 that may travel thereon or pass thereover has been fixed by
43 ordinance, resolution or by-law as aforesaid, the general law
44 regulating the class and character of such commercial vehicles,
45 motor driven or otherwise, and the maximum weight of load
46 that may be transported over roads, streets and alleys gen-
47 erally, shall be subordinate to the classification, rules and reg-
48 ulations made and adopted by the state road commissioner and
49 municipalities of this state as in this section provided.

50 A "commercial vehicle" within the meaning of this section

51 shall include any vehicle designed or used for the transporta-
52 tion of merchandise or freight.

53 Any person who shall use any such road, street or alley in
54 violation of any such order, ordinance, by-law, classification,
55 restriction or regulation shall be deemed guilty of a misde-
56 meanor, and upon conviction thereof, fined not less than ten
57 nor more than one hundred dollars, and shall moreover be
58 liable to the state road commissioner or the municipality, as
59 the case may be, for any and all damages occasioned by such
60 use.

Sec. 31. The state road commissioner, as to state roads,
2 and the councils, or other municipal authorities acting in lieu
3 thereof, of all incorporated municipalities within the state, as
4 to the streets and alleys in their respective municipalities
5 (except as to streets forming a part of or connecting link in
6 the primary road system), shall have the power and authority
7 to prohibit or restrict traffic upon any of the roads, streets or
8 alleys within their respective jurisdictions, by motor driven
9 or animal drawn vehicles, when such traffic is likely, by reason
10 of weather conditions, or the season of the year, to damage such
11 road, street or alley, and may make and adopt such reasonable
12 orders, ordinances, by-laws, rules and regulations, as may, in
13 their judgment, be necessary to prevent such damage, and to
14 insure the proper use of such roads, streets and alleys during
15 such weather conditions or season of the year.

16 All orders, ordinances, by-laws, rules and regulations so
17 made, adopted and promulgated shall be made a matter of
18 record by the body adopting the same, and signed by the state
19 road commissioner or the mayor and recorder of such mu-
20 nicipality or other corresponding officers thereof, as the case
21 may be. Such orders, ordinances, by-laws, rules and regula-
22 tions, when and as promulgated and authorized, shall be printed
23 by the commissioner or municipal body by whom adopted, for
24 free distribution within the state or the political subdivision to
25 which they apply. A printed copy of such orders, ordinances,
26 by-laws, rules and regulations, when made by the state road
27 commissioner, shall be filed with the secretary of state and a
28 copy sent to the clerk of the county court of each county af-
29 fected thereby. Printed copies of such orders, ordinances, by-

30 laws, rules or regulations, when made by the council or other
31 governing body of a municipality, shall be filed with its recorder
32 or other corresponding officer, and copies delivered to all police
33 and other municipal officers in the municipality. Copies of any
34 such order, ordinance, by-law, rule or regulation, made and en-
35 tered by any of the bodies aforesaid shall be delivered to any
36 person interested, free of charge, upon request. The printing
37 and distribution of any such order, by-law, rule or regulation
38 shall be sufficient notice to the public of the provisions, require-
39 ments and effect thereof. Every general regulation adopted by
40 any of the bodies aforesaid shall state the date on which it takes
41 effect, which shall not be less than thirty days after its adop-
42 tion and promulgation.

43 The provisions and requirements of any order, ordinance,
44 by-law, rule or regulation, made, adopted or promulgated, by
45 virtue of the provisions of this section, may be enforced by any
46 officer or person in charge of the maintenance of any road,
47 street or alley included therein, after notice, by signs plainly
48 stating the prohibited or restricted use of such road, street or
49 alley and the period of time in which prohibition or restric-
50 tion applies, which shall have been placed at the beginning and
51 end of each section of road, street or alley over which traffic
52 is so prohibited or restricted.

Sec. 32. The provisions of this chapter shall apply in gen-
2 eral throughout the state, and, except as provided in the two
3 preceding sections of this article, no political subdivision
4 thereof shall make or enforce any ordinance, order, rule or
5 regulation imposing fines and penalties in conflict with those
6 prescribed in this chapter or increasing or decreasing the speed,
7 size and weight of vehicles as in this chapter defined. But
8 any incorporated city or town in this state shall have power
9 to enact and enforce ordinances and regulations limiting the
10 speed, size and weight of vehicles on such streets, alleys and
11 other public thoroughfares within its limits as are not desig-
12 nated by the state road commissioner as connecting parts of
13 the primary road system, and to regulate or forbid the parking
14 of vehicles upon any designated streets, alleys and other public
15 thoroughfares within its limits, and to regulate traffic at street
16 intersections and in congested districts.

Sec. 33. Whenever any person, firm or corporation has
2 damaged or is likely to damage, by means of heavy loading or
3 unusual traffic, any state road to such an extent that the cost
4 of repairs or maintenance will be more than the average cost
5 of repairs or maintenance of other roads of like type and con-
6 struction, the road commissioner shall have power to regulate
7 the loading of such vehicles and to assess the excessive cost of
8 repairs and maintenance of such roads against the person, firm
9 or corporation causing such damage and require the payment
10 thereof before further use of such road by such person, firm
11 or corporation is permitted.

Sec. 34. Nothing in the general rules contained in this chap-
2 ter regulating traffic shall be so construed as to authorize the
3 use of any road, street or alley by any person, firm or cor-
4 poration in such manner or for such purpose as would be de-
5 structive thereof. Any person making use of any road, street
6 or alley in this state in such a manner or to such an extent as
7 to be destructive thereof, or as is mentioned in the preceding
8 section, shall be liable to "The State Road Commission," the
9 county court or the municipality, as the case may be, for dam-
10 ages by reason thereof, and the same may be recovered by ap-
11 propriate action in any court having jurisdiction thereof.

Sec. 35. The state road commission, the county court of
2 each county, and the incorporated towns and cities of this state,
3 shall post and keep posted on or at each end of all bridges
4 over which they have jurisdiction, respectively, notices clearly
5 legible to the traveler upon the road, indicating the maximum
6 safe load or weight that may pass over such bridge at any
7 one time. But such notice shall not be required upon any
8 small stone, brick, concrete, arch or slab bridge whose capacity
9 clearly exceeds the weight that may lawfully pass over the
10 adjoining road.

11 No city, town or county court shall be liable for any damage
12 resulting to any person or property by reason of the breaking
13 of any bridge by transportation at any one time on or over the
14 same of any vehicle or animals weighing an amount in excess
15 of that indicated by such notices as the maximum safe load or
16 weight, but any owner or other person engaged in transport-
17 ing, directing, driving or conducting the same in excess of

18 such weight over such bridge shall be liable for all damages
19 resulting therefrom.

ARTICLE IX

This article and all its sections are hereby repealed.

ARTICLE X

Section 1. The county court shall have the superintendence
2 and administration of the construction, reconstruction, repair
3 and maintenance of bridges and approaches to bridges situated
4 within municipalities and at the time of the adoption of this
5 act remaining under the control and jurisdiction of the county
6 court. The county court shall also have like authority over
6-a public landings. The term "roads and bridges" in this article
7 shall be construed to mean the bridges and approaches to
8 bridges which under this section remain within the jurisdiction
9 of the county court, unless the context clearly requires a dif-
10 ferent meaning.

11 Pursuant to section two, article four, this chapter, the county
12 court shall upon the first day of July, nineteen hundred thirty-
13 three, relinquish to the state road commissioner its authority
14 over county-district roads, and shall thereafter neither con-
15 struct, reconstruct or maintain any road or bridge except as is
16 specifically authorized by this article.

17 The state road commissioner may purchase or rent from any
18 county court any or all road equipment and materials in their
19 possession and shall give preference in the purchase of such
20 machinery from the county courts that may be needed by the
21 commission and not needed for the maintenance and repair of
22 the roads, bridges and landings remaining under their control.

Sec. 2. So far as applicable, the county court shall have with
2 respect to the roads, bridges and public landings that remain
3 within their jurisdiction similar powers to those granted to the
4 state road commissioner by section four, article four of this
5 chapter.

Sec. 3. In the exercise of the power of eminent domain
2 with regard to the roads and bridges under their jurisdiction
3 the county court shall be governed in the same manner and to
4 the same extent as is the state road commissioner by section five,
5 article four of this chapter.

Sec. 4. The county court shall keep a record book, to be 2 known as the "road record" in which they shall record all 3 orders, papers, and documents pertaining to road matters and 4 required by this chapter to be recorded. This book shall only 5 be used for the purposes specified. There shall also be filed 6 with the clerk of the county court all changes in title to rights- 7 of-way, maps, plats, surveys and all discontinuances of roads 8 and bridges under the jurisdiction of the county court.

9 The county court shall also provide the clerk with a record 10 book to be known as the "financial road record." It shall be in 11 the form prescribed by the state road commissioner. The county 12 court shall enter in it a record of county road bonds, county 13 road funds and the road bonds and funds of the several districts. 14 The record shall show the road upon which each item was 15 spent, whether for construction or reconstruction and the 16 kind thereof, or for maintenance, and the character of the road 17 maintained, and shall show whether the construction and main- 18 tenance was upon bridges or upon the roadbed proper.

Sec. 5. The provisions of section eight, article four of this 2 chapter relating to the protection of roadbeds shall apply to the 3 authority of the county courts over the roads and bridges with- 4 in their jurisdiction.

Sec. 6. The county court shall inspect all bridges under 2 its jurisdiction and control. If any bridge is found to be un- 3 safe the court shall promptly condemn, close, and repair it.

Sec. 7. County courts and municipalities shall have the same 2 authority and shall follow the same procedure, so far as appli- 3 cable, in the elimination of grade crossings, on roads, bridges, 4 or public landings within their jurisdiction, as is provided 5 in sections nine to seventeen, inclusive, article four of this 6 chapter.

Sec. 8. In case the county court desires to contract for the 2 construction, reconstruction or maintenance of a road or bridge 3 or for the purchase of supplies and equipment, it shall adver- 4 tise for the letting of the contract by publishing once each week 5 for at least two consecutive weeks preceding the date of the 6 letting of the contract in two newspapers of general circulation 7 and of different politics, if there be such in the county, if not, 8 then in one paper of general circulation therein.

Sec. 9. All bids for work to be done by contract on roads

2 and bridges under the control of the county court shall be re-
3 ceived at the courthouse of the county at the time specified in
4 the advertisement, and shall be opened only in open court, and
5 the amount and items comprising each bid shall be publicly an-
6 nounced, and the contract, if let, shall be awarded to the lowest
7 bidder for the type of construction selected. The contractor
8 shall give bond with security to be approved by the court in an
9 amount equal to fifty per cent of the contract price, conditioned
10 for the faithful performance of the contract.

11 After such bids have been opened the county court shall
12 publish immediately in two newspapers of opposite politics, if
13 there be such, published in the county, but if not, then in some
14 newspaper of general circulation therein, the names of all per-
15 sons bidding on such contract, together with the itemized
16 amount of their respective bids, designating the person to whom
17 such contract was awarded, if awarded, together with the
18 amount of his bid.

19 The court may reject any and all bids, and may thereafter
20 have the work done in any other manner that may deem ad-
21 visable. If there be two bids of the same amount for any sec-
22 tion of road, or for any other improvement thereon, the court
23 shall have the power to accept either of such bids.

24 The court may reserve from payment not more than twenty
25 per cent of the amount accruing on the contract until the
26-27 work has been completed and approved.

28 Any person who shall open any of the bids at any other time
29 or place than herein provided, or shall make known the name
30 of the bidder, or the amount of his bid, otherwise than as herein
31 provided, shall be guilty of a misdemeanor, and, upon convic-
32 tion thereof, shall be fined not less than fifty nor more than two
33 hundred dollars, and be imprisoned in the county jail not less
34 than one nor more than six months. Any member of the county
35 court who shall violate any of the provisions of this section
36 shall be deemed guilty of a misdemeanor, and, upon conviction,
37 shall in addition to the penalties provided above forfeit his
38 office.

Sec. 10. A county court shall not enter into any contract
2 prohibited by the provisions of section twenty-two, article four
3 of this chapter.

Sec. 11. The county court may request a certificate of purity

2 of the chemical constituents and the percentage of impurities
3 contained in any materials or supplies offered to it for pur-
4 chase. Any person, firm or corporation willfully making or
5 furnishing a false certificate shall be guilty of perjury.

6 Any contract made by reason of any false statement or rep-
7 resentation may be cancelled by order of the court.

Sec. 12. In the event the county court shall decide to have
2 work done other than by contract, the court shall make and
3 record their decision in the road record and thereupon they may
4 appoint a competent superintendent who shall have the super-
5 vision of the work. The court shall fix his compensation.

Sec. 13. The county court or person contracting with it shall
2 only use in the construction, reconstruction, improvement, re-
3 pair or maintenance of roads and bridges under its jurisdiction,
4 materials that have been standardized, tested and approved by
5 the state road commissioner.

Sec. 14. The county court shall see that all its appointees
2 and employees faithfully perform their respective duties, obey
3 its orders and expend money and perform labor only as ordered
4 and directed by the court and required by this chapter.

Sec. 15. For the purpose of obtaining materials to be used
2 in the construction and maintenance of roads or bridges under
3 the jurisdiction of the county court, the court is authorized to
4 establish and maintain stone quarries, stone crushing plants,
5 and erect such buildings in connection therewith as shall be
6 actually necessary in the prosecution of its work.

Sec. 16. All claims of any contractor or others, which may,
2 under the provisions of this chapter, be due to such contractor
3 or other persons for labor done or materials furnished in and
4 about the construction, reconstruction or improvement of a road
5 or bridge under the jurisdiction of the county court, shall be
6 presented to the county court at the proper session thereof, and
7 if found correct, shall, upon the order or warrant of such court,
8 signed by the president and clerk thereof, be paid by the sheriff.
9 No claim shall be paid by the county court until a thorough
10 investigation of its validity has been made.

Sec. 17. Any person who sustains an injury to his person or
2 property by reason of any road or bridge under the control
3 of the county court or any street or sidewalk or alley in any in-
4 corporated city, town or village, being out of repair may recover

5 all damages sustained by him by reason of such injury, in an
6 action against the county court, city, town or village in which
7 such road, bridge, street, sidewalk or alley may be, except that
8 such city, town or village shall not be subject to such action
9 unless it is required by its charter to keep the road, bridge,
10 street, sidewalk or alley therein, at the place where such injury
11 is sustained, in repair. If it is not so required, the action and
12 remedy shall be against the county court. When judgment is
13 obtained against the county court, such court shall at the time
14 of the laying of the next annual levy, levy upon the taxable
15 property of the district in which such injury is sustained a suf-
16 ficient sum to pay such judgment with interest and costs, and
17 the costs of collecting the same, and when it is obtained against
18 the city, town or village the proper corporate authorities there-
19 of shall lay such levies at the time of levying the next annual
20 levy on the property subject to taxation in such city, town or
21 village. And in case of a failure by either so to do, or pay the
22 judgment as required by law, the circuit court of the county
23 shall compel the laying of such levy, or the payment of such
24 judgment, or both, by mandamus.

Sec. 18. Any person who may be injured by reason of a
2 turnpike, road or bridge belonging to any company or per-
3 son, or to any county in its corporate capacity, being out of
4 repair, may recover all damages sustained by him by reason of
5 such injury, in the manner prescribed in the preceding section,
6 against such company, person or county, or against the lessee
7 for the time being of any such road or bridge. Any judgment
8 against a city, town, village or county under this section may
9 be enforced by the circuit court by writ of mandamus.

Sec. 19. The county court shall at the close of each fiscal
2 year determine the amount necessary to maintain, construct,
3 and reconstruct the roads, bridges and public landings within
4 its jurisdiction for the succeeding fiscal year.

Sec. 20. The county court shall include the amount deter-
2 mined under section nineteen of this article in the total
3 amount for which a general county levy is laid as provided by
4 article eight, chapter eleven, as amended.

Sec. 21. The bonded indebtedness incurred by the county
2 and by its magisterial districts for road purposes shall remain
3 the debt of the property originally pledged as security for the

4 payment of the obligation. The county court shall impose upon
5 the property in the county for county obligations, and in the
6 magisterial districts for district obligations, levies in the man-
7 ner provided in sections seven and thirteen, article eight, chap-
8 ter eleven, as amended, for the payment of the current require-
9 ments of principal and interest of the bonded indebtedness.

Sec. 22. Any county, district, group of districts or municipi-
2 pal corporation may, in the manner provided by law, vote bonds,
3 or provide funds by special levy, according to the procedure pro-
4 vided by section fifteen, article eight, chapter eleven as amended,
5 for the improvement and paving of any state road lying within
6 their respective boundaries, but such funds shall be expended
7 under the charge and by the state road commissioner. The
8 state road commissioner shall maintain roads so paved or con-
9 structed.

Sec. 23. The county court of each county shall levy for
2 road purposes a capitation tax of one dollar upon each male
3 inhabitant of the county who has attained the age of twenty-
4 one years and who is not a pauper or of unsound mind. The
5 capitation tax shall be collected by the assessor and the pro-
6 ceeds thereof shall be credited to the state road fund for the
7 benefit of and to be expended for the maintenance of the roads
8 of the county in which the tax was raised.

9 In lieu of the payment of the tax the taxpayer may apply
10 for work upon the roads of the county, and after one day's
11 satisfactory work he shall be credited with payment of his capi-
12 tation tax for road purposes.

Sec. 24. Delinquent lists of taxes uncollected under the pro-
2 visions of this article shall be returned and disposed of as school
3 and other district and county levies are returned and disposed
4 of according to law. Such delinquent taxes shall be collected
5 at the same time, and by the same officer, and in the same man-
6 ner as state and county taxes are collected, pursuant to chapter
7 eleven of this code.

Sec. 25. A person violating any of the provisions of this
2 article shall be guilty of a misdemeanor, and upon conviction
3 shall be fined not less than ten nor more than one hundred
4 dollars, or be imprisoned not less than five nor more than thirty
5 days, or both.

ARTICLE XI

This article and all its sections are hereby repealed.

ARTICLE XII

This article and all its sections are hereby repealed.

ARTICLE XIII

This article and all its sections are hereby repealed.

ARTICLE XIV

This article and all its sections are hereby repealed.

ARTICLE XV

Section 1. Any able-bodied male person over the age of 2 sixteen years, upon conviction before any court or justice of 3 the peace of an offense punishable with confinement in the 4 county jail, and sentenced to imprisonment in the county jail 5 and to pay a fine and costs, may be sentenced to labor in the 6 preparation of road materials, or upon the roads, bridges and 7 public landings under the control of the county court. He may 8 be required to work during the term of his imprisonment and 9 until such fine and costs are satisfied.

10 Whenever any person is imprisoned by virtue of section nine, 11 article four, chapter sixty-two, and fails to execute the bond 12 therein provided, he may be required to work on the roads or 13 in the preparation of road materials, or both, until the fine 14 and costs are paid under the regulations prescribed by this 15 article.

16 Work shall not be required unless requested by the county 17 court; nor shall it be required on the streets or alleys of any 18 city, town, or village which under its charter is required to 19 keep its own streets and alleys in order, unless the corporate 20 authority thereof shall first arrange with the county authorities 21 to pay the keeper of the jail the amount to which he shall be 22 entitled for the board of the prisoners.

Sec. 2. The court or justice of the peace before whom any 2 such prisoner is convicted or imprisoned may omit from the 3 sentence that part of the penalty requiring such person to work 4 on the public roads of the county, or in the preparation of road 5 material.

Sec. 3. The county court may provide for the working of

2 prisoners, and shall provide for their safekeeping while work-
3 ing, and to this end the border lines of the county shall con-
4 stitute and be considered the walls of the jail, and the rep-
5 resentative of the county court having such work in charge
6 is authorized to adopt safe and humane methods of discipline
7 and protection to enforce the provisions of this article and to
8 prevent the escape of the prisoners.

9 A county court shall not employ prisoners outside the county
10 where they are convicted or imprisoned except on the same
11 terms and conditions and under the same rules and regulations
12 as govern their employment within the county in which they
13 were convicted.

Sec. 4. If a person escapes while working under the provi-
2 sions of this article, and is recaptured, he shall be taken by the
3 officers having him in custody before a justice of the peace in
4 the county where such escape was made, and the justice may
5 after a trial and upon conviction for such escape sentence him
6 to labor on the roads and bridges under the control of the
7 county court, or to the county jail, and in addition to the fine
8 and sentence imposed at his previous trial, shall sentence him
9 to not less than sixty days nor more than six months, and to
10 pay the cost of making the arrest including all costs of trial;
11 and in default of payment he may sentence the prisoner to work
12 out such costs on the roads or in the preparation of road ma-
13 terials, or both, as herein provided.

Sec. 5. The sheriff, with the approval of the county court,
2 shall employ a sufficient number of persons to guard the pris-
3 oners. The number of guards shall not exceed one for every
4 ten prisoners. The county court shall fix the wages of the
5 guards and have the control and authority over them.

6 The keeper of the jail shall file with the clerk of the county
7 court a monthly statement showing the number of prisoners
8 sentenced to work under the provisions of this article and the
9 number of days work the prisoners performed.

Sec. 6. If the accused is sentenced to labor as provided by
2 this article, the clerk of the court, or the justice of the peace
3 before whom the person is convicted, shall certify to the jailer
4 the length of sentence and the amount of fine in the manner
5 and form following:

6 Commitment by for imprisonment
 7 for sentence, fine and costs.
 8 State of West Virginia, County of ss:
 9 To the sheriff or any constable of said county, and to the
 10 jailer of said county:

11 Whereas, was this day convicted of
 12 the crime of and was sentenced to
 13 confinement in the county jail for the period of days,
 14 or months, from this date, and to pay the state a fine of \$....
 15 and costs incurred, amounting to the sum of \$.... itemized
 16 on the back hereof, and to labor on the roads and bridges
 17 under the control of the county court, or in the preparation
 18 of road materials, until said fine and costs are paid, as pro-
 19 vided in article eleven, chapter seventeen of the code.

20 You (the said sheriff or constable), are hereby commanded,
 21 in the name of the said state, to receive and confine the said
 22 in said jail, and to see that
 23 the said labors according to
 24 law until his sentence, fine and costs have been satisfied, or
 25 until he is discharged according to law.

26 Given under my hand and seal this day of ,
 27 19.....

28
 29 Clerk of court or justice of peace.

Sec. 7. A person charged with a misdemeanor, who is un-
 2 able to furnish a recognizance or bail bond with satisfactory
 3 sureties, may, after being committed to jail, elect to labor as
 4 provided for by this article. The circuit, criminal or inter-
 5 mediate court of any county, or the judge thereof in vacation,
 6 may, in its discretion, enter an order permitting such person
 7 to labor as provided for in this article until a time to be fixed
 8 in the order.

9 If at the trial such person is convicted and sentenced to
 10 imprisonment in the county jail, or to labor as specified in this
 11 article, he shall be credited on his term with the number of days
 12 already labored. If fined, he shall be credited on the fine and
 13 costs with one dollar per day for each day he has labored.
 14 If acquitted, he shall be paid out of the general county funds
 15 one dollar per day for each day he has labored.

Sec. 8. Every person sentenced to labor as provided for by 2 this article and who has faithfully complied with all the rules 3 and regulations prescribed by the county court governing such 4 labor shall be entitled to five day's deduction for each month's 5 jail sentence that is imposed upon him.

6 If any article, a section or part of an article or section of this 7 act is for any reason declared unconstitutional, or otherwise 8 invalid, the decision of the court shall not affect the validity of 9 any remaining article, section or part of an article or section 10 thereof.

* CHAPTER 41

(Senate Bill No. 23—By Mr. White, of Hampshire)

AN ACT to amend and reenact chapter thirty-two of the code of West Virginia, one thousand nine hundred thirty-one, relating to speculative securities and fraudulent sales.

[Passed May 17, 1933; in effect from passage. Became a law without the approval of the Governor.]

ARTICLE I.

SEC.

1. Auditor to be commissioner of securities with power to employ necessary assistants.
2. Definition of terms and phrases.
3. To what classes of securities act does not apply.
4. To what transactions in sale of any securities act does not apply.
5. Securities not exempt must be registered by notification or qualification before sale in state; register of securities to be kept by commissioner; register and information with respect to securities registered to be open to public inspection.
6. Classes of securities entitled to registration by notification; definition of mortgage; how securities registered by notification; revocation or suspension of registration; hearing upon suspension order; final order prohibiting sale of securities; application for registration by qualification; revocation of suspension order; fee to be paid at time of filing statement; when registration expires; renewal of registration.
7. Method of registering securities by qualification; amount of fee to accompany application for registration; registration of security by commissioner; examination as to business methods of issuer; expense of examination; expiration and renewal of registration; separate registration and registration fee for each type,

SEC.

- series or kind of securities; exception as to serial issues when entire amount issued at one time.
8. When issuer not domiciled in state, written consent of issuer that suit may be brought in a proper court of any county in this state and appointing commissioner for service of process, etc.; duplicate of process or pleadings served upon or accepted by commissioner to be sent by him to principal office of issuer.
 9. For what commissioner may revoke registration of security; suspension order pending hearing on revocation order; right of commissioner to access to books of insurer, etc., in making examination; suspension order pending investigation; notice of order to issuer and registered dealer; commissioner to require complete information from issuer of any security; copy of circular, form letter, advertisement, etc., used in making or soliciting sales, to be filed with commissioner; right of commissioner to require changes, additions or eliminations before circulation; penalty for violations of provision of section.
 10. Dealer in or salesman of securities required to be registered; form of application for registration; dealer's written consent to service of process upon commissioner to accompany application; fee for registration; partners and executive officers of corporation registered as a dealer, may act

*See chapter forty-two, acts of this session.

SEC.

- as salesman without further registration; register of and information concerning dealers and salesmen to be kept, open to public inspection, in office of commissioner; expiration and renewal of registration; amount of registration and renewal fees; written application for changes in registration; dealer to accept responsibility as to whether security to be sold is exempt, properly registered or is to be registered; business methods of dealer to be examined by commissioner; expense of examination; restrictions on dealing with employee or active official in bank, etc.; revocation of registration for violation of provisions of section.
11. Revocation or cancellation of registration under section ten; suspension of license pending hearing on revocation order; penalty for attempt by registered issuer or dealer to prevent a complete examination or investigation; commissioner may require services of prosecuting attorney and attorney general.
 12. Complaint, indictment, etc., need not negative exemptions or classifications in this article.
 13. When securities delivered to and held by commissioner in escrow until stockholders have received a dividend of not less than six per cent.
 14. When fraudulent practices occur in issuance, etc., of security, commissioner may bring action in the circuit court of Kanawha county to enjoin continuation of fraudulent practices.
 15. Sales made in violation of provisions of article voidable; personal liability of seller or agent; time limitation on action for recover of purchase price; loss of right by purchaser refusing to accept voluntary offer of seller to take back security and refund purchase price with interest.
 16. Procedure in appeal from final order of commissioner to circuit court of Kanawha county; appeal bond, trial of appeal; order of court if order of commissioner reversed; new application if order of commissioner affirmed; order not suspended during pendency of appeal.
 17. Fees to be collected by commissioner and turned into state treasury.
 18. Form of indictment for overt act committed in attempting to defraud through sale of security; penalty.
 19. Penalty for making false statement or knowingly concealing fact affecting value of security or real estate, with intent to induce the

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- purchase of security or real estate.
20. Penalty for knowingly signing statement, etc., containing false representation.
 21. Penalty for selling or offering securities for sale without complying with provisions of article.
 22. Penalty for violating provisions of article where specific penalty not provided.

ARTICLE II.

SEC.

1. Statement required from corporation issuing corporate securities in payment for property, for promotion purposes, etc.; to be delivered to buyer; what statement to show; statement to be sworn to; use of printed copies if original filed in office of commissioner; penalty for making false statement; civil liability of corporation, directors, officers and brokers to purchaser; limitation on action; to what corporations section does not apply.
2. Statement of corporation to purchaser of its securities at a higher price than when previously sold for a specified price; what statement to show; use of printed copies if original filed with commissioner; personal liability of sellers to purchaser; limitation on action.
3. Unlawful to sell lands situate out of state, to be planted in trees or divided into lots, or undeveloped lands, whose value depend on future improvement, without filing with commissioner detailed description of property and registration by commissioner; seller of such property to be registered as salesman; exceptions.
4. Penalty for untrue, deceptive or misleading statement of fact in sale of merchandise, securities or service.
5. Penalty for violations of provisions of article for which specific penalties not provided.
6. Duties of sheriffs, other county officials and state employees to report to commissioner any information showing violations of provisions in this chapter.
7. Registration of security, property, dealer or salesman, not a bar or defense to trial for violation of any other law of state; penalties or punishments hereunder not to be in lieu of penalty or punishment for act prescribed by any other statute.
8. Indictment for violation of provisions of chapter need not negative exceptions; presumption of knowledge by person accused.
9. If any part of act invalid, remainder not affected.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-two of the code of West Virginia, one thou-

sand nine hundred thirty-one, be amended and reenacted to read as follows:

ARTICLE I.

Section 1. The auditor of this state is hereby made and shall be, the commissioner of securities of this state, and he shall have power and authority to employ such assistants as are necessary for the administration of this chapter.

Sec. 2. When used in this chapter the following terms shall, unless the text otherwise indicates, have the following respective meanings:

(a) "Security" shall include any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation, certificate of interest in a profit sharing agreement, certificate of interest in a syndicate agreement, certificate or share of or in an investment trust, certificate of interest in an oil, gas or mining lease, collateral trust certificate, preorganization certificate, preorganization subscription, any share, investment contract or beneficial interest in or title to property, trustee shares, investment participating bonds and contracts covering or pertaining to the sale and/or purchase of securities on the installment plan, profits or earning or any other instrument commonly known as a security.

(b) "Person" shall include a natural person, a corporation, created under the laws of this or any other state, country, sovereignty, or political subdivision thereof, a partnership, an association, a syndicate, a joint stock company, a trust and any unincorporated organization. As used herein the term "trust" shall be deemed to include a common law trust, but shall not include a trust created or appointed under or by virtue of a last will and testament, or by a court of law or equity or any public charitable trust;

(c) "Sale" or "sell" shall include every disposition, or attempt to dispose, of a security or interest in a security for value, including contracts and agreements whereby securities are sold, traded or exchanged for money, property and thing of value, or any transfer or agreement to transfer in trust or otherwise. Any security given or delivered with, or as a bonus on account of any purchase of securities or any other thing shall be conclusively presumed to constitute a part of the subject of such purchase and to have been sold for value. "Sale" or "sell"

34 shall also include an exchange, an attempt to sell, an option of
35 sale, a solicitation of a sale, a subscription or an offer to sell,
36 directly or by an agent, or by a circular, letter, advertisement
37 or otherwise;

38 (d) "Dealer" shall include every person other than a sales-
39 man who in this state engages either for all or part of his
40 time directly or through an agent in the business of selling any
41 securities issued by such person or another person or purchasing
42 or otherwise acquiring such securities from another for the
43 purpose of reselling them or of offering them for sale to the
44 public, or offering, buying, selling or otherwise dealing or trad-
45 ing in securities as agent or principal for a commission or at
46 a profit, or buying, selling or otherwise dealing or trading in
47 securities listed on any exchange or in consummating any con-
48 tract between buyer or seller of securities, or who deals in
49 futures or differences in market quotations of prices or value
50 of any securities or accepts margins on purchases or sales or
51 pretended purchases or sales of such securities: *Provided,*
52 That the word "dealer" shall not include a person having no
53 place of business in this state who sells or offers to sell securities
54 exclusively to brokers or dealers actually engaged in buying
55 and selling securities as a business, and shall not include a
56 bank or trust company dealing in securities for the benefit of
57 its clients or depositors, and when such bank or trust com-
58 pany is not attempting to profit by such transactions it shall
59 be permitted to charge a reasonable service fee or reasonable
60 commission to cover the cost of providing such service.

61 (e) "Issuer" shall mean and include every person who
62 proposes to issue, has issued, or shall hereafter issue any
63 security. Any natural person who acts as a promoter for and
64 on behalf of a corporation, trust or unincorporate association
65 or partnership of any kind to be formed shall be deemed to be
66 an issuer;

67 (f) "Salesmen" shall include every natural person, other
68 than a dealer, employed or appointed or authorized by a dealer
69 or issuer to sell securities in any manner in this state. The
70 partners of a partnership and the executive officers of a corpo-
71 ration or other association registered as a dealer shall not be
72 salesmen within the meaning of this definition;

73 (g) "Agent" shall mean salesmen as hereinabove defined;

74 (h) "Commissioner" shall mean the commissioner of
75 securities.

Sec. 3. Except as hereinafter otherwise expressly provided,
2 the provisions of this chapter shall not apply to any of the
3 following classes of securities:

4 (a) Any security issued or guaranteed by the United States
5 or any territory or insular possession thereof, or by the District
6 of Columbia or by any state or political subdivision or agency
7 thereof;

8 (b) Any security issued or guaranteed by any foreign
9 government with which the United States is at the time of the
10 sale or offer of sale thereof maintaining diplomatic relations,
11 providing such foreign government has not issued or guar-
12 anteed external securities then in default as to interest, prin-
13 cipal or sinking fund, and that such foreign government has
14 not prevented by laws, rulings or otherwise the performances by
15 any state, province, subdivision or person the just and exact
16 provisions of such securities;

17 (c) Any security issued by a national bank or by any
18 federal land bank or by a corporation created or acting as an
19 instrumentality of the government of the United States pur-
20 suant to authority granted by the congress of the United States,
21 or any security issued by provisions of the federal laws:
22 *Provided*, That such corporation is subject to supervision or
23 regulation by the government of the United States;

24 (d) Any security issued or guaranteed either as to prin-
25 cipal, interest or dividend by a corporation owning or oper-
26 ating a railroad engaged in interstate commerce and under
27 supervision of the interstate commerce commission;

28 (e) Any security issued by a corporation organized exclu-
29 sively for educational, benevolent, fraternal, charitable or re-
30 formatory purposes and not for pecuniary profit, and no part
31 of the net earnings of which inures to the benefit of any private
32 stockholder or individual;

33 (f) Securities listed on the New York stock exchange and
34 the New York curb exchange and securities listed on any other
35 recognized and responsible stock exchange that is approved by
36 the commissioner. Such approval shall expire on June thirtieth
37 of each year, and may be renewed each year by an application
38 from such stock exchange, to be approved by the commissioner.

39 No fee shall be charged in connection with such approval but
40 all expenses of investigation shall be paid by such stock ex-
41 change. Approval of any stock exchange may be revoked at
42 any time by the commissioner;

43 (g) Any security issued by a state bank, trust company,
44 building and loan association or savings institution incorpo-
45 rated under the laws of and subject to the examination, super-
46 vision, and control of any state or territory of the United States
47 or of any insular possession thereof;

48 (h) Any security other than common stock outstanding
49 and in the hands of the public for a period of not less than
50 five years upon which no default in payment of principal,
51 interest or dividend exists and upon which no such default
52 has occurred for a continuous immediately preceding period of
53 five years.

Sec. 4. Except as hereinafter expressly provided the pro-
2 visions of this chapter shall not apply to the sale of any security
3 in any of the following transactions:

4 (a) At any judicial, executor's, administrator's, guardian's,
5 or conservator's sale, or at any sale by a receiver or trustee in
6 insolvency or bankruptcy;

7 (b) By or for the account of a pledge, holder or mortgagee
8 selling or offering for sale or delivery in the ordinary course
9 of business and not for the purpose of avoiding the provisions
10 of this chapter, to liquidate a bona fide debt, a security pledge
11 in good faith as security for such debt;

12 (c) An isolated transaction in which any security is sold,
13 offered for sale, subscription or delivery by the owner thereof,
14 or by his representative for the owner's account, such sale or
15 offer for sale, subscription or delivery not being made in the
16 course of repeated and successive transactions of a like
17 character by such owner, or on his account by such representa-
18 tive, and such owner or representative not being the under-
19 writer of such security;

20 (d) The distribution by a corporation actively engaged in
21 the business authorized by its charter, of capital stock, bonds
22 or other securities to its stockholders or other security holders
23 as a stock dividend or other distribution out of earnings or
24 surplus; or the issue of securities to the security holders or
25 creditors of a corporation for cash;

26 (e) The sale, transfer or delivery to any banking institu-
27 tion, insurance company or to any corporation or to any broker
28 or dealer: *Provided*, That such broker or dealer is actually
29 engaged in buying and selling securities as a business;

30 (f) The transfer to or exchange by one corporation with
31 another corporation of their own securities in connection with
32 a consolidation or merger of such corporations;

33 (g) Bonds or notes secured by mortgage upon real estate
34 where the entire mortgage together with all of the bonds or
35 notes secured thereby are sold to a single purchaser at a single
36 sale.

Sec. 5. No securities except of a class exempt under a
2 provision of section three hereof or unless sold in any trans-
3 action exempt under a provision of section four hereof shall
4 be sold within this state unless such securities shall have been
5 registered by notification or by qualification as hereinafter de-
6 fined.

7 A record of the registration of securities shall be kept in a
8 register of securities to be kept in the office of the commissioner
9 in which register of securities shall also be recorded any order
10 entered by the commissioner with respect to such securities.
11 Such register and all information with respect to the securities
12 registered therein shall be open to public inspection.

Sec. 6. The following classes of securities shall be entitled
2 to registration by notification in the manner provided in this
3 section:

4 (a) Securities issued by a corporation, partnership, asso-
5 ciation, company, syndicate or trust owning a property, busi-
6 ness or industry which has been in continuous operation not
7 less than three years and which has shown, during a period
8 of not less than two years or more than ten years next prior
9 to the close of its last fiscal year preceding the offering of
10 such securities, average annual net earnings after deducting
11 all prior charges not including the charges upon securities
12 to be retired out of the proceeds of sale, as follows: (1) In
13 the case of interest-bearing securities, not less than one and
14 one-half times the annual interest charge thereon, and upon
15 all other outstanding interest-bearing obligations of equal
16 rank; (2) In the case of preferred stock, not less than one
17 and one-half times the annual dividend requirements on such

18 preferred stock, and on all other outstanding stock of equal
19 rank; (3) In the case of common stock not less than six per
20 cent upon all outstanding common stock of equal rank, to-
21 gether with the amount of common stock then offered for
22 sale reckoned upon the price at which such stock is then offered
23 for sale or sold;

24 (b) Any bond or note secured by a first mortgage upon
25 agricultural lands used and valuable principally for agricul-
26 tural purposes (not including oil, gas or mining property or
27 leases), or upon city, town or village real estate or leaseholds
28 situated in any state or territory of the United States or in
29 the District of Columbia or in the Dominion of Canada, as
30 follows: (1) When the mortgage is a first mortgage upon
31 such agricultural lands, used and valuable principally for
32 agricultural purposes, and when the aggregate face value of
33 such bonds or notes, not including interest notes or coupons,
34 secured thereby does not exceed seventy-five per cent of the
35 then fair market value of any improvements thereon; or (2)
36 When the mortgage is a first mortgage upon city, town or
37 village real estate or leaseholds, and when the aggregate face
38 value of such bonds or notes, not including interest notes or
39 coupons, secured by such real estate or leaseholds does not
40 exceed seventy-five per cent of the then fair market value of
41 such mortgaged property is used principally to produce
42 through rental a net annual income, after deducting oper-
43 ating expenses and taxes, or has a fair rental value after de-
44 ducting operating expenses and taxes, at least equal to the
45 annual interest plus not less than three per cent of the prin-
46 cipal of such mortgage indebtedness; or (3) When the mort-
47 gage is a first mortgage upon city, town or village real estate
48 or leaseholds upon which real estate or leaseholds a building
49 or buildings is or are about in good faith forthwith to be
50 erected according to the expressed terms of the mortgage, and
51 when reasonably adequate provision has been made for
52 financing the full completion of such building free and clear
53 of any lien superior to such mortgage, and when the aggre-
54 gate face value of the bonds or notes not including interest
55 notes or coupons, secured by such first mortgage does not ex-
56 ceed seventy-five per cent of the fair market value of such
57 mortgaged property, including the building or buildings to

58 be erected thereon as aforesaid, and when such mortgaged
59 property is to be used principally to produce through rental
60 a net annual income, after deducting operating expenses and
61 taxes, or will have a fair rental value after deducting oper-
62 ating expenses and taxes, at least equal to the annual interest
63 plus not less than three percentum of the principal of such
64 mortgage indebtedness: *Provided*, That all advertisements,
65 circulars and letters advertising the sale of such bonds or
66 notes and all receipts of payments therefor shall bear in bold
67 type upon the face thereof a legend stating that such bonds
68 or notes are construction bonds or notes, and all other written
69 or printed offerings of such bonds or notes shall contain a
70 statement to the same effect. A satisfactory completion bond
71 covering the full amount of costs of a building or buildings
72 to be erected, or other improvements to be made, shall be filed
73 with the commissioner. All funds or things of value received
74 for such securities shall be subject to supervision by the com-
75 missioner until a satisfactory guarantee of completion of build-
76 ings or improvements is provided.

77 The provisions of this subdivision (b) shall not apply in
78 the case of bonds or notes secured wholly or partly by first
79 mortgage on leaseholds, the value of which leaseholds is re-
80 quired to meet the ratio of property value to face value of
81 obligations as provided in clauses (2) and (3) above, unless
82 all advertisements, circulars and letters advertising the sale
83 of such bonds or notes and all receipts of payments therefor,
84 and such bonds and notes shall bear in bold type not less
85 than eighteen point upon the face thereof a legend stating
86 that such bonds or notes are secured wholly or partly by
87 mortgage on a leasehold, as the case may be, and all other
88 written or printed offerings of such bonds or notes shall con-
89 tain a statement to the same effect.

90 When used in this subdivision (b) the term "mortgage"
91 shall be deemed to include a trust deed to secure a debt.

92 Securities entitled to registration by notification shall be
93 registered by the filing, by the issuer or by any registered
94 dealer interested in the sale thereof, in the office of the com-
95 missioner, of a statement with respect to such securities con-
96 taining such information and data as the commissioner may
97 then and from time to time thereafter request. Such regis-

98 tration shall be revoked or suspended at any time by the com-
99 missioner pending further investigation by specifying the
100 reasons for such actions and by notifying personally by mail,
101 telephone or telegraph the person filing such information or
102 statement, and every registered dealer who shall have notified
103 the commissioner of an intention to sell such security. The
104 reregistration or lifting of suspension shall be at the discretion
105 of the commissioner. Upon the entry of any such order of
106 suspension no further sale of such security shall be made until
107 the further order of the commissioner.

108 In the event of the entry of such order of suspension the
109 commissioner shall upon request give a prompt hearing to
110 the parties interested. If no hearing is requested within a
111 period of twenty days from the entry of such order or if
112 upon such hearing the commissioner shall determine that any
113 such security does not fall within a class entitled to registra-
114 tion under this section, or that the sale thereof would be
115 fraudulent or would result in fraud, he shall enter a final
116 order prohibiting sales of such security, with his findings with
117 respect thereto: *Provided*, That if the findings with respect
118 to such security is that it is not entitled to registration under
119 this section, the applicant may apply for registration by
120 qualification by complying with the requirements of section
121 seven of this article. Appeals from such final order may be
122 taken as hereinafter provided. If, however, upon such hear-
123 ing, the commissioner shall find that the security is entitled
124 to registration under this section, and that its sale will neither
125 be fraudulent nor result in fraud, he shall forthwith enter an
126 order revoking such order of suspension and such security
127 shall be restored to its status as a security registered under
127-a this section, as of the date of such order of suspension.

128 At the time of filing the statement, as hereinbefore pre-
129 scribed in this section, the applicant shall pay to the com-
130 missioner a fee of one-twentieth of one per cent of the aggre-
131 gate par value of the securities to be sold in this state for
132 which the applicant is seeking registration, but in no case
133 shall such fee be less than twenty-five dollars or more than
134 one hundred dollars. In the case of stock having no par
135 value, the price of which such stock is to be offered to the
136 public shall be deemed to be the par value of such stock.

137 Every registration under this section shall expire on the
138 thirtieth day of June in each year, but new registrations for
139 the succeeding year shall be issued upon written application
140 and upon payment of a fee of one-twentieth of one per cent
141 of the total amount of such security to be sold in West Vir-
142 ginia, within the year of registration, the minimum fee to be
143 twenty-five dollars, and by filing of further statements or
144 furnishing any further information specifically required by
145 the commissioner. Applications for renewals must be made
146 not less than thirty days before the first day of the ensuing
147 registration year, otherwise they shall be treated as original
148 applications.

Sec. 7. All securities required by this article to be registered
2 before being sold in this state, and not entitled to registration
3 by notification, shall be registered only by qualification in the
4 manner provided by this section.

5 The commissioner shall receive and act upon applications to
6 have securities registered by qualification, and may prescribe
7 forms on which he may require such applications to be sub-
8 mitted. Applications shall be in writing and shall be duly
9 signed by the applicant and sworn to by any person having
10 knowledge of the facts, and filed in the office of the commis-
11 sioner and may be made either by the issuer of the securities
12 for which registration is applied or by any registered dealer
13 desiring to sell the same within the state.

14 The commissioner may require the applicant to submit to
15 the commissioner any information respecting the issuer or the
16 security or the person or persons obligated by such security
17 as he may in his judgment deem necessary to enable him to
18 ascertain whether such security shall be registered pursuant
19 to the provisions of this section.

20 All of the statements, exhibits and documents of every kind
21 required by the commissioner under this section, except proper-
22 ly certified public documents, shall be verified by the oath of
23 the applicant or of the issuer in such manner and form as may
24 be required by the commissioner.

25 With respect to securities required to be registered by qualifi-
26 cation under the provisions of this section, the commissioner
27 may by order duly recorded, fix the maximum amount of com-
28 mission or other form of remuneration to be paid in cash or

29 otherwise, directly or indirectly, for or in connection with the
30 sale or offering for sale of such securities.

31 (a) At the time of filing the information, as hereinbefore
32 provided in this section, the applicant shall pay to the com-
33 missioner one-twentieth of one per cent of the aggregate par
34 value of the securities to be sold in this state for which the
35 applicant is seeking registration, but in no case shall such fee
36 be less than twenty-five dollars. In case of stock having no
37 par value the price at which such stock is to be offered to the
38 public shall be deemed to be the par value of such stock.

39 If, upon examination of any application the commissioner
40 shall find that the sale of security referred to therein would
41 not be fraudulent or would not work or tend to work a fraud
42 upon the purchaser, or that the enterprise or business of the
43 issuer is not based upon unsound business principles, and no
44 other reason shall appear to the commissioner for refusal of
45 the application, then, upon the payment of the fee provided
46 in this section, he shall record the registration of such security
47 in the register of securities, and thereupon such security so
48 registered may be sold by the issuer or by any registered dealer
49 who has notified the commissioner of his intention so to do,
50 in the manner hereinafter provided in section ten, subject,
51 however, to the further order of the commissioner as herein-
52 after provided.

53 Every issuer whose securities have been registered for sale
54 under this section shall be subject to examination as to its
55 methods of business by the commissioner or by his duly author-
56 ized representative at any time the commissioner may deem it
57 advisable, and any applicant for registration shall be subject
58 to such examination. The expense of such examination shall
59 be paid by such applicant or issuer and the failure or refusal
60 of such applicant or issuer to pay such expense upon the de-
61 mand of the commissioner shall work a forfeiture of its right
62 to registration in this state. The representative of the auditor
62-a making such examination shall be a competent accountant
62-b regularly employed by the auditor at a stated salary, and
62-c the expense of the examination shall include the per diem of
62-d such representative, as fixed by the auditor, while actually
62-e engaged in making such examination and his actual traveling
62-f and hotel expenses, which per diem and expense shall be paid
62-g by the applicant or registered issuer.

63 Every registration under this section shall expire on the
64 thirteenth day of June in each year, but new registrations for
65 the succeeding year shall be issued upon written application,
66 and applicant shall pay to the commissioner a fee of one-
67 twentieth of one per cent of the aggregate par value of the
68 securities to be sold in this state within the year authorized
69 by registration, but in no case shall the fee be less than twenty-
70 five dollars. Such application to be accompanied by any infor-
71 mation specifically required by the commissioner. Applications
72 for renewals must be made not less than thirty days before the
73 first day of the ensuing registration year, otherwise they shall
74 be treated as original applications.

75 Each different type, class, series or kind of securities not
76 exempt by sections three and four of this article shall require
77 separate registration and the same requirements and regulation
78 shall apply to each, and the registration fee paid by each. This
79 does not apply to a serial issue of securities where the entire
80 amount is issued at one time and where the only difference is
81 in the maturity or interest date.

82 Investment trust securities shall be registered separately as
83 herein provided, where there is any change or difference from
84 the registered security except the maturity date of the trust.

Sec. 8. Upon any application for registration by notification
2 under section six made by an issuer, and upon any application
3 for registration by qualification under section seven, whether
4 made by an issuer or registered dealer, where the issuer is not
5 domiciled in this state, there shall be filed with such application
6 the irrevocable written consent of the issuer that suits and
7 actions growing out of the violation of any provision or pro-
8 visions of this chapter, may be commenced against it in the
9 proper court of any county in this state in which a cause of
10 action may arise or in which the plaintiff may reside, by the
11 service of any process or pleading authorized by the laws of
12 this state, on the commissioner of securities, and by the accept-
13 ance of such service of process by the commissioner for and
14 on behalf of such issuer, such consent stipulating and agree-
15 ing that such service of such process or pleading on such com-
16 missioner, or such acceptance by the commissioner, shall be
17 taken and held in all courts to be as valid and binding as if
18 due service had been made upon the issuer himself, and said

19 written consent shall be authenticated by the seal of said issuer,
20 if it has a seal, and by the acknowledged signature of a member
21 of the copartnership or company, or by the acknowledged
22 signature of any officer of the incorporated or unincorporated
23 association, if it be an incorporated or unincorporated associa-
24 tion, duly authorized by resolution of the board of directors,
25 trustees or managers of the corporation or association, and
26 shall in such case be accompanied by a duly certified copy of
27 the resolution of the board of directors, trustees or managers
28 of the corporation or association, authorizing the officers to
29 execute the same, but no such process shall be served on the
30 commissioner or accepted by him less than ten days before the
31 return thereof. In case any process or pleadings mentioned
32 in this chapter are served upon the commissioner, or accepted
33 by him, it shall be by duplicate copies, one of which shall be
34 filed in the office of the commissioner and another immediately
35 forwarded by registered mail to the principal office of the issuer
36 against which such process or pleadings are directed.

Sec. 9. The commissioner may revoke the registration of
2 any security by entering an order to that effect, with his find-
3 ings in respect thereto, if upon examination into the affairs
4 of the issuer of such security and after reasonable notice and
5 hearing it shall appear that the issuer: (1) Is insolvent; or
6 (2) Has violated any of the provisions of this chapter or any
7 order of the commissioner of which such issuer has notice; or
8 (3) Has been or is engaged or is about to engage in fraudulent
9 transactions; or (4) Is in any other way dishonest or has made
10 any fraudulent representations in any prospectus, or in any
11 circular or other literature that has been distributed concern-
12 ing the issuer or its securities; or (5) Is of bad business re-
13 pute; or (6) Does not conduct its business in accordance with
14 law; or (7) That its affairs are in an unsound condition; or
15 (8) That the enterprise or business of the issuer is not based
16 upon sound business principles. Pending the hearing the com-
17 missioner may order the suspension of the sale of the security:
18 *Provided*, That such order shall state the cause of such sus-
19 pension.

20 In making such examination the commissioner shall have
21 access to and may compel the production of all the books and
22 papers of such issuer, and may administer oaths to and examine

23 the officers of such issuer or any other person connected there-
24 with as to its business and affairs and may also require a
25 balance sheet exhibiting the assets and liabilities of any such
26 issuer or his income statement, or both, to be certified to by a
27 public accountant either of this state or of any other state
28 where the issuer's business is located, approved by the com-
29 missioner.

30 Whenever the commissioner may deem it necessary, he may
31 also require such balance sheet or income statement, or both,
32 to be made more specific in such particulars as the commis-
33 sioner shall point out or to be brought down to the latest
34 practicable date.

35 If any issuee shall refuse to permit an examination to be
36 made by the commissioner, it shall be proper ground for can-
37 cellation of registration, and the commissioner may continue
38 such examination and investigation of issuee or issuer without
39 interference in order to determine as to whether such securities
40 have been sold in violation of the provisions of chapter thirty-
41 two of this code.

42 If the commissioner shall deem it necessary he may enter
43 an order suspending the right to sell securities pending any
44 investigation: *Provided*, That the order shall state the com-
45 missioner's grounds for taking such action.

46 Notice of the entry of such order shall be given personally
47 or by telephone, telegraph, or mail to the issuer and every
48 registered dealer who shall have notified the commissioner of
49 an intention to sell such security.

50 It shall be the duty of the commissioner to require complete
51 information, or such as he deems necessary, from all issuers
52 or dealers in regard to any security which is registered or
53 upon which there is application for registration either by notifi-
54 cation or by qualification, and such information or subsequent
55 information shall be filed in the offices of the commissioner and
56 shall be available for public inspection.

57 A copy of circular, pamphlet, form letter, advertisement, or
58 such form as is used or to be used in presenting to the public
59 securities registered or to be registered, or making sale, or
60 soliciting sales or purchases shall be filed with the commissioner
61 when application is made, or when such circular, pamphlet,
62 form letter, or such, is ready for distribution. The commissioner

63 shall have authority to require issuers and dealers using or to
64 use such circular, pamphlet, form letter, advertisement to make
65 any changes, any additions, or any eliminations he may deem
66 necessary for the protection of the public before any further
67 distribution or use of such, and may require such issuers or
68 dealers to distribute any additional or other circular, pamphlet,
69 form letter, advertisement, or such as the commissioner may
70 deem necessary to the same persons and in as careful and
71 particular manner as the original circular, pamphlet, form
72 letter, advertisement or such were distributed. Any person,
73 issuer, dealer or salesman violating any of the provisions of
74 this section shall be guilty of a felony and may be punished
75 by a fine of not more than ten thousand dollars, or by imprison-
76 ment in the penitentiary for not more than five years, or
77 both.

Sec. 10. No dealer or salesman shall engage in business in
2 this state as such dealer or salesman or sell any securities, in-
3 cluding securities exempted in section three of this article, or
4 transact a brokerage or trading business or doing a business
5 of buying or selling securities listed or traded in on any stock
6 exchange, except in transactions exempt under section four of
7 this article, unless he has been registered as a dealer or sales-
8 man in the office of the commissioner pursuant to the provisions
9 of this section.

10 Every dealer before engaging in business in this state shall
11 file in the office of the commissioner an application for registra-
12 tion in writing in such form as the commission may prescribe,
13 duly verified by oath, which shall state the principal office of
14 the applicant, wherever situated, and the location of the
15 principal office and all branch offices in this state, if any, the
16 name or style of doing business, the names, residence and busi-
17 ness addresses of all persons interested in the business as
18 principals, copartners, officers and directors, specifying as to
19 each his capacity and title, the general plan and character of
20 business and the length of time the dealer has been engaged in
21 business, and any other information required by the commis-
22 sioner in such detail as he may require. The commissioner
23 may also require such additional information as to applicant's
24 previous history, record and association, as he may deem
25 necessary to establish the good repute in business of the
26 applicant.

27 Every dealer shall file with his application an irrevocable
28 written consent to the service of process upon the commis-
29 sioner of securities in action against such dealer in manner and
30 form as hereinabove provided in section eight of this article.

31 If the commissioner shall find that the applicant is of good
32 repute and has complied with the provisions of this section in-
33 cluding the payment of the fee hereinafter provided he shall
34 register such applicant as a dealer.

35 Upon the written application of a registered dealer and
36 general satisfactory showing as to good character and the pay-
37 ment of the proper fee the commissioner shall register as sales-
38 men of such dealer such natural persons as the dealer may
39 request.

40 The partners of a partnership and the executive officers of a
41 corporation or other association registered as a dealer may act
42 as salesmen during such time as such partnership, corporation
43 or association is so registered without further registration as
44 salesmen. The salesmen registered by a dealer may sell any
45 securities for which the dealer registering such salesman is
46 registered.

47 The names and addresses of all persons approved for regis-
48 tration as dealers or salesmen and all orders with respect
49 thereto shall be recorded in a register of dealers and salesmen
50 kept in the office of the commissioner, together with all infor-
51 mation and data secured by the commissioner relative to such
52 dealers or salesmen, which shall be open to public inspection.
53 Every registration under this section shall expire on the
54 thirtieth day of June in each year, but new registrations for
55 the succeeding year shall be issued upon written application
56 and upon payment of the fee as hereinafter provided, and by
57 filing of further statements or furnishing any further informa-
58 tion specifically required by the commissioner. Applications
59 for renewals must be made not less than thirty days before the
60 first day of the ensuing year, otherwise they shall be treated as
61 original applications. The fee for such registration and for
62 each annual renewal shall be twenty-five dollars in the case of
63 dealers and five dollars in the case of salesmen.

64 Changes in registration occasioned by changes in personnel
65 of a partnership or in the principals, copartners, officers or
66 directors of any dealer may be made from time to time by

67 written application setting forth the facts with respect to such
68 change.

69 Every registered dealer may offer or sell any security of any
70 issue which is registered or to be registered or which is exempt
71 under the provisions of this act, but the responsibility shall
72 rest upon the dealer as to whether such security is exempt or
73 has been properly registered, or is to be registered, and such
74 dealer shall be guilty as provided by the provisions of this
75 article for the sale of any security which is not exempt under
76 the provisions of this act, or registration of which has been
77 revoked.

78 Every dealer registered under this section shall be subject to
79 examination as to his methods of business by the commissioner
80 or by his duly authorized representative at any time the com-
81 missioner may deem it advisable, and such registered dealer
82 shall submit to such examination so that the commissioner may
83 determine whether there have been any transactions in viola-
84 tion of chapter thirty-two. The expense of the examination
85 shall be paid by the applicant and the failure or refusal of
86 such applicant to pay such expense upon the demand of the
87 commissioner shall work a forfeiture of his right to registra-
88 tion under this article. The representative of the auditor
88-a making such examination shall be a competent accountant
88-b regularly employed by the auditor at a stated salary, and the
88-c expense of the examination shall include the per diem of such
88-d representative, as fixed by the auditor, while actually engaged
88-e in making such examination and his actual traveling and
88-f hotel expenses, which per diem and expense shall be paid by
88-g the applicant or registered dealer.

89 No dealer or salesman shall make any sale or have any
90 dealings in securities with any employee or active official in
91 any bank, trust company or building and loan association
92 unless such dealer or salesman shall first secure the written
93 approval for such sale or dealings with each individual or
94 active official, from the board of directors of the institution,
95 person or corporation by which the individual is employed.
96 Such written approval shall be required once each year be-
97 ginning July first. The board of directors of such institution
98 giving approval to an employee or official may require a de-
99 tailed statement as to dealings of such individual or official at
100 any time. This provision shall only include dealings by such

101 employee or official for his own account, or that of any member
102 of his family, and shall not apply to transactions for or in be-
103 half of the person or institution by which he is employed or to
104 transactions for any client, depositor or customer of such in-
105 stitution.

106 Any dealer or salesman violating the provisions of this sec-
107 tion, shall have his registration revoked by the commissioner,
108 and shall be liable to such bank, trust company or building and
109 loan association for any losses or damages incurred in any case
110 where such dealer or salesman failed to comply with this pro-
111 vision.

Sec. 11. Registration under section ten of this article may be
2 refused or any registration granted may be cancelled by the
3 commissioner if after a reasonable notice and a hearing the
4 commissioner determines that such applicant or registrant so
5 registered: (1) Has violated any provisions of this chapter or
6 any regulation made hereunder; or (2) Has made a material
7 false statement in the application for registration; or (3) Has
8 been guilty of a fraudulent act in connection with any sale of
9 securities, or has been or is engaged or is about to engage in
10 making fictitious or pretended sales or purchases of any of such
11 securities or has been or is engaged or is about to engage in any
12 practice or sale of securities which is fraudulent or in violation
13 of the law; or (4) Has demonstrated his unworthiness to
14 transact the business of dealer or salesman.

15 Pending the hearing, the commissioner shall have the power
16 to order the suspension of such dealer's or salesman's license;
17 but such order shall state the cause of such suspension.

18 In the event the commissioner determines to refuse or cancel
19 a registration as hereinabove provided he shall enter a final
20 order herein with his findings on the register of dealers and
21 salesmen which shall be subject to public inspection.

22 It shall be sufficient cause for refusal or cancellation of regis-
23 tration in case of a partnership or corporation or any unin-
24 corporated association if any member of a partnership or any
25 officer or director of the corporation or association has been
26 guilty of any act or omission which would be cause for refusing
27 or cancelling the registration of an individual dealer or sales-
28 man.

29 Any attempt by registered issuer or dealer to prevent the
30 commissioner from making a complete examination and investi-

31 gation of affairs of such registered issuer or dealer, or attempt
32 by such issuer or dealer to conceal or misrepresent details re-
33 garding such affairs as provided in section nine and section ten
34 of this article shall constitute a felony and upon conviction
35 thereof the issuer or dealer guilty of such felony shall be
36 punished by fine of not more than five thousand dollars or by
37 imprisonment in the penitentiary for not more than five years
38 or both such fine and imprisonment at the discretion of the
39 court.

40 Proper legal procedure upon any violations of any of the pro-
41 visions of this act shall be instigated by the commissioner by de-
42 mands for prosecution upon the prosecuting attorney in the
43 county in which such violation was committed, and if the com-
44 missioner shall not receive what in his judgment is necessary
45 or sufficient cooperation from such official or officials, then he
46 may require such action to be brought and prosecution con-
47 tinued by the attorney general of West Virginia. In any case
48 the commissioner may request the assistance of both the prose-
49 cuting attorney and attorney general in prosecuting such viola-
50 tions.

Sec. 12. It will not be necessary to negative any of the
2 exemptions or classifications in this article provided in any
3 complaint, information, indictment or any other writ or pro-
4 ceedings laid or brought under this article and the burden of
5 proof of any such exemption shall be upon the party claiming
6 the benefit of such exemption or classification.

Sec. 13. If the statement containing information as to
2 securities, as provided for in section seven of this article, shall
3 disclose that any such securities shall have been or shall be in-
4 tended to be issued for any patent right, copyright, trade mark,
5 process, lease formulae or good will, or for promotion fees or
6 expenses or for other intangible assets, the amount and nature
7 thereof shall be fully set forth and the commissioner may re-
8 quire that such securities so issued in payment of such patent
9 right, copyright, trade mark, process, lease formulae or good
10 will, or for promotion fees or expenses, or for other intangible
11 assets, shall be delivered in escrow to the commissioner under
12 an escrow agreement that the owners of such securities shall not
13 be entitled to withdraw such securities from escrow until all
14 other stockholders who have paid for their stock in cash shall
15 have been paid a dividend or dividends aggregating not less

16 than six per cent, shown to the satisfaction of said commissioner
17 to have been actually earned on the investment in any common
18 stock so held, and in case of dissolution or insolvency during the
19 time such securities are held in escrow, that the owners of such
20 securities shall not participate in the assets until after the
21 owners of all other securities shall have been paid in full. The
22 commissioner may require the owner of any securities placed in
23 escrow to enter into an agreement that he will not sell or other-
24 wise dispose of such securities during the time they are held in
25 escrow.

Sec. 14. Whenever it shall appear to the commissioner,
2 either upon complaint or otherwise, that in the issuance, sale,
3 promotion, negotiation, advertisement or distribution of any
4 securities within this state, including any security exempted
5 under the provisions of section three, or in any transaction ex-
6 empted under the provisions of section four, any person, as
7 defined in this article, shall have employed or employs, or is
8 about to employ any device, scheme or artifice to defraud or for
9 obtaining money or property by means of any false pretense,
10 representation or promise, or that any such person shall have
11 made, makes or attempts to make in this state fictitious or pre-
12 tended purchase or sales of securities or shall have engaged in
13 or engages in or is about to engage in any practice or trans-
14 action or course of business relating to the purchase or sale of
15 securities which is fraudulent or in violation of law and which
16 has operated or which would operate as a fraud upon the pur-
17 chaser, any one or all of which devices, schemes, artifices,
18 fictitious or pretended purchases or sales of securities, practices,
19 transactions and courses of business which are hereby declared
20 to be and are hereinafter referred to as fraudulent practices the
21 commissioner may investigate, and whenever he shall believe
22 from evidence satisfactory to him that any such person has en-
23 gaged in, is engaged or about to engage in any of the practices
24 or transactions heretofore referred to as and declared to be
25 fraudulent practices, he may in addition to any other remedies,
26 bring an action in the circuit court of Kanawha county in the
27 name and on behalf of the state of West Virginia against such
28 person and any other person or persons heretofore concerned in
29 or in any way participating in or about to participate in such
30 fraudulent practices to enjoin such person, and such other per-
31 son or persons from continuing such fraudulent practices or

32 engaging therein or doing any act or acts in furtherance there-
33 of. In such action a judgment may be entered awarding such
34 injunction as may be proper. In no case shall the commissioner
35 incur any official or personal liability by instituting injunction
36 or other proceedings or by suspension, revocation or cancella-
37 tion of any registration under this article.

Sec. 15. Every sale or contract for sale made in violation
2 of any of the provisions of this article shall be voidable at
3 the election of the purchaser and the person making such sale
4 or contract for sale and every director, officer or agent of or for
5 such seller who shall have participated or aided in any way in
6 making such sale shall be jointly and severally liable to such
7 purchaser in an action at law in any court of competent juris-
8 diction upon tender to the seller of the securities sold or of the
9 contract made for the full amount paid by such purchaser, to-
10 gether with all taxable court costs and reasonable attorney's
11 fees in any action or tender under this section: *Provided*, That
12 no action shall be brought for the recovery of the purchase
13 price after two years from the date of such sale or contract for
14 sale; and: *Provided further*, That no purchaser otherwise en-
15 titled shall claim or have the benefit of this section who shall
16 have refused or failed within a reasonable time to accept the
17 voluntary offer of the seller to take back the security in ques-
18 tion and to refund the full amount paid by such purchaser,
19 together with interest on such amount for the period from the
20 date of payment by such purchaser down to the date of repay-
21 ment such interest to be computed.

22 (a) In case such securities consist of interest bearing obli-
23 gations at the same rate as provided in such obligations;

24 (b) In case such securities consist of other than interest
25 bearing obligations at the rate of six percentum per annum;
26 less, in every case, the amount of any income from such securi-
27 ties that may have been received by such purchaser.

Sec. 16. An appeal may be taken by any person interested
2 from any final order of the commissioner to the circuit court
3 of Kanawha county by serving upon the commissioner within
4 twenty days after the date of the entry of such order a written
5 notice of such appeal stating the grounds upon which a reversal
6 of such final order is sought, together with a demand in writing,
7 for a certified transcript of the record and of all papers on

8 file in his office affecting or relating to such order and by
9 executing a bond in the penal sum of five thousand dollars,
10 payable to the state of West Virginia with sufficient surety, to
11 be approved by the commissioner conditioned upon the faithful
12 prosecution of such appeal to final judgment, and the payment
13 of all costs which shall be adjudged against the appellant. There-
14 upon the commissioner shall within ten days make, certify and
15 deliver to the appellant such a transcript; and the appellant
16 shall within five days thereafter file the same and a copy of the
17 notice of appeal with the clerk of said court, which notice of
18 appeal shall stand as appellant's complaint and thereupon such
19 cause shall be entered on the trial calendar of said court for
20 trial de novo. The court shall receive and consider any perti-
21 nent evidence, whether oral or documentary, concerning the
22 order of the commissioner from which the appeal is taken. If
23 the order of the commissioner shall be reversed said court shall
24 by its mandate specifically direct said commissioner as to his
25 further action in the matter, including the making and entering
26 of any order or orders in connection therewith, and the condi-
27 tions, limitations or restrictions to be therein contained:
28 *Provided*, That the commissioner shall not thereby be barred
29 from thereafter revoking or altering such order for any proper
30 cause which may thereafter arise or be discovered. If such
31 order shall be affirmed, said appellant shall not be barred after
32 thirty days from filing a new application provided such appli-
33 cation is not otherwise barred or limited. Such appeal shall
34 not in anywise suspend the operation of the order appealed from
35 during the pendency of such appeal unless upon proper order
36 of the court. An appeal may be taken from the judgment of
37 the said circuit court on any such appeal on the same terms and
38 conditions as an appeal is taken in civil actions.

Sec. 17. All fees herein provided for shall be collected by
2 the commissioner and shall be turned into the state treasury.

Sec. 18. Any person, issuer, dealer, salesman or agent, as
2 defined in section two of this article, or any or all of the
3 officers or agents thereof, alone or in conjunction with others,
4 having devised or intending to devise any scheme or artifice
5 to defraud any person or persons by or through the sale of any
6 securities, as defined in said section two, including securities
7 exempted from registration under section three of this article

8 and including transactions exempt under section four of this
 9 article, or through the sale of real estate situate outside of this
 10 state, who shall, for the purpose of executing or attempting
 11 to execute such scheme or artifice, commit any overt act within
 12 this state shall be guilty of a felony, and upon conviction there-
 13 of, shall be punished by a fine of not more than five thousand
 14 dollars, or by imprisonment in the penitentiary for not more
 15 than five years, or by both such fine and imprisonment, at the
 16 discretion of the court.

17 An indictment under this section shall be sufficient if sub-
 18 stantially as follows:

19 STATE OF WEST VIRGINIA,

20 COUNTY OF....., to-wit:

21 In the.....court of said county.

22 The grand jurors of the state of West Virginia in and for
 23 the body of the county of....., and
 24 now attending said court, upon their oaths present that
 25as..... (issuer, dealer,
 26 salesman, agent or officer, as the case may be), having devised
 27 or intending to devise a scheme or artifice to defraud, by or
 28 through the sale of certain securities, to-wit, (set out the se-
 29 curity or securities here as defined in section two of this act),
 30 and who for the purpose of executing or intending to execute
 31 such scheme or artifice to defraud, on the.....day of
 32, 19...., and in the county of.....,
 33 did unlawfully and feloniously induce.....
 34 to subscribe and pay for.....shares of the capital
 35 stock of....., at.....
 36 dollars per share, making in all.....dollars
 37 worth of stock for which the said.....
 38 subscribed and paid, (or state briefly any other overt act com-
 39 mitted in pursuance of such scheme or artifice to defraud).

40 Against the peace and dignity of the state.

Sec. 19. Any person, issuer, dealer, salesman or agent, as
 2 defined in section two of this article, who shall, with intent
 3 to induce the purchase of any securities, as defined in said sec-
 4 tion two, including securities exempted from registration under
 5 section three of this article and including transactions exempt
 6 under section four of this article, or of any real estate situate
 7 outside of this state, knowingly or recklessly make any false

8 statement, either oral or written, or knowingly or recklessly
9 conceal any fact materially affecting the value of such securities,
10 or of such real estate, shall be guilty of a felony, and upon con-
11 viction thereof, shall be punished by a fine of not more than five
12 thousand dollars, or by imprisonment in the penitentiary for
13 not more than five years, or by both such fine and imprisonment,
14 at the discretion of the court.

Sec. 20. Any person signing any statement, list, inven-
2 tory, balance sheet or other paper or document required to be
3 verified or sworn to, knowing any representation therein con-
4 tained to be false or untrue (and the depositing of any such
5 statement or document in the office of the commissioner in con-
6 nection with any registration under this article, shall be deemed
7 prima facie evidence of knowledge of the falsity thereof or of
8 any representation therein contained, and of the wilfull sign-
9 ing of such statement or document), shall be guilty of false
10 swearing and shall be subject to the penalties prescribed by the
11 laws of this state therefor.

Sec. 21. Any person, issuer, dealer, salesman or agent who
2 shall sell or offer any securities without compliance with the
3 provisions of this article, shall be guilty of a felony and, upon
4 conviction thereof, shall be punished by a fine of not more than
5 five thousand dollars, or by imprisonment in the county jail of
6 not more than five years, or by both such fine and imprison-
7 ment, at the discretion of the court.

Sec. 22. Any person or persons, violating any of the pro-
2 visions of this article, for which no specific penalty is pro-
3 vided, shall be guilty of a misdemeanor, and upon conviction
4 thereof shall be punished by a fine of not more than two thou-
5 sand dollars, or by imprisonment in the county jail for not more
6 than one year, or by both such fine and imprisonment, at the
7 discretion of the court.

ARTICLE II.

Section 1. It is unlawful for any corporation which has is-
2 sued, or proposes to issue, any of its corporate securities of
3 any description whatsoever in payment for property, tangible
4 or intangible, of any nature and description whatsoever, or
5 for promotion purposes, or in payment for any services ren-
7 dered, or to be rendered, to such corporation, by any officer,
8 agent or employee, or for such officer, agent, broker or other

9 person for such corporation, or any person who has received
10 any securities for any such property, to sell, or to enter into
11 any contract, agreement or arrangement to sell, any of its shares
12 of stock, or any of his shares of stock so acquired, in this state,
13 whether or not such securities are registered under the pro-
14 visions of article one of this chapter, unless it or he shall first
15 furnish and deliver to the person to whom it is proposed to make
16 any sale, a statement in writing showing specifically all such
17 property, tangible or intangible, which it has received, or pro-
18 poses to acquire, by issuing in payment therefor any of its
19 corporate securities, and the quantity and class of any securi-
20 ties which it has issued, or proposes to issue, in payment for
21 each item of such properties and the value of each item of such
22 properties; and for promotion purposes, and for services ren-
23 dered or to be rendered and the kind of services. Such state-
24 ment shall be sworn to by the president and treasurer of the
25 corporation: *Provided*, That printed copies of the original state-
26 ment may be used if the original statement be delivered to and
27 filed in the office of the commissioner of securities. If any such
28 statement be false in whole or in part, each person making affi-
29 davit to the same shall be guilty of false swearing and shall be
30 punished as in other cases of false swearing.

31 In addition to the penalties imposed by this chapter, or by
32 any other provision of law, each corporation, all of the directors
33 thereof, and the officers, agents, employees and brokers making
34 or aiding in any sale for a corporation, in violation of the pro-
35 visions of this section, shall be liable jointly and severally to
36 the purchaser, and any person selling his securities in vio-
37 lation hereof shall be liable for the price for which such securi-
38 ties are sold, with interest thereon from the date of sale; and
39 any such purchaser may, within two years from the date of
40 purchase, recover from any or all of the persons so liable, the
41 amount with interest thereon, paid for such securities.

42 This section shall not apply to a corporation, or to the sale
43 of the securities thereof, which at the time has an established
44 business and which, during each of the two preceding years,
45 earned over and above all fixed charges a sum available for the
46 payment of dividends equal to at least five per cent of par of
47 all of its outstanding shares having a par value, and five per
48 cent of the amount at which its shares having no par value,
49 if any, are carried on its books.

Sec. 2. If any corporation issue and dispose of any of its securities with or without par value, at or for a specified consideration or price, it shall be unlawful for such corporation or for any officer, agent, broker, or other person, on behalf of such corporation, thereafter, to sell any of its securities of the same class or classes in this state, at or for a higher price, unless it shall first furnish and deliver to the person to whom it is proposed to make such sale a statement in writing showing the quantity, class, date of issue and price or prices at which its securities then outstanding were issued and disposed of, which statement shall be sworn to by the president and treasurer of the corporation: *Provided*, That printed copies of the original statement may be used if the original statement be delivered to and filed in the office of the commissioner of securities.

In addition to the penalties imposed by this chapter or by any other provision of law, each corporation, all of the directors thereof, and the officers, agents and brokers making or aiding in making any sale of securities in violation of this section, shall be jointly and severally liable to the purchaser for the price for which such securities are sold, with interest thereon from the date of sale; and any such purchaser, may, within five years from the date of purchase, recover from any or all of the persons so liable, the amount, with interest thereon, paid for such securities.

Sec. 3. It is unlawful for any person, partnership or corporation to sell or offer for sale, in this state, any lands situate out of this state, which are to be planted in trees or vines or divided into town or suburban lots, or any unimproved or undeveloped lands, the value of which materially depends on the future performance of any stipulation or promise to furnish irrigation, transportation facilities, streets, sidewalks, sewers, gas, light or other value enhancing utility or improvement of any undivided part or share, whether an aliquot part or a part designated on any other basis, of any mine, mineral claim, leasehold or other estate in any mine, mineral, oil or gas, or in the lands containing the same, regardless of where located or situated, the value of which materially depends on the future discovery or development and production of the minerals, including oil and gas, without first having filed with the commissioner of securities a detailed description of the property which, or an interest in or part of share of which, is proposed to be

18 sold, and such information with respect to the value thereof,
19 and the title to such property or properties as the commissioner
20 of securities shall require, and without causing such property to
21 be registered by the commissioner of securities in the manner
22 provided for registration of securities by qualification under
23 article one of this chapter; and no person shall sell or offer any
24 such property for sale until he has been registered as a sales-
25 man by the commissioner of securities under the provisions for
26 registering dealers and salesmen of securities, contained in
27 article one of this chapter. All of the provisions contained in
28 article one of this chapter governing the registration of securi-
29 ties by qualification, and the registration of dealers and sales-
30 men, shall apply to the registration of properties and salesmen
31 under this section: *Provided*, That nothing herein shall pre-
32 vent any bona fide owner of any such land, mine, mining lease,
33 mineral claim, oil or gas rights, leasehold or other property, or
34 interest therein, from selling the same on his own account and
35 not as a part, or in furtherance, of any promotion.

Sec. 4. Any person or corporation who, with intent to sell or
2 in anywise dispose of merchandise, securities, service or any-
3 thing offered by such person or corporation, directly or in-
4 directly, to the public for sale or distribution, or with intent to
5 increase the consumption thereof, or to induce the public in any
6 manner to enter into any obligation relating thereto, or to
7 acquire title thereto, or any interest therein, makes, publishes,
8 disseminates, circulates, or places before the public, or causes,
9 directly or indirectly, to be made, published, disseminated,
10 circulated, or placed before the public in this state, in a news-
11 paper or other publication, or in the form of a book, notice,
12 handbill, poster, blue print, map, bill, tag, label, circular,
13 pamphlet, or letter, or in any other way, an advertisement of
14 any sort regarding merchandise, securities, service, land, lot, or
15 anything so offered to the public, which advertisement contains
16 any promise, assertion, representation or statement of fact
17 which is untrue, deceptive or misleading, shall be guilty of a
18 misdemeanor, and, upon conviction thereof, be punished by a
19 fine of not more than two thousand dollars, or confined in jail
20 for a period of not more than six months, or by both such fine
21 and imprisonment.

Sec. 5. Any person or corporation who violates any provision
2 of this article, and any person aiding or abetting in such viola-

tion, for which a specific penalty is not otherwise provided, shall be guilty of a misdemeanor, and, on conviction therefor, shall be punished by a fine of not more than five thousand dollars, or by confinement in jail for not more than one year.

Sec. 6. It is the duty of all sheriffs, deputy sheriffs, prosecuting attorneys, assistant prosecuting attorneys, justices, constables, officers, and employees of all state banking institutions, and all persons in the employment of the state in any capacity, to promptly report to the commissioner of securities all information obtained by them, showing or tending to show that any person or corporation is doing any act or engaging in any business in violation of any of the provisions of this chapter; and the commissioner of securities may pay the costs of having any such information transmitted by telegraph or telephone as a part of the expenses properly incurred in the administration of this chapter.

Sec. 7. The fact that any security or property is registered and/or any dealer or salesman is registered or licensed under any provision of this chapter shall be no bar or defense to the conviction and punishment of any person whether or not registered for making any statement or doing any act or thing which is in violation of, and punishable under, any other law of the state.

No penalty or punishment prescribed in this chapter for any violation of any provisions hereof is intended to be or shall be in substitution for, or in lieu of, any other penalty or punishment for such act prescribed by any other statute.

Sec. 8. In any indictment for violation of any provision of this chapter, it shall not be necessary to negative any exception contained in any proviso or elsewhere, in this chapter. Any person accused shall be deemed to have had knowledge of any matter of fact when, by the exercise of reasonable diligence before the commissioner of the offense with which he is charged, he could have secured such knowledge.

Sec. 9. If any word, sentence, clause, paragraph, section, part or provision of this act shall be declared unconstitutional or invalid or ineffective by any court or other authority of competent jurisdiction and power, such declaration shall not affect any other section, part or provision thereof.

* CHAPTER 42

(House Bill No. 223—By Mr. Randolph)

AN ACT to amend and reenact section four-(b), section six-(b) and section twenty-one of engrossed senate bill number twenty-three, passed May seventeenth, one thousand nine hundred thirty-three, extraordinary session, relating to speculative securities and fraudulent sales.

[Passed June 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

4-(b). Provisions of chapter not to apply to sale of any security by, or for the account of, a pledgee or mortgagee to liquidate a bona fide debt, of a security pledged in good faith as security for such debt.

6-(b). When provisions of chapter do not apply to sale of bond or note

SEC.

secured by a first mortgage upon agricultural lands or upon municipal real estate or leaseholds, etc.

21. Penalty for selling or offering for sale any securities without complying with provisions of this article.

Be it enacted by the Legislature of West Virginia:

That section four-(b), section six-(b) and section twenty-one of engrossed senate bill number twenty-three, passed May seventeenth, one thousand nine hundred thirty-three, extraordinary session, be amended and reenacted to read as follows:

Section 4-(b). By or for the account of a pledgee, holder or mortgagee selling or offering for sale or delivery in the ordinary course of business and not for the purpose of avoiding the provisions of this chapter, to liquidate a bona fide debt, a security pledged in good faith as security for such debt;

Section 6-(b). Any bond or note secured by a first mortgage upon agricultural lands used and valuable principally for agricultural purposes (not including oil, gas or mining property or leases), or upon city, town or village real estate or leaseholds situated in any state or territory of the United States or in the District of Columbia or in the Dominion of Canada, as follows: (1) When the mortgage is a first mortgage upon such agricultural lands, used and valuable principally for agricultural purposes, and when the aggregate face value of such bonds or notes, not including interest notes or coupons, secured thereby does not exceed seventy-five per cent of the then fair market value of any improvements thereon; or (2) When the mortgage is a first mortgage upon city, town or

*See chapter forty-one, acts of this session.

14 village real estate or leaseholds, and when the aggregate face
15 value of such bonds or notes, not including interest notes or
16 coupons, secured by such real estate or leaseholds does not
17 exceed seventy-five per cent of the then fair market value of
18 such mortgaged real estate or leaseholds, respectively, including
19 any improvements appurtenant thereto, and when such mort-
20 gaged property is used principally to produce through rental a
21 net annual income, after deducting operating expenses and
22 taxes, or has a fair rental value after deducting operating expen-
23 ses and taxes, at least equal to the annual interest plus not less
24 than three per cent of the principal of such mortgage indebted-
25 ness; or (3) When the mortgage is a first mortgage upon city,
26 town or village real estate or leaseholds upon which real estate or
27 leaseholds a building or buildings is or are about in good
28 faith forthwith to be erected according to the expressed
29 terms of the mortgage, and when reasonably adequate pro-
30 vision has been made for financing the full completion of
31 such building free and clear of any lien superior to such
32 mortgage, and when the aggregate face value of the bonds
33 or notes not including interest notes or coupons, secured by
34 such first mortgage does not exceed seventy-five per cent
35 of the fair market value of such mortgaged property, in-
36 cluding the building or buildings to be erected thereon as
37 aforesaid, and when such mortgaged property is to be used
38 principally to produce through rental a net annual income,
39 after deducting operating expenses and taxes, or will have a
40 fair rental value after deducting operating expenses and taxes,
41 at least equal to the annual interest plus not less than three per-
42 centum of the principal of such mortgage indebtedness: *Pro-*
43 *vided*, That all advertisements, circulars and letters advertising
44 the sale of such bonds or notes and all receipts of payments
45 therefor shall bear in bold type upon the face thereof a legend
46 stating that such bonds or notes are construction bonds or
47 notes, and all other written or printed offerings of such bonds
48 or notes shall contain a statement to the same effect. A satisfac-
49 tory completion bond covering the full amount of costs of a
50 building or buildings to be erected, or other improvements
51 to be made, shall be filed with the commissioner. All funds
52 or things of value received for such securities shall be sub-
53 ject to supervision by the commissioner until a satisfactory

54 guarantee of completion of buildings or improvements is pro-
55 vided.

56 The provisions of this subdivision (b) shall not apply in the
57 case of bonds or notes secured wholly or partly by first mort-
58 gage on leaseholds, the value of which leaseholds is required
59 to meet the ratio of property value to face value of obligations
60 as provided in clauses (2) and (3) above, unless all advertise-
61 ments, circulars and letters advertising the sale of such bonds
62 or notes and all receipts of payments therefor, and such bonds
63 and notes shall bear in bold type not less than eighteen point
64 upon the face thereof a legend stating that such bonds or notes
65 are secured wholly or partly by mortgage on a leasehold, as the
66 case may be, and all other written or printed offerings of such
67 bonds or notes shall contain a statement to the same effect.

68 When used in this subdivision (b) the term "Mortgage"
69 shall be deemed to include a trust deed to secure a debt.

70 Securities entitled to registration by notification shall be
71 registered by the filing, by the issuer or by any registered
72 dealer interested in the sale thereof, in the office of the com-
73 missioner, of a statement with respect to such securities con-
74 taining such information and data as the commissioner may
75 then and from time to time thereafter request. Such regis-
76 tration shall be revoked or suspended at any time by the com-
77 missioner pending further investigation by specifying the
78 reasons for such actions and by notifying personally by mail,
79 telephone or telegraph the person filing such information or
80 statement, and every registered dealer who shall have notified
81 the commissioner of an intention to sell such security. The
82 re-registration or lifting of suspension shall be at the discretion
83 of the commissioner. Upon the entry of any such order of
84 suspension no further sale of such security shall be made until
85 the further order of the commissioner.

86 In the event of the entry of such order of suspension the
87 commissioner shall upon request give a prompt hearing to
88 the parties interested. If no hearing is requested within a
89 period of twenty days from the entry of such order or if
90 upon such hearing the commissioner shall determine that any
91 such security does not fall within a class entitled to registra-
92 tion under this section, or that the sale thereof would be
93 fraudulent or would result in fraud, he shall enter a final

94 order prohibiting sales of such security, with his findings with
95 respect thereto: *Provided*, That if the findings with respect
96 to such security is that it is not entitled to registration under
97 this section, the applicant may apply for registration by
98 qualification by complying with the requirements of section
99 seven of this article. Appeals from such final order may be
100 taken as hereinafter provided. If, however, upon such hear-
101 ing, the commissioner shall find that the security is entitled
102 to registration under this section, and that its sale will neither
103 be fraudulent nor result in fraud, he shall forthwith enter an
104 order revoking such order of suspension and such security
105 shall be restored to its status as a security registered under
106 this section, as of the date of such order of suspension.

107 At the time of filing the statement, as hereinbefore pre-
108 scribed in this section, the applicant shall pay to the com-
109 missioner a fee of one-twentieth of one per cent of the aggre-
110 gate par value of the securities to be sold in this state for
111 which the applicant is seeking registration, but in no case
112 shall such fee be less than twenty-five dollars or more than
113 one hundred dollars. In the case of stock having no par
114 value, the price of which such stock is to be offered to the
115 public shall be deemed to be the par value of such stock.

116 Every registration under this section shall expire on the
117 thirtieth day of June in each year, but new registrations for
118 the succeeding year shall be issued upon written application
119 and upon payment of a fee of one-twentieth of one per cent
120 of the total amount of such security to be sold in West Vir-
121 ginia, within the year of registration, the minimum fee to be
122 twenty-five dollars—and by filing of further statements or
123 furnishing any further information specifically required by
124 the commissioner. Applications for renewals must be made
125 not less than thirty days before the first day of the ensuing
126 registration year, otherwise they shall be treated as original
127 applications.

Sec. 21. Any person, issuer, dealer, salesman or agent who
2 shall sell or offer any securities without compliance with the
3 provisions of this article, shall be guilty of a felony and, upon
4 conviction thereof, shall be punished by a fine of not more than
5 five thousand dollars, or by imprisonment in the penitentiary for
6 not more than five years, or by both such fine and imprisonment,
7 at the discretion of the court.

CHAPTER 43

(Senate Bill No. 31—By Mr. Fleming)

AN ACT to amend and reenact section eight, article seven, chapter twenty of the code, one thousand nine hundred thirty-one, as last amended and reenacted by committee substitute for house bill number one hundred and fifty-two, passed on the eleventh day of March, one thousand nine hundred thirty-three, being chapter five of the acts of the regular session of one thousand nine hundred thirty-three, relating to the carrying of uncased guns.

[Passed May 11, 1933; in effect from passage. Approved by the Governor.]

<p>Sec.</p> <p>8. Uncased guns, except during open hunting season, not to be carried in woods of state except upon written permit signed by local</p>	<p>Sec.</p> <p>game protector and approved by chief game protector; exception as to land owner.</p>
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Be it enacted by the Legislature of West Virginia:

That section eight, article seven, chapter twenty of the code, one thousand nine hundred thirty-one, as last amended and reenacted by committee substitute for house bill number one hundred and fifty-two, passed on the eleventh day of March, one thousand nine hundred thirty-three, regular session, being chapter five of the acts of that session, be amended and reenacted so as to read as follows:

Section 8. No person shall carry an uncased gun in any of the 2 woods of this state except during the open hunting season for 3 game animals and game birds within any county of said state, 4 unless he holds a permit in writing, upon blanks prepared for 5 the purpose, signed by the local game protector and approved 6 by the chief game protector or the chairman of the commission, 7 but this section shall not prohibit the owner of any land, his 8 child or children, tenants or lessees from carrying an uncased 9 gun on his or their premises.

CHAPTER 44

(Senate Bill No. 49—By Mr. Beneke)

AN ACT to amend and reenact section ten, article one, chapter fifty-nine of the code of West Virginia, one thousand nine

hundred thirty-one, relating to fees to be charged by clerks of county courts.

[Passed May 18, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.	10. For what clerk of county court shall charge and collect fees; amount	SEC.	of fees; fees for service not specifically provided for.
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Be it enacted by the Legislature of West Virginia:

That section ten, article one, chapter fifty-nine of the code of West Virginia, one thousand nine hundred thirty-one, relating to fees to be charged by clerks of county courts, be amended and re-enacted to read as follows:

Section 10. The clerk of a county court shall charge and	
2 collect the following fees:	
3 When a writing is admitted to record, for receiving	
4 proof of acknowledgment thereof, entering an order in	
5 connection therewith, indorsing clerk's certificate of re-	
6 cordation thereon, and indexing in a proper index, where	
7 the writing is a deed of conveyance, trust deed, lease or	
8 power of attorney concerning real estate.....	\$1.25
9 If such writing contains more than one thousand	
10 words, for every additional thirty words.....	.03
11 For recording a plat, whether separate from or ac-	
12 companying a deed or other writing.....	.50
13 If such plat contain more than six courses, for each	
14 additional course.....	.03
15 For recording, indexing and noting release of lien....	.50
16 For filing, or refiling, and entering conditional sale	
17 contract .....	.50
18 For recording a satisfaction of a conditional sale con-	
19 tract .....	.35
20 For recording and indexing certificate of incorpora-	
21 tion	1.25
22 If such certificate contains more than one thousand	
23 words, for each additional thirty words.....	.03
24 For filing and indexing a certificate showing the name	
25 or names of a person or persons conducting business	
26 under an assumed name.....	.25
27 For certifying to the assessor a transfer of real estate,	
28 under section four, article four, chapter eleven of this	
29 code .....	.50

30	For swearing the witnesses and entering in the order	
31	or minute book all orders in relation to the proof of a	
32	will which is admitted to record without contest, and	
33	copying such order on the will or on a paper annexed	
34	thereto, when fully proved, and but one order.....	.75
35	If the will be but partially proved on one day, for the	
36	order and entering the same on the will or paper an-	
37	nexed thereto.....	.50
38	For each subsequent order and entering the same on	
39	the will or paper annexed thereto.....	.50
40	For the same services where there is a contest.....	2.00
41	For recording a will and the matter recorded there-	
42	with in the will book.....	.50
43	If the will and matter recorded therewith contain	
44	more than five hundred words, at the rate for every	
45	thirty words, of.....	.03
46	For entering orders and transmitting papers in case	
47	of an appeal.....	.75
48	If there be an order committing a decedent's estate to	
49	an officer, for entering and copying such order and the	
50	orders of appraisement.....	.50
51	If any personal representative or guardian qualify,	
52	for administering necessary oaths, making out bond,	
53	entering and copying on the will order granting pro-	
54	bate or administration, making out copy of such order	
55	for personal representative or guardian, entering and	
56	copying orders of appraisement.....	1.00
57	If several personal representatives qualify on the same	
58	estate at the same time or term, only the same fee shall	
59	be charged as if one had qualified, to-wit:.....	1.00
60	For entering and copying an order granting a license	
61	under the provisions of article twelve, chapter eleven	
62	of this code.....	.50
63	For certificate for a license, or alteration or assign-	
64	ment thereof.....	.50
65	On application for marriage license, for administer-	
66	ing and writing certificate of oath, issuing and regis-	
67	tering license and recording and giving receipt for	
68	certificate of marriage.....	2.00
69	One-half of the latter fee shall be paid by the county	

70 clerk into the state treasury as a state registration fee,	
71 in the same manner that license taxes are paid into the	
72 treasury under article twelve, chapter eleven of this	
73 code.	
74 For search for anything in his office of over a year's	
75 standing .....	.25
76 For recording certificate and posting a copy thereof	
77 under the provisions of section two, article one, chap-	
78 ter thirty-four of this code.....	.50
79 For docketing, under article three, chapter thirty-	
80 eight of this code, a judgment, decree, bond or recogniz-	
81 ance .....	.35
82 For redocketing the same when required.....	.35
83 For docketing an execution.....	.35
84 For noting on the judgment docket the date of issu-	
85 ing and the date of filing an execution.....	.25
86 For making out a transcript of the record and pro-	
87 ceedings in any case in due form, so that the same may	
88 be used in an appellate court, for every thirty words..	.03
89 For making out, in any other manner than copying,	
90 any paper to go out of the office, which is not otherwise	
91 provided for.....	.50
92 If such paper contain more than five hundred words,	
93 at the rate for every thirty words, of.....	.03
94 For any copy, if it be not otherwise provided for.....	.35
95 If such copy contain more than three hundred and	
96 fifty words, at the rate for every thirty words, of.....	.03
97 For annexing the seal of the court to any paper,	
98 writing certificate of the clerk accompanying it, and	
99 writing certificate of the president of the court or judge,	
100 if the clerk be required to do so.....	.50
101 For recording and filing an inventory or sale bill....	.50
102 If the inventory or sale bill contain more than five	
103 hundred words, at the rate, for every thirty words, of	.03
104 For entering an order confirming the report of a	
105 fiduciary .....	.50
106 For recording such report and matter recorded there-	
107 with .....	.50
108 If such report and matter recorded therewith con-	
109 tain more than five hundred words, at the rate for	

110 every thirty words, of.....	.03
111 For recording any bond required by law to be re-	
112 corded, including the certificate or other evidence of its	
113 execution .....	.50
114 For recording notice of mechanic's lien.....	.50
115 If such notice contain more than five hundred words,	
116 at the rate for every thirty words, of.....	.03
117 For recording contract limiting liability of owner,	
118 and bond of contractor to be filed therewith, as pre-	
119 scribed in article two, chapter thirty-eight of this code	1.00
120 For recording and indexing a notice of lies pendens	1.00
121 For recording a certificate of real estate claimed as a	
122 homestead .....	.50
123 For administering an oath, not before provided for,	
124 and writing certificate thereof where the case requires	
125 one .....	.15
126 For recording anew any will, deed or other paper, the	
127 same fees as for the original recording.	
128 For any service not specifically provided for, the same	
129 fee as a clerk of the circuit court for similar services.	

CHAPTER 45

(House Bill No. 6—By Mr. Hiner)

AN ACT providing for the creation and equipment of an interim committee on efficiency and economy, the creation of a citizens' advisory committee, and designating the powers and duties of each.

[Passed April 24, 1933; In effect ninety days from passage. Approved by the Governor.]

SEC.

1. Governor to make examination and analysis of the legal, political and economic aspects of state and local governments.
2. Through what agencies analysis to be made; what analysis to show; recommendations of changes to promote efficiency and economy.
3. Interim committee on efficiency and economy created; committee to serve without compensation; personnel of committee; com-

SEC.

4. Citizens advisory committee to be appointed by governor; governor to be chairman.
5. Designation of staff agencies to the governor and interim committee on efficiency and economy; organization of interim committee; rules of procedure and powers; report by to next session of the legislature.

Be it enacted by the Legislature of West Virginia:

Section 1. That as soon as practicable after the passage of

2 this act the governor shall commence an examination and
3 analysis of the legal, political and economic aspects of state
4 and local government in West Virginia.

Sec. 2. It shall be his duty, working through the agencies
2 hereinafter designated or created to examine and analyze the
3 structure, functions and relationships of state and local
4 government in West Virginia; and to recommend what, if any,
5 changes should be made to promote efficiency and economy in
6 the public service, including:

7 (a) A survey of the administrative organization of the
8 state government; the functions and activities of the several
9 departments; the budgeting, purchasing and personnel
10 methods now in use; and the relation of state services to
11 counties, districts and municipalities;

12 (b) A study of the structure, services and finance of local
13 government in West Virginia to see in what ways the organiza-
14 tion can be improved, what services can be abandoned, re-
15 duced or reallocated, and what changes in financial manage-
16 ment should be provided;

17 (c) A survey of the industrial-economic structure of the
18 state, and of its present and potential sources of industrial
19 wealth; an analysis of the incidence and effect of the various
20 types and methods of taxation, with the object of disclosing
21 the most advantageous means of providing the revenue neces-
22 sary for the operation of state and local government, and of
23 promoting industrial progress and development to the end that
24 the rich heritage of natural endowments of this state may in-
25 creasingly be the source of livelihood and wealth to its
26 citizens;

27 (d) A study of the judicial process and its relation to state
28 and local government and to the industrial and economic
29 structure of the state; a survey of the administration of
30 justice to gather adequate data concerning the preservation of
31 individual interests, the security and promotion of business
32 enterprise and the efficient and effective conduct of the judicial
33 system; the development of a service for embodying the re-
34 sults of these studies in usable form for legislative considera-
35 tion;

36 (e) Any other examination or analysis pertaining to the
37 legal, political or economic problems of state and local govern-
38 ment in West Virginia that the governor may direct.

Sec. 3. There is hereby created an interim committee on efficiency and economy to serve without compensation, to be composed of the governor, who shall be chairman of the committee, the president of the senate, and two other members of the senate appointed by him; and the speaker of the house of delegates, and two other members of the house of delegates appointed by him. In addition, there shall be six other members, to be appointed by the governor and selected as follows: One member shall be chosen from each congressional district in the state; in choosing such members the governor shall give consideration to the various industrial, commercial and professional interests in the state; and no such member shall hold any office of profit or trust in the public service of the state or of its subdivisions during his tenure on the committee. It shall be the duty of this committee to cooperate in an advisory capacity with the governor in such manner as he may direct in carrying out the provisions of this act.

Sec. 4. The governor is further authorized and directed to appoint a citizens' advisory committee to serve without compensation and to be composed of two men and two women, four from each senatorial district of the state. The governor shall be chairman of such committee, which shall meet at his call at such time and place as he may determine and serve such advisory purposes as he may deem expedient in carrying out the provisions of this act.

Sec. 5. The bureau for legal research, the bureau for government research and the industrial science division of West Virginia university are hereby designated as staff agencies to the governor and to the interim committee on efficiency and economy to undertake, at the direction of the governor and the committee, such examination and analyses as may be authorized herein, but no member of the university shall receive compensation from the state for additional services that may be rendered under this act other than that provided through the governing authorities of the university. The interim committee on efficiency and economy shall organize with the governor as chairman and choose a secretary from its membership. It shall have authority to establish rules of procedure, to administer oaths or affirmations, to issue process, compel the attendance of witnesses, and the production of papers and records, to hold hearings and take testimony, and to employ all means and do

17 all things necessary and appropriate to the performance of its
 18 duties. It shall, in addition, be provided with adequate office
 19 facilities in the state capitol building. The committee shall
 20 report the results of its study to the next regular or special
 21 session of the legislature, together with drafts of legislation
 22 necessary to carry its recommendations into effect.

CHAPTER 46

(House Bill No. 19—By Mr. Hill)

AN ACT to assist in balancing county budgets by amending and re-
 enacting section twenty-one, article one, chapter fifty-two
 of the code of West Virginia, one thousand nine hun-
 dred thirty-one, relating to compensation of petit jurors,
 the taxation of jury fees as costs and the disposition thereof.

[Passed June 3, 1933; in effect from passage. Became a law without the approval
 of the Governor.]

Sec.

21. Per diem and mileage of petit jurors; per diem of jurors in felony cases payable from state treasury; cost of meals for jurors in felony cases to be paid

Sec.

from state treasury; taxation of jury costs; payment by clerk to sheriff and report by clerk to county court of all money paid by him to sheriff.

Be it enacted by the Legislature of West Virginia:

That section twenty-one, article one, chapter fifty-two of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 21. Any person summoned as aforesaid, by virtue of
 2 a venire facias or otherwise, to serve as a petit juror, and ac-
 3 tually attending upon the court, or attending at the courthouse,
 4 at the time summoned, whether he be called to serve on a jury
 5 or not, shall, for each day he so attends, be entitled to receive
 6 the sum of not less than two and not more than two and one-half
 7 dollars to be fixed by order entered of record and the same mile-
 8 age allowed to witnesses, to be paid out of the county treasury:
 9 *Provided*, That the per diem aforesaid shall be paid out of the
 10 state treasury for the day or days any person serves as a juror
 11 on a felony case; that for each day he shall not actually attend
 12 at the courthouse he shall receive nothing, and that he shall be
 13 allowed mileage but once during the term: *Provided further*,
 14 That when a jury in a case of felony shall be placed in the

15 custody of the sheriff, he shall provide for and furnish such
16 jury with regular meals at a reasonable cost not to exceed two
17 dollars a day, while they are in his custody, and such meals
18 shall be paid for out of the state treasury, as provided for above,
19 for jury service in felony cases. There shall be taxed in the
20 costs against any person against whom a judgment on the ver-
21 dict of a jury may be rendered in a case of misdemeanor, and
22 against any person against whom judgment on the verdict of a
23 jury may be rendered in a civil action, and against any person
24 on whose motion the verdict of a jury is set aside and a new
25 trial granted, eight dollars for jury costs, which, when collected
26 from the party, shall be paid into the county treasury. All
27 money so received by the clerk shall be forthwith paid by him
28 to the sheriff, and the clerk and his surety shall be liable there-
29 for on his official bond as for other money coming into his
30 hands by virtue of his office.

31 The clerk of the circuit court of each county in this state
32 shall annually certify to the county court a list of all money so
33 paid to him, and by him paid to the sheriff, and, in addition
34 thereto, a correct list of all the cases in which jury fees have
35 been taxed, and are, at the time, properly due and payable in
36 the county treasury, and the sheriff of the county shall be held
37 to account in his annual settlement for all such moneys collected
38 by him.

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

*CHAPTER 47

(House Bill No. 21—By Mr. Doring)

AN ACT to provide revenue for the general school fund by the regulation, control and licensing of horse racing within the state of West Virginia; to vest with the commissioner of agriculture of the state of West Virginia the authority to regulate, control and issue licenses for such horse racing; prescribe his powers and duties; provide for salaries and expenses therefor; provide for the license fees to be charged and the taxes to be collected; provide for the operation of pari-mutuel machines

*See chapter forty-eight, acts of this session.

in the conduct of horse racing in the state of West Virginia and to provide for the disposition of revenue derived from the same.

[Passed May 9, 1933; in effect from passage. Became a law without the approval of the Governor.]

- | | |
|---|---|
| <p>SEC.</p> <ol style="list-style-type: none"> 1. Powers and duties of commissioner of agriculture under act. 2. Commissioner to appoint horse racing secretary and additional help to administer department of horse racing; salaries to be fixed by commissioner and paid only from funds collected from license tax on pari-mutuel machines; limitation on expense of administration of horse racing department. 3. Taxes collected to be paid directly to treasurer and deposited to credit of general school fund. 4. Commissioner to prescribe rules and regulations under which horse racing for any stake, purse or reward, may be conducted; exceptions where no betting, gambling or pari-mutuel pool system of wagering conducted. 5. Application to commissioner for license to hold a horse race meeting and conduct pari-mutuel pools; what application to state; appeal to circuit court from decision of commissioner rejecting application or revoking license. | <p>SEC.</p> <ol style="list-style-type: none"> 6. Amount of tax; when payable; tax on winning ticket; bond or other adequate security to insure payment of license fees. 7. Licensee to permit only pari-mutuel system of wagering within enclosure; commission deducted by licensee; breaks calculated on the dime; minor not to be permitted to wager; commissioner to appoint supervisor of pari-mutuel pools; powers and duties of supervisor. 8. Penalty for violating provisions of act. 9. License tax herein imposed to be in lieu of all other license, income, excise, special or franchise taxes to the state; no political subdivision of state to impose any tax. 10. Section ten, article ten, chapter sixty-one of code not to apply to pari-mutuel pool system of wagering. 11. Definition of words and phrases used in act; acts and inconsistent grants or franchises repealed. |
|---|---|

Be it enacted by the Legislature of West Virginia:

Section 1. The commissioner of agriculture of the state of West Virginia shall be vested with and possessed of the power and duties in this act specified, and also the powers necessary and proper to enable him to carry out fully and effectively all the purposes of this act. The jurisdiction, supervision, power and duties of the commissioner shall extend, under this act, to any and all persons, associations and corporations which shall hereafter hold or conduct any horse race meeting within the state of West Virginia whereat horse racing shall be permitted for any stake, purse or reward.

Sec. 2. The commissioner of agriculture shall appoint a horse racing secretary and such additional help as is necessary to administer all details of this department of horse racing in his office. Salaries of such officials shall be fixed by the commissioner of agriculture and shall be paid only from the funds in the hands of the state treasurer collected from the license tax on pari-mutuel machines. The entire expense of the administration of this horse racing department shall, during the years one thou-

9 sand nine hundred thirty-three and one thousand nine hundred
10 thirty-four, not exceed ten per cent of the total amount paid
11 into the state treasury for license fees from said pari-mutuel
12 machines. For no year, after one thousand nine hundred
13 thirty-four, shall this expense exceed five per cent of the total
14 amount of fees paid into the state treasury.

Sec. 3. All funds collected as taxes from the operation of
2 pari-mutuel machines, shall be paid directly to the treasurer
3 of the state of West Virginia and be deposited by him to the
4 credit of the general school fund of the state.

Sec. 4. No person or persons, association or corporation
2 shall hereafter hold or conduct any meeting within the state
3 of West Virginia whereat horse racing shall be permitted for any
4 stake, purse or reward, except under the direct supervision of
5 the commissioner of agriculture, who shall prescribe the rules
6 and regulations under which these horse races shall be conducted.
7 However, nothing in this act shall be construed to prevent, in
8 any way, the use of any grounds, enclosure or horse race track
9 owned and controlled by any license, for any local, county, or
10 state fair, agriculture or livestock exhibition, even though horse
11 racing be conducted thereat, when no betting, wagering, pool-
12 selling or gambling upon the result of the horse racing held
13 thereat is permitted with the knowledge or acquiescence of the
14 person, persons, association or corporation conducting the same
15 and when the pari-mutuel pool system of wagering is not con-
16 ducted.

Sec. 5. Any person or persons, association or corporation
2 desiring to hold or conduct a horse race meeting within the state
3 of West Virginia and permit and conduct pari-mutuel pools, shall
4 apply to the commissioner of agriculture for a license to do so.
5 Such applications shall be filed with the commissioner of agri-
6 culture at least ten days prior to the first day of each horse race
7 meeting which said person, persons, association or corporation
8 proposes to hold or conduct. The commissioner of agriculture
9 shall prescribe blank forms to be used in making such appli-
10 cations. Such application shall specify the days upon which said
11 horse race meeting is to be conducted. It shall state the names of
12 the person or persons, association or corporation making such
13 application, the postoffice address of the applicant; the number

14 of days it is intended to hold or conduct such horse race meeting
15 (which shall be successive week days excluding Sundays) and
16 the location of the place of the track, or enclosure where it is
17 proposed to hold or conduct such horse race meeting and shall
18 supply such other data and information as the commissioner of
19 agriculture shall prescribe.

20 The commissioner of agriculture shall have the power and
21 authority to reject any application for a license for any cause
22 which he may deem sufficient. But if said license is refused or
23 revoked said commissioner of agriculture shall publicly state
24 his reasons for so doing and said reasons shall be written in
25 full and attached to the application so refused, which shall, at
26 all times, be subject to inspection upon application of anyone
27 desiring so to do and said findings shall be subject to review of
28 the circuit court of the county having jurisdiction, with the
29 right to appeal to the supreme court of appeals in the manner
30 prescribed by general law.

Sec. 6. A person or persons, association or corporation licensed
2 by the commissioner of agriculture to conduct horse racing
3 and to permit and conduct pari-mutuel wagering under this act,
4 shall pay to the treasurer of the state of West Virginia a license
5 tax therefor, equal to three per cent of the total contribution
6 to all pari-mutuel pools conducted or made at any and every
7 horse race meeting licensed under this act. Said payments shall
8 be made after the last horse race on each and every day of each
9 and every horse race meeting and shall be made from all con-
10 tributions to all pari-mutuel pools to each and every horse race
11 of the day.

12 There shall likewise be levied and collected a tax of five per
13 cent on each and every winning ticket, which amount shall be
14 retained by the racing association and paid over together with
15 the three per cent gross proceeds as provided for in this section.

16 The commissioner of agriculture shall, if he so elects, require
17 a bond or other adequate security to insure the payments of the
18 license fees for the first four days of said aforementioned
19 meetings and may likewise require a bond or other security for
20 subsequent days, such bond, however, to cover not more than
21 four successive days.

Sec. 7. A person or persons, association or corporation

2 licensed by the commissioner of agriculture, shall permit only
3 the pari-mutuel system of wagering within their enclosure at
4 which horse racing is held and the commission deducted from the
5 said pari-mutuel pools shall not exceed ten per cent, including the
6 three per cent license fee, of the gross amount handled and the
7 breaks shall be made and calculated on the dime. *Provided, how-*
8 *ever,* That no holder of such license shall permit or allow any
9 person under the age of twenty-one years to wager thereat,
10 knowing or having reason to believe that such person is under
11 the age of twenty-one years. Any violation of this rule shall be
12 punishable by revocation of license.

13 A supervisor of pari-mutuel pools shall be appointed by the
14 commissioner of agriculture and shall be compensated by said
15 commissioner of agriculture. Said supervisor shall have free
16 access to the space or enclosure where the pari-mutuel pool
17 system of wagering is conducted or supervised at any horse race
18 meeting to which he shall be assigned for the purpose only of
19 ascertaining whether or not said licensee is retaining only the
20 commission provided for in said section. He shall also for the
21 same purpose only, have full and free access to all books, records
22 and papers pertaining to such pari-mutuel pool system of
23 wagering and shall report to the commissioner of agriculture in
24 writing, under oath, whether or not the licensee has retained any
25 commissions in excess to those permitted under this section.

Sec. 8. Any person aiding or abetting in the conduct of any
2 meeting in the state of West Virginia at which racing and
3 wagering on the same is permitted, except in accordance with a
4 license duly issued and not revoked and not suspended by the
5 commissioner of agriculture shall be guilty of a misdemeanor
6 and, upon conviction, shall be punished by a fine of not less than
7 five thousand dollars and not more than ten thousand dollars
8 for each day of such unauthorized meeting, or by imprison-
9 ment not exceeding one year or by both fine and imprisonment
10 in the discretion of the court.

Sec. 9. The license tax herein imposed shall be in lieu of all
2 other license, income, excise, special or franchise taxes to the
3 state of West Virginia and no county, city, town, municipality
4 or other municipality or other political subdivision of the state
5 of West Virginia shall be authorized or empowered to levy or

6 impose any license, income, excise, special or franchise tax on
7 any such person, persons, association or corporation engaged
8 in the business of conducting a meeting at which horse races are
9 run for stakes, purses or reward under the jurisdiction of and
10 being licensed by the commissioner of agriculture, or on the
11 operation or maintenance of any pari-mutuel machine or similar
12 device or on the sale of any commodity during a meeting at which
13 horse races are run or at any such horse race track.

Sec. 10. Section one, article ten, chapter sixty-one of the
2 code of West Virginia, one thousand nine hundred thirty-one,
3 relating to gaming tables and devices, shall not apply to the
4 pari-mutuel pool system of wagering, in manner and form, as
5 provided for in this act, at any meeting within the state of
6 West Virginia, whereat horse racing shall be permitted for any
7 stake, purse or reward, by any person, persons, association or
8 corporation having a license for the holding or conducting of
9 such meeting as provided by this act.

Sec. 11. Definitions and explanations of certain technical
2 terms and words used in this act are as follows:

3 "Pari-mutuel" is a French word meaning "a mutuel or col-
4 lective pool that can be divided among those who have con-
5 tributed their wagers to one central agency, the odds to be
6 reckoned in accordance to the collective amounts wagered upon
7 each contestant running in a horse race upon which the pool is
8 made, but the total to be divided among the first three contestants
9 on the basis of the number of wages on these." A pool is what
10 the dictionary describes it: "A combination of interests in a
11 joint wagering enterprise; of a stake in such enterprise." In
12 the division of a pool there occur percentages left over. This
13 is known as "legitimate breakage." "To the dime" is defined to
14 mean that wagers shall be figured and paid to the dime.

15 All other acts, whether general or local, public or private, or
16 previous grants or franchises inconsistent with the provisions
17 of this act are hereby repealed.

CHAPTER 48

(House Bill No. 175—By Mr. Hiner)

AN ACT to amend and reenact section six, engrossed house bill num-
ber twenty-one, entitled "An Act to provide revenue for the

general school fund by the regulation, control and licensing of horse racing within the state of West Virginia; to vest with the commissioner of agriculture of the state of West Virginia the authority to regulate, control and issue licenses for such horse racing; prescribe his powers and duties; provide for salaries and expenses therefor; provide for the license fees to be charged and the taxes to be collected; provide for the operation of pari-mutuel machines in the conduct of horse racing in the state of West Virginia and to provide for the disposition of revenue derived from the same," passed May nine, one thousand nine hundred thirty-three, extraordinary session, and in effect from passage.

[Passed June 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.	6. Amount of tax on pari-mutuel wagering on horse racing; when payable; bond or other adequate		SEC.	security to insure payment of license fees.
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Be it enacted by the Legislature of West Virginia:

That section six, engrossed house bill number twenty-one, relating to horse racing, passed May nine, one thousand nine hundred thirty-three, extraordinary session, and in effect from passage, be amended and reenacted to read as follows:

Section 6. A person or persons, association or corporation
2 licensed by the commissioner of agriculture to conduct horse
3 racing and to permit and conduct pari-mutuel wagering under
4 this act, shall pay to the treasurer of the state of West Virginia
5 a license tax therefor, equal to three per cent of the total con-
6 tribution to all pari-mutuel pools conducted or made at any
7 and every horse race meeting licensed under this act. Said
8 payments shall be made after the last horse race on each and
9 every day of each and every horse race meeting and shall be made
10 from all contributions to all pari-mutuel pools to each and every
11 horse race of the day.

12 The commissioner of agriculture shall, if he so elects, require
13 a bond or other adequate security to insure the payments of the
14 license fees for the first four days of said aforementioned meet-
15 ings and may likewise require a bond or other security for sub-
16 sequent days, such bond, however, to cover not more than four
17 successive days.

CHAPTER 49

(House Bill No. 32—Originating in the Committee on Medicine and Sanitation)

AN ACT to repeal sections one to nine, both inclusive, article six, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, and to reenact said article to read as follows, all relating to the examination, licensing and registration of persons, both individuals and corporations, engaging in the care, preparation and disposition of the bodies of deceased persons.

[Passed May 18, 1933; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.

1. West Virginia board of embalmers and funeral directors created; number, appointment and qualifications of members.
2. Terms of members; when organized, state board of embalming examiners to cease and files of board to be delivered to the board created hereunder.
3. Oath of office of members; officers of board; board to adopt rules and regulations; traveling and other expenses and per diem of members; salary, traveling and incidental expenses of secretary; all payments to be made from receipts of board; board to fix qualifications of applicants for license as embalmers, funeral directors and assistant funeral directors; eligibility for examination; fees for examination; bond of treasurer.
4. Meetings of board; publication of notice; quorum.
5. Definition of words and phrases.
6. Person desiring to engage in business of embalming or funeral directing to make application for and take examination; registration by board of applicant after examination; renewal of license; form and registration of license; funeral director having more than one place of business within state to obtain license for each; embalmers now licensed by state not required to make new application or take examination, but may renew license;

SEC.

7. recognition of licenses of other states; renewal of such reciprocal licenses.
7. When board may refuse to grant, suspend or revoke license; hearing to suspend or revoke license after holder furnished with statement of charges; appeal to circuit court from action of board refusing, suspending or revoking license; penalty for engaging in business of embalming or funeral directing unless duly licensed.
8. Fees paid to treasurer of board and by him monthly to state treasurer; fees used to defray expenses and per diem of board; yearly report by board to governor; surplus remaining from fees to remain in treasury of state in general fund.
9. Provisions of act not to interfere with health officers or duties of officers of medical colleges or societies, or with burial rights of any religious sect.
10. Those actively engaged in business of funeral directing at passage of act may register with board and receive license upon payment of fee of fifty dollars; renewal of license.
11. Rules and regulations for apprenticeship.
12. If any provision of act invalid, remainder not affected.
13. Words in masculine gender to include feminine and neuter gender; definition of word board.

Be it enacted by the Legislature of West Virginia:

That article six, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, be repealed and that said article be reenacted to read as follows:

Section 1. There is hereby created a state board to be known

2 and designated as the "West Virginia board of embalmers and
3 funeral directors," which shall consist of six members, who
4 shall be appointed by the governor by and with the advice and
5 consent of the senate, all of whom must be licensed embalmers and
6 practicing funeral directors with a minimum of five consecu-
7 tive years' experience in West Virginia immediately preceding
8 their appointment.

Sec. 2. Immediately after the effective date of this act, the
2 governor shall appoint one member of said board for a term of
3 one year, one for a term of two years, one for a term of three
4 years and three for a term of four years and thereafter shall ap-
5 point said members for a term of four years beginning on the
6 first day of July. Upon the organization of the board created by
7 this act the state board of embalming examiners shall cease to
8 exist. The funds, records and files of said board shall be de-
9 livered to the board created hereunder, which shall have all the
10 powers and privileges of the state board of embalming ex-
11 aminers, as well as the powers and privileges conferred by this
12 act.

Sec. 3. Members of said board, before entering upon their
2 duties, shall take and subscribe to the oath of office provided for
3 state officers, which shall be filed in the office of the secretary of
4 state.

5 Said board shall select from its own members a president, secre-
6 tary and treasurer; adopt, promulgate and enforce such rules
7 and regulations for the transaction of its business and the
8 management of its affairs, the betterment and promotion of the
9 educational standards of the profession of embalming and the
10 standards of service and practice to be followed in the profes-
11 sion of embalming and funeral directing in the state of West
12 Virginia as it may deem expedient and consistent with the
13 laws of the state of West Virginia. Each member shall be re-
14 imbursed for his necessary traveling expenses and the necessary
15 expense incident to his attendance upon the business of the
16 board, and in addition thereto the sum of ten dollars per day
17 for each day actually spent by such member upon the business
18 of the board. The secretary shall receive an annual salary not
19 to exceed three hundred dollars, the amount and method of
20 payment of which shall be fixed by said board, and in addition
21 thereto shall receive his necessary traveling and other inci-

22 dental expenses incurred in the performance of his duties. All
23 such expenses, per diem and compensation shall be paid out of
24 the receipts of the board, but such allowances shall at no time
24-a exceed the receipts of the board.

25 The board shall from time to time adopt and promulgate such
26 rules, regulations and by-laws for its government and for the
27 enforcement of the provisions of this act as may be necessary
28 and as are consistent with the laws of this state.

29 The board shall fix the qualifications of applicants for license
30 by said board for embalmers, funeral directors and assistant
31 funeral directors, and the standard and scope of qualifications
32 for licenses. No person shall be eligible for examination for em-
33 balmer until he shows to the satisfaction of the board that he
34 has completed the course in an approved and accredited school
35 of embalming and prior thereto had credits of not less than four
36 years of work in a high school approved by the board, and, in
37 addition, two years' training as an apprentice under an em-
38 balmer duly licensed in this state, and also show to the satisfac-
39 tion of the board that he has actually embalmed not less than
40 thirty-five dead human bodies. The fee for examination for
41 license as an embalmer or as a funeral director shall be fifty
42 dollars; for assistant funeral director, five dollars; for renewal
43 of license as embalmer, two dollars; for renewal of license as
44 funeral director and assistant funeral director, three dollars.

45 The treasurer of the board shall give bond to the state of
46 West Virginia in such sum as the board shall direct with two
47 or more sureties or a reliable surety company approved by the
48 board, and such bond shall be conditioned for the faithful dis-
49 charge of the duties of such officer. Such bond, with approval
50 of the board endorsed thereon, shall be deposited with the treas-
51 urer of the state of West Virginia.

Sec. 4. Said board shall hold not less than one meeting an-
2 nually for the purpose of examining applicants for licenses,
3 such meeting or meetings to be held at such time and place as the
4 board may determine. The time and place of each such meeting
5 shall be given by publication in three daily newspapers of gen-
6 eral circulation in different locations in the state, said publica-
7 tion to be once a week for two consecutive weeks immediately
8 preceding each such meeting.

9 The board may hold such other meetings as it may deem nec-

10 essary and may transact any business at any such meeting. Three
11 or more members shall comprise a quorum authorizing the board
12 to transact the business prescribed under this act.

Sec. 5. For the purposes of this act, the term "embalming"
2 shall be construed to mean the preservation and disinfection,
3 or attempted preservation and disinfection, of the dead human
4 body by application of chemicals externally, or internally, or
5 both. The term "funeral directing" or "funeral director" as
6 used in this act shall be construed to mean the business or pro-
7 fession of directing or supervising funerals for profit, or the
8 business or profession of preparing dead human bodies for
9 burial by means other than embalming, or the disposition of dead
10 human bodies, or the use in connection with a business of the
11 word or term "funeral director," "undertaker," "mortician"
12 or any other word or term from which can be implied the busi-
13 ness of funeral directing, or the holding out to the public that
14 one is a funeral director.

Sec. 6. Any person desiring to engage in the profession or
2 business of embalming or funeral directing or both as defined
3 in this act, shall make such application, be required to show such
4 preliminary requisites and shall take such examinations as shall
5 be deemed necessary by the board in its rules and regulations.
6 Should the board find that the applicant possesses the neces-
7 sary qualifications prescribed in this act or in the rules and regu-
8 lations of the board, and should the applicant pass the examina-
9 tions in the subjects prescribed by the board in its rules and
10 regulations, the board shall register the applicant as a duly
11 licensed embalmer or a duly licensed funeral director or
12 assistant funeral director, as the case may be, and thereupon the
13 board shall issue to such applicant the license applied for by
14 him, said license to be in full force and effect until the regular
15 renewal date for other licenses, at which time said license shall
16 be renewed as provided for in this act and in the rules and regu-
17 lations of the board.

18 No person shall carry on the business or profession or dis-
19 charge any of the duties of embalming or funeral directing as
20 defined in this act unless there has been issued to him a license
21 in full force and effect at the time, permitting him to carry on
22 each or both classes of business, and unless he shall have other-
23 wise complied with the provisions of this act. Such license or

24 licenses shall be signed by the president and the secretary of the
25 board, to which license shall be affixed the seal of said board and
26 such license or licenses shall be nontransferable and nonnego-
27 tiable. Such license shall be registered by the holder or owner
28 with the state department of health.

29 Any funeral director who has more than one place of busi-
30 ness within the state, or the owner or operator of any establish-
31 ment in which the business or profession of funeral directing
32 is conducted, shall be required to obtain a license as funeral
33 director for each such establishment.

34 Any person now holding a license granted by this state to
35 carry on the profession of embalming shall not be required to
36 make a new application, or submit to an examination, but shall,
37 upon the payment of the fee therefor, be entitled to a renewal
38 of his license upon the same terms and conditions as are herein
39 provided for the renewal of licenses of those who may be
40 licensed after the passage of this act, but all such persons shall
41 be subject to every other provision of this act and such rules
42 and regulations as the board may adopt in pursuance of this
43 act.

44 The board may recognize licenses issued to embalmers or
45 funeral directors by state boards of embalming and state health
46 authorities of other states; and upon presentation of such licen-
47 ses may issue, to the lawful holders thereof the embalmer's,
48 funeral director's or assistant funeral director's license herein
49 provided for. Such reciprocal license shall be renewed annually
50 upon the payment of such renewal fee as may be fixed by the
51 board upon the same terms and conditions as provided herein
52 and the rules and regulations of the said board for renewal. No
53 person shall be entitled to a reciprocal license as a funeral
54 director, assistant funeral director or embalmer unless he shows
55 to the satisfaction of the board that he has, in the state in which
56 he is legally licensed, complied with requirements substantially
57 equal to those set out in this act.

Sec. 7. The board may refuse to grant, may suspend or re-
2 voke any license granted to any person for any of the following
3 reasons: (a) If the applicant therefor or holder thereof ob-
4 tained said license by fraud or misrepresentation either in the
5 application for said license or in passing the examination there-
6 for; (b) If the applicant therefor or holder thereof has know-

7 ingly violated any rule or regulation of the board adopted in
8 pursuance to the provisions of this act; (c) If the applicant
9 therefor or holder thereof has been convicted of a felony or
10 crime involving moral turpitude; (d) If the applicant therefor
11 or holder thereof has been guilty of willfully violating any sec-
12 tion of this act or any rule or regulation of the board, or any
13 rule or regulation of the state, district or local board of health
14 governing the disposition of dead human bodies.

15 No hearing to suspend, revoke or cancel any license shall be
16 taken by the board until the holder thereof has been furnished
17 with a statement of the charges against him and notice of the
18 time and place of hearing thereof, the furnishing of such notice
19 and the charges to be given said holder at least thirty days prior
20 to the date of hearing. If, upon such hearing, the board finds the
21 charges true, it may revoke or suspend the license of the ac-
22 cused person. A stenographic report of each proceeding to
23 revoke or suspend a license shall be made at the expense of the
24 board and a transcript thereof kept in its files.

25 Any person who has been refused a license for any cause other
26 than failure to pass the examination or whose license has been
27 revoked or suspended, may file with the secretary of the board,
28 within thirty days after the decision of the board, a written
29 notice of appeal therefrom to the circuit court of the county
30 within which such person whose license has been revoked or
31 suspended resides. Upon the filing of such notice, the secretary
32 of the board shall transmit to the clerk of such court, the record
33 of such proceedings. Such court shall thereupon hear and de-
34 termine such case as in other cases of appeal. The judgment of
35 the circuit court may be reviewed upon proceedings in error
36 in the supreme court of appeals.

37 No person shall engage in the profession or business of em-
38 balming or funeral directing as defined in this act unless he is
39 duly licensed as an embalmer and/or as a funeral director within
40 the meaning of this act, and any person who shall engage in
41 either business or profession, or both, without having first com-
42 plied with the provisions of this act shall be guilty of a misde-
43 meanor and upon conviction thereof in any court of competent
44 jurisdiction shall be fined not less than fifty dollars nor more
45 than two hundred fifty dollars.

Sec. 8. All fees collected under the provisions of this act shall be

2 paid to the treasurer of the board and by him deposited monthly
3 with the state treasurer. Such fees shall be used for the purpose
4 of defraying the necessary expenses and per diem of said board
5 in the administration of this act. It shall be the duty of said
6 board on or before the first Monday of July of each year, to make
7 a report in writing to the governor containing a detailed state-
8 ment of the nature and amount of its receipts and the amount
9 and manner of its expenditures; any balance of money remain-
10 ing at the end of the year after payment of the necessary ex-
11 penses, including the salary of the secretary, the per diem,
12 traveling expenses, and other expenses incident to the proper
13 discharge of their duties by the members and employees of said
14 board, shall remain in the treasury of the state in the general
15 fund.

Sec. 9. No provision of this act shall apply to or interfere
2 with the duties of an officer of any local or state board of health,
3 who, in compliance with local or state board of health rules,
4 may be charged with the duty of preparation for burial of a
5 human body, when death was caused by a virulent, communicable
6 disease; nor with the duties of an officer of a medical college,
7 county medical society, anatomical association or other recog-
8 nized person carrying out the provisions of the sections of the
9 code prescribing the conditions under which indigent dead
10 human bodies are held subject for anatomical study; nor with
11 the customs or rites of any religious sect in the burial of its
12 dead.

Sec. 10. Any person, who at the time of the passage of this
2 act is actively engaged in the profession or business of funeral
3 directing shall, within sixty days after the passage of this act,
4 register as such funeral director with the board on a form pre-
5 scribed by said board, and upon the payment of a fee of fifty
6 dollars, such person a license shall be entitled to, and the board
7 shall issue to such person a license as a funeral director; which
8 such license shall remain in full force and effect until the first
9 day of the year following the issuance of such license. There-
10 after such person or persons shall renew such license or licenses
11 as herein provided for.

Sec. 11. The board may, by its rules and regulations, provide
2 for the manner in which an apprenticeship shall be served and

3 the length of time thereof, which shall not be less than two
4 years.

Sec. 12. If any provision of this act shall be held to be un-
2 constitutional, invalid or unenforceable, such unconstitutional,
3 invalid or unenforceable provision shall be considered severable
4 from the remainder of this act, although contained in sections
5 containing other provisions, and the fact that said provision
6 shall be held to be unconstitutional, invalid or unenforceable
7 shall in no wise affect any other provisions of this act although
8 contained in the same section, the legislature hereby declaring
9 that all sections of this act or parts thereof are independent sec-
10 tions and parts of sections and that it would have passed the
11 remaining sections and parts of sections of said act and each
12 provision thereof notwithstanding the unconstitutionality, in-
13 validity or unenforceability of any other portion thereof.

Sec. 13. In the interpretation of this act, words in the mas-
2 culine gender include the feminine and neuter genders. Whenever
3 the word "board" is used in this act, it shall be construed to
4 mean and refer to the "board of embalmers and funeral directors
5 of West Virginia."

CHAPTER 50

(Com. Sub. for House Bill No. 57—Originating in the Committee on
the Judiciary)

AN ACT to amend and reenact section five, article one, chapter
seven of the code of West Virginia, one thousand nine hun-
dred thirty-one, relating to duties of county courts and com-
pensation of county commissioners for services other than serv-
ices in court.

[Passed June 3, 1933; in effect from passage. Became a law without the approval
of the Governor.]

SEC.	5. Services of county commissioners other than in court; salaries of county commissioners for such		SEC.	services based on population of counties.
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Be it enacted by the Legislature of West Virginia:

That section five, article one, chapter seven of the code of West
Virginia, one thousand nine hundred thirty-one, relating to duties
of county courts and compensation of county commissioners for

services other than services in court be and the same is amended and reenacted to read as follows:

Section 5. It shall be the duty of the county commissioners 2 of each county to visit each quarter and inspect institutions 3 within their county for housing and caring for the poor, to in- 4 spect the jails, and to investigate the conditions of the poor 5 within their county not housed within such institutions; to visit 6 detention homes for children within their counties, if any, and to 7 visit and inspect bridges and bridge approaches under their 8 control.

9 There shall be allowed and paid out of the county treasury, as 10 other salaries are paid, to each county commissioner of each 11 county (except as otherwise provided by law for the county of 12 Ohio), for services performed for such county concerning the 13 visiting of the poor and inspection of places of housing and 14 caring for the poor, inspection of jails, bridges and bridge ap- 15 proaches and for visiting detention homes for children within 16 their counties and other county business by such commissioners 17 other than services in court, the following sums of money, to-wit: 18 For commissioners in counties which now have or may have at 19 any decennial census of the United States eighteen thousand 20 population or less, fifteen dollars per month; for commissioners 21 in counties having more than eighteen thousand population and 22 less than thirty thousand, twenty-five dollars per month; for 23 commissioners in counties having thirty thousand population 24 and less than fifty thousand, seventy-five dollars per month; 25 for commissioners in counties having fifty thousand population 26 and less than seventy thousand, one hundred dollars per month; 27 for commissioners in counties having seventy thousand popu- 28 lation and less than one hundred thousand, one hundred fifty dol- 29 lars per month; and for commissioners in counties having a 30 population of one hundred thousand or more, two hundred dol- 31 lars per month.

CHAPTER 51

(House Bill No. 92—By Mr. Poling)

AN ACT to amend and reenact section ten, article ten, chapter three of the code of West Virginia, one thousand nine hundred

thirty-one, relating to vacancy in office of prosecuting attorney, sheriff, surveyor or assessor.

[Passed May 11, 1933; in effect from passage. Approved by the Governor.]

SEC.

10. Vacancy in office of prosecuting attorney to be filled by circuit or criminal court; appointee to be of same political party as im-

SEC.

mediate predecessor; how vacancies in other county offices filled by appointment; notice of election to fill vacancies.

Be it enacted by the Legislature of West Virginia:

That section ten, article ten, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 10. A vacancy in the office of prosecuting attorney, 2 happening after the last general election before the expiration 3 of the term of office of such attorney, shall be filled by the cir- 4 cuit court of the county, or judge thereof, for the unexpired 5 term, except that in any county wherein there has been or may 6 hereafter be created a court of limited jurisdiction vested with 7 criminal jurisdiction throughout the county, said last named 8 court, or the judge thereof, shall fill such vacancy; otherwise 9 it shall be filled by said court or judge until the next general 10 election: *Provided, however,* That said appointee shall be a 11 member of the same political party as was his immediate pre- 12 decessor and a vacancy so happening in the office of sheriff, 13 surveyor of lands or assessor shall be filled by the county court 14 for the unexpired term; otherwise it shall be filled by the said 15 county court until the next general election, at which general 16 election every vacancy shall be filled by a vote of the people, 17 where an appointment has been made, as aforesaid, from the 18 next general election, for the unexpired term. A notice of every 19 such election of prosecuting attorney shall be given by order of 20 such circuit court or court of limited jurisdiction, or the judge 21 thereof in vacation, and of the election of a sheriff, surveyor of 22 lands or an assessor by the order of the county court or the 23 president thereof in vacation, as prescribed in the eighth section 24 of this chapter.

CHAPTER 52

(House Bill No. 103—By Mr. Dyer)

AN ACT to authorize and empower the several county courts of

West Virginia to borrow funds from the reconstruction finance corporation, or other governmental agencies to liquidate indebtedness heretofore incurred by said county courts, and to provide for the repayment of same.

[Passed May 18, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Each county court authorized to borrow not to exceed five hundred thousand dollars, from governmental agencies, to liquidate indebtedness incurred prior to May 1, 1933; loan to extend over a period of twenty years.
2. Liquidating fund of county indebtedness created.
3. When funds received and credited, clerks of county courts to give published notice requiring presentation for cancellation of all outstanding claims drawn on county funds.
4. Holders of unpaid claims to pre-

SEC.

- sent same within thirty days from date of notice; claims to be paid by drafts drawn on liquidating fund, after being countersigned by prosecuting attorney.
5. Balance remaining after liquidation of claims to be deposited to credit of sinking fund.
 6. Sufficient amount from taxes annually to be set aside to create a sinking fund for the repayment of loan with five per cent interest; loan may be repaid after five years if sufficient funds on hand; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. The several county courts of West Virginia, for 2 and on behalf of each county thereof, are authorized and em- 3 powered to borrow not exceeding five hundred thousand dollars 4 from the reconstruction finance corporation or other govern- 5 mental agencies, for the sole purpose of liquidating indebted- 6 ness incurred by the said court prior to May first, one thousand 7 nine hundred thirty-three, said liquidation and payment of 8 debts to include all indebtedness chargeable to said counties. 9 Said loans to extend over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall 2 be designated and known as a liquidating fund of county in- 3 debtedness and the money derived from said loan shall be de- 4 posited to the credit of said liquidating fund by the said county 5 court and the same shall be disbursed in the manner herein pro- 6 vided.

Sec. 3. When the aforesaid funds have been received and 2 properly credited as herein provided, the clerks of the said 3 county courts shall cause notice to be published in two news- 4 papers in general circulation in their respective counties that all 5 outstanding claims drawn on county funds, which are due and 6 unpaid, shall be presented to their respective county courts for 7 liquidation and cancellation.

Sec. 4. All persons, firms or corporations holding any claims

2 drawn on county funds of their county, and which are due and
 3 unpaid, shall present the same for payment and cancellation
 4 to the county court of said county within thirty days of the
 5 date of said notice, whereupon the said county court shall
 6 proceed to pay off and liquidate such claims by issuing drafts
 7 on said liquidating fund of said county for the aggregate amount
 8 of all claims held by such persons, firms or corporation, plus in-
 9 terest that may have accrued thereon, and such cancelled claims
 10 shall be filed by the county clerk: *Provided further*, That no
 11 check, draft or order drawn on said fund, shall be paid or
 12 honored by any bank or depository until the same has been
 13 countersigned by the prosecuting attorney of said county.

Sec. 5. If any balance remains in said fund after the
 2 aforesaid thirty days have expired, then the county courts of the
 3 several counties shall deposit the same to the credit of the sink-
 4 ing fund as hereinafter provided and created.

Sec. 6. The said county courts shall set apart a sufficient
 2 amount from the taxes, levied and collected annually, to create
 3 a sinking fund for the repayment of the aforesaid loan on the
 4 basis of five per cent of the principal plus the interest thereon
 5 annually. Any county court, after a period of five years from
 6 the date of said loan, if it has sufficient funds on hand, may pay
 7 off and discharge the whole amount of the money so borrowed.

8 All acts and parts of acts inconsistent herewith are hereby re-
 9 pealed.

CHAPTER 53

(House Bill No. 106—By Mr. Hill)

AN ACT to amend and reenact section ten, chapter twelve, acts of
 the legislature of West Virginia, extraordinary session, one
 thousand nine hundred thirty-two, providing for the distraint
 of goods and chattels for taxes.

[Passed June 3, 1933; in effect ninety days from passage. Became a law without
 the approval of the Governor.]

<p>SEC. 10. When distraint of goods and chat- tels may be made for unpaid taxes; when distraint may be</p>		<p>SEC. made if goods about to be re- moved from county.</p>
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Be it enacted by the Legislature of West Virginia:

That section ten, chapter twelve, acts of the legislature of West

Virginia; extraordinary session one thousand nine hundred thirty-two, be amended and reenacted to read as follows:

Section 10. Any goods or chattels in the county belonging to the person or estate assessed with taxes which are due and payable, may be distrained therefor after the last day of November in the year for which the taxes were assessed, as to all taxes falling due on the first day of November of such year, and after the last day of May of the year following, as to all taxes falling due on the first day of May following the year in which the taxes were assessed; or before either of such dates if such goods or chattels are about to be removed from the county.

All acts or parts of acts in conflict herewith are hereby repealed.

CHAPTER 54

(House Bill No. 107—By Mr. Smith, of Wirt)

AN ACT relating to public lands; to create a public land corporation of West Virginia with the right to hold title to all public lands; to designate such lands for public purposes and rehabilitate and reforest the same; creating a fund for the purchase of lands; regulating the use of lands so purchased; providing for securing loans from the federal government; and granting power to obtain lands by gift or otherwise.

[Passed June 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Public land corporation of West Virginia created as body corporate; how constituted.
2. Corporation to be vested with title of state in public lands.
3. Corporation may acquire by purchase, lease or agreement, lands necessary for public use.
4. Corporation may acquire by purchase, condemnation or exchange, or receive by gift or devise, rights of way, easements, waters and minerals suitable for any public purpose.
5. For purpose of consolidating lands, corporation may sell, purchase or exchange lands or stumpage.
6. Income from use and development of public lands to be used solely for payment of obligations incurred for acquisition, development and administration of such

SEC.

- lands; any balance to be paid into the general school fund.
7. Corporation may negotiate loans from governmental agencies for the purchase of lands necessary for public use and the acquisition of which has been authorized by law.
8. Control of corporation over lands to which it has title; may lease for development of oil, gas, etc.; may convey or allot land to the title or custody of proper departments of state government for administration; corporation to make land available for cooperation with federal government in relief of unemployment.
9. Corporation to report biennially to legislature.
10. If part of act unconstitutional, remainder not affected.

Be it enacted by the Legislature of West Virginia:

Section 1. There shall be a public land corporation to be

2 known as the "Public Land Corporation of West Virginia"
3 which shall be a corporation and as such may sue and be sued,
4 contract and be contracted with, may plead and be impleaded
5 and have and use a common seal. The corporation shall consist
6 of the governor as chairman, the commissioner of agriculture
7 as secretary, the auditor as state commissioner of forfeited lands,
8 the attorney-general, and the director of the engineering experi-
9 ment station at West Virginia university. They shall receive
10 no additional compensation as members of the corporation.

Sec. 2. The corporation shall be vested with the title of the
2 state in public lands, the title to which now is or may hereafter
3 become absolutely vested in the state of West Virginia by reason
4 of any law governing the title of lands within the state.

Sec. 3. The corporation may acquire from individuals or the
2 state commissioner of forfeited lands by purchase, lease or
3 agreement any lands that may be necessary for the public use.

Sec. 4. The corporation shall likewise have the authority to ac-
2 quire by purchase, condemnation, lease or agreement, or ex-
3 change and to receive by gifts or devise lands, rights of way or
4 easements, waters and minerals suitable for any public purpose.

Sec. 5. For the purpose of consolidating lands under either
2 state or federal administration, the corporation may sell, pur-
3 chase, or exchange lands or stumpage.

Sec. 6. All income received from the use and development of
2 public lands shall be used solely for the purpose of the liquida-
3 tion of obligations incurred for the acquisition, development and
4 administration of such lands, until all indebtedness or other
5 obligations have been discharged. Funds shall then be paid into
6 the general school funds.

Sec. 7. The corporation may in the name of the public land
2 corporation of West Virginia negotiate loans from the govern-
3 ment of the United States, or any proper agency thereof, for the
4 purchase as provided by law of such lands as may be necessary
5 for the public use and the acquisition of which has been au-
6 thorized by law.

Sec. 8. The corporation shall have the authority to designate
2 lands to which it has title for development and administration
3 for the public use including forestation, stock grazing, agricul-
4 tural rehabilitation and homesteading and may contract or lease

5 for the proper development of oil, gas, mineral and water rights
6 within or upon the lands or property under its control. It shall
7 convey, assign, or allot lands to the title or custody of proper
8 departments or other agencies of state government for admin-
9 istration and control within the functions of such departments
10 or other agencies as provided by law. The corporation shall
11 make proper lands available for the purpose of cooperating with
12 the government of the United States in the relief of unemploy-
13 ment and hardship.

Sec. 9. The corporation shall report biennially recommenda-
2 tions to the legislature concerning any and all public lands.

Sec. 10. Should any part of this act be, by judicial decision,
2 held to be unconstitutional such decision shall not invalidate any
3 other provisions of the same.

CHAPTER 55

(Com. Sub. for House Bill No. 116—Originating in the Committee on
Game and Fish)

AN ACT to amend and reenact sections one to eight, inclusive, ar-
ticle one, chapter twenty of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, by substitut-
ing therefor sections one to fifteen, inclusive, and by adding
articles one-(a) and eight-(a), relating to the organization
and duties of the conservation commission.

[Passed June 3, 1933; in effect from passage. Approved by the Governor.]

ARTICLE I.

SEC.

1. Purposes of act.
2. The conservation commission of West Virginia created as a public benefit corporation.
3. Commission to consist of five members and a director of conservation, to be appointed by the governor, with the consent of the senate.
4. Terms of office of members.
5. Qualification of members; political activities by member to vacate office.
6. Oath of members.
7. Director to be presiding officer; quorum.
8. Members to receive necessary traveling expenses.
9. Office and place of meeting of commission to be the office of director in capitol.
10. Regular and special meetings of commission.

Sec.

11. Powers and duties of members of commission as advisory board to director.
12. Director to submit to members any matter upon which he desires their advice.
13. Director to furnish commission with necessary articles and supplies.
14. When director may incorporate proceedings of commission in report to governor.
15. Expenses of commission to be paid entirely out of collections.

ARTICLE I-A.

SEC.

1. Director appointed by the governor for six year term; to devote entire time to duties of office.
2. Qualifications of director; political activities by to vacate office.
3. Oath and bond of director.
4. Offices of director to be in capitol

- SEC.
- and to be kept open at all reasonable times.
5. Salary and traveling expenses of director.
 6. Director to appoint heads of divisions and employ necessary assistants.
 7. Additional and sole powers of director.
 8. Powers and duties of director, except power to sign contracts, may be exercised by his appointees.
 9. Legal services to director by attorney general and prosecuting attorneys.
 10. What powers and duties, including those vested in game, fish and forestry commission or commissioner, are transferred to director.

ARTICLE VIII-A.

SEC.

1. Purpose of article that state shall cooperate with other states and federal government in relief of hardship through development of state forests, etc.
2. Director, with consent of governor, may enter into agreement with agencies of federal government.
3. Director, with approval of governor,

SEC.

- may purchase, etc., necessary lands.
4. State forest land fund created; sources; proceeds to liquidate indebtedness incurred for purchase or administration of lands, then for acquisition of forest lands, etc.; income from sale of state forest land for timber, etc., to be deposited in state forest land fund; director may pledge sums from said fund necessary for liquidation of federal loans.
 5. Equal division between state and federal government of direct profit derived from conservation work camps.
 6. Director, with consent of governor, may negotiate self liquidating loans from federal agencies.
 7. Director may purchase or exchange stumpage or lands within or adjacent to national forest within state; when state's title or interest in lands to be conveyed to the federal government.
 8. Additional powers of director; facilities of West Virginia university to be utilized.
 9. If part of act invalid, remainder not affected.
 10. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That sections one to eight, inclusive, article one, chapter twenty of the code of West Virginia of one thousand nine hundred thirty-one, as amended, be amended and reenacted by substituting therefor sections one to fifteen, inclusive, and that articles one-(a) and eight-(a) be added to read as follows:

ARTICLE I.

Section 1. The purpose of this chapter is to provide an organization for the protection, beautification, development, and use of lands, forests, fish, game, waters, plant and animal life, and the natural and scenic resources of this state; and for the use of forest lands and other natural resources for projects to relieve unemployment in this state.

Sec. 2. To accomplish the above purposes there is hereby created "The conservation commission of West Virginia," which shall be a public benefit corporation, and, as such may sue and be sued, contract and be contracted with, and it shall have a common seal.

Sec. 3. The commission shall consist of five members and a director of conservation. The members and the director shall

3 be appointed by the governor, with the advice and consent of the
4 senate.

Sec. 4. The term of office of members of the commission
2 shall be six years, except that the governor, upon the adoption
3 of this act, shall appoint the members of the commission upon
4 the following basis: Two members for a term of six years; two
5 members for a term of four years and two members for a term
6 of two years. As these appointments expire, all appointments
7 shall be made for six year terms.

Sec. 5. The members of the commission shall be selected with
2 special reference to their training and experience in relation
3 to the principal activities required of the commission, and for
4 their ability and fitness to perform their duties within the pur-
5 poses of this chapter.

6 No member of the commission shall be a candidate for or hold
7 any public office other than that of member of the commission;
8 nor shall he be a member of any committee of a political party.
9 In case a member becomes a candidate for or is appointed to
10 any public office or political committee, his office as member of
11 the commission shall be immediately vacated.

Sec. 6. Members of the commission shall take and subscribe
2 to the oath prescribed by the constitution before entering upon
3 their duties. Their oaths shall be filed with the secretary of
4 state.

Sec. 7. The director shall be the presiding officer of the
2 commission. A majority of the commission shall constitute a
3 quorum for the conduct of official business.

Sec. 8. Each member of the commission shall receive his
2 actual and necessary traveling expense incurred in the per-
3 formance of his duties.

Sec. 9. The office and place of meeting of the commission
2 shall be the office of the director of conservation in the state
3 capitol.

Sec. 10. The commission shall hold four regular sessions
2 each year, as follows: On the first Monday in the months of
3 July, October, January and April. Special meetings may be
4 convened on the call of the director of conservation, the gov-
5 ernor or a majority of the commission.

Sec. 11. The members of the commission shall serve only

2 as an advisory body to the director of conservation, and, as
3 such, shall have the following powers and duties:

- 4 (1) To consider and study the entire field of legislation and
5 administrative methods concerning the forests and their main-
6 tenance and development, the protection of fish and game, the
7 beautification of the state and its highways, and the develop-
8 ment of lands and natural resources;
- 9 (2) To advise with the director concerning the conservation
10 problems of particular localities or districts of the state;
- 11 (3) To recommend policies and practices to the director re-
12 lative to any duties imposed upon him by law;
- 13 (4) To investigate the work of the director and for this pur-
14 pose to have access at reasonable times to all official books,
15 papers, documents, and records;
- 16 (5) To advise or make recommendations to the governor re-
17 lative to the conservation policy of the state; and
- 18 (6) To keep minutes of the transactions of each session, reg-
19 ular or special, which shall be public records and filed with the
20 director.

Sec. 12. The director of conservation may submit to the
2 commission or any committee thereof at any regular or special
3 meeting any matter upon which he desires the advice or opinion
4 of the commission.

Sec. 13. The director of conservation shall furnish the com-
2 mission with all articles and supplies required for the public
3 use and necessary to enable the commission to perform the
4 duties imposed upon it by law. Such articles and supplies
5 shall be obtained and accounted for as if obtained and used by
6 the director.

Sec. 14. Upon the request of the commission the director
2 shall and upon his own initiative he may incorporate the pro-
3 ceedings of the commission in his report to the governor.

Sec. 15. The expenses of the commission shall be paid en-
2 tirely out of collections made under this chapter and segregated
3 as provided by section two, article two, chapter twelve of the
4 code.

ARTICLE I-A.

Section 1. The governor, with the advice and consent of

2 the senate, shall appoint, for a term of six years, a director of
3 conservation. The director shall devote his entire time to the
4 duties of his office.

Sec. 2. The director shall be selected with special reference
2 to his training, experience, capacity and interest in the activi-
3 ties embraced within this chapter.

4 He shall not be a candidate for or hold any other public
5 office; nor shall he be a member of any committee of a political
6 party. In case he becomes a candidate for or is appointed to
7 another public office or on a political committee, his office as
8 director of conservation shall be immediately vacated.

Sec. 3. The director before entering upon the duties of his
2 office shall take and subscribe to the oath prescribed by the con-
3 stitution. He shall also execute a bond approved by the gov-
4 ernor in the penalty of five thousand dollars for the faithful
5 performance of his duties as director, and in case a surety com-
6 pany executes such bonds the premiums shall be paid out of
7 the funds of the commission. The bond and the oath shall be
8 filed with the secretary of state.

Sec. 4. The offices of the director shall be located in the
2 state capitol building. The director shall keep his offices open
3 at all reasonable times for the transaction of public business.

Sec. 5. The director shall receive a salary of four thousand
2 dollars per annum and the necessary traveling expenses inci-
3 dent to the performance of his duties. Requisition for travel-
4 ing expenses shall be accompanied by a sworn and itemized
5 statement which shall be filed with the auditor and preserved
6 as a public record.

Sec. 6. The director shall appoint the heads of the divisions
2 of the department and shall employ such assistants and em-
3 ployees as may be necessary to the efficient operation of his de-
4 partment, and fix their salaries.

Sec. 7. The director, in addition to the other powers granted
2 by this chapter, shall have the sole authority to:

- 3 (1) Exercise general supervision of, and make rules and reg-
4 ulations for the government of his commission or department;
- 5 (2) Sign and execute in the name of the state by "The con-
6 servation commission of West Virginia" any contract or agree-

7 ment with the federal government or its departments, subdivi-
8 sions of the state, corporations, associations, copartnerships or
9 individuals;

10 (3) Supervise the fiscal affairs and responsibilities of the
11 department;

12 (4) Make a general conservation plan or program for the
13 state; conduct research in improved conservation methods and
14 disseminate information on conservation matters to the resi-
15 dents of the state;

16 (5) Organize his department to give adequate treatment to
17 the problems of fish and game, forestry, parks and playgrounds,
18 natural resources and publicity;

19 (6) Alter the open seasons and bag limits as provided in this
20 chapter;

21 (7) Designate such localities as he shall determine to be nec-
22 essary and desirable for the perpetuation of any species of fish
23 and for the purpose of replenishing adjacent fishing waters;

24 (8) Designate such localities as he shall determine to be nec-
25 essary and desirable for the perpetuation of any species of
26 game bird or animal and for the purpose of replenishing ad-
27 jacent hunting grounds;

28 (9) Enter private lands to make surveys or inspections for
29 conservation purposes; and

30 (10) Acquire by purchase, condemnation, lease, or agree-
31 ment or receive by gifts or devise, lands or waters suitable for
32 the following purposes:

33 (a) For state forests for the purpose of growing timber,
34 demonstrating forestry, protecting watersheds or providing
35 public recreation;

36 (b) For state parks for the purpose of preserving scenic or
37 historical values or natural wonders;

38 (c) For public shooting, trapping or fishing grounds or
39 waters for the purpose of providing areas in which any citizen
40 may hunt, trap or fish;

41 (d) For fish hatcheries and game farms;

42 (e) For forest nurseries and experimental stations;

43 (f) To extend and consolidate lands or waters suitable for

44 the above purposes by exchange of other lands or waters under
45 his supervision;

46 (11) Capture, propagate, transport, sell or exchange any
47 species of game or fish needed for stocking any lands or waters
48 of this state;

49 (12) Exercise the powers granted by this chapter for the
50 protection of forests;

51 (13) Regulate fires and smoking in the woods or in their
52 proximity at such times and in such localities as is necessary
53 to reduce the danger of forest fires;

54 (14) Cooperate with the state road commissioner in the
55 beautification of state highways;

56 (15) Cooperate with other departments and agencies of the
57 state and federal government;

58 (16) Keep a complete and accurate record of all proceedings,
59 record and file all bonds and contracts taken or entered into,
60 and assume responsibility for the custody and preservation of
61 all papers and documents pertaining to his office. Rules and
62 regulations shall be recorded in a book especially kept for that
63 purpose, and in his discretion may be published for general
64 circulation. All other records and entries necessary to show
65 the official conduct of the department shall be preserved and
66 shall be public records and open for inspection during business
67 hours;

68 (17) Purchase as provided by law all equipment necessary
69 for the conduct of his department;

70 (18) Report to the governor each year all information re-
71 lative to the operation and functions of his department. He
72 shall make such other reports and recommendations as may be
73 required by the governor;

74 (19) Exercise any other power that may be necessary or
75 proper for the orderly conduct of his business and the effective
76 discharge of his duties. Invoke any legal or equitable remedies
77 for the enforcement of his orders or the provisions of this chap-
78 ter;

79 (20) This section shall not be construed as authorizing the
80 director to change any penalty for violating any game law or
81 regulation; or change the amount of any license established by

82 the legislature, or to extend any open season or bag limit on
83 migratory birds prescribed by federal law or regulation.

Sec. 8. All powers and duties vested in the director, except
2 the power to sign contracts, may be exercised by the appointees
3 or employees of the director at his discretion; but the director
4 shall be responsible for their acts.

Sec. 9. The attorney general and his assistants and the
2 prosecuting attorneys of the several counties shall render to the
3 director, without additional compensation, such legal services
4 as he shall require of them in the discharge of his duties under
5 the provisions of this chapter.

Sec. 10. The powers and duties granted by chapter twenty
2 of the code of West Virginia, one thousand nine hundred thirty-
3 one, as amended, to any officer, board, or commission, or else-
4 where vested in the game, fish and forestry commission or com-
5 missioner, shall now be vested in the director of conservation.
6 He shall have possession of all records, papers, equipment and
7 property of every nature now belonging to the game, fish and
8 forestry commission.

ARTICLE VIII-A.

Section 1. It is the purpose of this article that the state of
2 West Virginia shall extend its cooperation to all provisions of
3 acts of congress now in force, or hereafter enacted, providing
4 for cooperations between states and the United States in the
5 relief of hardship and unemployment through acquisition and
6 development by this state of lands, of state forests, state forest
7 parks, and the public recreational facilities, fish and game
8 refuges therein.

Sec. 2. In order to give effect to this policy, the director of
2 conservation, with the consent of the governor, may enter into
3 contracts or agreements with the government of the United
4 States or any of its agencies in accordance with subsection two,
5 section seven, article one-(a), of this chapter.

Sec. 3. The director of conservation may, as provided in
2 subsection ten, section seven, article one-(a), of this chapter,
3 procure with the approval of the governor by purchase, lease
4 or agreement any lands necessary to carry into effect the pur-
5 poses of this article.

Sec. 4. There is hereby created a fund to be known as the
2 "State forest land fund," which shall consist of the income set
3 aside by section eleven, article seven of this chapter, as amended,
4 and all other moneys which may be received or collected under
5 the provisions of this article with the exception of moneys re-
6 ceived from the government of the United States or any agency
7 thereof for the purchase of lands. The proceeds of this fund
8 shall be used solely for the liquidation of any indebtedness in-
9 curred for the purchase or administration of lands under the
10 provisions of this article, until such indebtedness has been en-
11 tirely discharged.

12 The fund shall then be used for the acquisition of forest lands,
13 for conservation and work relief purposes, and for the improve-
14 ment, development and maintenance of the natural resources,
15 plant and animal life of this state.

16 All income derived from sale, exchange or management of
17 state forest lands, or from the sale of timber, cuttings or stump-
18 age, or from the lease of oil, gas and mineral rights; sale of
19 camp sites, leasing of camp building material, by the director of
20 conservation shall be deposited in the "State forest land fund."

21 In order efficiently to administer the "State forest land fund"
22 for the accomplishment of the purposes set forth in this act, the
23 director of conservation is hereby authorized to pledge such sum
24 or sums from said fund as in his discretion, and with the ap-
25 proval of the governor, may be necessary for the liquidation of
26 loans from the government of the United States or any agency
27 thereof.

Sec. 5. If, and when, as a result of any work done by the
2 establishment of conservation works camps on the state forest
3 lands, the state of West Virginia derives a direct profit from
4 sale of such lands or their products the proceeds shall be equally
5 divided between the state of West Virginia and the federal gov-
6 ernment until the state shall have paid for the work done at
7 the rate of one dollar per man per day for the time spent on
8 projects, subject to a maximum of three dollars per acre.

Sec. 6. The director of conservation, with the consent of the
2 governor, may, in the name of "The conservation commission
3 of West Virginia," negotiate loans from the government of the

4 United States or any proper agency thereof for the purchase
5 as provided by law of such lands as may be necessary for the
6 purposes of this article. Such loans shall be self-liquidating
7 out of the income of the "State forest land fund."

Sec. 7. In order to consolidate forest tracts under either
2 state or federal administration, the director of conservation may
3 sell, purchase or exchange stumpage or lands within or adjacent
4 to any national forest purchase area within the state.

5 At the expiration of the present emergency the director, upon
6 the request of the government of the United States or any
7 proper agency thereof, shall convey to the United States such
8 title and interest as acquired by the state of West Virginia or
9 its agents in any lands acquired by the expenditure of moneys
10 granted outright to the state by the United States.

Sec. 8. In carrying into effect the provisions of this article
2 the director of conservation in addition to powers elsewhere
3 granted, shall have the authority to:

4 (1) Make rules and regulations for the use and occupancy
5 of lands and other property under his control;

6 (2) Provide and develop facilities for outdoor recreation in-
7 cluding the leasing of camp sites and the sale of camp building
8 materials;

9 (3) Remove and dispose of forest and mineral products in-
10 cidental to the protection, reforestation and proper develop-
11 ment of lands under his control; and

12 (4) Conduct such investigations and research as may be
13 necessary for the proper conduct of his work. To this end the
14 director shall utilize the facilities of the West Virginia uni-
15 versity insofar as they may be adequate.

Sec. 9. If any term or provision of this act shall be declared
2 unconstitutional or ineffective in whole or in part by a court
3 of competent jurisdiction, then to the extent that it is not un-
4 constitutional or ineffective, such term or proviso shall be in
5 force and effect; nor shall such determination be deemed to in-
6 validate the remaining terms or provisions of this act.

Sec. 10. That all laws and clauses of laws in conflict with the
2 provisions of this act are hereby repealed.

CHAPTER 56

(House Bill No. 193—By Mr. LaFon)

AN ACT directing the governor to maintain a balanced budget.

[Passed June 3, 1933: in effect from passage. Approved by the Governor.]

SEC.

1. Governor directed, during fiscal years of 1934 and 1935, to administer fiscal affairs of state so as to maintain a balanced budget.
2. Governor to survey progress of collection of state revenue.
3. Governor may reduce appropriations out of general revenue to prevent an overdraft in general fund.
4. Governor may reduce appropriations from other funds.
5. Classification of the several objects of expenditure and order in which the appropriations in the several classes shall be reduced; percentage of reduction in the various classes.

SEC.

6. Provisions for reallocating funds by governor.
7. Governor may consolidate agencies and their appropriations.
8. Budget appropriations subject to provisions of this act.
9. Act does not authorize abolition of office or reduction in compensation contrary to provisions of constitution.
10. Act does not authorize elimination of office established by law, but if two or more offices are vested with same functions, governor may appoint the same person to such offices.
11. Sections three, four, five, six and seven vest in governor a separate authority and if any are invalid, remaining sections not affected.

Be it enacted by the Legislature of West Virginia:

Section 1. The legislature hereby directs that the governor, 2 during the fiscal years one thousand nine hundred thirty-four 3 and one thousand nine hundred thirty-five, shall administer the 4 fiscal affairs of the state in accordance with the standards here- 5 inafter set forth so as to maintain a balanced budget. But all 6 authority not expressly granted is reserved to the legislature.

Sec. 2. The governor shall examine and survey the progress 2 of the collection of the revenue and shall determine quarterly 3 the proportion which the amount actually collected bears to the 4 collections estimated for that period. For this purpose the 5 governor shall have the authority to require all necessary esti- 6 mates and reports from any office, department or other agency 7 of state government.

Sec. 3. If, as the result of the survey ordered in section two, 2 the governor determines that the amounts, or parts thereof, 3 appropriated from general revenue cannot be expended without 4 creating an overdraft in the general fund or an increase in the 5 deficit, he may reduce equally and pro rate all appropriations 6 out of general revenue in such a degree as may be necessary to 7 prevent an overdraft in the general fund or an increase in the 8 deficit.

Sec. 4. The governor, in the manner prescribed in section 2 three, may reduce appropriations from: (1) Funds supported 3 by designated taxes or fees; (2) fees or other collections set 4 aside for the support of designated activities or services. Each 5 fund and each fee or collection account shall be treated sepa- 6 rately, but appropriations from the same fund or account shall 7 be treated equally and reduced pro rata.

Sec. 5. For the purpose of maintaining a balanced budget 2 without impairing indispensable services, the legislature fixes 3 and classifies the several objects of expenditures as follows:

4 Class one: Agencies collecting revenue and administering the 5 fiscal operations of government, including the offices and de- 6 partments of the tax commissioner, auditor, treasurer, and sink- 7 ing fund commission.

8 Class two: Agencies vested with the supervision, control and 9 direction of executive policy and law enforcement, including the 10 governor's office, the attorney general's office, and the depart- 11 ment of public safety.

12 Class three: State institutions, educational, charitable and 13 corrective.

14 Class four: Other departments and services of the state gov- 15 ernment.

16 Class five: Transfers from the general fund.

17 The legislature directs the governor, in case he determines 18 that the pro rata reduction of appropriations from general reve- 19 nue will dangerously impair the existence of those agencies most 20 essential to the maintenance of government to reduce the 21 amount to be expended for individual objects of appropriation 22 as follows:

23 The first class of appropriations to be reduced shall be class 24 five, and the preceding classes shall follow in this order: Class 25 four, class three, class two and class one.

26 All reductions shall be in multiples of five per cent, but a 27 fixed relationship shall be maintained among the classes which 28 shall be measured by a difference of five per cent in the rate of 29 reduction. Class five shall not be reduced more than twenty-five 30 per cent. The relationship thus to be maintained among the 31 appropriations as classified shall be according to the table below:

32	CLASSES	Five	Four	Three	Two	One
33	(Per cent of	5%	.....	.....	.....	.....
34	reductions	10%	5%	.....	.....	.....
35	from total	15%	10%	5%	.....	.....
36	appropria-	20%	15%	10%	5%	.....
37	tions)	25%	20%	15%	10%	5%

Sec. 6. The governor may, within his discretion, direct the
 2 reallocation of funds among items of any appropriation in order
 3 to achieve increased economy without unnecessary injury to
 4 efficient service. But this reallocation shall neither increase the
 5 amount of any item authorized in the budget nor make funds
 6 available for a purpose not authorized therein.

Sec. 7. Wherever related services are being performed by
 2 two or more agencies, the governor may appoint one person to
 3 administer such agencies; may order the coordination of per-
 4 sonnel; and may by executive order combine the appropriations.
 5 He shall fix the consolidated appropriation at that amount,
 6 within the total of the several separate appropriations, which
 7 he shall determine to be required for the efficient operation of
 8 the coordinated agencies. The consolidated appropriation shall
 9 then be treated as a single appropriation in the administration
 10 of the budget.

Sec. 8. Any appointment or contract for the expenditure of
 2 appropriations authorized by the budget shall be made subject
 3 to the provisions of this act.

Sec. 9. The provisions of this act shall not be construed to
 2 authorize the abolition of any office created by the constitution
 3 or a reduction in compensation contrary to section thirty-eight,
 4 article six of the constitution.

Sec. 10. The provisions of this act shall not be construed to
 2 authorize the elimination of any office heretofore established by
 3 law, but where two or more such offices are vested within the
 4 same function and require substantially the same qualifications
 5 the governor may appoint the same person to all such offices.

Sec. 11. Sections three, four, five, six and seven shall be con-
 2 strued as each vesting in the governor a separate authority, and
 3 if any are held invalid the remaining shall not be affected
 4 thereby.

CHAPTER 57

(House Bill No. 206—By Mr. Poling)

AN ACT to amend and reenact section one, article three, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, relating to commissioner of accounts.

[Passed June 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.

1. County courts to appoint not more than four commissioners of accounts; in Barbour county not

Sec.

more than two of said commissioners shall be from same political party.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of each county, and the clerk of 2 the county court in each county in which there exists a separate 3 tribunal for police and fiscal purposes, shall appoint not more 4 than four commissioners of accounts: *Provided*, That in Bar- 5 bour county there shall be appointed as aforesaid four commis- 6 sioners of accounts, not more than two of whom shall be from the 7 same political party.

CHAPTER 58

(House Bill No. 208—By Mr. Hiner)

AN ACT authorizing the execution, issuance and sale of five million dollars of bonds of the state of West Virginia to raise money for the payment and discharge of the indebtedness of the state existing by reason of casual deficits in the treasury to the account of the "general revenue" and "capitol building" funds occurring in the present and prior fiscal years; to provide for the application of the proceeds thereof, and to provide for the levy and collection of revenues sufficient to pay semiannually the interest on said bonds and the principal thereof within twenty years.

WHEREAS, In each of the fiscal years subsequent to the fiscal year beginning the first day of July, one thousand nine hundred twenty-nine, including the present fiscal year, ending June thirty, one thousand nine hundred thirty-three, "casual deficits" within the meaning of the term as used in section four, article ten of the constitution, have been created, and are existent, in the "general

revenue" fund and "capitol building" fund, aggregating in excess of five million dollars, caused, among other things, by the inability of the state to collect the full revenues provided for under levies and taxes duly and legally laid in each of said fiscal years, or such part of said revenues as would have, had the same been collected, prevented the creation of such casual deficits; and,

WHEREAS, Said casual deficits constitute, and were and are lawful and valid indebtedness of the state for the payment of which the state is legally bound, and for which payment no funds are or will be available within and during the present fiscal year; and

WHEREAS, Said indebtedness was created and was existent prior to the effective date of the "tax limitation amendment" to the constitution ratified at the general election held on the eighth day of November, one thousand nine hundred thirty-two, by reason whereof levies in excess of the maximum levies provided for in said amendment to the constitution, may be laid to discharge said indebtedness and the interest thereon; and

WHEREAS, In order to prevent undue and burdensome taxation upon the citizens and property owners of the state, in any year or years, it is necessary that the payment of such indebtedness be funded and the payment thereof extended over a period of years and that bonds of the state be issued and sold to secure funds for the immediate liquidation of such indebtedness; now therefore,

[Passed June 3, 1933; in effect from passage. Approved by the Governor.]

Sec.

1. Bonds of state for five million dollars authorized to be sold for payment of casual deficits of state; form of bonds; amount of yearly payments.
2. Registration of coupon bonds; fees; exchange of bonds; place of payment and interest rate; principal and interest payable in lawful money of the United States; bonds exempt from taxation.
3. Form of bond.
4. Form of coupons.
5. Separate lists by auditor of coupon and registered bonds.
6. Funded indebtedness fund created; sources.
7. Board of public works authorized to lay annual levy to pay interest and principal upon; board

Sec.

- of public works authorized to set apart funds collected for general revenue purposes to pay interest and principal of bonds.
8. Governor to sell bonds at such time as he thinks necessary; interest rate to be fixed at time of sale; proceeds of sale to be paid into the funded indebtedness fund.
9. Issuance of interim certificates until engraved bonds delivered.
10. For what investments and deposits bonds are legal.
11. Plates from which bonds engraved to be property of state.
12. State auditor to be custodian of unsold bonds; if part of act unconstitutional, remainder not affected.

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 five million dollars are hereby authorized to be 3 issued and sold for the purpose of securing funds for the pay-

4 ment of the indebtedness of the state created by casual deficits
5 in each of the fiscal years within the period beginning on the
6 first day of July, one thousand nine hundred twenty-nine, and
7 ending June thirty, one thousand nine hundred thirty-three.
8 Said bonds shall be of the par value not exceeding five million
9 dollars, dated the first day of June, one thousand nine hun-
10 dred thirty-three, and shall become due and payable serially,
11 beginning the first day of June, one thousand nine hundred
12 thirty-four, and ending the first day of June, one thousand
13 nine hundred fifty-three, and may be either coupon or regis-
14 tered bonds, in such denominations as the governor may de-
15 termine. The amount payable in each year may be so fixed
16 that, when the annual interest is added to the principal amount
17 to be paid, the total amount payable in each year in which part
18 of the principal is payable shall be as nearly equal as practi-
19 cable. It shall be an immaterial variance if the difference be-
20 tween the largest and smallest amounts of principal and interest
21 for any year during the term of the bonds shall not exceed three
22 percentum of the total authorized issued.

Sec. 2. The treasurer shall make provisions for registering
2 coupon or "payable to bearer" bonds, and for each bond so
3 registered a fee of twenty-five cents shall be charged and paid
4 to the state of West Virginia to the credit of the "funded in-
5 debtedness sinking fund." Coupon bonds exchanged for reg-
6 istered bonds shall be canceled by the treasurer and auditor and
7 be preserved by the treasurer.

8 All bonds issued hereunder shall be payable at the office of
9 the treasurer of the state of West Virginia, or, at the option
10 of the holder, at some bank in the city of New York designated
11 by the governor. Said bonds shall bear interest at a rate not
12 exceeding six percentum per annum, payable semiannually, on
13 the first day of January and the first day of July of each year,
14 to bearer, at the office of the treasurer of the state of West Vir-
15 ginia, at the capitol of said state, or at the bank in the city
16 of New York designated by the governor, and, in case of coupon
17 bonds, upon presentation and surrender of interest coupons
18 then due. In the case of registered bonds, the treasurer of the
19 state shall issue his check for interest payments when due on

20 the first day of January and July of each year, and mail the
21 same to the registered owner at his address, as shown by the
22 record of the registration of said bond or bonds.

23 Both principal and interest of said bonds shall be payable
24 in lawful money of the United States. All said bonds shall be
25 exempt from taxation by the state of West Virginia, or by any
26 county, district or municipality thereof, which fact shall appear
27 on the face of the bonds as part of the contract of the holder
28 thereof with the state.

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

6 COUPON REFUNDING BOND
7 (or Registered Refunding Bond, as the case may be) of the
8 STATE OF WEST VIRGINIA
9 \$..... No.....

10 *Know all men by these presents:*

11 That the state of West Virginia, under and by virtue of au-
12 thority vested in said state by an act of its legislature, passed
13 at a special session held in the year one thousand nine hundred
14 thirty-three, on the.....day of....., one thousand
15 nine hundred thirty-three, and approved by the governor on
16 the.....day of....., one thousand nine hundred
17 thirty-three, which said act is hereby made a part hereof, as
18 fully as if set forth at length herein, acknowledges herself to be
19 indebted to and hereby promises to pay to the bearer hereof
20 (in the case of a coupon bond) or to....., or
21 assigns, (the owner of record, in case of registered bonds).....
22 years after the date of this bond, to-wit, on the.....day of
23, one thousand nine hundred....., in
24 lawful money of the United States of America, at the office of
25 the treasurer of the state of West Virginia, at the capitol of said
26 state, or at the option of the holder, at.....
27 bank in the city of New York, the sum of.....
28 dollars, with interest thereon at.....per cent per
29 annum from date, payable semiannually in lawful money of the
30 United States of America, at the treasurer's office or bank

31 aforesaid, on the first day of January and the first day of July
 32 of each year (and in the case of coupon bonds), according to
 33 the tenor of the annexed coupons, bearing the engraved fac-
 34 simile signature of the treasurer of the state of West Virginia,
 35 upon surrender of such coupons. This bond (in the case of
 36 a coupon bond) may be exchanged for a registered bond of
 37 like tenor upon application to the treasurer of the state of
 38 West Virginia.

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

47 This bond is hereby made exempt from any taxation by the
 48 state of West Virginia, or by any county, district or municipal
 49 corporation thereof.

50 In testimony whereof, witness the signature of.....
 51, treasurer of the state of West Virginia, and
 52 the countersignature of....., the
 53 auditor of said state hereto affixed according to law; dated the
 54 day of, one thousand nine hundred
 55, and the great seal of the state of West Virginia.
 56 (GREAT SEAL)

57
 58 Treasurer of the state of West Virginia.

59 Countersigned,
 60
 61 Auditor of West Virginia.

Sec. 4. The form of coupon shall be substantially as follows,

2 to-wit:

3 STATE OF WEST VIRGINIA

4 Bond No..... Coupon No.....

5 On the first day of....., one thousand nine
 6 hundred....., the state of West Virginia will pay
 7 to the bearer, in lawful money of the United States, at the office
 8 of the treasurer of the state, or at the option of the holder at

9bank in the city of New York, the
 10 sum ofdollars, the same being semi-
 11 annual interest on bond number, series of one
 12 thousand nine hundred thirty-three.

13
 14 Treasurer of the state of West Virginia.

15 The signature of the treasurer to said coupons shall be his
 16 engraved facsimile signature and the coupons shall be numbered
 17 in the order of their maturity, from number one, consecutively.

Sec. 5. All coupon and registered bonds issued under this
 2 act shall be separately listed by the auditor of the state in books
 3 provided for the purpose, in each case giving the date, number,
 4 character and amount of obligations issued, and in case of
 5 registered bonds, the name and postoffice address of the person,
 6 firm or corporation registered as the owner thereof.

Sec. 6. Into a fund designated the "funded indebtedness
 2 fund" shall be paid all moneys received from the annual state
 3 tax levy on the taxable property in the state levied under the
 4 provisions of this act, all moneys received from any and all
 5 appropriations made by the state from other sources of revenue
 6 for the purposes of paying the interest on said bonds, or the
 7 principal thereof, as herein provided, and from transfer fees
 8 as herein provided, and from any source whatsoever, which is
 9 made liable by law for the payment of the principal of said
 10 bonds or the interest thereon. All such funds shall be kept by
 11 the treasurer in a separate account, under the designation afore-
 12 said, and all moneys belonging to said fund shall be deposited
 13 in the state treasury to the credit thereof and used for no other
 14 purpose than as herein provided.

Sec. 7. In order to provide the revenue necessary for the pay-
 2 ment of the principal and interest of said bonds as herein pro-
 3 vided the board of public works is authorized, empowered and
 4 directed, to lay annually a tax on all real and personal prop-
 5 erty subject to taxation within the state, sufficient to pay the
 6 interest on said bonds accruing and the principal of bonds
 7 maturing during any current year, for such number of years,
 8 not exceeding twenty, as may be deemed necessary to pay the
 9 interest thereon and to pay off the principal sum of said bonds;
 10 and said taxes, when so levied and collected, shall not be liable

11 for or applicable to any purpose other than paying the in-
12 debtedness of the state as herein provided: *Provided, however,*
13 That the board of public works is hereby authorized, empowered
14 and directed, and upon its failure so to do may be required by
15 the holder of any bond issued hereunder, or by any taxpayer, to
16 set apart in any current year funds collected for general reve-
17 nue purposes from whatsoever source of taxation derived, a
18 sum sufficient to pay the interest on bonds accruing during such
19 current year and to pay off and retire the principal of said
20 bonds or any part thereof, at maturity.

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

Sec. 8. The governor shall sell the bonds herein provided for
2 at such time or times as he may determine necessary, and the
3 rate of interest on the bonds shall be fixed at the time of the
4 sale thereof, not to exceed the rate hereinabove provided. The
5 proceeds of all sales of such bonds shall be paid into the "funded
6 indebtedness fund" as herein provided.

Sec. 9. The governor may authorize the issuance of interim
2 certificates to the purchasers of said bonds to be held
3 by them in lieu of the engraved bonds until such time as
4 the engraved bonds shall be delivered. When said interim cer-
5 tificates are so issued, they shall become full and legal obliga-
6 tions of the state of West Virginia under all of the provisions
7 of this act just as fully and completely as the engraved and
8 permanent bonds.

Sec. 10. The bonds issued hereunder shall be a legal invest-
2 ment for the workmen's compensation fund, the irreducible
3 school fund, and all fiduciary or other trust funds, and shall be
4 legal as deposit by any bank to secure deposits of state, county,
5 municipal, or other public funds, and shall be legal as security
6 or collateral for any and all bonds required by any court or
7 administrative board or officer of the state and shall be legal
8 as deposit by any insurance, casualty, annuity or like company,
9 with the auditor of the state of West Virginia or any other
10 officer or board of the state.

Sec. 11. The plates from which the bonds of this act are en-

2 graded shall be and remain the property of the state of West
3 Virginia.

Sec. 12. The state auditor shall be the custodian of all un-
2 sold bonds issued pursuant to the provisions of this act.

3 The provisions of this act shall be considered severally, and
4 should any one or more provisions thereof be declared uncon-
5 stitutional, the remaining provisions, if capable of operation
6 when standing without such unconstitutional provisions, shall
7 be and remain in full force and effect.

• CHAPTER 59

(House Bill No. 210—By Mr. Hill)

AN ACT to amend and reenact sections twenty-one and twenty-
three, article ten, chapter seventeen of the code of West Vir-
ginia, one thousand nine hundred thirty-one, as enacted by
house bill number two, extraordinary session of the legislature
of West Virginia, one thousand nine hundred thirty-three, en-
titled "An Act to amend section two, and add sections twenty-
six, twenty-seven and twenty-eight to article one; to amend sec-
tions one to fourteen, inclusive, article two; to add article
two-(a); to amend sections one and six and add section six-
(a) to article three; to repeal sections one to eighteen, inclusive,
article four, and substitute therefor sections one to thirty-
eight, inclusive; to amend sections eight and nine and add sec-
tion eight-(a) to article five; to amend article eight by adding
sections twenty-eight to thirty-five, inclusive; to repeal article
nine; to repeal sections one to eight, inclusive, article ten,
and substitute therefor sections one to twenty-five, inclusive;
to repeal articles eleven, twelve, thirteen and fourteen; to
amend sections one to eight, inclusive, article fifteen; all of
chapter seventeen of the code of West Virginia, one thousand
nine hundred thirty-one, relating to roads and highways", pro-
viding for a levy for road purposes and the transfer of

*See chapter forty, acts of this session.

road funds, and to repeal house bill number one hundred thirty-five passed at this extraordinary session of the legislature.

[Passed June 3, 1933; in effect from passage. Approved by the Governor.]

SEC.

21. Bonded indebtedness of county or magisterial district to remain debt of property originally pledged; county court to impose county and district levies for payment of principal and interest of bonded indebtedness after July 1, 1933; transfer of county and district funds to road commission; expenditures of transferred funds.

23. County court to levy capitation

SEC.

tax; other levies on all property outside of municipalities; assessor to collect capitation tax; sheriff to collect levy tax; proceeds of each to be paid into state treasury and credited to road fund; where and for what to be expended; capitation tax may be worked out on roads; House Bill No. 135 of this extraordinary session and all other conflicting acts repealed.

Be it enacted by the Legislature of West Virginia:

That sections twenty-one and twenty-three, article ten, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 21. The bonded indebtedness incurred by the county 2 and by its magisterial districts for road purposes shall remain 3 the debt of the property originally pledged as security for the 4 payment of the obligation. The county court shall impose upon 5 the property in the county for county obligations, and in the 6 magisterial districts for district obligations, levies in the man- 7 ner provided in sections seven and thirteen article eight, chap- 8 ter eleven, as amended, for the payment of the current require- 9 ments of principal and interest of the bonded indebtedness on 10 and after July first, one thousand nine hundred thirty-three. Any 10-a and all moneys in the separate funds of any county or dis- 11 trict, or in any special road fund created by law, other than 12 interest and sinking funds, and all moneys which may thereafter 13 be paid into such funds for the collection of delinquent taxes 14 or otherwise, are hereby transferred to the road commission 15 for control, distribution and expenditure; and any such funds 16 so transferred shall be used by said road commission in payment 17 of any existing legal indebtedness, bonded or otherwise, of any 18 such county or district, and the indebtedness payable out of any 19 such special road fund, and the residue of such fund, if any, 20 shall be expended by the road commission on the roads in the 21 county or district, outside of municipalities, from which said 22 moneys were originally collected.

Sec. 23. The county court of each county shall levy, for road 2 purposes, a capitation tax of one dollar upon each male in-

3 habitant of the county who has attained the age of twenty-one
4 years and who is not a pauper or of unsound mind; and may
5 levy a tax on all property situated outside of municipalities as
6 follows: On class one property, as defined by law, not to exceed
7 twelve and one-half cents on the one hundred dollars' valuation,
8 and on class two property, as defined by law, not to exceed
9 twenty-five cents on the one hundred dollars' valuation. The
10 capitation tax shall be collected by the assessor and the levy tax
11 by the sheriff, and the proceeds of each thereof shall be paid
12 into the state treasury and credited to the road fund for the
13 benefit of and to be expended for the maintenance, repair, con-
14 struction and reconstruction of the roads of the county, outside
15 of municipalities, in which the tax was raised. In lieu of the
16 payment of the capitation tax aforesaid, the taxpayer may ap-
17 ply for work upon the roads of the county, and after one day's
18 satisfactory work he shall be credited with the payment of his
19 capitation tax for road purposes.

20 House bill number one hundred thirty-five passed by this ex-
21 traordinary session and all acts and parts of acts, general or
22 special, inconsistent or in conflict with the provisions of this
23 act are hereby expressly repealed.

CHAPTER 60

(Com. Sub. for House Bill No. 25—Originating in the Committee on
the Judiciary)

AN ACT to amend and reenact sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, fourteen, seventeen, eighteen, nineteen, twenty, twenty-three and twenty-seven, article six, and add sections twenty-(a), twenty-(b), thirty-one, thirty-two, thirty-three and thirty-four thereto; and to amend and reenact sections nineteen and twenty-two, article eight, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, and to add section nineteen-(a) thereto; and to vest authority in the state road commissioner to exercise the requirements of law set out in said sections; prohibiting payment of commission or other consideration to shippers, and prohibiting the receipt thereof by shippers and prescribing penalties therefor; prohibiting re-

bates, and prescribing penalties therefor; prescribing fees and the method of their payment for motor vehicles; making certain exceptions for vehicles used to transport farm products; providing for the regulation of motor vehicles; and to limit the use of the public roads as to the weight and size of motor vehicles used for the transportation of property using the same; to prohibit the moving of such vehicles on said roads carrying a reserve supply of fuel; providing for the promulgation of rules and regulations governing certain classes of motor vehicles; and providing penalties for the violation of the provisions of various sections therein.

[Passed June 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

ARTICLE VI.

SEC.

1. Motor vehicles to be registered; what application for registration to show; when certificate of convenience must be obtained before registration.
2. Separate application and registration of each motor vehicle; what certificate of registration to show; certificate to be carried at all times upon vehicle; registration plates to be fastened on vehicle; when may be used; penalty for failing to carry certificate of registration or to affix registration plates or to change either; minimum fine when certificate has been issued but not with holder at time of arrest; when provisions of section apply to operator, chauffeur and owner.
3. Owner or operator of certain vehicles must secure permit or certificate of convenience; classes of motor vehicles included; certificates of convenience in interstate commerce; assent of road commissioner to conform to federal requirements.
4. What application for certificate of convenience to show; what vehicles must operate from stands; receiving passengers or property along route for which certificate of convenience has been granted; charges for such operation; power of commissioner to issue or refuse certificate of convenience; when certificate of convenience is granted for service over a regular route or fixed termini; commissioner's assent to change route, tariffs, etc.
5. Life of certificate of convenience; when commissioner may deny application for permit; certificates of convenience heretofore granted to remain in force; two or more certificates may be consolidated or divided; when certificate may be sold, transferred or inherited.
6. No certificate of convenience to be issued until applicant has filed bond with commissioner; amount

SEC.

- and conditions of bond; on failure of bond; certificate to become void; new bond; penalty for operating without new bond when first bond void.
7. Applicant for certificate of convenience, wholly within a municipality, must obtain permit for application from council; what such permit may prescribe; when fees to be paid to municipality.
 8. Penalty for violation of sections three to six inclusive; suspension or revocation of certificate.
 9. Fees for motor vehicles in Classes H and I, transporting passengers and property.
 10. Fees for motor vehicles in Class A.
 11. Fees for motor vehicles in Class B.
 12. Fees for motor vehicles in Class C.
 14. Fees for motor vehicles in Class E; not to include tractors used exclusively for agricultural purposes; rims that will protect roads from unusual damage to be used; liability of owners for damage done to roads.
 17. Fees for motor vehicles in Class H.
 18. Fees for motor vehicle in Class I.
 19. Fees for motor vehicles in Class J; exceptious as to ambulances and hearses.
 20. Fees for motor vehicles in Class K.
 - 20-(a). Fees for trailers and semitrailers in Class L.
 - 20-(b). In determining fees for vehicles used in transportation of property, manufacturer's rated capacity to be accepted; provision when guaranteed capacity greater than rated capacity; loads greater than registered capacity permitted; penalty for overloading.
 23. Period covered by license or registration fees; quarterly licenses for 1933; fee for registration between January 1st and June 30th, 1934; sticker furnished to be attached to vehicles and plates for 1933 to be used; registration fees beginning July 1, 1934, to be for entire fiscal year; fee for last half of fiscal year

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| <p>SEC.</p> <p>to be one-half of yearly fee; duplicates for plates and registration certificate lost or destroyed; surrender of certificate and plates for vehicle destroyed or permanently removed from state and refund of fee; transfer of certificate upon transfer of ownership of motor vehicle; penalty for misrepresentation in obtaining certificate or plates.</p> <p>27. Reciprocity in use of roads by nonresidents.</p> <p>31. When unlawful to give a commission or a consideration to secure transportation of property by common carrier; penalty.</p> <p>32. Unlawful to give rebate; penalty.</p> <p>33. Penalty for performance of service by common carrier at less amount than prescribed by state road commission; provision for truck terminal.</p> <p>34. Rates and tolls of common carrier operating motor vehicle to be filed with road commissioner and kept open to public inspection; commissioner to enforce, originate, etc., tariffs, tolls and schedules for common carrier motor vehicles; change of rates after hearing; exceptions.</p> <p>ARTICLE VIII.</p> <p>SEC.</p> <p>19(a). Unlawful to operate motor vehicle of size or weight exceeding, or loaded in excess of, limitations stated in act.</p> <p>19(b). Width, height and length of motor vehicles; exception as to length, for next three years, of vehicles coupled together; extension of load beyond line of fenders.</p> <p>19(c). Length of drawbar connecting vehicles; signal or cloth upon connection.</p> | <p>SEC.</p> <p>19(d). Permit for operation of vehicle or vehicles of gross weight exceeding limitations; classification of area of state and designation of roads of major importance by commissioner; maximum weight laden or unladen of vehicles used for transportation of property; minimum axle space; gross loads permitted on bridges.</p> <p>19(e). Duty of officers having reason to believe weight of vehicle and load is unlawful.</p> <p>19(f). When local authorities may prohibit operation of vehicles or impose restrictions as to weight; signs to show restrictions.</p> <p>19(g). Provisions as to tires; exceptions as to farm machinery and tire chains; special permits for traction engines or tractors.</p> <p>19(h). Vehicle must be constructed to prevent contents from dropping, lifting or otherwise escaping.</p> <p>19(i). Limitation on amount of gasoline carried for own fuel needs of vehicle.</p> <p>19(j). Violation of provisions of section; revocation of license.</p> <p>19-(a). Provisions of act restricting size, weight and capacity of motor vehicle not to apply to certain designated vehicles.</p> <p>22. Right side of commercial vehicles to show weight, etc., of vehicle; brakes and horns; provisions as to lamps; lamps on trailers and semitrailers; lights on horse drawn vehicles; rear red lights; lights illuminating registration plates; chain, in addition to hitch bar required on trailers having more than two wheels; penalty for violation of section; if part of act invalid, remainder not affected.</p> |
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Be it enacted by the Legislature of West Virginia:

That sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, fourteen, seventeen, eighteen, nineteen, twenty, twenty-three and twenty-seven, article six, and sections nineteen and twenty-two, article eight, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted; and that sections twenty-(a), twenty-(b), thirty-one, thirty-two, thirty-three and thirty-four, reading as hereinafter set forth, be added to article six and that section nineteen-(a), reading as hereinafter set forth be added to article eight of said chapter seventeen.

ARTICLE VI

Section 1. No motor vehicle shall be driven upon the public roads, or upon any road or street within any incorporated city, town or village within the state, until the owner shall

4 first have obtained from the commissioner, as herein pro-
5 vided, a license or certificate of registration therefor. An
6 applicant desiring such license or certificate may obtain the
7 same by filing with the commissioner, by mail or otherwise,
8 a statement setting forth the character of the motor vehicle
9 to be licensed, including the name of the manufacturer, the
10 style, color of body, motor number, type and factory num-
11 ber of such vehicle, the character of the motor power, the
12 name, age, residence, and business address of the owner of
13 such vehicle, and the name of the county in which he resides,
14 and shall state whether such vehicle is or is not to be used in the
15 public transportation of passengers or property, or both, for
16 compensation, and, if so used or to be used, the applicant shall
17 so certify, and shall, as a condition precedent to the securing
18 of such license or certificate of registration, obtain a certificate
19 of convenience, or permit from the state road commissioner in
20 the manner herein provided.

Sec. 2. Every owner of one or more vehicles, not expressly
2 exempted by this article, shall make a separate application in
3 writing, properly verified for each vehicle, on a form provided
4 by the state road commissioner, for permission to operate the
5 same on the public roads of this state. In the application for
6 registration the applicant shall furnish such information as
7 the state road commissioner may require. Upon receipt of
8 such application, together with the fees hereafter provided for,
9 the state road commissioner shall file the application and give
10 to the same a distinguishing mark and number, and shall issue
11 to the owner of the vehicle a certificate of registration, which
12 shall contain the number or mark assigned such vehicle, the
13 name and place of residence of the owner and his post office
14 address, if the same shall be different from his place of resi-
15 dence. Such certificate shall be of convenient size and form,
16 and shall be at all times carried upon such vehicle, and shall be
17 subject to examination and upon demand by any proper officer,
18 as herein provided. In addition to the certificate of registra-
19 tion, the state road commissioner shall, without additional
20 charge, deliver to the owner metal plates bearing the abbrevia-
21 tion of the name of this state, the year for which issued, and
22 the distinguishing mark or number assigned to such vehicle.
23 Such plates shall be known as registration plates. Each year •

24 there shall be chosen a color, or combination of colors, for
25 such registration plates, which shall be as different as prac-
26 ticable from the color, or colors, used on the plates of the pre-
27 ceeding year, and the colors used for the current year of the
28 bordering states, and the numerals and letters on such plates
29 shall be of such color as to be shown in marked contrast to the
30 remainder of the plate. The plates shall be of such size and
31 character as the state road commissioner may prescribe so as to
32 properly accommodate the numerals and other marks. An
33 automobile shall be required to carry two, and any other
34 licensed motor vehicle one, of such license plates.

35 No motor vehicle shall be driven upon any of the highways
36 of this state without the proper registration plates fastened
37 thereon. Registration plates issued prior to the first of the
38 licensing year for which they are to be effective may be placed
39 on the vehicle for which issued, not more than ten days prior
40 to the first day of such licensing year, and used without addi-
41 tional registration fee.

42 Any person, firm or corporation failing to carry the certifi-
43 cate of registration, or who drives a motor vehicle without the
44 proper registration plates affixed thereto, or who changes the
45 name, number or other identification information on the cer-
46 tificate of registration, or registration plates, shall be deemed
47 guilty of a misdemeanor, and, upon conviction, shall be fined
48 not less than ten nor more than one hundred dollars: *Pro-*
49 *vided*, That in the case of a person to whom a certificate has
50 been issued, but who at the time of arrest has not the same
51 with him, the minimum fine shall be one dollar.

52 The provisions of this section shall apply both to the opera-
53 tor, or chauffeur, and to the owner who causes or knowingly
54 permits his vehicle to be operated without a certificate of reg-
55 istration as herein provided.

Sec. 3. No motor vehicle shall be operated over any public
2 road, highway, street or alley in this state, for public transpor-
3 tation of passengers or property, or both, for compensation
4 until the owner or operator of such vehicle shall first have
5 made application to, and secured from the state road commis-
6 sioner a permit or certificate of convenience to operate such
7 vehicle. Such classification shall include public livery vehicles,
8 cars for hire or for rent, taxi cabs, bus lines, truck lines, and

9 any other public transportation of passengers or property for
10 compensation, without regard to whether such operation is be-
11 tween fixed termini or over regular routes or otherwise.

12 The state road commissioner may also grant certificates of
13 convenience and necessity for the transportation of persons or
14 property, or both, for compensation in interstate commerce,
15 and regulate such interstate commerce under the authority of
16 and in accordance with the provisions of any statute that has
17 been or hereafter may be enacted by the congress of the
18 United States, vesting in or delegating to the state road
19 commissioner of West Virginia the authority, as an agency of
20 the United States government, so to grant such certificates
21 and so to regulate such commerce. If the legislature shall by
22 statute transfer from the state road commissioner to any other
23 commission, board or officer, the authority to grant certificate
24 of convenience and to regulate intrastate transportation of per-
25 sons or property, or both, for compensation, then the authority
26 herein granted shall vest in such other commission, board or
27 officer. The state road commissioner, or such other commission,
28 board or officer, as the case may be, is hereby authorized to
29 notify the proper department of the federal government of his
30 or its assent to conform to the requirements, conditions and
31 obligations of said statute of the congress in regard to interstate
32 commerce by motor vehicles.

Sec. 4. The application for such permit or certificate shall
2 be in writing and shall contain full information concerning
3 the financial condition and physical property of the applicant,
4 and shall state the capacity of such vehicle or vehicles and the
5 purpose for which they are to be used. If the service proposed
6 is to be over a regular route, or between fixed termini, then
7 such route or termini, the rates proposed to be charged and
8 the proposed schedule or time cards shall be designated. If
9 the service proposed to be rendered is not over a regular route
10 or between fixed termini, then such other matters as the state
11 road commissioner shall from time to time prescribe shall be
12 designated.

13 All vehicles operating under the provisions of class J, sec-
14 tion nineteen, shall operate from a stand or stands, and the
15 state road commissioner shall have power to grant a permit

16 to any applicant who operates from a stand or stands and who
17 does not propose to operate upon a regular schedule, but who
18 is privately employed for a specific trip and who will not solicit
19 or receive patronage along a route for which a certificate of
20 convenience has been granted by the state road commissioner
21 for the operation of vehicles over a regular route or between
22 fixed termini: *Provided, however,* That vehicles operating under
23 class J, or class K may receive passengers or property along
24 routes for which a certificate of convenience has been granted,
25 but not at or within two hundred feet of any building owned
26 or maintained as a designated stop: *Provided further,* That the
27 charge made by such persons operating under class J or class
28 K for such service, when rendered over a route for which a
29 certificate of convenience has been granted, shall not be less
30 than the rate charged by the holder of such certificate of con-
31 venience.

32 The state road commissioner shall have the power to issue
33 to any applicant a certificate of convenience, or to refuse to
34 issue the same, or issue it for the partial exercise only of the
35 privileges sought, and may attach to the exercise of the rights
36 given by such certificates such terms and conditions as in his
37 judgment the public convenience and necessity may require.
38 No such certificate of convenience shall be issued by the com-
39 missioner until it shall be established to the satisfaction of the
40 commissioner, after a proper investigation, that the privilege so
41 sought by the applicant is necessary or convenient for the
42 public, and that the service so proposed to be rendered by the
43 applicant is not being adequately performed at the time of
44 such application by any other person, partnership or corpora-
45 tion. If a certificate of convenience be granted for service
46 over a regular route or between fixed termini, the state road
47 commissioner shall prescribe the route, territory, schedule, fare
48 or tariff in connection with such service, and in all cases may
49 make such other rules and regulations relative to the operation
50 of such vehicle or vehicles as public justice may demand. When
51 such certificate of convenience is issued for service over a regular
52 route or between fixed termini, no change shall be made in the
53 route, schedule, fares or tariffs of such vehicle or vehicles, with-
54 out the express permission of the state road commissioner.

Sec. 5. The state road commissioner shall have the power to
2 issue any certificate of convenience and such certificates, when
3 granted, shall remain in effect until cancelled or revoked by
4 the commissioner as hereinafter provided: *Provided, however,*
5 That motor vehicles operated for transportation of passengers
6 or property, or both, for compensation, and not running over
7 a regular route between fixed termini or having a regular time
8 schedule, shall be granted such certificate only until the first
9 day of the next annual licensing period. The commissioner is
10 hereby given authority to deny an application for a permit
11 under class J, if in the judgment of the commissioner the com-
12 munity proposed to be served by the application is adequately
13 served by vehicles operated under permit similar to that for
14 which application is made.

15 Certificates of convenience heretofore granted by the state road
16 commission shall be and remain in full force and effect until
17 revoked or cancelled as provided herein, and shall give the same
18 rights and be subject to the same restrictions as if granted here-
19 under.

20 The state road commissioner may consolidate two or more
21 certificates, cancel a certificate in whole or in part, or divide
22 a certificate already granted if not against public welfare, and
23 under such rules as the commissioner may prescribe.

24 Any certificate held, owned or obtained by any person may
25 be sold, assigned, leased, transferred or inherited as other
26 property, only upon authorization by the commissioner. The
27 owner of or operator under any certificate of convenience shall
28 make such report and furnish such detailed information with
29 respect to the service rendered as the state road commissioner
30 shall from time to time direct.

Sec. 6. No certificate or permit shall be issued by the com-
2 missioner to any applicant until and after such applicant shall
3 have filed with the state road commissioner a bond with surety
4 approved by the state road commissioner or liability insurance
5 satisfactory to the commissioner, and in such sums as to injury
6 to persons and as to loss of or damage of property, respectively,
7 as the state road commissioner may deem necessary to adequately
8 protect passengers, shippers and all others using the public roads
9 with due regard to the number of persons and the amount of

10 property involved, which bond shall bind the obligors there-
11 under to make compensation for injury to persons and loss of
12 or damage to property resulting from the operation of such
13 motor vehicles. Upon failure of such bond or policy, by cancel-
14 lation or otherwise, the permit or certificate shall become null
15 and void, and the registration plates and registration card and
16 permit shall be returned to the commissioner for cancellation:
17 *Provided*, That such permit or certificate shall not become null
18 and void if the grantee thereof shall file with the state road
19 commissioner a new policy or bond, satisfactory to the commis-
20 sioner, before the failure of such first policy or bond. The in-
21 surance policy or bond so required to be filed shall be kept on
22 file with the state road commissioner during the time such per-
23 mit or certificate shall be in effect. In case such new policy or
24 bond be not filed, if the grantee of such permit or certificate
25 operates his vehicle after the date of failure of such policy or
26 bond, he shall be guilty of a misdemeanor, and, upon conviction
27 thereof, shall be fined not less than fifty nor more than five
28 hundred dollars, or imprisoned not less than thirty days nor
29 more than one year, or both fined and imprisoned, such penalty
30 to apply to both owner and operator.

31 The state road commissioner shall adopt and promulgate such
32 rules and regulations as may be found necessary to carry out
33 the provisions of this section and of sections three, four, five,
34 seven and eight of this article.

Sec. 7. If any applicant for a certificate of convenience shall
2 desire to exercise the privilege sought wholly within any incor-
3 porated city or town, such applicant shall, before making appli-
4 cation to the commissioner as herein prescribed, apply for and
5 obtain from the city or town council, or other proper authority
6 of such city or town, a permit authorizing such applicant to
7 make application to the commissioner, and such permit may
8 prescribe such reasonable rules and regulations as the proper
9 authorities of such city or town may direct with respect to the
10 privilege sought, insofar as the same may pertain to the stopping
11 and parking of vehicles, zoning, use of one-way streets, kind
12 and character of traffic on certain streets and other like matters
13 affected by local conditions. If the commissioner shall then
14 issue a certificate of convenience to such applicant, the rules and

15 regulations as prescribed by such town or city shall be a part
16 of such certificate of convenience. The commissioner shall in
17 no case issue a certificate to an applicant proposing to render
18 a public service wholly within any incorporated city or town
19 until and after such permit shall have been first obtained by
20 such applicant from the proper authority of such city or town.
21 If the proposed operation be wholly within an incorporated
22 city of more than eight thousand population, or design to serve
23 any such city and its adjacent suburban area, not exceeding
24 three miles distant from the city boundary, then in such case
25 the fees or passenger seat tax provided in sections nine and
26 seventeen of this article, as to such operation wholly within such
27 city, shall accrue to and be paid to such city or town instead
28 of the commissioner; and any such city or town may by public
29 ordinance fix, charge and collect a fee or tax for the operation
30 within the city or town in lieu of, but not greater than, the fee
31 charged in sections nine and seventeen hereof.

Sec. 8. Any person, firm or corporation violating any of the
2 provisions of sections three to seven, inclusive, of this article, for
3 which no other penalty is provided, or the rules and regulations
4 regularly adopted by the state road commissioner, as authorized
5 therein shall be guilty of a misdemeanor, and, upon conviction
6 thereof, shall be fined not less than five nor more than two hun-
7 dred dollars, and in addition thereto such certificate of con-
8 venience may be suspended or revoked by the state road com-
9 missioner upon the complaint to him of any person interested, or
10 by the commissioner on his own motion, after hearing duly had
11 upon at least five days' notice to all parties interested. Imme-
12 diately upon such suspension or revocation the registration
13 plates and registration card and permit shall be forwarded to
14 the commissioner for cancellation. Notice in writing sent by
15 registered mail to the address given in the application for such
16 permit or certificate shall be sufficient notice of such hearing.

Sec. 9. The following fees prescribed in classes A to L,
2 inclusive, shall be paid annually to the commissioner for
3 certificates of registration and corresponding registration plates
4 issued by him in accordance with the provisions of this article.
5 The holder of any permit or certificate of convenience under
6 Class H or I obtained in the manner hereinbefore prescribed

7 shall pay annually to the commissioner the registration fees
8 prescribed in Classes H and I, and the following certificate fees
9 shall be paid for vehicles operated for transportation of persons
10 or property for compensation under Class H or I certificates
11 of public convenience and necessity, respectively:

12 For transportation of passengers there shall be charged one-
13 thirtieth of a cent for each passenger seat multiplied by the
14 total number of miles that will be traveled over any public
15 highway in this state, or over any streets or alleys within any
16 municipality in this state, by such motor vehicles during the
17 quarter year;

18 For transportation of property there shall be charged one-
19 eighth of a cent for each capacity ton-mile multiplied by the
20 total number of miles that will be traveled over any public
21 highway in this state, or over any streets or alleys within any
22 municipality in this state, by such motor vehicles during the
23 quarter year.

24 Such fees under Class H and Class I shall be payable in
25 advance quarterly, and shall be computed on the schedule on
26 file with the commissioner and in effect on the first day of Jan-
27 uary, April, July and October. If operation begin after the
28 first day of either said months, the fees shall be computed for
29 the remainder of such current quarter year, payable in
30 advance.

31 Buses and trucks operating under the provisions of Class H
32 and Class I may make special or charter trips other than over
33 their regular route after making proper application to the
34 commission so to do, and shall pay the additional fees for such
35 operation at such times and upon such forms as the commissioner
36 shall prescribe.

Sec. 10. Class A. The registration fee for all motor vehicles
2 of the passenger type, other than those operated for compen-
3 sation, shall be thirteen dollars for a vehicle of a weight of two
4 thousand pounds or less, and for all motor vehicles having a
5 weight of over two thousand pounds, sixty cents additional for
6 each one hundred pounds of weight in excess of two thousand
7 pounds, and for the purpose of determining the weight, except
8 of those used in transportation of passengers or property for
9 compensation, the actual weight of the vehicle shall be taken.

Sec. 11. Class B. The registration fee for all motor vehicles, commonly designated as trucks or truck-tractors, other than those operated for compensation, shall be as follows:

	Pneumatic Tires	Solid Tires
4 Capacity		
5 One ton or less.....	\$ 15.00	\$ 27.00
6 Over one ton to one and one-half tons.	25.00	37.00
7 Over one and one-half tons to two tons	35.00	50.00
8 Over two tons to three tons.....	78.00	117.00
9 Over three tons to four tons.....	120.00	180.00
10 Over four tons to five tons.....	170.00	255.00
11 Over five tons to six tons.....	228.00	342.00
12 Over six tons to seven tons.....	294.00	441.00
13 Over seven tons to eight tons.....	368.00	552.00
14 Over eight tons to nine tons.....	450.00	675.00
15 Over nine tons to ten tons.....	540.00	810.00
16 For each additional ton over ten tons	100.00	150.00

Sec. 12. Class C. The registration fee for all vehicles trailed or propelled by any motor vehicle or tractor except those operated for compensation, other than over a regular route or between fixed termini by common carriers, shall be as follows:

	Trailers		Semitrailers	
Capacity	Pneumatic Tires	Solid Tires	Pneumatic Tires	Solid Tires
5 One-half ton trailers.....	\$ 9.00	\$ 13.50	\$ 5.00	\$ 10.00
6 One ton	12.00	18.00	8.00	12.00
7 Over one ton to two tons...	30.00	45.00	18.00	27.00
8 Over two tons to three tons	54.00	81.00	30.00	45.00
9 Over three tons to four tons	84.00	126.00	44.00	66.00
10 Over four tons to five tons	120.00	180.00	60.00	90.00
11 Over five tons to six tons..	162.00	243.00	78.00	117.00
12 Over six tons to seven tons.	210.00	315.00	98.00	147.00
13 Over seven tons to eight tons	264.00	396.00	120.00	180.00
14 Over eight tons to nine tons	324.00	486.00	144.00	216.00
15 Over nine tons to ten tons	390.00	585.00	170.00	255.00
16 For each additional ton over 17 ten tons	100.00	150.00	90.00	125.00

Sec. 14. Class E. The registration fee for all tractors, traction engines and similar vehicles used to propel or draw a trailer or semitrailer, shall be as follows:

4	Weight	Fee
5	Two tons or less.....	\$ 25.00
6	Over 2 tons to 3 tons.....	36.00
7	Over 3 tons to 4 tons.....	48.00
8	Over 4 tons to 5 tons.....	60.00
9	Over 5 tons to 6 tons.....	84.00
10	Over 6 tons to 7 tons.....	108.00
11	Over 7 tons to 8 tons.....	133.00
12	Over 8 tons to 9 tons.....	156.00
13	Over 9 tons to 10 tons.....	192.00
14	Over 10 tons for each additional ton.....	240.00
15	<i>Provided</i> , This charge shall not be made for tractors used ex-	
16	clusively for agricultural purposes.	

17 Rims or other sufficient devices shall be used on the wheels
 18 of such vehicles as will protect the roads or highways traveled
 19 by them from any unusual damages thereto, and the owners of
 20 such tractors shall be liable for any damages done by them to
 21 public roads in excess of that done by ordinary travel thereon.

Sec. 17. Class H. The registration fee for all motor ve-
 2 hicles operated regularly under a certificate of public con-
 3 venience and necessity for transportation of persons shall be
 4 eighty dollars for a motor vehicle of twenty-one passengers or
 5 less capacity and one hundred and twenty dollars for a motor
 6 vehicle of more than twenty-one passenger capacity: *Provided*,
 7 *however*, That the registration fees for vehicles used only as
 8 reserve or emergency equipment shall be five dollars for ve-
 9 hicles of twenty-one passengers or less capacity and seven and
 10 one-half dollars for vehicles of more than twenty-one passen-
 11 ger capacity.

Sec. 18. Class I. The registration fee for all motor vehicles,
 2 commonly designated as trucks and truck-tractors, operated un-
 3 der a certificate of public convenience and necessity for trans-
 4 portation of property shall be as follows:

5	Capacity	Pneumatic Tires	Solid Tires
6	One ton or less.....	\$ 18.00	\$ 27.00
7	<i>a</i> Over 1 ton to 1½ tons.....	31.00	46.50
8	Over 1½ ton to 2 tons.....	44.00	66.00
9	Over 2 tons to 3 tons.....	78.00	117.00
10	Over 3 tons to 4 tons.....	120.00	180.00

11	Over 4 tons to 5 tons.....	170.00	255.00
12	Over 5 tons to 6 tons.....	228.00	342.00
13	Over 6 tons to 7 tons.....	294.00	441.00
14	Over 7 tons to 8 tons.....	368.00	552.00
15	Over 8 tons to 9 tons.....	450.00	675.00
16	Over 9 tons to 10 tons.....	540.00	810.00
17	For each additional ton over 10 tons	100.00	150.00

Sec. 19. Class J. The registration fee for all motor vehicles operated for transportation of persons for compensation, other than over a regular route or between fixed termini by common carriers, shall be seventy-five dollars yearly. Ambulances and hearses used exclusively in their work shall be exempted from the above special fee.

Sec. 20. Class K. The registration fee for all motor vehicles, commonly designated as trucks and truck-tractors, operated for transportation of property for compensation, other than over a regular route or between fixed termini by common carrier, shall be double the fees designated in section eleven of this article.

Sec. 20-(a). Class L. The registration fee for all trailers and semitrailers used for transportation of property for compensation, other than over a regular route or between fixed termini by common carriers, shall be as follows:

	Trailers		Semitrailers	
	Pneumatic	Solid	Pneumatic	Solid
Capacity	Tires	Tires	Tires	Tires
1 One ton or less.....	\$ 24.00	\$ 36.00	\$ 16.00	\$ 24.00
2 Over one ton to two tons...	60.00	90.00	36.00	54.00
3 Over two tons to three tons	108.00	162.00	60.00	90.00
4 Over three tons to four tons	168.00	252.00	88.00	132.00
5 Over four tons to five tons	240.00	360.00	120.00	180.00
6 Over five tons to six tons..	324.00	486.00	156.00	234.00
7 Over six tons to seven tons	420.00	630.00	196.00	294.00
8 Over seven tons to eight tons	528.00	792.00	240.00	360.00
9 Over eight tons to nine tons	648.00	972.00	288.00	432.00
10 Over nine tons to ten tons	780.00	1170.00	340.00	510.00
11 For each additional ton over				
12 ten tons	100.00	175.00	90.00	125.00

Sec. 20-(b). For purpose of registration of and determining of all fees to be paid for operation of vehicles in transportation

3 of property, the manufacturer's rated capacity of any such
4 vehicle will be accepted: *Provided*, That if the manufacturer
5 warrant or guarantee such vehicle for a capacity greater than
6 such rated capacity, then such warranted capacity shall be taken
7 and considered as the rated capacity of such vehicle.

8 No vehicle, except by special permit as provided in section
9 twenty of article eight, chapter seventeen of the code, one
10 thousand nine hundred thirty-one, shall be operated upon any
11 public highway of this state, or upon any street or alley within
12 any municipality within this state, with a load thereon more
13 than one hundred percentum greater than the capacity for which
14 such vehicle is registered if such vehicle is registered for a
15 capacity not exceeding two tons, or fifty percentum if such
16 vehicle is registered for a capacity in excess of two tons and not
17 exceeding four tons; or twenty-five percentum if such vehicle
18 is registered for a capacity exceeding four tons. Any violation
19 of this provision shall be a misdemeanor, and upon conviction
20 thereof any owner or operator shall be fined not less than
21 twenty-five dollars nor more than two hundred dollars for the
22 first offense and upon any subsequent offense occurring within
23 the same licensing year, a fine of not less than fifty dollars nor
24 more than five hundred dollars shall be imposed and the oper-
25 ators' or chauffeurs' license of the operator may be revoked and
26 the registration plates of such vehicle so overloaded shall be
27 surrendered by the owner and cancelled by the commissioner.

Sec. 23. The license or registration fees herein prescribed
2 shall be for the entire calendar year of one thousand nine
3 hundred thirty-three, unless the owners of such registration
4 certificates shall make application for registration from said
5 date to June thirtieth, one thousand nine hundred thirty-four,
6 as hereinafter provided. *Provided*, That where application for
7 such license or registration is made between the first day of
8 April and the thirtieth day of June, inclusive, in said calendar
9 year, the charge therefor shall be three-fourths of the yearly
10 fee; and where such application is made between the first day of
11 July and the thirtieth day of September, inclusive, of said cal-
12 endar year, the charge therefor shall be one-half of the yearly fee;
13 and where such application is made after the thirtieth day of
14 September in said calendar year, the charge therefor shall be one-
15 fourth of the yearly fee. In all cases where a registration is issued

16 after the thirtieth day of September in said calendar year, there
16-a shall be paid in addition to the fee herein provided for the ad-
16-b ditional sum of one dollar.

17 The registration certificate and the right to use the cor-
18 responding registration plates for the year one thousand nine
19 hundred thirty-three shall expire at midnight the thirty-first
20 day of December, one thousand nine hundred thirty-three.

21 For registration issued between the first day of January and
22 the thirtieth day of June, one thousand nine hundred thirty-
23 four, one-half of such yearly fee shall be charged. Upon pay-
24 ment of such one-half yearly fee the commissioner shall issue
25 for the vehicle for which such payment is made such card,
26 sticker or other indicia of payment as the commissioner may
27 determine, which shall be securely attached to the vehicle for
28 which issued; and when such card, sticker or other indicia is
29 so attached such vehicle may be operated upon the public high-
30 ways under the registration certificate and registration plates
31 issued for such vehicle for the calendar year one thousand nine
32 hundred thirty-three, until the thirtieth day of June, one thou-
33 sand nine hundred thirty-four, and the commissioner is author-
34 ized to issue one thousand nine hundred thirty-three registra-
35 tion plates for registration secured between the first day of
36 January and the thirtieth day of June, inclusive, one thousand
37 nine hundred thirty-four, with such card, sticker or other
38 indicia.

39 Beginning on the first day of July, one thousand nine hun-
40 dred thirty-four, the registration fees herein prescribed shall
41 be for the entire fiscal year: *Provided*, That where application
42 for such registration is made between the first day of January
43 and the thirtieth day of June, inclusive, in any fiscal year the
44 charge therefor shall be one-half of such yearly fee.

45 The registration certificate and the right to use correspond-
46 ing registration plates issued after the first day of July, one
47 thousand nine hundred thirty-four, shall expire at midnight
48 on the thirtieth day of June of the fiscal year for which issued.

49 In the event of the loss or inadvertent destruction of any
50 plate issued under the provisions of this article, the commis-
51 sioner shall investigate the circumstances of alleged loss or
52 destruction, and if satisfied that the loss or destruction has oc-
53 curred as alleged, shall issue a duplicate, or duplicates, or may

54 in its discretion issue a new set of plates with appropriate
55 certificate of registration, at a cost not to exceed one dollar.
56 In the event of the loss or inadvertent destruction of any cer-
57 tificate of registration issued under the provisions of this
58 article, the commissioner may issue a duplicate upon receipt of
59 affidavit of such loss at a cost not to exceed one dollar. Upon
60 the destruction or permanent removal from the state of any
61 registered motor vehicle, its certificate of registration and the
62 right to use the registration plates thereon shall expire; but
63 the commissioner shall permit the persons to whom such certi-
64 ficate and plates or markers were issued to surrender the same,
65 and shall allow him a refund of the amount paid for registra-
66 tion plates and certificate for the quarterly periods remaining
67 wholly unexpired.

68 Upon the transfer of ownership of any motor vehicle, its
69 certificate of registration and the right to use the registration
70 plates shall expire, and it shall be the duty of the original
71 owner to immediately notify the state road commissioner of the
72 name and address of the new owner and to deliver to the pur-
73 chaser the license certificate and plates belonging thereto. It
74 shall be the duty of the purchaser immediately to file with the
75 state road commissioner an application for a transfer of such
76 registration accompanied with such certificate, for which the
77 state road commissioner shall issue a transfer certificate and
78 charge a fee of one dollar. If such license certificate be not
79 filed, the purchaser shall be charged a fee of two dollars for such
80 license transfer certificates. Certificates of registration and
81 corresponding registration plates of vehicles operating under
82 a permit or certificate of convenience may be transferred only
83 under the provisions of, and when provided by, the rules and
84 regulations of the commissioner.

85 Any owner or operator who shall obtain a registration cer-
86 tificate, or registration plates, or other licenses provided for
87 in this article, by misrepresentation or by any other method
88 not authorized by law, or who shall violate any of the other
89 provisions of this section, shall be guilty of a misdemeanor,
90 and, upon conviction thereof, shall be fined not less than ten
91 nor more than fifty dollars.

Sec. 27. The owner or operator of any vehicle not owned
2 in this state, or any operator not a resident of this state, may

3 for a period not to exceed three months in any one year, use
4 the roads of this state without being registered or licensed as
5 required in this article: *Provided*, That such vehicle or oper-
6 ator shall have been licensed under the laws of the state in
7 which such vehicle is owned or such operator resides; that
8 such vehicle shall display its registration plates prominently,
9 and such operator shall on demand of the proper authorities
10 present his operator's or chauffeur's license; and that the state
11 or federal district in which such vehicle is owned, or such
12 operator or chauffeur resides, shall extend the same privileges
13 to vehicles owned in this state, and to operators or chauffeurs
14 residing in this state.

Sec. 31. It shall be unlawful for any common carrier of
2 property, or the owner of a certificate, or his agent, servant,
3 or employee, directly or indirectly, to offer, permit or give to
4 any person, directly or indirectly, any commission or other
5 consideration to induce such person to deliver to such carrier
6 property to be transported, and it likewise shall be unlawful
7 for any shipper or consignee, or his agent, servant, or em-
8 ployee, to receive from such carrier, directly or indirectly,
9 any such commission or consideration as an inducement to
10 secure the transportation of any such property. Any person
11 violating any of the provisions of this section shall be guilty
12 of a misdemeanor, and shall, upon conviction, be punished by
13 a fine of not less than ten dollars nor more than two hundred
14 dollars, and each such transaction shall constitute a separate
15 offense.

Sec. 32. Any common carrier, his agent, servant or em-
2 ployee, who directly or indirectly gives to any shipper any
3 rebate, or any shipper, his agent, servant, or employee who
4 directly or indirectly receives any rebate, shall be guilty of
5 a misdemeanor and shall be punished by a fine of not less
6 than ten dollars nor more than two hundred dollars for each
7 offense in any court of competent jurisdiction in this state.
8 It being the intention of this act that such carriers shall in
9 every instance collect and receive, and the shipper shall pay,
10 only the rate or fee prescribed or approved by the commissioner.

Sec. 33. If any common carrier, of property, or any officer,
2 agent, clerk, servant or employee, or receiver, or his agents,
3 servants or employees, of any such carrier operating as a

4 common carrier of property in this state, shall directly or indi-
5 rectly, or by any special rate, rebate, drawback, or other de-
6 vice, for or on behalf of such common carrier, knowingly
7 charge, demand or contract for, collect or receive from any
8 person, firm or corporation a less compensation for any service
9 rendered or to be rendered by any such common carrier than
10 is prescribed for said service by said state road commissioner,
11 such common carrier or any officer, clerk, servant, or employee,
12 or receiver, his agents, servants or employees, of such common
13 carrier shall be guilty of a misdemeanor and, upon conviction
14 thereof, shall be fined in a sum not less than ten dollars nor
15 more than two hundred dollars for each offense; and every
16 person who violates or fails to comply with, or procures, aids
17 or abets any common carrier in the violation of the provisions
18 hereof shall likewise be guilty of a misdemeanor and, upon
19 conviction, shall be punished by a fine of not less than ten
20 dollars nor more than two hundred dollars for each offence:
21 *Provided*, That the provisions of section thirty-two and section
22 thirty-three of this article shall not prohibit the operation of
23 a duly authorized and operated truck terminal where a charge
24 is made for the collection, storage and rebilling of merchandise
25 and other property for truck transportation.

Sec. 34. Every person, firm or corporation operating a motor
2 vehicle as a common carrier on the public roads of this state,
3 either for the carriage of persons or the transportation of prop-
4 erty, shall file with the state road commissioner, and keep open
5 to public inspection, schedules showing all the rates, charges and
6 tolls for service to be rendered by it or by other persons, firms or
7 corporations in connection with it.

8 The commissioner shall have power to enforce, originate, estab-
9 lish, change, approve or disapprove tariffs, rates, joint rates,
10 tolls, and schedules for all motor vehicles operated as a common
11 carrier. And whenever the commissioner shall, after hearing,
12 upon five days' notice duly published, find any existing rates,
13 tolls, tariffs, joint rates or schedules unjust, unreasonable and
14 insufficient or unjustly discriminatory or otherwise in violation
15 of any of the provisions of this chapter, the commissioner shall
16 by an order, fix reasonable rates, joint rates, tariffs, tolls or
17 schedules to be allowed in the future in lieu of those found to be

18 unjust, unreasonable, insufficient, or unjustly discriminatory
19 or otherwise in violation of any provision of law: *Provided*,
20 *however*, That the provisions of section thirty-one, thirty-two,
21 thirty-three and thirty-four, of this article, shall have no
22 application to motor vehicles registered under the provisions
23 of section twenty, class K.

ARTICLE VIII

Section 19. (a) It shall be unlawful and constitute a mis-
2 demeanor for any person to drive or move or for the owner
3 to cause or knowingly permit to be driven or moved on any
4 highway any vehicle or vehicles of a size or weight exceeding
5 the limitations stated in this act, or which is loaded in excess
6 of the limitations stated in this act, or any vehicle or vehicles
7 which are not so constructed or equipped as required in this
8 article or the rules and regulations of the commissioner adopted
9 pursuant thereto, and the maximum size and weight of vehicles
10 herein specified shall be lawful throughout this state, in the
11 areas, on the roads and under the conditions herein specified,
12 and local authorities shall have no power or authority to alter
13 said limitations except as express authority may be granted in
14 this act.

15 (b) (1) No vehicle shall exceed a total outside width,
16 including any load thereof, of eight feet, except that the width
17 of a farm tractor shall not exceed nine feet; (2) no vehicle
18 unladen or with load shall exceed a height of twelve feet six
19 inches; (3) no vehicle shall exceed a length of thirty-five feet.
20 and no combination of vehicles coupled together shall exceed a
21 total length of forty-five feet: *Provided, however*, That nothing
22 in this act shall prohibit the use of any combination of vehicles
23 coupled together, for a period of three years following the
24 passage of this act, which were at the time of its passage,
25 owned and in operation in the state of West Virginia, and
26 whose total length when so coupled together is greater than
27 forty-five feet and less than fifty-five feet; (4) no train of
28 vehicles operated alone shall carry any load extending more
29 than three feet beyond the front thereof; (5) no passenger
30 vehicle shall carry any load extending beyond the line of the
31 fenders on the left side of such vehicle or extending more

32 than six inches beyond the line of the fender on the right side
33 thereof.

34 (c) The drawbar or other connection between any two
35 vehicles, one of which is towing or drawing the other on a
36 highway, shall not exceed ten feet in length from one vehicle
37 to the other, except that the connection between any two
38 vehicles transporting poles or pipe may exceed ten feet but
39 shall not exceed twenty-five feet. Whenever such connection
40 consists of a chain, rope or cable, there shall be displayed
41 upon such connection a red flag or other signal or cloth not
42 less than twelve inches both in length and width.

43 (d) (1) No motor vehicle or combination of vehicles used
44 for the transportation of property having a gross weight in
45 excess of those permitted in this section shall be driven on any
46 highway unless the owner shall have first secured a permit as
47 provided for in section twenty; (2) for the purpose of con-
48 trolling the circulation of vehicles or of a combination of
49 vehicles of heavy weight for the transportation of property,
50 the commissioner is authorized to classify the area of the state
51 as metropolitan, industrial or agricultural, and to designate
52 therein the roads of major importance. Such roads shall for
53 the purpose of this section be considered as major roads
54 and all other roads not so designated shall for the purpose of
55 this section be considered secondary roads; (3) no motor ve-
56 hicle for the transportation of property equipped with pneu-
57 matic tires and driven on any major highway in a metropolitan
58 area shall have a maximum wheel weight unladen or with load
59 in excess of eleven thousand pounds or an axle weight in excess
60 of twenty-two thousand pounds; (4) no motor vehicle for the
61 transportation of property equipped with pneumatic tires and
62 driven on any major highway in an industrial area shall have
63 a maximum wheel weight unladen or with load in excess of
64 nine thousand pounds, or an axle weight in excess of eighteen
65 thousand pounds; (5) no motor vehicle for the transportation
66 of property equipped with pneumatic tires and driven on any
67 major highway in an agricultural area shall have a maximum
68 wheel weight unladen or with load in excess of eight thousand
69 pounds, or an axle weight in excess of sixteen thousand pounds;
70 (6) no motor vehicle for the transportation of property

71 equipped with pneumatic tires and driven on any secondary
72 highway in any designated area shall have a maximum wheel
73 weight unladen or with load in excess of eight thousand pounds,
74 or an axle weight in excess of sixteen thousand pounds; (7)
75 motor vehicles used for the transportation of property equipped
76 with solid tires and driven on any major highway in a metro-
77 politan area shall be subject to the same maximum wheel
78 weights and axle weights prescribed for that area for similar
79 motor vehicles equipped with pneumatic tires. No motor vehicle
80 used for the transportation of property equipped with solid
81 tires driven upon any major highway in an industrial or
82 agricultural area shall have a maximum wheel weight unladen
83 or with load, or a maximum axle weight, in excess of eighty
84 per cent of the weights prescribed for motor vehicles equipped
85 with pneumatic tires; nor shall any motor vehicle equipped
86 with solid rubber tires and driven upon any secondary high-
87 way have a maximum wheel weight unladen or with load, or a
88 maximum axle weight, in excess of fifty per cent of the weights
89 prescribed for motor vehicles equipped with pneumatic tires;
90 (8) no motor vehicles having a minimum axle spacing of less
91 than forty inches shall be driven on any highway in any area;
92 (9) subject to the maximum axle and wheel loads specified in
93 this section, the gross weight of any motor vehicle or combi-
94 nation of vehicles driven on a major road in a metropolitan
95 area shall be fixed within the safe capacities of the bridges
96 existing in the area. Subject to the maximum axle and wheel
97 loads specified in this section, the gross weight of any motor
98 vehicle or combination of vehicles driven on a major road in
99 an industrial or agricultural area shall not exceed that deter-
100 mined by the following formulas:

101 For bridges designed under class H-20 specifications, total
102 gross load in pounds— $1330(L + 40)$, in which L repre-
103 sents the overall distance in feet between the front and rear
104 axles of the motor vehicles or the first and last axles of the
105 combination of motor vehicles; for bridges designed under
106 class H-15 specifications, the total gross load in pounds—
107 $1000(L + 40)$; for bridges designed under class H-10
108 specifications, total gross load in pounds— $670(L + 40)$.

109 (e) Any member of the department of public safety of this

110 state, sheriff or deputy sheriff or any duly authorized officer or
111 employee of the commissioner having reason to believe that
112 the weight of a vehicle and load is unlawful is authorized
113 to weigh the same either by means of portable or stationary
114 scales, and may require that such vehicle be driven to the
115 nearest scales in the event such scales are within two miles.
116 The officer may then require the driver to unload immediately
117 such portion of the load as may be necessary to decrease the
118 gross weight of such vehicle to the maximum therefor specified
119 in this act.

120 (f) Local authorities may by ordinance or resolution pro-
121 hibit the operation of vehicles upon any highway or impose
122 restrictions as to the weight of vehicles, for a total period of
123 not to exceed ninety days in any one calendar year, when
124 operated upon any highway under the jurisdiction of and for
125 the maintenance of which such local authorities are responsible,
126 whenever any said highway by reason of deterioration, rain,
127 snow or other climatic conditions will be seriously damaged
128 or destroyed unless the use of vehicles thereon is prohibited
129 or the permissible weights thereof reduced. Such local au-
130 thorities enacting any such ordinance or resolution shall erect,
131 or cause to be erected, and maintain signs designating the pro-
132 visions of the ordinance or resolution at each end of that por-
133 tion of any highway affected thereby, and the ordinance or
134 resolution shall not be effective until or unless such signs are
135 erected and maintained. Local authorities may, where there is
136 necessity for so doing, by ordinance or resolution, prohibit
137 the operation of trucks or other commercial vehicles, or impose
138 limitations as to the weight thereof, on designated highways,
139 which prohibitions and limitations shall be designated by ap-
140 propriate signs placed on such highways.

141 (g) (1) Every solid rubber tire on a vehicle moved on any
142 highway shall have rubber on its entire traction surface at
143 least one inch thick above the edge of the flange of the entire
144 periphery, and no motor vehicle, trailer, or semitrailer having
145 any steel or other metal tire in contact with the roadway shall
146 be operated on any highway; (2) no tire on a vehicle moved
147 on a highway shall have on its periphery any block, stud,
148 flange, cleat or spike or any other protuberances of any mate-

149 rial other than rubber which projects beyond the tread of the
150 traction surface of the tire, except that it shall be permissible
151 to use farm machinery with tires having protuberances which
152 will not injure the highway, and, except also, that it shall be
153 permissible to use tire chains of reasonable proportions upon
154 any vehicle when required for safety because of snow, ice or
155 other conditions tending to cause a vehicle to slide or skid;
156 (3) the commissioner as to state roads and local authorities
157 in their respective jurisdictions may, in their discretion, issue
158 special permits authorizing the operation upon a highway of
159 traction engines or tractors having movable tracks with trans-
160 verse corrugations upon the periphery of such movable tracks
161 or farm tractors or other farm machinery.

162 (h) No vehicle shall be driven or moved on any highway
163 unless such vehicle is so constructed or loaded as to prevent
164 its contents from dropping, sifting, leaking, or otherwise escap-
165 ing therefrom.

166 (i) No vehicle shall be moved or driven on any highway
167 carrying for its own fuel needs any gasoline other than that
168 carried in the gas tank provided by the manufacturer and
169 directly connected with its engine, except as the commissioner
170 may require.

171 (j) It shall be unlawful and constitute a misdemeanor for
172 any person to violate any of the provisions of this section.
173 Every person convicted for a misdemeanor for a violation of
174 any of the provisions of this act for which another penalty
175 is not provided, shall, for a first conviction thereof, be pun-
176 ished by a fine of not more than one hundred dollars, or by
177 imprisonment in the county or municipal jail for not more
178 than ten days; for a second such conviction within one year
179 thereafter such person shall be punished by a fine of not more
180 than two hundred dollars or by imprisonment in the county
181 or municipal jail for not more than twenty days or both such
182 fine and imprisonment; upon a third or subsequent conviction
183 within one year after the first conviction such person shall be
184 punished by a fine of not more than five hundred dollars or by
185 imprisonment in the county or municipal jail for not more than
186 six months or by both such fine and imprisonment. Upon any

187 conviction hereunder the license of the person convicted shall
188 be revoked.

Sec. 19-(a). The provisions of this act, restricting the size,
2 weight and capacity of motor vehicles, shall not apply to motor
3 vehicles owned and licensed in this state and used by the owner
4 thereof in the transportation of his own agricultural and other
5 products of husbandry or products used on the farm, or supplies
6 and equipment incident to his farming operations, to fire
7 department equipment, snow plows or street sweepers, or to
8 vehicles operated under a special permit issued pursuant to the
9 terms of section twenty of this article.

Sec. 22. All vehicles used for commercial purposes shall
2 have plainly marked on the right side thereof in some con-
3 spicuous place the actual weight of the vehicle, with equipment,
4 and the weight of the seating or loading capacity of such
5-6 vehicle.

7 Every motor vehicle shall be equipped with two sets of brakes
8 operating independently, except tractors and traction engines
9 which shall be provided with suitable brakes.

10 Every motor vehicle and tractor, when in use on the roads,
11 shall be equipped with a suitable horn or signaling device for
12 producing an abrupt sound as a signal or warning of danger.
13 The commissioner shall have the power to make and enforce
14 suitable regulations governing the kind and use of such horns
15 or signaling devices.

16 Every vehicle operated on any road in this state at night shall
17 be equipped with a lamp, or lamps, as hereinafter provided, of
18 sufficient power, and so adjusted and operated as to enable the
19 operator of such vehicle to proceed with safety to himself and
20 to other users of the road under all ordinary conditions of
21 road and weather.

22 Every motor vehicle and tractor shall have mounted on the
23 right and left sides of the front thereof a lamp, such lamps to
24 be of approximately equal candle power, and every motorcycle
25 shall have mounted on the front thereof one lamp. If such
26 vehicles are so mechanically constructed, governed, or controlled
27 that they cannot exceed a speed of fifteen miles per hour, they
28 shall have front lamps capable of furnishing light of sufficient
29 candle power to render any substantial object clearly discern-
30 ible on a level road at least fifty feet directly ahead, and at the

31 same time at least seven feet to the right of the axis of such
32 vehicle for a distance of at least twenty-five feet. If such
33 vehicles can exceed a speed of fifteen miles per hour, then they
34 shall have front lamps capable of furnishing light of sufficient
35 candle power to render any substantial object clearly discern-
36 ible on a level road at least two hundred feet directly ahead,
37 and at the same time at least seven feet to the right of the axis
38 of such vehicle for a distance of at least one hundred feet:
39 *Provided*, That no front lamp capable of furnishing more than
40 four candle power light shall be used if equipped with a re-
41 flector, unless so designed, equipped or mounted that no portion
42 of the beam of light, when projected seventy-five feet or more
43 ahead of the lamp, shall rise above a plane forty-two inches
44 higher than and parallel with the level surface upon which the
45 vehicle stands: *Provided further*, That no electric bulb or
46 other lighting device of a greater capacity than thirty-two
47 candle power shall be used, no matter how the same may be
48 shaded, covered or obscured.

49 Every trailer and semitrailer, except small two-wheel trailers
50 of one thousand pounds capacity or less, towed closely behind
51 a motor vehicle, and semitrailers when towed alone, whose over-
52 all length, in both cases, including towing vehicle and load,
53 does not exceed thirty feet, when on the roads of this state at
54 night, shall carry at the front of its left side one lamp capable
55 of throwing a white light visible from both sides of such vehicle.

56 Every horsedrawn vehicle, when on any road at night, shall
57 display a light visible from every direction for at least two
58 hundred feet.

59 Every motor vehicle, tractor trailer or semitrailer, when on
60 the roads of this state, at night, shall have on the rear thereof,
61 and to the left of the axis thereof, one lamp capable of dis-
62 playing a red light visible for a distance of at least one hundred
63 feet behind such vehicle: *Provided*, That when a vehicle is used
64 in conjunction with another vehicle or vehicles, only the last
65 of such vehicles shall be required to carry such a lamp. Every
66 motor vehicle, tractor trailer and semitrailer when on any
67 road of this state, at night, shall carry a lamp illuminating
68 with white light the registration plate of such vehicle, so that
69 the characters thereon shall be visible for a distance of at least
70 fifty feet. The commissioner shall have power to make and en-

71 force reasonable regulations regarding the kind of lighting
72 devices that shall be used on vehicles.

73 Trailers having more than two wheels, when operated on any
74 road in this state, shall be connected to the towing vehicle, or
75 preceding trailers, by at least one chain, in addition to the
76 hitch bar, of sufficient strength to hold the trailer on a hill
77 if the hitch bar becomes disconnected, or shall be provided with
78 some other adequate device to prevent rolling backward down
79 hill.

80 Any person violating any of the provisions of this section
81 shall be deemed guilty of a misdemeanor, and, upon conviction
82 thereof, shall be fined not less than ten nor more than one hun-
83 dred dollars.

84 If any section, clause, sentence, paragraph, or other part
85 hereof shall for any reason be adjudged by any court of com-
86 petent jurisdiction to be invalid, such judgment shall not affect,
87 impair or invalidate the remainder hereof, but shall be confined
88 in its operation to the part hereof directly involved in the
89 controversy in which such judgment shall be rendered.

CHAPTER 61

(Senate Bill No. 57—By Mr. Reynolds, of Mercer)

AN ACT to empower the city of Bluefield, a municipal corporation in Mercer county, West Virginia, to borrow funds from the reconstruction finance corporation, or other federal agency authorized to loan money, to liquidate current indebtedness, other than bonded indebtedness, and interest thereon heretofore incurred by the said corporation and to provide for the repayment of same.

[Passed May 26, 1933; in effect from passage. Approved by the Governor.]

Sec.

1. City of Bluefield, Mercer county, authorized to borrow not to exceed seventy-five thousand dollars from federal agency to liquidate current indebtedness other than bonded indebtedness; loan to extend over a period of twenty years.
2. Money derived from loan to be deposited in special fund known as liquidating fund of current indebtedness.

Sec.

3. When loan received and credited, council to enter order directing liquidation of current indebtedness.
4. Check on fund not to be honored until countersigned by mayor and recorder.
5. Any balance remaining after payment of current indebtedness to be deposited to credit of sinking fund.
6. Sufficient amount from annual taxes

SEC.

to be set aside to create a sinking fund for repayment of loan, plus interest: loan may be paid

SEC.

off after five years if sufficient funds on hand.

Be it enacted by the Legislature of West Virginia:

Section 1. That the city of Bluefield, a municipal corporation in Mercer county, West Virginia, is hereby authorized and empowered to borrow money, not exceeding seventy-five thousand dollars, from the reconstruction finance corporation, or other federal agency authorized to loan money, for the sole purpose of liquidating current indebtedness, other than bonded indebtedness, and interest thereon heretofore incurred by the said corporation and which remains unpaid, said loan to extend over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall be designated and known as a liquidating fund of current indebtedness and the money derived from said loan shall be deposited to the credit of said liquidating fund by the said town and the same shall be disbursed in the manner herein provided.

Sec. 3. When the aforesaid fund has been received and properly credited as herein provided, the common council of said city shall enter an order of record directing the payment and liquidation of said current indebtedness as provided by law.

Sec. 4. No check, draft or order drawn on said fund shall be paid or honored by any bank or depository until the same has been countersigned by the mayor and the recorder of said city.

Sec. 5. If any balance remains in said fund after the payment of all current indebtedness and interest accrued thereon, then the common council of said town shall deposit the same to the credit of the sinking fund as hereinafter provided and created.

Sec. 6. The said city shall set apart a sufficient amount from the taxes, levied and collected annually, to create a sinking fund for the repayment of the aforesaid loan on the basis of five per cent of the principal plus the interest thereon annually. The said city after a period of five years from the date of said loan, if it has sufficient funds on hand, may pay off and discharge the whole amount of the money so borrowed.

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

CHAPTER 62

(House Bill No. 181—By Mr. Dyer)

AN ACT to authorize and empower the town of Camden-on-Gauley, a municipal corporation, in Webster county, West Virginia, to borrow funds from the reconstruction finance corporation, or other federal agency authorized to loan money, to liquidate bonded and other indebtedness and interest thereon heretofore incurred by the said corporation and to provide for the repayment of same.

[Passed May 25, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.	Sec.
<p>1. Town of Camden-on-Gauley, Webster county, authorized to borrow not to exceed twenty-five thousand dollars from federal agency to liquidate bonded and other indebtedness, with interest; loan to extend over a period of twenty years.</p>	<p>4. Check on fund not to be honored until countersigned by recorder.</p>
<p>2. Money derived from loan to be deposited in special fund known as liquidating fund of bonded and other indebtedness.</p>	<p>5. Balance remaining in fund after payment of bonded and other indebtedness and interest, to be deposited to credit of sinking fund.</p>
<p>3. When loan received and credited, council to enter order directing liquidation of said bonded and</p>	<p>6. Sufficient amount from annual taxes to be set aside to create a sinking fund for repayment of loan, plus interest; loan may be paid off after five years if sufficient funds on hand.</p>

Be it enacted by the Legislature of West Virginia:

Section 1. That the town of Camden-on-Gauley, a municipal corporation, in Webster county, West Virginia, be authorized and empowered to borrow money, not exceeding twenty-five thousand dollars, from the reconstruction finance corporation, or other federal agency authorized to loan money, for the sole purpose of liquidating bonded and other indebtedness and interest thereon heretofore incurred by the said corporation and which remains unpaid. Said loan to extend over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall be designated and known as a liquidating fund of bonded and other indebtedness, and the money derived from said loan shall be deposited to the credit of said liquidating fund by the said town and the same shall be disbursed in the manner herein provided.

Sec. 3. When the aforesaid fund has been received and properly credited as herein provided, the common council of said town shall enter an order of record directing the payment and liquidation of said bonded and other indebtedness as provided by law.

Sec. 4. No check, draft or order drawn on said fund, shall be
2 paid or honored by any bank or depository until the same has
3 been countersigned by the recorder of said town.

Sec. 5. If any balance remains in said fund after the pay-
2 ment of all bonded or other indebtedness and interest accrued
3 thereon, then the common council of said town shall deposit the
4 same to the credit of the sinking fund as hereinafter provided
5 and created.

Sec. 6. The said town shall set apart a sufficient amount from
2 the taxes, levied and collected annually, to create a sinking fund
3 for the repayment of the aforesaid loan on the basis of five per
4 cent of the principal plus the interest thereon annually. The
5 said town after a period of five years from the date of said loan,
6 if it has sufficient funds on hand, may pay off and discharge the
7 whole amount of the money so borrowed.

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

CHAPTER 63

(House Bill No. 198—By Mr. Finley)

AN ACT to authorize and empower the city of Chester, a municipal corporation in Hancock county, West Virginia, to borrow funds from the reconstruction finance corporation, or other federal agency authorized to loan money, to liquidate current indebtedness, other than bonded indebtedness, and interest thereon heretofore incurred by the said corporation and to provide for the repayment of same.

[Passed June 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.

1. City of Chester, Hancock county, authorized to borrow not to exceed twenty-five thousand dollars from federal agency to liquidate current indebtedness, other than bonded indebtedness; loan to extend over a period of twenty years.
2. Money derived from loan to be deposited in special fund known as liquidating fund of current indebtedness.
3. When loan received and credited, council to enter order directing

Sec.

- liquidation of current indebtedness.
4. Check on fund not to be honored until countersigned by recorder.
5. Any balance remaining after payment of current indebtedness to be deposited to credit of sinking fund.
6. Sufficient amount from annual taxes to be set aside to create a sinking fund for repayment of loan, with interest; loan may be paid off after five years if sufficient funds on hand.

Be it enacted by the Legislature of West Virginia:

Section 1. That the city of Chester, a municipal corporation, in Hancock county, West Virginia, be authorized and em-

3 powered to borrow money, not exceeding twenty-five thousand
4 dollars, from the reconstruction finance corporation, or other
5 federal agency authorized to loan money, for the sole purpose
6 of liquidating current indebtedness, other than bonded in-
7 debtedness, and interest thereon heretofore incurred by the
8 said corporation and which remains unpaid. Said loan to ex-
9 tend over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall
2 be designated and known as a liquidating fund of current in-
3 debtedness and the money derived from said loan shall be de-
4 posited to the credit of said liquidating fund by the said city
5 and the same shall be disbursed in the manner herein pro-
6 vided.

Sec. 3. When the aforesaid fund has been received and
2 properly credited as herein provided, the common council of
3 said city shall enter an order of record directing the payment
4 and liquidation of said current indebtedness as provided by
5 law.

Sec. 4. No check, draft or order drawn on said fund shall be
2 paid or honored by any bank or depository until the same has
3 been countersigned by the recorder of said city.

Sec. 5. If any balance remains in said fund after the payment
2 of all current indebtedness and interest accrued thereon, then
3 the common council of said city shall deposit the same to the
4 credit of the sinking fund as hereinafter provided and created.

Sec. 6. The said city shall set apart a sufficient amount from
2 the taxes, levied and collected annually, to create a sinking fund
3 for the repayment of the aforesaid loan on the basis of five per
4 cent of the principal plus the interest thereon annually. The
5 said city, after a period of five years from the date of said loan,
6 if it has sufficient funds on hand, may pay off and discharge the
7 whole amount of the money so borrowed.

8 All acts and parts of acts inconsistent herewith are hereby re-
9 pealed.

CHAPTER 64

(House Bill No. 215—By Mr. Hiner)

AN ACT to amend the charter of the town of Circleville, Pendleton county, West Virginia, if and when incorporated, authorizing the council of the town of Circleville to erect a waterworks plant, to borrow the funds to pay the cost of construction from the reconstruction finance corporation, or other source, on the self liquidating basis, and to execute a lien or liens upon the plant and upon the lot upon which it shall be erected.

[Passed June 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Amendment to charter of town of Circleville, Pendleton county, if and when incorporated.
2. Town of Circleville authorized to borrow not to exceed fifteen thousand dollars from reconstruction finance corporation or other source, to erect a waterworks

SEC.

plant; may execute lien upon land and plant to secure payment of such loan; loan to be repaid from income of plant with no liability upon town or taxpayers; no tax or assessment to repay loan to be imposed.

Be it enacted by the Legislature of West Virginia:

Section 1. That the charter of the town of Circleville, if and 2 when incorporated, be amended to read as follows:

Sec. 2. The council of the town of Circleville shall have power 2 to erect a waterworks plant for such purposes as shall be desig- 3 nated by the council. The council shall have power to borrow 4 a sum or sums not exceeding in the aggregate fifteen thousand 5 dollars from the reconstruction finance corporation, or other 6 source, to be used to pay the cost of construction and of the 7 land upon which the building shall be erected, and may execute 8 a lien or liens upon such land and plant to secure payment of 9 such loan or loans and may do any and all other things required 10 by the reconstruction finance corporation or necessary and 11 proper to obtain such loan or loans, to secure payment thereof 12 and to build and maintain the plant. The council shall make 13 provision for the payment of such loan or loans from the income 14 of the plant but in no event shall it incur any indebtedness or 15 issue any evidence of obligation imposing any liability upon the 16 town or its taxpayers with respect thereto or impose any tax or 17 assessment to provide for the payment of such loan or loans.

CHAPTER 65

(House Bill No. 162—By Mr. Dyer)

AN ACT to authorize and empower the town of Cowen, a municipal corporation in Webster county, West Virginia, to borrow funds from the reconstruction finance corporation, or other federal agency authorized to loan money, to liquidate bonded indebtedness and interest thereon heretofore incurred by the said corporation and to provide for the repayment of same.

[Passed May 22, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.	SEC.
<p>1. Town of Cowen, Webster county, authorized to borrow not to exceed thirty-five thousand dollars from federal agency to liquidate bonded indebtedness and interest; loan to extend over a period of twenty years.</p> <p>2. Money derived from loan to be deposited in special fund known as liquidating fund of bonded indebtedness.</p> <p>3. When loan received and credited, council to enter an order directing payment of bonded indebted-</p>	<p>ness.</p> <p>4. No check on said fund to be honored until countersigned by recorder.</p> <p>5. Balance remaining after payment of bonded indebtedness and interest, to be deposited to credit of sinking fund.</p> <p>6. Sufficient amount from annual taxes to be set aside to create sinking fund for repayment of loan; after five years loan may be repaid, if sufficient funds on hand.</p>

Be it enacted by the Legislature of West Virginia:

Section 1. That the town of Cowen, a municipal corporation 2 in Webster county, West Virginia, be authorized and empowered 3 to borrow money, not exceeding thirty-five thousand dollars, 4 from the reconstruction finance corporation, or other federal 5 agency authorized to loan money, for the sole purpose of liqui- 6 dating bonded indebtedness and interest thereon heretofore in- 7 curred by the said corporation and which remains unpaid. Said 8 loan to extend over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall be 2 designated and known as a liquidating fund of bonded indebted- 3 ness, and the money derived from said loan shall be deposited to 4 the credit of said liquidating fund by the said town and shall be 5 disbursed in the manner herein provided.

Sec. 3. When the aforesaid fund has been received and prop- 2 erly credited as herein provided, the common council of said 3 town shall enter an order of record directing the payment and 4 liquidation of said bonded indebtedness as provided by law.

Sec. 4. No check, draft or order drawn on said fund shall be

2 paid or honored by any bank or depository until the same has
3 been countersigned by the recorder of said town.

Sec. 5. If any balance remains in said fund after the payment
2 of all bonded indebtedness and interest accrued thereon, then
3 the common council of said town shall deposit the same to the
4 credit of the sinking fund as hereinafter provided and created.

Sec. 6. The said town shall set apart a sufficient amount from
2 the taxes, levied and collected annually, to create a sinking fund
3 for the repayment of the aforesaid loan on the basis of five per
4 cent of the principal plus the interest thereon annually. The
5 said town after a period of five years from the date of said loan,
6 if it has sufficient funds on hand, may pay off and discharge the
7 whole amount of the money so borrowed.

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

CHAPTER 66

(House Bill No. 187—By Mr. Van Sickler)

AN ACT to authorize and empower the town of East Rainelle, a
municipal corporation, in Greenbrier county, West Virginia,
to borrow funds from the reconstruction finance corporation,
or other federal agency authorized to loan money, to liquidate
current indebtedness, other than bonded indebtedness, and in-
terest thereon heretofore incurred by the said corporation and
to provide for the repayment of same.

[Passed June 3, 1933; in effect from passage. Became a law without the approval
of the Governor.]

SEC.

1. Town of East Rainelle, Greenbrier county, authorized to borrow not to exceed fifteen thousand dollars from federal agency, to liquidate current indebtedness, other than bonded indebtedness; loan to extend over a period of twenty years.
2. Money derived from loan to be deposited in special fund known as liquidating fund of current indebtedness.
3. When loan received and credited, council to enter order directing

SEC.

4. payment of current indebtedness. Check on fund not to be honored until countersigned by recorder.
5. Balance remaining in fund after payment of current indebtedness and interest, to be deposited to credit of sinking fund.
6. Sufficient amount from annual taxes to be set aside to create a sinking fund for repayment of loan; loan may be repaid after five years, if sufficient funds on hand.

Be it enacted by the Legislature of West Virginia:

Section 1. That the town of East Rainelle, a municipal cor-
2 poration, in Greenbrier county, West Virginia, be authorized
3 and empowered to borrow money, not exceeding fifteen thou-

4 sand dollars, from the reconstruction finance corporation or
5 other federal agency authorized to loan money, for the sole pur-
6 pose of liquidating current indebtedness, other than bonded
7 indebtedness, and interest thereon heretofore incurred by the
8 said corporation and which remains unpaid. Said loan to extend
9 over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall be
2 designated and known as a liquidating fund of current in-
3 debtedness and the money derived from said loan shall be de-
4 posited to the credit of said liquidating fund by the said town
5 and the same shall be disbursed in the manner herein provided.

Sec. 3. When the aforesaid fund has been received and prop-
2 erly credited as herein provided, the common council of said
3 town shall enter an order of record directing the payment and
4 liquidation of said current indebtedness as provided by law.

Sec. 4. No check, draft or order drawn on said fund shall be
2 paid or honored by any bank or depository until the same has
3 been countersigned by the recorder of said town.

Sec. 5. If any balance remains in said fund after the pay-
2 ment of all current indebtedness and interest accrued thereon,
3 then the common council of said town shall deposit the same to
4 the credit of the sinking fund as hereinafter provided and cre-
5 ated.

Sec. 6. The said town shall set apart a sufficient amount from
2 the taxes, levied and collected annually, to create a sinking fund
3 for the repayment of the aforesaid loan on the basis of five per
4 cent of the principal plus the interest thereon annually. The
5 said town after a period of five years from the date of said loan,
6 if it has sufficient funds on hand, may pay off and discharge the
7 whole amount of the money so borrowed.

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

CHAPTER 67

(Senate Bill No. 44—By Mr. Brown)

AN ACT to amend the charter of the city of Elkins, passed
February seven, one thousand nine hundred one, as amended
by acts of the legislature of one thousand nine hundred five,
one thousand nine hundred eleven, one thousand nine hundred

fifteen, one thousand nine hundred seventeen and one thousand nine hundred twenty-seven, by adding thereto section twenty-eight-(a), authorizing the council of the city of Elkins to erect a community and municipal building or buildings, to borrow the funds to pay the cost of construction from the reconstruction finance corporation or other source on the self liquidating basis, and to execute a lien or liens upon the building and upon the lot upon which it shall be erected.

[Passed May 25, 1933; in effect from passage. Approved by the Governor.]

SEC.

28-(a). City of Elkins, Randolph county, authorized to borrow not to exceed one hundred thousand dollars from reconstruction finance corporation or other source, to erect a community and municipal building, or buildings, for such purposes as council shall designate;

SEC.

council may execute lien upon land and buildings to secure payment of loan; loan to be paid from income of building with no liability on city or taxpayers to pay loan from any tax or assessment.

Be it enacted by the Legislature of West Virginia:

That the charter of the city of Elkins, passed February seven, one thousand nine hundred one, as amended by acts of the Legislature, one thousand nine hundred five, one thousand nine hundred eleven, one thousand nine hundred fifteen, one thousand nine hundred seventeen and one thousand nine hundred twenty-seven be amended by adding thereto section twenty-eight-(a) to read as follows:

Section 28-(a). The council of the city of Elkins shall have
 2 power to erect a community and municipal building or buildings
 3 for such purposes as shall be designated by the council. The
 4 council shall have power to borrow a sum or sums not exceeding
 5 in the aggregate one hundred thousand dollars from the recon-
 6 struction finance corporation or other source to be used to pay
 7 the cost of construction and of the land upon which the building
 8 shall be erected, and may execute a lien or liens upon such land
 9 and building to secure payment of such loan or loans and may
 10 do any and all other things required by the reconstruction
 11 finance corporation or necessary and proper to obtain such loan
 12 or loans, to secure payment thereof and to build and maintain
 13 the building. The council shall make provision for the pay-
 14 ment of such loan or loans from the income of the building
 15 but in no event shall it incur any indebtedness or issue any
 16 evidence of obligation imposing any liability upon the city
 17 or its taxpayers with respect thereto or impose any tax or
 18 assessment to provide for the payment of such loan or loans.

CHAPTER 68

(House Bill No. 184—By Mrs. Suddarth)

AN ACT to authorize the city of Grafton, Taylor county, West Virginia, a municipal corporation, to borrow funds from the reconstruction finance corporation, or other federal governmental agency authorized to make loans, for the purpose of constructing, equipping, maintaining and operating a municipally owned hospital in or near said city upon a self liquidating basis, and from the proceeds of said loan or loans to acquire property in or near said city for said hospital purposes and to execute a lien, or liens, to secure said loan, or loans, upon the real estate so acquired or upon any other municipally owned property used for that purpose and upon the building or buildings erected for such hospital purposes.

[Passed May 25, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. City of Grafton, Taylor county, authorized to borrow funds from federal agency to construct and operate, upon a self liquidating basis, a municipally owned hospital; city, from pro-

SEC.

ceeds of loan, authorized to acquire property in or near city, for hospital purposes, and to give a lien upon real estate and buildings to secure said loan.

Be it enacted by the Legislature of West Virginia:

Section 1. The city of Grafton, Taylor county, West Virginia, a municipal corporation, is authorized to borrow funds from the reconstruction finance corporation, or other federal governmental agency authorized to make loans, for the purpose of constructing, equipping, maintaining and operating a municipally owned hospital in or near said city, upon a self liquidating basis. Said city is authorized, from the proceeds of such loan, or loans, to acquire property in or near said city for said hospital purposes and is further authorized, for the purpose of securing said loan, or loans, to give a lien or liens on the real estate on which said hospital is erected and upon the building or buildings erected thereon, and to do any and all things required by said reconstruction finance corporation or other federal governmental agency from which a loan is obtained, or necessary and proper to obtain said loan, or loans, to secure the same and to construct, equip, maintain and operate said hospital and to carry out the provisions of this act.

CHAPTER 69

(House Bill No. 197—By Mr. Finley)

AN ACT to authorize and empower the city of Hollidays Cove, a municipal corporation in Hancock and Brooke counties, West Virginia, to borrow funds from the reconstruction finance corporation, or other federal agency authorized to loan money, to liquidate current indebtedness, other than bonded indebtedness, and interest thereon heretofore incurred by the said corporation and to provide for the repayment of same.

[Passed June 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.

1. City of Hollidays Cove, Hancock and Brooke counties, authorized to borrow not to exceed twenty-five thousand dollars from federal agency, to liquidate current indebtedness, other than bonded indebtedness; loan to extend over a period of twenty years.
2. Money derived from loan to be deposited in special fund known as liquidating fund of current indebtedness.
3. When loan received and credited, council to enter an order direct-

Sec.

- ing liquidation of current indebtedness.
4. Check on fund not to be honored until countersigned by recorder.
5. Balance remaining after payment of current indebtedness and interest, to be credited to sinking fund.
6. Sufficient amount from annual taxes to be set aside to create a sinking fund for repayment of loan and interest; loan may be paid after five years if sufficient funds on hand.

Be it enacted by the Legislature of West Virginia:

Section 1. That the city of Hollidays Cove, a municipal corporation in Hancock and Brooke counties, West Virginia, be authorized and empowered to borrow money, not exceeding twenty-five thousand dollars, from the reconstruction finance corporation, or other federal agency authorized to loan money, for the sole purpose of liquidating current indebtedness, other than bonded indebtedness, and interest thereon heretofore incurred by the said corporation and which remains unpaid. Said loan to extend over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall be designated and known as a liquidating fund of current indebtedness and the money derived from said loan shall be deposited to the credit of said liquidating fund by the said city and the same shall be disbursed in the manner herein provided.

Sec. 3. When the aforesaid fund has been received and properly credited as herein provided, the common council of said city shall enter an order of record directing the payment and liquidation of said current indebtedness as provided by law.

Sec. 4. No check, draft or order drawn on said fund shall be
2 paid or honored by any bank or depository until the same has
3 been countersigned by the recorder of said city.

Sec. 5. If any balance remains in said fund after the pay-
2 ment of all current indebtedness and interest accrued thereon,
3 then the common council of said city shall deposit the same to
4 the credit of the sinking fund as hereinafter provided and
5 created.

Sec. 6. The said city shall set apart a sufficient amount from
2 the taxes, levied and collected annually, to create a sinking
3 fund for the repayment of the aforesaid loan on the basis of
4 five per cent of the principal plus the interest thereon annually.
5 The said city after a period of five years from the date of said
6 loan, if it has sufficient funds on hand, may pay off and dis-
7 charge the whole amount of the money so borrowed.

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

CHAPTER 70

(House Bill No. 217—By Mr. Custer)

AN ACT to authorize the town of Hundred, in the county of
Wetzel, West Virginia, to borrow funds from the reconstruc-
tion finance corporation, or other federal agency authorized
to make loans, for the purpose of constructing a municipal
building and purchasing a fire truck for said town, and to
give lien or liens to secure the same upon the lot upon
which said municipal building is constructed and upon the
improvements thereon.

[Passed June 3, 1933; in effect from passage. Became a law without the approval
of the Governor.]

<p>SEC.</p> <p>1. Town of Hundred, Wetzel county, authorized to borrow not to exceed twelve thousand dollars from federal agency to construct municipal building and purchase fire truck; lien on lot upon</p>	<p>SEC.</p> <p>which building is constructed and improvements.</p> <p>2. Council empowered to do all things necessary to carry out preceding section and to provide for repayment of loan.</p>
--	--

Be it enacted by the Legislature of West Virginia:

Section 1. That the town of Hundred, in the county of
2 Wetzel, West Virginia, is hereby authorized to borrow, not to
3 exceed twelve thousand dollars, from the reconstruction finance

4 corporation, or other federal agency authorized to make loans,
5 for the purpose of constructing a municipal building and the
6 purchase of a fire truck for said town, and to give lien or liens
7 to secure the same upon the lot upon which said municipal
8 building is constructed and upon the improvements thereon.

Sec. 2. The town council of said town of Hundred is hereby
2 empowered to undertake and do all things necessary to carry
3 out the preceding section of this act and by appropriate action
4 of said council to provide for the repayment of said loan.

CHAPTER 71

(House Bill No. 222—By Mr. Beacom)

AN ACT to empower the city of Huntington, a municipal corpora-
tion in Cabell county, West Virginia, to borrow funds from
the reconstruction finance corporation, or other federal agency
authorized to loan money, to liquidate current indebtedness,
other than bonded indebtedness, and interest thereon hereto-
fore incurred by the said corporation and to provide for the
repayment of same.

[Passed June 3, 1933; in effect from passage. Became a law without the approval
of the Governor.]

Sec.

1. City of Huntington, Cabell county, authorized to borrow not to exceed seventy-five thousand dollars from federal agency, to liquidate current indebtedness, other than bonded indebtedness; loan to extend over a period of twenty years.
2. Money derived from loan to be deposited in special fund known as liquidating fund of current indebtedness.
3. When loan received and credited council to enter an order for

Sec.

4. Check on fund not to be honored until countersigned by mayor and recorder.
5. Balance remaining after payment of current indebtedness and interest to be deposited to credit of sinking fund.
6. Sufficient amount of annual taxes to be set aside to create a sinking fund for repayment of loan and interest; loan may be paid after five years if sufficient funds on hand.

Be it enacted by the Legislature of West Virginia:

Section 1. That the city of Huntington, a municipal corpora-
2 tion in Cabell county, West Virginia, is hereby authorized and
3 empowered to borrow money, not exceeding seventy-five thou-
4 sand dollars from the reconstruction finance corporation, or
5 other federal agency authorized to loan money, for the sole
6 purpose of liquidating current indebtedness, other than bonded
7 indebtedness, and interest thereon heretofore incurred by the

8 said corporation and which remains unpaid, said loan to extend
9 over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall be
2 designated and known as a liquidating fund of current indebted-
3 ness and the money derived from said loan shall be deposited
4 to the credit of said liquidating fund by the said town and the
5 same shall be disbursed in the manner herein provided.

Sec. 3. When the aforesaid fund has been received and
2 properly credited as herein provided, the common council of
3 said city shall enter an order of record directing the payment
4 and liquidation of said current indebtedness as provided by
5 law.

Sec. 4. No check, draft or order drawn on said fund shall be
2 paid or honored by any bank or depository until the same has
3 been countersigned by the mayor and the recorder of said city.

Sec. 5. If any balance remains in said fund after the payment
2 of all current indebtedness and interest accrued thereon, then
3 the common council of said town shall deposit the same to the
4 credit of the sinking fund as hereinafter provided and created.

Sec. 6. The said city shall set apart a sufficient amount from
2 the taxes, levied and collected annually, to create a sinking fund
3 for the repayment of the aforesaid loan on the basis of five per
4 cent of the principal plus the interest thereon annually. The
5 said city after a period of five years from the date of said loan,
6 if it has sufficient funds on hand, may pay off and discharge the
7 whole amount of the money so borrowed.

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

CHAPTER 72

(House Bill No. 170—By Mr. Dixon)

AN ACT to authorize the city of Keyser in the county of Mineral,
West Virginia, to borrow funds from the reconstruction finance
corporation, or other federal agency authorized to make loans,
for the purpose of constructing a municipal building and

swimming pool in said city, and to give a lien or liens to secure the same upon the lot upon which said municipal building and swimming pool shall be constructed and upon the improvements thereon.

[Passed May 24, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.

1. City of Keyser, Mineral county, authorized to borrow funds from federal agency to construct municipal building and swimming pool, and to give a lien upon lot, building and swimming pool

Sec.

2. Council empowered to do all things necessary to carry out preceding section and to provide for the repayment of said loan.

Be it enacted by the Legislature of West Virginia:

Section 1. That the city of Keyser in the county of Mineral, 2 West Virginia, is hereby authorized to borrow funds from the 3 reconstruction finance corporation, or other federal agency 4 authorized to make loans, for the purpose of constructing a 5 municipal building and swimming pool in said city, and to give 6 a lien or liens to secure the same upon the lot upon which said 7 municipal building and swimming pool shall be constructed and 8 upon the improvements thereon.

Sec. 2. The city council of said city of Keyser is hereby 2 empowered to undertake and do all things necessary to carry 3 out the preceding section of this act and by appropriate action 4 of said council to provide for the repayment of said loan.

CHAPTER 73

(House Bill No. 185—By Mr. Calhoun)

AN ACT to authorize and empower the town of Keystone, a municipal corporation, in McDowell county, West Virginia, to borrow funds from the reconstruction finance corporation, or other federal agency authorized to loan money, to liquidate bonded and other indebtedness and interest thereon heretofore incurred by the said corporation and to provide for the repayment of same.

[Passed May 25, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.

1. Town of Keystone, McDowell county, authorized to borrow not to exceed twenty-five thousand dollars from federal agency to liqui-

Sec.

2. Money derived from loan to be de-

SEC.

- posited in special fund known as liquidating fund of bonded and other indebtedness.
3. When loan received and credited, council to enter an order directing the payment of bonded and other indebtedness.
 4. Check on fund not to be honored until countersigned by recorder.

SEC.

5. Balance remaining after payment of bonded and other indebtedness to be deposited to credit of sinking fund.
6. Sufficient amount from annual taxes to be set aside to create a sinking fund for repayment of loan; loan may be paid after five years if sufficient funds on hand.

Be it enacted by the Legislature of West Virginia:

Section 1. That the town of Keystone, a municipal corporation, in McDowell county, West Virginia, be authorized and empowered to borrow money, not exceeding twenty-five thousand dollars, from the reconstruction finance corporation, or other federal agency authorized to loan money, for the sole purpose of liquidating bonded and other indebtedness and interest thereon heretofore incurred by the said corporation and which remains unpaid. Said loan to extend over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall be designated and known as a liquidating fund of bonded and other indebtedness and the money derived from said loan shall be deposited to the credit of said liquidating fund by the said town and the same shall be disbursed in the manner herein provided.

Sec. 3. When the aforesaid fund has been received and properly credited as herein provided, the common council of said town shall enter an order of record directing the payment and liquidation of said bonded and other indebtedness as provided by law.

Sec. 4. No check, draft or order drawn on said fund, shall be paid or honored by any bank or depository until the same has been countersigned by the recorder of said town.

Sec. 5. If any balance remains in said fund after the payment of all bonded or other indebtedness and interest accrued thereon, then the common council of said town shall deposit the same to the credit of the sinking fund as hereinafter provided and created.

Sec. 6. The said town shall set apart a sufficient amount from the taxes, levied and collected annually, to create a sinking fund for the repayment of the aforesaid loan on the basis of five per cent of the principal plus the interest thereon annually. The said town after a period of five years from the date of said

6 loan, if it has sufficient funds on hand, may pay off and dis-
7 charge the whole amount of the money so borrowed.

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

CHAPTER 74

(House Bill No. 169—By Mr. Van Sickler)

AN ACT to authorize and empower the town of Lewisburg, a municipal corporation, in Greenbrier county, West Virginia, to borrow funds from the reconstruction finance corporation, or other federal agency authorized to loan money, to liquidate current indebtedness (not including bonded indebtedness) and interest thereon heretofore incurred by the said corporation and to provide for the repayment of same.

[Passed May 23, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.	Sec.
<p>1 Town of Lewisburg, Greenbrier county, authorized to borrow not to exceed five thousand dollars from federal agency, to liquidate current indebtedness, not including bonded indebtedness; loan to extend over a period of twenty years.</p> <p>2. Loan to be deposited to credit of special fund known as liquidating fund of current indebtedness.</p> <p>3. When loan received and credited, council to enter an order directing payment of current indebted-</p>	<p>ness.</p> <p>4. Check on fund not to be honored until countersigned by mayor and recorder.</p> <p>5. Balance remaining after payment of current indebtedness and interest to be deposited to credit of sinking fund.</p> <p>6. Sufficient amount from annual taxes to be set aside to create sinking fund for repayment of loan and interest; loan may be paid after five years if sufficient funds on hand.</p>

Be it enacted by the Legislature of West Virginia:

Section 1. That the town of Lewisburg, a municipal corporation, in Greenbrier county, West Virginia, be authorized and empowered to borrow money, not exceeding five thousand dollars, from the reconstruction finance corporation, or other federal agency authorized to loan money, for the sole purpose of liquidating current indebtedness (not including bonded indebtedness) and interest thereon heretofore incurred by the said corporation and which remains unpaid, said loan to extend over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall be designated and known as a liquidating fund of current indebtedness and the money derived from said loan shall be deposited to

4 the credit of said liquidating fund by the said town and the same
5 shall be disbursed in the manner herein provided.

Sec. 3. When the aforesaid fund has been received and prop-
2 erly credited as herein provided, the common council of said
3 town shall enter an order of record directing the payment and
4 liquidation of said current indebtedness as provided by law.

Sec. 4. No check, draft or order drawn on said fund shall
2 be paid or honored by any bank or depository until the same
3 has been countersigned by the mayor and the recorder of said
4 town.

Sec. 5. If any balance remains in said fund after the payment
2 of all current indebtedness and interest accrued thereon, then the
3 common council of said town shall deposit the same to the credit
4 of the sinking fund as hereinafter provided and created.

Sec. 6. The said town shall set apart a sufficient amount from
2 the taxes, levied and collected annually, to create a sinking fund
3 for the repayment of the aforesaid loan on the basis of five per
4 cent of the principal plus the interest thereon annually. The
5 said town after a period of five years from the date of said loan,
6 if it has sufficient funds on hand, may pay off and discharge the
7 whole amount of the money so borrowed.

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

CHAPTER 75

(Senate Bill No. 66—By Mr. Helmick)

AN ACT to authorize the town of Moorefield, a municipal corpora-
tion in Hardy county, West Virginia, to borrow funds from
the reconstruction finance corporation, or other federal agency
authorized to loan money, for the purpose of constructing, re-
constructing, extending, operating and maintaining a water-
works system, filter system and sewer system in said town, in
any amount not to exceed twenty-five thousand dollars, and
from the proceeds of said loan to construct, reconstruct, ex-
tend, operate and maintain a waterworks system, filter system

and sewer system in said town, and to execute a lien or liens, to secure said loan or loans, upon the said property so constructed, reconstructed or extended or upon other municipally owned property.

[Passed June 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Town of Moorefield, Hardy county, authorized to borrow not to exceed twenty-five thousand dollars from federal agency, to construct, extend, operate and maintain waterworks, filter and sewer

SEC.

systems; proceeds of loan to be used to construct, etc., said waterworks, filter and sewer systems, council may give lien on same, or other municipally owned property, to secure loan.

Be it enacted by the Legislature of West Virginia:

Section 1. The town of Moorefield, Hardy county, a municipal corporation, is authorized to borrow funds from the reconstruction finance corporation, or other federal governmental agency authorized to loan money, in an amount not to exceed twenty-five thousand dollars, for the purpose of constructing, reconstructing, extending, operating and maintaining a water works system, filter system and sewer system in said town.

Said town is authorized, from the proceeds of said loan, to construct, reconstruct, extend, operate and maintain said waterworks, filter and sewer systems, and is further authorized to give a lien, or liens, on said systems, or other municipally owned property and to do any and all things required by said reconstruction finance corporation, or other federal governmental agency from which a loan is obtained, or necessary and proper to obtain said loan, or loans, to secure the same, and to carry out the provisions of this act.

CHAPTER 76

(House Bill No. 183—By Mr. Chipley)

AN ACT to authorize and empower the town of Moorefield, a municipal corporation, in Hardy county, West Virginia, to borrow funds from the reconstruction finance corporation, or

other federal agency authorized to loan money, to liquidate bonded and other indebtedness and interest thereon heretofore incurred by the said corporation and to provide for the repayment of same.

[Passed May 25, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Town of Moorefield, Hardy county, authorized to borrow not to exceed fifteen thousand dollars from federal agency, to liquidate bonded and other indebtedness; loan to extend over a period of twenty years.
2. Loan to be deposited to credit of special fund known as liquidating fund of bonded and other indebtedness.
3. When loan received and credited, council to enter an order direct-

SEC.

- ing payment of bonded and other indebtedness.
4. Check on fund not to be honored until countersigned by recorder.
5. Balance remaining after payment of bonded and other indebtedness, to be deposited to credit of sinking fund.
6. Sufficient amount of annual taxes to be set aside to create sinking fund for repayment of loan; loan may be paid after five years if sufficient funds on hand.

Be it enacted by the Legislature of West Virginia:

Section 1. That the town of Moorefield, a municipal corporation, in Hardy county, West Virginia, be authorized and empowered to borrow money, not exceeding fifteen thousand dollars, from the reconstruction finance corporation, or other federal agency authorized to loan money, for the sole purpose of liquidating bonded and other indebtedness and interest thereon heretofore incurred by the said corporation and which remains unpaid. Said loan to extend over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall be designated and known as a liquidating fund of bonded and other indebtedness and the money derived from said loan shall be deposited to the credit of said liquidating fund by the said town and the same shall be disbursed in the manner herein provided.

Sec. 3. When the aforesaid fund has been received and properly credited as herein provided, the common council of said town shall enter an order of record directing the payment and liquidation of said bonded and other indebtedness as provided by law.

Sec. 4. No check, draft or order drawn on said fund, shall be paid or honored by any bank or depository until the same has been countersigned by the recorder of said town.

Sec. 5. If any balance remains in said fund after the payment of all bonded or other indebtedness and interest accrued thereon, then the common council of said town shall deposit the

4 same to the credit of the sinking fund as hereinafter provided
5 and created.

Sec. 6. The said town shall set apart a sufficient amount from
2 the taxes, levied and collected annually, to create a sinking fund
3 for the repayment of the aforesaid loan on the basis of five per
4 cent of the principal plus the interest thereon annually. The
5 said town after a period of five years from the date of said loan,
6 if it has sufficient funds on hand, may pay off and discharge the
7 whole amount of the money so borrowed.

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

CHAPTER 77

(House Bill No. 191—By Mr. Yoke)

AN ACT to empower the city of Morgantown, a municipal corporation in Monongalia county, West Virginia, to borrow funds from the reconstruction finance corporation, or other federal agency authorized to loan money, to liquidate current indebtedness, other than bonded indebtedness, and interest thereon heretofore incurred by the said corporation and to provide for the repayment of same.

[Passed June 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.

1. City of Morgantown, Monongalia county, authorized to borrow not to exceed seventy-five thousand dollars from federal agency, to liquidate current indebtedness other than bonded indebtedness; loan to extend over a period of twenty years.
2. Money derived from loan to be deposited to credit of special fund known as liquidating fund of current indebtedness.
3. When loan received and credited, council to enter an order direct-

SEC.

- ing payment of current indebtedness.
4. Check on fund not to be honored until countersigned by mayor and recorder.
5. Balance remaining after payment of current indebtedness and interest to be deposited to credit of sinking fund.
6. Sufficient amount from annual taxes to be set aside to create a sinking fund for repayment of loan; loan may be paid after five years if sufficient funds on hand.

Be it enacted by the Legislature of West Virginia:

Section 1. That the city of Morgantown, a municipal corporation in Monongalia county, West Virginia, is hereby authorized and empowered to borrow money, not exceeding seventy-five thousand dollars from the reconstruction finance corporation, or other federal agency authorized to loan money, for the sole purpose of liquidating current indebtedness, other than

7 bonded indebtedness, and interest thereon heretofore incurred
8 by the said corporation and which remains unpaid, said loan to
9 extend over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall
2 be designated and known as a liquidating fund of current
3 indebtedness and the money derived from said loan shall be
4 deposited to the credit of said liquidating fund by the said
5 town and the same shall be disbursed in the manner herein pro-
6 vided.

Sec. 3. When the aforesaid fund has been received and
2 properly credited as herein provided, the common council of
3 said city shall enter an order of record directing the pay-
4 ment and liquidation of said current indebtedness as provided
5 by law.

Sec. 4. No check, draft or order drawn on said fund shall
2 be paid or honored by any bank or depository until the same
3 has been countersigned by the mayor and the recorder of said
4 city.

Sec. 5. If any balance remains in said fund after the pay-
2 ment of all current indebtedness and interest accrued there-
3 on, then the common council of said town shall deposit the same
4 to the credit of the sinking fund as hereinafter provided and
5 created.

Sec. 6. The said city shall set apart a sufficient amount from
2 the taxes, levied and collected annually, to create a sinking
3 fund for the repayment of the aforesaid loan on the basis of
4 five per cent of the principal plus the interest thereon an-
5 nually. The said city after a period of five years from the
6 date of said loan, if it has sufficient funds on hand, may pay
7 off and discharge the whole amount of the money so borrowed.

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

CHAPTER 78

(House Bill No. 196—By Mr. Finley)

AN ACT to authorize and empower the town of New Cumberland,
a municipal corporation in Hancock county, West Virginia, to
borrow funds from the reconstruction finance corporation, or

other federal agency authorized to loan money, to liquidate current indebtedness, other than bonded indebtedness, and interest thereon heretofore incurred by the said corporation and to provide for the repayment of same.

[Passed June 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Town of New Cumberland, Hancock county, authorized to borrow not to exceed twenty-five thousand dollars from federal agency to liquidate current indebtedness, other than bonded indebtedness; loan to extend over a period of twenty years.
2. Money derived from loan to be deposited to credit of special fund known as liquidating fund of current indebtedness.
3. When loan received and credited, council to enter an order direct-

SEC.

- ing payment of current indebtedness.
4. Check on fund not to be honored until countersigned by recorder.
5. Balance remaining after payment of current indebtedness and interest to be deposited to credit of sinking fund.
6. Sufficient amount of annual taxes to be set aside to create sinking fund for repayment of loan; loan may be paid after five years if sufficient funds on hand.

Be it enacted by the Legislature of West Virginia:

Section 1. That the town of New Cumberland, a municipal corporation, in Hancock county, West Virginia, be authorized and empowered to borrow money, not exceeding twenty-five thousand dollars, from the reconstruction finance corporation, or other federal agency authorized to loan money, for the sole purpose of liquidating current indebtedness, other than bonded indebtedness, and interest thereon heretofore incurred by the said corporation and which remains unpaid. Said loan to extend over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall be designated and known as a liquidating fund of current indebtedness and the money derived from said loan shall be deposited to the credit of said liquidating fund by the said town and the same shall be disbursed in the manner herein provided.

Sec. 3. When the aforesaid fund has been received and properly credited as herein provided, the common council of said town shall enter an order of record directing the payment and liquidation of said current indebtedness as provided by law.

Sec. 4. No check, draft or order drawn on said fund shall be paid or honored by any bank or depository until the same has been countersigned by the recorder of said town.

Sec. 5. If any balance remains in said fund after the payment of all current indebtedness and interest accrued thereon, then the common council of said town shall deposit the same to the

4 credit of the sinking fund as hereinafter provided and created.

Sec. 6. The said town shall set apart a sufficient amount from
2 taxes, levied and collected annually, to create a sinking fund for
3 the repayment of the aforesaid loan on the basis of five per cent
4 of the principal plus the interest thereon annually. The said
5 town after a period of five years from the date of said loan, if
6 it has sufficient funds on hand, may pay off and discharge the
7 whole amount of the money so borrowed.

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

CHAPTER 79

(House Bill No. 216—By Mr. Lantz)

AN ACT to authorize the city of New Martinsville in the county
of Wetzel, West Virginia, to borrow funds from the recon-
struction finance corporation, or other federal agency author-
ized to make loans, for the purpose of constructing a municip-
al building and swimming pool in said city, and to give a
lien or liens to secure the same upon the lot upon which said
municipal building and swimming pool shall be constructed
and upon the improvements thereon.

[Passed June 3, 1933; in effect from passage. Became a law without the approval
of the Governor.]

SEC.

1. City of New Martinsville, Wetzel
county, authorized to borrow not
to exceed twenty thousand dollars
from federal agency to con-
struct municipal building and
swimming pool and to give a lien

SEC.

on same.
2. Council empowered to do all things
necessary to carry out provisions
of preceding section and to pro-
vide for repayment of loan.

Be it enacted by the Legislature of West Virginia:

Section 1. That the city of New Martinsville in the county
2 of Wetzel, West Virginia, is hereby authorized to borrow, not to
3 exceed twenty thousand dollars from the reconstruction finance
4 corporation, or other federal agency authorized to make loans,
5 for the purpose of constructing a municipal building and swim-
6 ming pool in said city, and to give a lien or liens to secure the
7 same upon the lot upon which said municipal building and
8 swimming pool shall be constructed and upon the improvements
9 thereon.

Sec. 2. The city council of said city of New Martinsville
2 is hereby empowered to undertake and do all things necessary
3 to carry out the preceding section of this act and by appropriate
4 action of said council to provide for the repayment of said
5 loan.

CHAPTER 80

(House Bill No. 199—By Mr. Harmon)

AN ACT to authorize and empower the city of Nitro, a municipal
corporation, in Putnam and Kanawha counties, West Virginia,
to borrow funds from the reconstruction finance corporation
and to provide for the repayment of same.

[Passed June 3, 1933; in effect from passage. Became a law without the approval
of the Governor.]

SEC.

1. City of Nitro, Putnam and Kanawha counties, authorized to borrow from reconstruction finance corporation to purchase self liquidating projects and for

SEC.

2. maintenance of city. Sufficient amount from annual taxes to be set aside to create sinking fund for repayment of loan and interest.

Be it enacted by the Legislature of West Virginia:

Section 1. That the city of Nitro, a municipal corporation in
2 Putnam and Kanawha counties, West Virginia, be authorized
3 and empowered to borrow money from the reconstruction finance
4 corporation for the purpose of purchasing self liquidating proj-
5 ects and maintenance of said city.

Sec. 2. The said city shall set apart a sufficient amount from
2 the taxes, levied and collected annually, to create a sinking
3 fund for the repayment of the aforesaid loan, plus the interest
4 thereon annually.

CHAPTER 81

(Senate Bill No. 62—By Mr. Sandridge)

AN ACT to authorize the city of Philippi, a municipal corporation
in Barbour county, West Virginia, to borrow funds from the
reconstruction finance corporation or other federal agency
authorized to loan money, not to exceed the sum of seventy-five
thousand dollars for the purpose of erecting a self-liquidating

community building in said city, and providing for the purchase of real estate upon which to erect said building, providing for the payment of said loan and authorizing the council of said city to do such acts as shall be necessary to carry out the provisions of this act.

[Passed June 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. City of Philippi, Barbour county, authorized to borrow from federal agency not to exceed seventy-five thousand dollars to purchase land and to erect a self-liquidating community building; real estate, erection and operation of community building not to be paid for or supported by tax levy; real estate and building to be only securities given

SEC.

for loan; purchases of land, material, etc., to be in accord with regulations of agency making loan; no expenditure from loan to be made until contract of lease for building and grounds has been made; amount of rental; action of council in approving or disapproving location and plan of building to be final.

Be it enacted by the Legislature of West Virginia:

Section 1. The council of the city of Philippi, West Virginia, shall have authority and power to negotiate a loan or loans from the reconstruction finance corporation, or other federal agency authorized to loan money, in a sum not to exceed seventy-five thousand dollars, for the purpose and the purpose only, of purchasing a lot, or lots, or suitable acreage and erecting thereon a self-liquidating community building, but which said lot, or lots, or suitable acreage or the cost of erecting, maintaining and operating said community building, in whole or in part, shall not be paid, provided for or supported by any tax levy or income of any kind or character derived from the tax levying power of the council; and the only security that may be given for said loan is the lot, lots or suitable acreage aforesaid and the building erected thereon.

All purchases of lots, land, material, building material, equipment and supplies, and the entire operation of said community building shall be in accord with the regulations and restrictions set up by the reconstruction finance corporation or other federal agency from whom said loan is secured; nor shall any expenditures for any purpose out of said borrowed fund be authorized until the said council shall have secured a contract whereby said building and grounds, when completed, shall be leased to some responsible corporation, group of citizens or committee of citizens at a sufficient rental, at fixed, stated intervals, as shall be necessary to pay for or discharge the indebtedness, with interest, upon said lot, lots or acreage and the building thereon, under

27 such amortization plan or redemption plan as the said recon-
 28 struction finance corporation or other federal agency shall re-
 29 quire; but said council shall have the right to approve or dis-
 30 approve any location selected, plan of building or contents
 31 thereof, from which action in approving or disapproving there
 32 shall be no right of appeal, and such act of approval or dis-
 33 approval shall be binding.

CHAPTER 82

(House Bill No. 205—By Mr. Poling)

AN ACT to authorize the city of Philippi, a municipal corporation
 in Barbour county, West Virginia, to borrow funds from the
 reconstruction finance corporation, or other federal agency
 authorized to loan money, to liquidate bonded indebtedness
 and interest thereon heretofore incurred by said corporation
 and to provide for the repayment of same.

[Passed June 3, 1933; in effect from passage. Became a law without the approval
 of the Governor.]

SEC.

1. City of Philippi, Barbour county, authorized to borrow not to exceed eighteen thousand dollars from federal agency to liquidate bonded indebtedness; loan to extend over a period of twenty years.
2. Money derived from loan to be deposited to credit of special fund known as liquidating fund of bonded indebtedness.
3. When loan received and credited, council to enter order directing

SEC.

4. payment of bonded indebtedness. Check on fund not to be honored until countersigned by mayor and recorder.
5. Balance remaining after payment of bonded indebtedness and interest to be deposited to credit of sinking fund.
6. Sufficient amount from annual taxes to be set aside to create sinking fund for repayment of loan; loan may be paid after five years if sufficient funds on hand.

Be it enacted by the Legislature of West Virginia:

Section 1. That the city of Philippi, a municipal corporation
 2 in Barbour county, West Virginia, is hereby authorized and
 3 empowered to borrow money, not exceeding eighteen thousand
 4 dollars from the reconstruction finance corporation, or other
 5 federal agency authorized to loan money, for the sole purpose
 6 of liquidating bonded indebtedness and interest thereon here-
 7 tofore incurred by the said corporation and which remains un-
 8 paid, said loan to extend over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall be
 2 designated and known as a liquidating fund of bonded indebted-
 3 ness and the money derived from such loan shall be deposited

4 to the credit of said liquidating fund by the said city and the
5 same shall be disbursed in the manner herein provided.

Sec. 3. When the aforesaid fund has been received and
2 properly credited as herein provided, the common council of
3 said city shall enter an order of record directing the payment
4 and liquidation of said bonded indebtedness as provided by law.

Sec. 4. No check, draft or order drawn on said fund shall be
2 paid or honored by any bank or depository until the same has
3 been countersigned by the mayor and the recorder of said city.

Sec. 5. If any balance remains in said fund after the payment
2 of all bonded indebtedness and interest accrued thereon, then
3 the common council of said town shall deposit the same to the
4 credit of the sinking fund as hereinafter provided and created.

Sec. 6. The said city shall set apart a sufficient amount from
2 the taxes, levied and collected annually, to create a sinking
3 fund for the repayment of the aforesaid loan on the basis of
4 five per cent of the principal plus the interest thereon annually.
5 The said city after a period of five years from the date of said
6 loan, if it has sufficient funds on hand, may pay off and dis-
7 charge the whole amount of the money so borrowed.

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

CHAPTER 83

(Senate Bill No. 56—By Mr. Reynolds, of Mercer)

AN ACT to empower the city of Princeton, a municipal corpora-
tion in Mercer county, West Virginia, to borrow funds from
the reconstruction finance corporation, or other federal agency
authorized to loan money, to liquidate current indebtedness
other than bonded indebtedness, and interest thereon hereto-
fore incurred by the said corporation and to provide for the
repayment of same.

[Passed May 24, 1933; in effect from passage. Approved by the Governor.]

SEC.

1. City of Princeton, Mercer county, authorized to borrow not to exceed twenty-five thousand dollars from federal agency to liquidate current indebtedness other than bonded indebtedness; loan to extend over period of twenty years.

SEC.

2. Money derived from loan to be credited to special fund known as liquidating fund of current indebtedness.
3. When loan received and credited, council to enter an order directing payment of current indebtedness.

Sec.

4. Check on fund not to be honored until countersigned by mayor and recorder.
5. Balance remaining after payment of current indebtedness and interest to be deposited to credit of sinking fund.

Sec.

6. Sufficient amount from annual taxes to be set aside to create sinking fund for repayment of loan; loan may be paid after five years if sufficient funds on hand.

Be it enacted by the Legislature of West Virginia:

Section 1. That the city of Princeton, a municipal corporation in Mercer county, West Virginia, is hereby authorized and empowered to borrow money, not exceeding twenty-five thousand dollars from the reconstruction finance corporation, or other federal agency authorized to loan money, for the sole purpose of liquidating current indebtedness, other than bonded indebtedness, and interest thereon heretofore incurred by the said corporation and which remains unpaid, said loan to extend over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall be designated and known as a liquidating fund of current indebtedness and the money derived from said loan shall be deposited to the credit of said liquidating fund by the said town and the same shall be disbursed in the manner herein provided.

Sec. 3. When the aforesaid fund has been received and properly credited as herein provided, the common council of said city shall enter an order of record directing the payment and liquidation of said current indebtedness as provided by law.

Sec. 4. No check, draft or order drawn on said fund shall be paid or honored by any bank or depository until the same has been countersigned by the mayor and the recorder of said city.

Sec. 5. If any balance remains in said fund after the payment of all current indebtedness and interest accrued thereon, then the common council of said town shall deposit the same to the credit of the sinking fund as hereinafter provided and created.

Sec. 6. The said city shall set apart a sufficient amount from the taxes, levied and collected annually, to create a sinking fund for the repayment of the aforesaid loan on the basis of five per cent of the principal plus the interest thereon annually. The said city after a period of five years from the date of said loan, if it has sufficient funds on hand, may pay off and discharge the whole amount of the money so borrowed.

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

CHAPTER 84

(House Bill No. 102—By Mr. Goodwin)

AN ACT to authorize and empower the town council of the town of Ripley, Jackson county, to borrow funds from the reconstruction finance corporation to liquidate indebtedness heretofore incurred by said municipality and to provide for the repayment of same.

[Passed May 11, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.

1. Town of Ripley, Jackson county, authorized to borrow three thousand three hundred dollars from reconstruction finance corporation to liquidate present indebtedness; loan to extend over period of twenty years.
2. Money derived from loan to be deposited to credit of special fund known as liquidating fund of town of Ripley.
3. When loan received and credited, recorder to publish notice for presentation for liquidation of all outstanding claims drawn on the general town fund.
4. Claims against general town fund

Sec.

- to be presented to council for payment within thirty days from the date of notice; council to pay off claims by issuing drafts on liquidating fund; claims paid to be cancelled and filed by recorder; no check on fund to be honored until countersigned by mayor.
5. Balance remaining after thirty days have expired to be deposited to credit of sinking fund.
6. Sufficient amount from annual taxes to be set aside to create a sinking fund for the repayment of loan.

Be it enacted by the Legislature of West Virginia:

Section 1. That the town council of the town of Ripley, Jackson county, West Virginia, be authorized and empowered to borrow three thousand three hundred dollars from the reconstruction finance corporation, for the sole purpose of liquidating present indebtedness heretofore incurred by the town council, said liquidation and payment of debts to include all indebtedness chargeable to the general town fund existing at the time the tax limitation amendment became effective and also such indebtedness incurred subsequent thereto up to the time of passage of this bill. Said loan to extend over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall be designated and known as a liquidating fund of the town of Ripley, and the money derived from said loan shall be deposited to the credit of said liquidating fund by the said town council, and the same shall be disbursed in the manner herewith provided.

Sec. 3. When the aforesaid funds have been received and

2 properly credited as herein provided, the recorder of the said
3 town shall cause notice to be published in two newspapers in
4 general circulation in said town, that all outstanding claims
5 drawn on the general town funds, which are due and unpaid
6 shall be presented to said town council for liquidation and
7 cancellation.

Sec. 4. All persons, firms or corporations holding any claims
2 drawn on the general town fund of said town of Ripley and
3 which are due and unpaid shall present the same for payment
4 and cancellation to the town council of said town within thirty
5 days of the date of said notice, whereupon the said town coun-
6 cil shall proceed to pay off and liquidate such claims, by issuing
7 drafts on said liquidating fund of said town for the aggregate
8 amount of all claims held by such persons, firms or corpora-
9 tions, plus interest that may have accrued thereon, and such
10 cancelled claims shall be filed by the recorder of the town of
11 Ripley: *Provided further*, That no check, draft or order drawn
12 on said fund shall be paid or honored by any bank or deposi-
13 tory until the same has been countersigned by the mayor of said
14 town.

Sec. 5. That any balance remaining in said fund after the
2 aforesaid thirty days have expired, the town council of said
3 town of Ripley shall deposit the same to the credit of the sink-
4 ing fund as hereinafter provided and created.

Sec. 6. The said town council of said town of Ripley shall
2 set apart a sufficient amount from the taxes, levied and collected
3 annually, to create a sinking fund for the repayment of the
4 aforesaid loan on the basis of five per cent of the principal plus
5 the interest thereon annually.

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

CHAPTER 85

(House Bill No. 133—By Mr. Thomas)

AN ACT to authorize and empower the city of Saint Albans, in the
county of Kanawha and state of West Virginia, to borrow
funds from the reconstruction finance corporation, or other
federal governmental agency authorized to make loans, for the

purpose of purchasing rights-of-way for, constructing, maintaining and operating a highway toll bridge over and across the Great Kanawha river, from such point within its corporate limits to such point on the opposite side of said river as the said city through its proper authorities may direct.

[Passed May 17, 1933; In effect from passage. Became a law without the approval of the Governor.]

SEC.

1. City of St. Albans, Kanawha county, in its corporate capacity or by means of a bridge commission or other agency, authorized to borrow from federal agency a loan sufficient to purchase rights-of-way for and for construction and maintenance of highway toll bridge across Great Kanawha river; bridge to begin at a point within corporate limits of city and to be a self-liquidating project.
2. City authorized to do all acts and

SEC.

make all contracts necessary to carry out general purposes of act; bonds or other evidences of indebtedness given as security payable out of revenues of bridge, unless city supplements said revenues, if deficient; further powers as to construction, operation and maintenance of bridge; project subject to laws of this state and of the United States, relating to toll bridges over navigable streams.

Be it enacted by the Legislature of West Virginia:

Section 1. The city of Saint Albans, in the county of Kanawha and state of West Virginia, is hereby authorized and empowered, in its corporate capacity, or through and by means of a bridge commission or other agency to be created or appointed by it, to borrow from the reconstruction finance corporation, or other governmental agency authorized to make loans, a sum of money sufficient to enable it to purchase rights-of-way for, construct, own, operate and maintain a highway toll bridge over and across the Great Kanawha river, from such point within the corporate limits of said city, to such point on the opposite side of said river as the said city, through its proper authorities shall designate and select, for public use in travel, passage and transportation over and across said river, as a self-liquidating enterprise or project, within the meaning of federal laws authorizing loans by said reconstruction finance corporation or other governmental agency.

Sec. 2. The said city of Saint Albans is hereby authorized and empowered to do and perform any and all acts, and make any and all contracts, necessary to effectuate the general purposes of this act, including the acquisition by original grant, purchase or other lawful means, of all necessary permits, franchises, licenses, rights-of-way, easements and other rights in real estate, and title to and possession thereof, with the money so borrowed, or other-

8 wise. Said city shall have authority to make such contracts,
 9 agreements and covenants between it and the said reconstruction
 10 finance corporation, or other governmental agency, for the loan
 11 of said funds and security of payment thereof, as they may be
 12 able to effectuate, subject only to this limitation, that the bonds,
 13 or other evidences of indebtedness issued or given as security
 14 therefor, shall be payable solely out of the revenues of said
 15 bridge, except insofar as, if at all, the said city shall see fit, and
 16 be able, to supplement the said revenues, in case of deficiency
 17 thereof; and to construct, own, operate and maintain such bridge
 18 over and across said river, and to make and enter into such con-
 19 tracts, and to do and perform such acts as may be necessary to
 20 the construction, ownership, operation and maintenance of said
 21 bridge, subject to such burdens, restrictions and encumbrances as
 22 it may be necessary to incur and bear, in securing such funds for
 23 construction, and also subject to the laws of this state and of the
 24 United States, relating to toll bridges over and across navigable
 25 streams, insofar as applicable to said bridge and stream.

CHAPTER 86

(House Bill No. 218—By Mr. McVey)

AN ACT to empower the city of Wheeling, a municipal corporation in Ohio county, West Virginia, to borrow funds from the reconstruction finance corporation, or other federal agency authorized to loan money, to liquidate current indebtedness, other than bonded indebtedness, and interest thereon heretofore incurred by the said corporation and to provide for the repayment of same.

[Passed June 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. City of Wheeling, Ohio county, authorized to borrow not to exceed two hundred thousand dollars from federal agency to liquidate current indebtedness, other than bonded indebtedness; loan to extend over period of twenty years.

SEC.

2. Money derived from loan to be deposited in special fund known as liquidating fund of current indebtedness.
 3. When loan received and credited, council to enter an order directing payment of current indebtedness.

SEC.

4. Check on fund not to be honored until countersigned by mayor-manager and city clerk.
5. Balance remaining after payment of current indebtedness and interest to be deposited to credit of sinking fund.

SEC.

6. Sufficient amount from annual taxes to be set aside to create sinking fund for repayment of loan; loan may be paid after five years if sufficient funds on hand.

Be it enacted by the Legislature of West Virginia:

Section 1. That the city of Wheeling, a municipal corporation in Ohio county, West Virginia, is hereby authorized and empowered to borrow money, not exceeding two hundred thousand dollars, from the reconstruction finance corporation, or other federal agency authorized to loan money, for the sole purpose of liquidating current indebtedness, other than bonded indebtedness, and interest thereon, heretofore incurred by the said corporation and which remains unpaid, said loan to extend over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall be designated and known as a liquidating fund of current indebtedness and the money derived from said loan shall be deposited to the credit of said liquidating fund by the said city and the same shall be disbursed in the manner herein provided.

Sec. 3. When the aforesaid fund has been received and properly credited as herein provided, the council of said city shall enter an order of record directing the payment and liquidation of said current indebtedness as provided by law.

Sec. 4. No check, draft or order drawn on said fund shall be paid or honored by any bank or depository until the same has been countersigned by the mayor-manager and city clerk of said city.

Sec. 5. If any balance remains in said fund after the payment of all current indebtedness and interest accrued thereon, then the council of said city shall deposit the same to the credit of the sinking fund as hereinafter provided and created.

Sec. 6. The said city shall set apart a sufficient amount from the taxes, levied and collected annually, to create a sinking fund for the repayment of the aforesaid loan on the basis of five per cent of the principal plus the interest thereon annually. The said city after a period of five years from the date of said loan.

- 6 if it has sufficient funds on hand, may pay off and discharge the
 7 whole amount of the money so borrowed.
 8 All acts and parts of acts inconsistent herewith are hereby
 9 repealed.

CHAPTER 87

(House Bill No. 194—By Mr. Barley)

AN ACT to authorize the city of Welch, a municipal corporation, in McDowell county, West Virginia, to borrow funds from the reconstruction finance corporation, or other federal agency authorized to loan money, to liquidate bonded and other indebtedness and interest thereon heretofore incurred by the said corporation and to provide for the repayment of same.

[Passed June 5, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. City of Welch, McDowell county, authorized to borrow not to exceed seventy-five thousand dollars from federal agency to liquidate bonded and other indebtedness; loan to extend over period of twenty years.
2. Money derived from loan to be deposited to credit of special fund known as liquidating fund for bonded and other indebtedness.
- 3 When loan received and credited, council to enter an order direct-

SEC.

- ing payment of bonded and other indebtedness.
4. Check on fund not to be honored until countersigned by recorder.
5. Balance remaining after payment of bonded and other indebtedness and interest, to be deposited to credit of sinking fund.
6. Sufficient amount of annual taxes to be set aside to create sinking fund for repayment of loan; loan may be paid after five years if sufficient funds on hand.

Be it enacted by the Legislature of West Virginia:

Section 1. That the city of Welch, a municipal corporation, in McDowell county, West Virginia, be authorized and empowered to borrow money, not exceeding seventy-five thousand dollars, from the reconstruction finance corporation, or other federal agency authorized to loan money, for the sole purpose of liquidating bonded and other indebtedness and interest thereon heretofore incurred by the said corporation and which remains unpaid. Said loan to extend over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall be designated and known as a liquidating fund of bonded and other indebtedness and the money derived from said loan shall be deposited to the credit of said liquidating fund by the said

5 city and the same shall be disbursed in the manner herein pro-
6 vided.

Sec. 3. When the aforesaid fund has been received and prop-
2 erly credited as herein provided, the common council of said
3 city shall enter an order of record directing the payment and
4 liquidation of said bonded and other indebtedness as provided
5 by law.

Sec. 4. No check, draft or order drawn on said fund, shall
2 be paid or honored by any bank or depository until the same
3 has been countersigned by the recorder of said city.

Sec. 5. If any balance remains in said fund after the pay-
2 ment of all bonded or other indebtedness and interest ac-
3 crued thereon, then the common council of said city shall de-
4 posit the same to the credit of the sinking fund as hereinafter
5 provided and created.

Sec. 6. The said city shall set apart a sufficient amount
2 from the taxes, levied and collected annually, to create a
3 sinking fund for the repayment of the aforesaid loan on the
4 basis of five per cent of the principal plus the interest thereon
5 annually. The said city, after a period of five years from the
6 date of said loan, if it has sufficient funds on hand, may pay
7 off and discharge the whole amount of the money so borrowed.

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

CHAPTER 88

(House Bill No. 138—By Mr. Belknap)

AN ACT to authorize and empower the county court of Braxton
county, West Virginia, to borrow funds from the reconstruc-
tion finance corporation, or other federal agency authorized
to make loans, to liquidate indebtedness heretofore incurred
by said court, and to provide for the repayment of same.

[Passed May 16, 1933; in effect from passage. Became a law without the approval
of the Governor.]

SEC.

1. County court of Braxton county
authorized to borrow not to ex-
ceed one hundred thousand dol-
lars from federal agency to
liquidate present indebtedness;
loan to extend over period of
twenty years.

SEC.

2. Money derived from loan to be de-
posited in special fund known
as liquidating fund of county
indebtedness.
3. When loan received and credited,
clerk of county court to publish
notice for presentation of all

Sec.	SEC.
<p>4. Holders of claims drawn on county fund to present same for payment within thirty days after notice; county court to pay off claims by issuing drafts on liquidating funds; no check or draft on fund to be honored until countersigned by prosecuting at-</p>	<p>torney. 5. Balance remaining after the thirty days to be deposited to credit of sinking fund. 6. Sufficient amount from annual taxes to be set aside to create sinking fund for repayment of loan; loan may be paid after five years if sufficient funds on hand.</p>

Be it enacted by the Legislature of West Virginia:

Section 1. That the county court of Braxton county, West Virginia, be authorized and empowered to borrow not exceeding one hundred thousand dollars from the reconstruction finance corporation, or other federal agency authorized to make loans, for the sole purpose of liquidating present indebtedness heretofore incurred by the said court, said liquidation and payment of debts to include all indebtedness chargeable to the county funds existing at the time this act takes effect. Said loan to extend over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall be designated and known as a liquidating fund of county indebtedness and the money derived from said loan shall be deposited to the credit of said liquidating fund by the said county court and the same shall be disbursed in the manner herein provided.

Sec. 3. When the aforesaid fund has been received and properly credited as herein provided, the clerk of the said county court shall cause notice to be published in two newspapers in general circulation in his county that all outstanding claims drawn on the county funds, which are due and unpaid, as herein provided shall be presented to the county court for liquidation and cancellation.

Sec. 4. All persons, firms or corporations holding any claims drawn on the county funds of their county, and which are due and unpaid at the time this act takes effect, shall present the same for payment and cancellation to the county court of said county within thirty days after the date of said notice, whereupon the said county court shall proceed to pay off and liquidate such claims by issuing drafts on said liquidating fund of said county for the aggregate amount of all claims held by such persons, firms or corporations, plus interest that may have accrued thereon, and such cancelled claims shall be filed by the county clerk: *Provided further*, That no check, draft or order

12 drawn on said fund shall be paid or honored by any bank or
13 depository until the same has been countersigned by the prose-
14 cuting attorney of said county.

Sec. 5. If any balance remains in said fund after the afore-
2 said thirty days have expired, then the county court shall de-
3 posit the same to the credit of the sinking fund as hereinafter
4 provided and created.

Sec. 6. The said county court shall set apart a sufficient
2 amount from the taxes, levied and collected annually, to create
3 a sinking fund for the repayment of the aforesaid loan on the
4 basis of five per cent of the principal plus the interest thereon
5 annually. The county court, after a period of five years from
6 the date of said loan, if it has sufficient funds on hand, may pay
7 off and discharge the whole amount of the money so borrowed.
8 All acts and parts of acts inconsistent herewith are hereby
9 repealed.

CHAPTER 89

(House Bill No. 94—By Mr. Reed)

AN ACT to authorize and empower the county court of Clay county
to borrow funds from the reconstruction finance corporation,
or other federal governmental agency authorized to make loans,
to liquidate indebtedness incurred by said county court and to
provide for the repayment of same.

[Passed May 12, 1933; in effect from passage. Became a law without the approval
of the Governor.]

SEC.

1. County court of Clay county author-
ized to borrow not to exceed fifty
thousand dollars from federal
agency to liquidate present in-
debtedness; loan to extend over
period of twenty years.
2. Money derived from loan to be de-
posited to credit of special fund
known as liquidating fund of
Clay county.
3. When loan received and credited,
clerk of county court to publish
notice for presentation for pay-
ment of outstanding claims on

SEC.

4. Claims to be presented for payment
within thirty days of notice;
county court to pay off claims
by drafts on liquidating fund;
check on fund not to be honored
until countersigned by prose-
cuting attorney.
5. Balance remaining after said thirty
days to be deposited to credit of
sinking fund.
6. Sufficient amount from annual taxes
to be set aside to create a sink-
ing fund for repayment of loan.

Be it enacted by the Legislature of West Virginia:

Section 1. That the county court of Clay county, West Vir-
2 ginia, be authorized and empowered to borrow not more than
3 fifty thousand dollars from the reconstruction finance corpora-

4 tion, or other federal governmental agency authorized to make
5 loans, for the sole purpose of liquidating present indebtedness
6 heretofore incurred by the county court, said liquidation and
7 payment of debts to include all indebtedness chargeable to the
8 general county fund existing at the time the tax limitation
9 amendment became effective and also such indebtedness in-
10 curred subsequent thereto up to the time of passage of this bill;
11 said loan to extend over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall
2 be designated and known as a liquidating fund of Clay county
3 and the money derived from said loan shall be deposited to the
4 credit of said liquidating fund by the said county court and
5 shall be disbursed in the manner herewith provided.

Sec. 3. When the aforesaid funds have been received and
2 properly credited as herein provided, the clerk of the said
3 county court shall cause notice to be published in two news-
4 papers in general circulation in said county, that all outstand-
5 ing claims drawn on the general county funds which are due
6 and unpaid shall be presented to said county court for liquidat-
7 ing and cancellation.

Sec. 4. All persons, firms or corporations holding any claims
2 drawn on the general county fund of said Clay county, which
3 are due and unpaid, shall present the same for payment and
4 cancellation to the county court of said county within thirty
5 days of the date of said notice, whereupon the said county
6 court shall proceed to pay off and liquidate such claims by
7 issuing drafts on said liquidating fund of said county for the
8 aggregate amount of all claims held by such persons, firms or
9 corporations, plus interest that may have accrued thereon, and
10 such cancelled claims shall be filed by the county clerk: *Pro-*
11 *vided, however,* That no check, draft or order drawn on said
12 fund shall be paid or honored by any bank or depository until
13 the same has been countersigned by the prosecuting attorney
14 of said county.

Sec. 5. The county court of said Clay county shall deposit
2 any balance remaining in said fund after the aforesaid thirty
3 days have expired to the credit of the sinking fund as herein-
4 after provided and created.

Sec. 6. The said county court of said Clay county shall set

2 apart a sufficient amount from the taxes, levied and collected
 3 annually, to create a sinking fund for the repayment of the
 4 aforesaid loan on the basis of five per cent of the principal
 5 plus the interest thereon annually.

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

CHAPTER 90

(House Bill No. 139—By Mr. Noll)

AN ACT to authorize and empower the county court of Jackson county, West Virginia, to borrow funds from the reconstruction finance corporation, or other governmental agency authorized to make loans, to liquidate indebtedness heretofore incurred by said county court, and to provide for the repayment of same.

[Passed May 16, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. County court of Jackson county authorized to borrow one hundred thousand dollars from federal agency to liquidate present indebtedness; loan to extend over period of twenty years.
2. Money derived from loan to be deposited in special fund known as liquidating fund of Jackson county.
3. When loan received and credited, clerk of county court to publish notice for presentation of outstanding claims on general coun-

SEC.

- ty fund for liquidation.
4. Claims to be presented for payment within thirty days of notice; court to pay off claims by issuing drafts on liquidating fund; check on fund not to be honored until countersigned by prosecuting attorney.
5. Balance remaining after thirty days to be deposited to credit of sinking fund.
6. Sufficient amount from annual taxes to be set aside to create sinking fund for repayment of loan.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Jackson county, West Virginia, is hereby authorized and empowered to borrow one hundred thousand dollars, from the reconstruction finance corporation, or other governmental agency authorized to make loans, for the sole purpose of liquidating present indebtedness heretofore incurred by said county court, said liquidation and payment of debts to include all indebtedness chargeable to the general county fund existing at the time the tax limitation amendment became effective, and also such indebtedness incurred subsequent thereto, up to the time of passage of this bill. Said loan to extend over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall be
2 designated and known as a liquidating fund of Jackson county,
3 and the money derived from said loan shall be deposited to the
4 credit of said liquidating fund by the said county court, and
5 the same shall be disbursed in the manner hereinafter provided.

Sec. 3. When the aforesaid funds have been received and
2 properly credited as herein provided, the clerk of the said
3 county court shall cause notice to be published in two news-
4 papers in general circulation in the said county, that all out-
5 standing claims drawn on the general county funds, which are
6 due and unpaid shall be presented to said county court for
7 liquidation and cancellation.

Sec. 4. All persons, firms or corporations holding any claims
2 drawn on the general county fund of said Jackson county, and
3 which are due and unpaid, shall present the same for payment
4 and cancellation to the county court of said county within
5 thirty days of the date of said notice, whereupon the said county
6 court shall proceed to pay off and liquidate such claims, by
7 issuing drafts on said liquidating fund of said county for the
8 aggregate amount of all claims held by such persons, firms or
9 corporations, plus interest that may have accrued thereon, and
10 such cancelled claims shall be filed by the county clerk: *Pro-*
11 *vided, however,* That no check, draft or order drawn on said
12 fund, shall be paid or honored by such bank or depository until
13 the same has been countersigned by the prosecuting attorney
14 of said county.

Sec. 5. If any balance remains in said fund after the afore-
2 said thirty days have expired, then the county court of said
3 Jackson county shall deposit the same to the credit of the
4 sinking fund as hereinafter provided and created.

Sec. 6. The said county court of said Jackson county, shall
2 set apart a sufficient amount from the taxes, levied and col-
3 lected annually, to create a sinking fund for the repayment of
4 the aforesaid loan on the basis of five per cent of the principal
5 plus the interest thereon annually.

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

CHAPTER 91

(House Bill No. 72—By Mr. Adkins)

AN ACT to authorize and empower the county court of Lincoln county to borrow funds from the reconstruction finance corporation, to liquidate indebtedness heretofore incurred by said county court, and to provide for the repayment of same.

[Passed May 4, 1933; in effect from passage. Approved by the Governor.]

Sec.

1. County court of Lincoln county authorized to borrow one hundred thousand dollars from reconstruction finance corporation to liquidate present indebtedness; loan to extend over period of twenty years.
2. Money derived from loan to be deposited to credit of special fund known as liquidating fund of Lincoln county.
3. When loan received and credited, clerk of county court to publish notice for presentation for liquidation of outstanding claims on

Sec.

4. Claims to be presented for payment within thirty days of notice; court to pay off claims by issuing drafts on liquidating fund; check on fund not to be honored until countersigned by prosecuting attorney.
5. Balance remaining after thirty days to be deposited to credit of sinking fund.
6. Sufficient amount from annual taxes to be set aside to create sinking fund for repayment of loan.

Be it enacted by the Legislature of West Virginia:

Section 1. That the county court of Lincoln county, West Virginia, be authorized and empowered to borrow one hundred thousand dollars, from the reconstruction finance corporation, for the sole purpose of liquidating present indebtedness heretofore incurred by the county court, said liquidation and payment of debts to include all indebtedness chargeable to the general county fund existing at the time the tax limitation amendment became effective, and also such indebtedness incurred subsequent thereto, up to the time of passage of this bill; said loan to extend over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall be designated and known as a liquidating fund of Lincoln county, and the money derived from said loan shall be deposited to the credit of said liquidating fund by the said county court, and the same shall be disbursed in the manner herewith provided.

Sec. 3. When the aforesaid funds have been received and properly credited as herein provided, the clerk of the said county court shall cause notice to be published in two newspapers in general circulation in said county, that all outstanding claims drawn on the general county funds, which are due

6 and unpaid shall be presented to said county court for liqui-
7 dation and cancellation.

Sec. 4. All persons, firms or corporations holding any claims
2 drawn on the general county fund of said Lincoln county, and
3 which are due and unpaid, shall present the same for pay-
4 ment and cancellation to the county court of said county with-
5 in thirty days of the date of said notice, whereupon the said
6 county court shall proceed to pay off and liquidate such claims,
7 by issuing drafts on said liquidating fund of said county for
8 the aggregate amount of all claims held by such persons, firms
9 or corporations, plus interest that may have accrued thereon,
10 and such cancelled claims shall be filed by the county clerk: *Pro-*
11 *vided, however,* That no check, draft or order drawn on said
12 fund, shall be paid or honored by any bank or depository until
13 the same has been countersigned by the prosecuting attorney
14 of said county.

Sec. 5. That any balance remaining in said fund after the
2 aforesaid thirty days have expired, the county court of said
3 Lincoln county shall deposit the same to the credit of the
4 sinking fund as hereinafter provided and created.

Sec. 6. The said county court of said Lincoln county shall
2 set apart a sufficient amount from the taxes, levied and col-
3 lected annually, to create a sinking fund for the repayment
4 of the aforesaid loan on the basis of five per cent of the prin-
5 cipal plus the interest thereon annually.

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

CHAPTER 92

(House Bill No. 190—By Mr. Hogg)

AN ACT to authorize and empower the county court of Mingo
county, West Virginia, to borrow funds from the reconstruction
finance corporation, or other federal agency authorized to loan
money, to liquidate indebtedness heretofore incurred by said
county court, and to provide for the repayment of same.

[Passed May 31, 1933; in effect from passage. Became a law without the approval
of the Governor.]

Sec.

1. County court of Mingo county
authorized to borrow not to ex-
ceed two hundred fifty thousand

Sec.

dollars from federal agency, to
liquidate indebtedness incurred
prior to May 1, 1933; loan to

Sec.

- extend over period of twenty years.
2. Money derived from loan to be deposited in special fund known as liquidating fund of county indebtedness.
 3. When loan received and credited, clerk of county court to publish notice for presentation for liquidation of outstanding claims on county funds.
 4. Claims to be presented for payment within thirty days of notice;

Sec.

- court to pay off claims by issuing drafts on liquidating fund; check on fund not to be honored until countersigned by prosecuting attorney.
5. Balance remaining after thirty days to be deposited to credit of sinking fund.
 6. Sufficient amount from annual taxes to be set aside to create sinking fund for repayment of loan; loan may be paid after five years if sufficient funds on hand.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Mingo county, West Virginia, for and on behalf of said county, is hereby authorized and empowered to borrow not exceeding two hundred fifty thousand dollars from the reconstruction finance corporation, or other federal agency authorized to loan money, for the sole purpose of liquidating indebtedness incurred by the said court prior to May first, one thousand nine hundred thirty-three, said liquidation and payment of debts to include all indebtedness chargeable to said county, and said loan to extend over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall be designated and known as a liquidating fund of said county indebtedness and the money derived from said loan shall be deposited to the credit of said liquidating fund by the said county court and the same shall be disbursed in the manner herein provided.

Sec. 3. When the aforesaid funds have been received and properly credited as herein provided, the clerk of the said county court shall cause notice to be published in two newspapers in general circulation in said county that all outstanding claims drawn on county funds, which are due and unpaid, shall be presented to the said county court for liquidation and cancellation.

Sec. 4. All persons, firms or corporations holding any claims drawn on county funds of said county, and which are due and unpaid, shall present the same for payment and cancellation to the county court of said county within thirty days of the date of said notice, whereupon the said county court shall proceed to pay off and liquidate such claims by issuing drafts on said liquidating fund of said county for the aggregate amount of all claims held by such persons, firms or corporations, plus interest

9 that may have accrued thereon, and such cancelled claims shall
 10 be filed by the county clerk: *Provided*, That no check, draft or
 11 order drawn on said fund shall be paid or honored by any bank
 12 or depository until the same has been countersigned by the
 13 prosecuting attorney of said county.

Sec. 5. If any balance remains in said fund after the afore-
 2 said thirty days have expired, then the said county court shall
 3 deposit the same to the credit of the sinking fund as hereinafter
 4 provided and created.

Sec. 6. The said county court shall set apart a sufficient
 2 amount from the taxes, levied and collected annually, to create
 3 a sinking fund for the repayment of the aforesaid loan on the
 4 basis of five per cent of the principal plus the interest thereon
 5 annually. The county court, after a period of five years from
 6 the date of said loan, if it has sufficient funds on hand, may pay
 7 off and discharge the whole amount of the money so borrowed.

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

CHAPTER 93

(House Bill No. 137—By Mr. LaFon, by request)

AN ACT to authorize and empower the county court of Monroe
 county, West Virginia, to borrow funds from the reconstruc-
 tion finance corporation, or other federal agency authorized
 to make loans, to liquidate indebtedness heretofore incurred
 by said court, and to provide for the repayment of same.

[Passed May 16, 1933; in effect from passage. Became a law without the approval
 of the Governor.]

SEC.

1. County court of Monroe county authorized to borrow not to exceed forty thousand dollars from federal agency, to liquidate present indebtedness; loan to extend over period of twenty years.
2. Money derived from loan to be deposited to credit of special fund known as liquidating fund of county indebtedness.

SEC.

3. When loan received and credited, clerk of county court to publish notice for presentation for liquidation of outstanding claims on county fund.
4. Claims to be presented within thirty days after notice; county court to pay off claims by issuing drafts on liquidating fund; check on fund not to be honored until

Sec.

6. Balance remaining after thirty days to be deposited to credit of sinking fund.

SEC.

6. Sufficient amount from annual taxes to be set aside to create sinking fund for repayment of loan; loan may be paid after five years if sufficient funds on hand.

Be it enacted by the Legislature of West Virginia:

Section 1. That the county court of Monroe county, West Virginia, be authorized and empowered to borrow not exceeding forty thousand dollars from the reconstruction finance corporation, or other federal agency authorized to make loans, for the sole purpose of liquidating present indebtedness heretofore incurred by the said court, said liquidation and payment of debts to include all indebtedness chargeable to the county funds existing at the time this act takes effect; said loan to extend over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall be designated and known as a liquidating fund of county indebtedness and the money derived from said loan shall be deposited to the credit of said liquidating fund by the said county court and the same shall be disbursed in the manner herein provided.

Sec. 3. When the aforesaid fund has been received and properly credited as herein provided, the clerk of the said county court shall cause notice to be published for two successive weeks in two newspapers in general circulation in his county that all outstanding claims drawn on the county funds, which are due and unpaid, as herein provided shall be presented to the county court for liquidation and cancellation.

Sec. 4. All persons, firms or corporations holding any claims drawn on the county funds of their county, and which are due and unpaid at the time this act takes effect, shall present the same for payment and cancellation to the county court of said county within thirty days after the date of the last publication of said notice, whereupon the said county court shall proceed to pay off and liquidate such claims by issuing drafts on said liquidating fund of said county for the aggregate amount of all claims held by such persons, firms or corporations plus interest that may have accrued thereon, and such cancelled claims shall be filed by the county clerk: *Provided, however,* That no check, draft or order drawn on said fund shall be paid or honored by any bank or depository until the same has been countersigned by the prosecuting attorney of said county.

Sec. 5. If any balance remains in said fund after the afore-
2 said thirty days have expired, then the county court shall de-
3 posit the same to the credit of the sinking fund as hereinafter
4 provided and created.

Sec. 6. The said county court shall set apart a sufficient
2 amount from the taxes, levied and collected annually, to create
3 a sinking fund for the repayment of the aforesaid loan on the
4 basis of five per cent of the principal plus the interest thereon
5 annually. The county court, after a period of five years from
6 the date of said loan, if it has sufficient funds on hand, may
7 pay off and discharge the whole amount of the money so
8 borrowed.

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

CHAPTER 94

(Senate Sub. for House Bill No. 91—By Mr. Wiseman)

AN ACT to authorize and empower the county court of Nicholas
county to borrow funds from the reconstruction finance cor-
poration, or other federal governmental agency authorized to
make loans, to liquidate indebtedness up to and including the
fiscal year ending the thirtieth day of June, one thousand nine
hundred thirty-three, by said county court and to provide for
the repayment of same.

[Passed May 12, 1933; in effect from passage. Became a law without the approval
of the Governor.]

SEC.

1. County court of Nicholas county authorized to borrow not to exceed two hundred fifty thousand dollars from federal agency, to liquidate present indebtedness, chargeable to general county fund, county road fund and various district road funds of county; loan to be according to rules of federal agency making it.
2. Money derived from loan to be deposited to credit of special fund known as liquidating fund of Nicholas county.
3. When loan received and credited, county court to transfer from said fund to general county fund, county road fund and various

SEC.

- district road funds, an amount sufficient to pay deficit in any of said funds; after deficits paid, clerk of county court to publish notice for presentation for liquidation of outstanding claims payable out of any of said funds.
4. Claims to be presented within ninety days of said notice; county court to pay claims by drafts on liquidating fund.
5. Balance remaining after ninety days to be transferred to credit of sinking fund.
6. Sufficient amount from annual taxes to be set aside to create a sinking fund for repayment of loan and interest.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Nicholas county, West Vir-
2 ginia, is authorized and empowered to borrow a sum of money

3 not to exceed two hundred fifty thousand dollars, from the re-
4 construction finance corporation, or other federal governmental
5 agency authorized to make loans, for the sole purpose of liqui-
6 dating present indebtedness heretofore incurred by the county
7 court, said liquidation and payment of debts to include all in-
8 debtedness chargeable to the general county fund, county road
9 fund, and the district road funds of the various districts of said
10 county existing at the time the tax limitation amendment be-
11 came effective, and also such indebtedness incurred subsequent
12 thereto, up to the end of the fiscal year ending June thirtieth,
13 one thousand nine hundred thirty-three; said loan to be made ac-
14 cording to the rules and regulations of the reconstruction finance
15 corporation or other federal governmental agency authorized
16 to make loans.

Sec. 2. There is hereby created a special fund which shall be
2 designated and known as a liquidating fund of Nicholas county,
3 and the money derived from said loan shall be deposited to the
4 credit of said liquidating fund by the treasurer of said county,
5 the same to be disbursed in the manner herewith provided.

Sec. 3. When the aforesaid funds have been received and prop-
2 erly credited as herein provided, the county court of said county
3 shall by order transfer from said fund to the general county
4 fund, the general county road fund, and the district road funds
5 of the various districts of said county an amount sufficient to
6 pay any deficit that may exist in any or all of said funds; after
7 said deficits have been paid, the clerk of the said county court
8 shall cause notice to be published in two newspapers in general
9 circulation in said county, that all outstanding claims payable
10 out of either of the aforesaid funds, which are due and unpaid,
11 shall be presented to said county court for liquidation and can-
12 cellation.

Sec. 4. All persons, firms or corporations holding any claims
2 payable out of any of said funds of said Nicholas county, and
3 which are due and unpaid, shall present the same for payment
4 and cancellation to the county court of said county within ninety
5 days of the date of said notice, whereupon the said county court
6 shall proceed to pay off and liquidate such claims, by issuing
7 drafts on the treasurer of said county payable out of said
8 liquidating fund of said county for the aggregate amount of
9 all claims held by such persons, firms or corporations, plus

10 any interest that may have accrued thereon, and such can-
11 celled claims shall be filed by the county clerk.

Sec. 5. If any balance remains in said fund after the afore-
2 said ninety days have expired, then the county court of said
3 Nicholas county shall by proper order on the treasurer of said
4 county transfer same to the credit of the sinking fund as
5 hereinafter provided and created.

Sec. 6. The said county court of said Nicholas county shall
2 set apart a sufficient amount from the taxes, levied and col-
3 lected annually, to create a sinking fund for the repayment
4 of the principal and interest of the aforesaid loan on such
5 basis as may be agreed upon by said county court and the
6 reconstruction finance corporation or other federal govern-
7 mental agency authorized to make loans.

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

CHAPTER 95

(House Bill No. 143—By Mr. Bibb)

AN ACT to authorize and empower the county court of Raleigh
county, West Virginia, to borrow funds from the reconstruction
finance corporation, or other federal agency authorized to make
loans, to liquidate indebtedness heretofore incurred by said
court, and to provide for the repayment of same.

[Passed May 17, 1933; in effect from passage. Became a law without the approval
of the Governor.]

SEC.

1. County court of Raleigh county authorized to borrow not to exceed three hundred fifty thousand dollars from federal agency to liquidate present indebtedness; loan to extend over period of twenty years.
2. Money derived from loan to be deposited to credit of special fund known as liquidating fund of county indebtedness.
3. When loan received and credited, clerk of county court to publish notice for presentation for liquidation of outstanding claims on county funds.

SEC.

4. Claims to be presented for payment within thirty days of notice; court to pay off claims by drafts on liquidating fund; check on fund not to be honored until countersigned by prosecuting attorney.
5. Balance remaining after thirty days to be deposited to credit of sinking fund.
6. Sufficient amount from annual taxes to be set aside to create sinking fund for repayment of loan; loan may be paid after five years if sufficient funds on hand.

Be it enacted by the Legislature of West Virginia:

Section 1. That the county court of Raleigh county, West
2 Virginia, be authorized and empowered to borrow not exceeding

3 three hundred fifty thousand dollars from the reconstruction
4 finance corporation, or other federal agency authorized to make
5 loans, for the sole purpose of liquidating present indebtedness
6 heretofore incurred by the said court, said liquidation and pay-
7 ment of debts to include all indebtedness chargeable to the
8 county funds existing at the time this act takes effect; said
9 loan to extend over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall be
2 designated and known as a liquidating fund of county indebted-
3 ness and the money derived from said loan shall be deposited to
4 the credit of said liquidating fund by the said county court and
5 the same shall be disbursed in the manner herein provided.

Sec. 3. When the aforesaid fund has been received and prop-
2 erly credited as herein provided, the clerk of the said county
3 court shall cause notice to be published in two newspapers in
4 general circulation in his county and all outstanding claims
5 drawn on the county funds, which are due and unpaid, as herein
6 provided shall be presented to the county court for liquidation
7 and cancellation.

Sec. 4. All persons, firms or corporations holding any claims
2 drawn on the county funds of their county, and which are due
3 and unpaid at the time this act takes effect, shall present the
4 same for payment and cancellation to the county court of said
5 county within thirty days of the date of said notice, whereupon
6 the said county court shall proceed to pay off and liquidate such
7 claims by issuing drafts on said liquidating fund of said county
8 for the aggregate amount of all claims held by such persons,
9 firms or corporations, plus interest that may have accrued
10 thereon, and such cancelled claims shall be filed by the county
11 clerk: *Provided, however,* That no check, draft or order drawn
12 on said fund shall be paid or honored by any bank or deposi-
13 tory until the same has been countersigned by the prosecuting
14 attorney of said county.

Sec. 5. If any balance remains in said fund after the afore-
2 said thirty days have expired, then the county court shall deposit
3 the same to the credit of the sinking fund as hereinafter pro-
4 vided and created.

Sec. 6. The said county court shall set apart a sufficient
2 amount from the taxes, levied and collected annually, to create
3 a sinking fund for the repayment of the aforesaid loan on the

4 basis of five per cent of the principal plus the interest thereon
 5 annually. The county court, after a period of five years from
 6 the date of said loan, if it has sufficient funds on hand, may pay
 7 off and discharge the whole amount of the money so borrowed.
 8 All acts and parts of acts inconsistent herewith are hereby
 9 repealed.

CHAPTER 96

(House Bill No. 163—By Mr. Tucker)

AN ACT to authorize and empower the Wayne county court to borrow funds from the reconstruction finance corporation, or any other governmental agency, to liquidate indebtedness incurred prior to June thirtieth, one thousand nine hundred thirty-three, and to provide for the repayment of same.

[Passed May 25, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.

1. County court of Wayne county authorized to borrow not to exceed one hundred thousand dollars from federal agency, to liquidate indebtedness incurred prior to June 30, 1933; loan to extend over period of twenty years.
2. Money derived from loan to be deposited to credit of special fund known as liquidating fund of county indebtedness.
3. When loan received and credited, county clerk to publish notice for presentation for liquidation of outstanding claims on general county funds.

Sec.

4. Claims to be presented within thirty days of notice; county court to pay off claims by drafts on liquidating fund; check on fund not to be honored until countersigned by prosecuting attorney.
5. Balance remaining after thirty days to be deposited to credit of sinking fund.
6. Sufficient amount from annual taxes to be set aside to create sinking fund for repayment of loan; loan may be paid after five years if sufficient funds on hand.

Be it enacted by the Legislature of West Virginia:

Section 1. That the Wayne county court be authorized and
 2 empowered to borrow not exceeding one hundred thousand dol-
 3 lars from the reconstruction finance corporation, or any other
 4 governmental agency, for the sole purpose of liquidating in-
 5 debtedness incurred by the said court prior to June thirtieth,
 6 one thousand nine hundred thirty-three, said liquidation and
 7 payment of debts to include all indebtedness chargeable to the
 8 general county fund existing at the time the tax limitation
 9 amendment became effective and also such indebtedness incurred
 10 subsequent thereto up to June thirtieth, one thousand nine
 11 hundred thirty-three; said loans to extend over a period of
 12 twenty years.

Sec. 2. There is hereby created a special fund which shall be
2 designated and known as a liquidating fund of county indebted-
3 ness and the money derived from said loan shall be deposited
4 to the credit of said liquidating fund by the said county court
5 and the same shall be disbursed in the manner provided herein.

Sec. 3. When the aforesaid funds have been received and
2 properly credited as herein provided, the clerk of the said
3 county court shall cause notice to be published in two news-
4 papers of general circulation in his county that all outstanding
5 claims drawn on the general county funds, which are due and
6 unpaid, shall be presented to the county court for liquidation
7 and cancellation.

Sec. 4. All persons, firms or corporations holding any claims
2 drawn on the general county fund of their county, and which
3 are due and unpaid, shall present the same for payment and
4 cancellation to the said county court within thirty days of the
5 date of said notice, whereupon the said county court shall pro-
6 ceed to pay off and liquidate such claims by issuing drafts on
7 said liquidating fund of said county for the aggregate amount
8 of all claims held by such persons, firms or corporations, plus
9 interest that may have accrued thereon, and such cancelled
10 claims shall be filed by the county clerk: *Provided, however,*
11 That no check, draft or order drawn on said fund, shall be paid
12 or honored by any bank or depository until the same has been
13 countersigned by the prosecuting attorney of said county.

Sec. 5. If any balance remains in said fund after the afore-
2 said thirty days have expired, then the said county court shall
3 deposit the same to the credit of the sinking fund as hereinafter
4 provided and created.

Sec. 6. The said county court shall set apart a sufficient
2 amount from the taxes, levied and collected annually, to create
3 a sinking fund for the repayment of the aforesaid loan on the
4 basis of five per cent of the principal plus the interest thereon
5 annually. The said county court, after a period of five years
6 from the date of said loan, if it has sufficient funds on hand, may
7 pay off and discharge the whole amount of the money so bor-
8 rowed.

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

CHAPTER 97

(House Bill No. 140—By Mr. Carden)

AN ACT to authorize and empower the county court of Wyoming county, West Virginia, to borrow funds from the reconstruction finance corporation, or other federal agency authorized to make loans, to liquidate indebtedness heretofore incurred by said court, and to provide for the repayment of same.

[Passed May 16, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. County court of Wyoming county authorized to borrow not to exceed four hundred thousand dollars from federal agency to liquidate present indebtedness; loan to extend over period of twenty years.
2. Money derived from loan to be deposited to credit of special fund known as liquidating fund of county indebtedness.
3. When fund received and credited, county clerk to publish notice for presentation for liquidation of outstanding claims on county funds.

SEC.

4. Claims to be presented within thirty days after notice; court to pay off claims by issuing drafts on liquidating fund; check on fund not to be honored until countersigned by prosecuting attorney.
5. Balance remaining after thirty days to be deposited to credit of sinking fund.
6. Sufficient amount from annual taxes to be set aside to create sinking fund for repayment of loan; loan may be paid after five years if sufficient funds on hand.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Wyoming county, West Virginia, is hereby authorized and empowered to borrow not exceeding four hundred thousand dollars from the reconstruction finance corporation, or other federal agency authorized to make loans, for the sole purpose of liquidating present indebtedness heretofore incurred by the said court, said liquidation and payment of debts to include all indebtedness chargeable to the county funds existing at the time this act takes effect; said loan to extend over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall be designated and known as a liquidating fund of county indebtedness and the money derived from said loan shall be deposited to the credit of said liquidating fund by the said county court and the same shall be disbursed in the manner herein provided.

Sec. 3. When the aforesaid fund has been received and properly credited as herein provided, the clerk of the said county court shall cause notice to be published in two newspapers in general circulation in his county that all outstanding claims drawn on the county funds, which are due and unpaid, as herein

6 provided shall be presented to the county court for liquidation
7 and cancellation.

Sec. 4. All persons, firms or corporations holding any claims
2 drawn on the county funds of their county, and which are due
3 and unpaid at the time this act takes effect, shall present the
4 same for payment and cancellation to the county court of said
5 county within thirty days of the date of said notice, whereupon
6 the said county court shall proceed to pay off and liquidate
7 such claims by issuing drafts on said liquidating fund of said
8 county for the aggregate amount of all claims held by such per-
9 sons, firms or corporations, plus interest that may have accrued
10 thereon, and such cancelled claims shall be filed by the county
11 clerk: *Provided, however,* That no check, draft or order drawn
12 on said fund, shall be paid or honored by any bank or depository
13 until the same has been countersigned by the prosecuting at-
14 torney of said county.

Sec. 5. If any balance remains in said fund after the afore-
2 said thirty days have expired, then the county court shall de-
3 posit the same to the credit of the sinking fund as hereinafter
4 provided and created.

Sec. 6. The said county court shall set apart a sufficient
2 amount from the taxes, levied and collected annually, to create
3 a sinking fund for the repayment of the aforesaid loan on the
4 basis of five per cent of the principal plus the interest thereon
5 annually. The county court, after a period of five years from
6 the date of said loan, if it has sufficient funds on hand, may
7 pay off and discharge the whole amount of the money so
8 borrowed.

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

CHAPTER 98

(House Bill No. 117—By Mr. Reed)

AN ACT to authorize and empower the boards of education of the
several districts in the county of Clay to borrow funds from
the reconstruction finance corporation or other agencies of the

government and to liquidate the indebtedness incurred by said boards of education and to provide for the payment of same and to borrow and repay for other purposes.

[Passed May 17, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Boards of education of Clay county, authorized to borrow not to exceed sixty thousand dollars from federal agency to liquidate present indebtedness of boards; loan to extend over period of twenty years.
2. Money derived from loan to be deposited to credit of special funds known as liquidating funds of the various school districts; amounts to be credited to each board separately; boards to continue to operate as under present law until loans are liquidated.
3. Allocation of fund of each board for building, furnishing and decorating community hall and for the purchase of thoroughbred stock and fowls.
4. Assessment, ownership and use of stock or fowls; bond by citizen

SEC.

5. receiving stock or fowls. When loans received and credited, secretaries and presidents of boards to publish notice for presentation for liquidation of claims against the several district educational funds.
6. Claims against funds to be presented within thirty days after notice; boards to pay off claims by issuing drafts on liquidating fund; check on fund not to be honored until countersigned by county superintendent of schools.
7. Balance remaining after thirty days to be deposited to credit of sinking funds.
8. Boards to set apart sufficient amount from annual taxes to create sinking fund or funds for repayment of loan and interest.

Be it enacted by the Legislature of West Virginia:

Section 1. The boards of education hereinafter named in the 2 county of Clay, West Virginia, are hereby authorized and em- 3 powered to borrow not more than sixty thousand dollars from 4 the reconstruction finance corporation or other governmental 5 agencies for the purpose of liquidating their present indebted- 6 ness heretofore incurred by said boards of education and for 7 other purposes specially named herein, and said liquidation and 8 payment of debts to include all indebtedness chargeable to the 9 elementary teachers' fund and maintenance building elemen- 10 tary funds existing at the time the tax limitation amendment 11 became effective and also such indebtedness incurred subsequent 12 thereto, for other purposes so provided herein up to the time of 13 the passage of this bill, and said loan or loans to extend over a 14 period of twenty years.

Sec. 2. There is hereby created a special fund which shall be 2 designated and known as a liquidating fund of Union district, 3 Pleasants district, Buffalo district, Otter district, Henry dis- 4 trict and Henry Independent district, and the money derived 5 from said loans shall be deposited to the credit of each of the 6 liquidating funds by the said boards of education above named 7 and shall be disbursed in the manner herein provided as follows:

8 (a) The board of education of the district of Union, in the
9 county of Clay, is hereby authorized to borrow the sum of ten
10 thousand dollars;

11 (b) The board of education of the district of Pleasants, in the
12 county of Clay, is hereby authorized to borrow the sum of ten
13 thousand dollars;

14 (c) The board of education of the district of Buffalo, in the
15 county of Clay, is hereby authorized to borrow the sum of ten
16 thousand dollars;

17 (d) The board of education of the district of Otter, in the
18 county of Clay, is hereby authorized to borrow the sum of ten
19 thousand dollars;

20 (e) The board of education of the district of Henry, in the
21 county of Clay, is hereby authorized to borrow the sum of ten
22 thousand dollars;

23 (f) The board of education of the district of Henry inde-
24 pendent, in the county of Clay, is hereby authorized to borrow
25 the sum of ten thousand dollars.

26 All such district boards of education of Clay county shall con-
27 tinue to exist and operate as under the present law during the
28 time all such loans are being liquidated and shall receive such
29 state aid or other aid as they would otherwise be entitled to
30 receive.

Sec. 3. Of the sum of each ten thousand dollars so lent each
2 of the several districts, fifteen hundred dollars out of each ten
3 thousand dollars shall be used for the construction and furnish-
4 ing a suitable community hall to be built in each of the respective
5 districts and to be situated in the most desirable and feasible
6 location where the density of the population is greatest; and of
7 the sum of fifteen hundred dollars so set aside for each of said
8 buildings, the sum of twelve hundred dollars shall be used in the
9 construction of the building in each district and the sum of
10 three hundred dollars in the furnishing and decoration of said
11 building: *Provided, however,* That the labor so used and work
12 done on the construction of any of the said buildings shall be
13 done by local labor and local material shall be used, and the
14 labor so employed shall be divided equally as near as it is pos-
15 sible to do so regardless of creed, religion or party affiliation:
16 *Provided further,* That of the said sum of ten thousand dollars
17 so mentioned above and provided to be spent, the boards, in

18 addition to applying such sums for the building and construc-
19 tion and decoration, as above stated, shall use in addition not
20 to exceed the sum of five hundred dollars out of each of the
21 respective sums of ten thousand dollars to be lent to the several
22 districts to purchase thoroughbred stock or fowls best suitable
23 for the county as a whole and the districts individually, which
24 shall become the common property of the several districts with-
25 out any discrimination among the citizens as to the use of same;
26 the purpose being to encourage the raising of better stock and/or
27 fowls in the community in order that the people might be self-
28 supporting, and add to the economic value of the county.

Sec. 4. Any citizen receiving any livestock or fowls here-
2 under shall agree to have same assessed in his or her name on
3 the personal property books of said county and to pay taxes on
4 said stock or fowls, which taxes derived therefrom shall be placed
5 in the sinking fund herein provided: *Provided, however,* That
6 any citizen must further agree to return to the said board or
7 boards one-third of any increase in stock or fowls to the said
8 board or boards, and the said board or boards must then dis-
9 tribute such increase to the various citizens of the county again,
10 and must continue to do so until the respective districts shall
11 have sufficient stock or fowls as the needs of the district demand:
12 *Provided further,* That any citizen so receiving any of the stock
13 or fowls provided for herein shall give a good and sufficient bond
14 to insure against any loss or damage that may occur while in
15 his possession, and should any stock or fowls placed in any
16 citizen's care be killed or destroyed such citizen shall replace
17 same with stock or fowls of equal value and the measure of value
18 shall be the market value at the time such stock or fowls are
19 killed or destroyed or any damage done thereto, and the bond
20 so given shall provide for the proper care of such stock or fowls
21 and the faithful performance of the contract with the respective
22 boards.

Sec. 5. When the aforesaid funds have been received and
2 properly credited as herein provided, the secretaries and the
3 presidents of the respective boards of education of each district
4 shall cause a notice to be published in two newspapers of general
5 circulation in said county that all outstanding claims drawn on
6 the teachers' elementary funds and maintenance building funds
7 of the several districts named herein and which are due and

8 unpaid shall be presented to said respective boards of the several
9 districts for liquidation and cancellation.

Sec. 6. All persons, firms or corporations holding any claim
2 on teachers' elementary fund or maintenance building elemen-
3 tary funds of any of the said districts which are due and unpaid
4 shall present the same for payment and cancellation to the
5 secretaries and the presidents of the respective boards of edu-
6 cation of the various districts of said county within thirty days
7 of the date of said notice. Whereupon, the said boards of educa-
8 tion of the said respective districts shall proceed to pay off and
9 liquidate such claims by issuing drafts on said liquidating funds
10 of the said respective boards of education of the several districts
11 for the aggregate amount of the claims held by such persons,
12 firms or corporations, plus any interest that may have accrued
13 thereon, and such cancelled claims shall be filed by the several
14 respective secretaries and presidents of the boards of education
15 of the districts: *Provided, however,* That any check, draft or
16 order drawn on said boards shall not be paid and honored by
17 any bank or depository until the same has been countersigned
18 by the superintendent of schools of said county.

Sec. 7. If any amount remains in said funds after the afore-
2 said thirty days have expired, the boards of education of the
3 several districts of said county shall deposit the same to the
4 credit of the sinking fund or funds as hereinafter provided and
5 created.

Sec. 8. The said boards of education of each of the several
2 districts of said county shall set apart a sufficient amount from
3 the tax levied and collected annually each year to create a sink-
4 ing fund or funds for the repayment of the aforesaid loan or
5 loans on the basis of five per cent of the principal plus the
6 interest thereon annually, until such loans have been paid.

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

CHAPTER 99

(House Bill No. 161—By Mr. Peery)

AN ACT to authorize and empower the board of education of Martinsburg independent school district, Martinsburg, West Virginia, to borrow funds from the reconstruction finance corporation, or other federal agency authorized to make loans, to liquidate indebtedness heretofore incurred by said board of education and to provide for the repayment of same.

[Passed May 22, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Board of education of Martinsburg independent school district, Berkeley county, authorized to borrow money from federal agency to liquidate indebtedness

SEC.

of board, to include all indebtedness chargeable to district funds, and to provide for repayment of loan.

Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of Martinsburg independent school district of Martinsburg, West Virginia, be authorized and empowered to borrow money from the reconstruction finance corporation, or other federal agency authorized to make loans, for the sole purpose of liquidating present indebtedness heretofore incurred by the said board of education, said liquidation and payment of debts to include all indebtedness chargeable to the district funds existing at the time this act takes effect, and to provide for the repayment of same.

CHAPTER 100

(House Bill No. 43—By Mr. Pritt)

AN ACT to authorize the board of education of Black Fork district, Tucker county, to erect a gymnasium in the town of Parsons to be used for school and other purposes and to borrow the money for building same, in an amount not to exceed three thousand dollars, from the reconstruction finance corporation and to give a lien or liens to secure the same upon the lot on

which the said gymnasium will be erected and upon the building to be erected thereon and providing that no part of said money or interest on same shall be repaid from the proceeds of any taxes laid or levied by said board of education.

[Passed April 18, 1933; in effect from passage. Approved by the Governor.]

Sec.

1. Board of education of Black Fork district, Tucker county, authorized to borrow from reconstruction finance corporation, not to exceed three thousand dollars, to build a school gymnasium in

SEC.

town of Parsons: board authorized to give lien on lot and building to secure loan; no part of loan to be repaid from proceeds of any tax laid or levied by board.

Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of Black Fork district, Tucker county, is authorized to borrow from the reconstruction finance corporation a sum not to exceed three thousand dollars to be used in building a gymnasium on property owned by said board in the town of Parsons, to be used for school and other purposes. Said board is further authorized, for the purpose of securing said loans, to give a lien or liens upon the lot on which said gymnasium is erected and upon the building erected thereon and to do any and all other things required by said reconstruction finance corporation or necessary and proper to obtain said loan, to secure the same and to build and maintain said building and to carry out the provisions of this act. No part of said sum so borrowed or any interest thereon shall ever be paid from the proceeds of any taxes laid or levied by said board of education.

CHAPTER 101

(Senate Bill No. 51—By Mr. Helmick)

AN ACT to authorize the board of education of Fairfax district, Tucker county, to erect a gymnasium in the town of Thomas to be used for school and other purposes and to borrow the money for building same, in an amount not to exceed four thousand dollars, from the reconstruction finance corporation or other federal governmental agencies, and to give a lien or

liens to secure the same upon the lot on which the said gymnasium will be erected and upon the building to be erected thereon, and providing that no part of said money or interest on same shall be repaid from the proceeds of any taxes laid or levied by said board of education.

[Passed May 19, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Board of education of Fairfax district, Tucker county, authorized to borrow from federal agency, not to exceed four thousand dollars, to build a school gymnasium in the town of Thomas;

SEC.

board authorized to give a lien on lot and building to secure loan; no part of loan to be paid from proceeds of any taxes laid or levied by board.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Fairfax district, Tucker county, is authorized to borrow from the reconstruction finance corporation or other federal governmental agencies, a sum not to exceed four thousand dollars to be used in building a gymnasium on property owned by said board in the town of Thomas, to be used for school and other purposes. Said board is further authorized, for the purpose of securing said loan, or loans, to give a lien or liens on the lot upon which said gymnasium is erected and upon the building erected thereon and to do anything and all things required by said reconstruction finance corporation or other federal governmental agency from which a loan may be obtained, or necessary and proper to obtain said loan, or loans, to secure the same and to build and maintain said building and to carry out the provisions of this act. No part of said sum, or sums, so borrowed, or any interest thereon, shall ever be paid from the proceeds of any taxes laid or levied by said board.

CHAPTER 102

(House Bill No. 148—By Mr. Dyer)

AN ACT to authorize and empower the board of education of Webster county, West Virginia, to borrow funds from the reconstruction finance corporation, or other federal agency

authorized to loan money, to liquidate indebtedness heretofore incurred by the several boards of education heretofore existing in said county and to provide for the repayment of same.

[Passed May 17, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Board of education of Webster county authorized to borrow from federal agency, not to exceed ten thousand dollars for each magisterial school district heretofore existing in said county, to liquidate present indebtedness of the several boards; loan to extend over period of twenty years.
2. Money derived from loan to be deposited to credit of special fund known as liquidating fund of school indebtedness.
3. When loan received and credited, county superintendent to publish notice for presentation for liquidation of claims drawn on school

SEC.

- funds.
4. Claims to be presented within thirty days after notice; board to pay off claims by drafts on liquidating fund; check on fund not to be honored until countersigned by county superintendent.
5. Balance remaining after thirty days to be deposited to credit of sinking fund.
6. Sufficient amount from annual taxes to be set aside to create sinking fund for repayment of loan; loan may be paid after five years if sufficient funds on hand.

Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of Webster county, 2 West Virginia, be authorized and empowered to borrow money, 3 not exceeding ten thousand dollars for each magisterial school 4 district heretofore existing, from the reconstruction finance cor- 5 poration or other federal agency authorized to loan money for 6 the sole purpose of liquidating present indebtedness heretofore 7 incurred by the several boards of education of said county; 8 said liquidation and payment of debts to include all indebtedness 9 chargeable to the said districts existing on the thirtieth day of 10 June, one thousand nine hundred thirty-three; said loan to 11 extend over a period of twenty years.

Sec. 2. There is hereby created a special fund which shall be 2 designated and known as a liquidating fund of school indebted- 3 ness and the money derived from said loan shall be deposited to 4 the credit of said liquidating fund by the said board of edu- 5 cation and the same shall be disbursed in the manner herein 6 provided.

Sec. 3. When the aforesaid fund has been received and prop- 2 erly credited as herein provided, the county superintendent of 3 the said county shall cause notice to be published in two news- 4 papers in general circulation in his county that all outstanding 5 claims drawn on the school funds which are due and unpaid 6 shall be presented to the board of education for liquidation and 7 cancellation.

Sec. 4. All persons, firms or corporations holding any claims drawn on the school funds of any district, and which are due and unpaid on the thirtieth day of June, one thousand nine hundred thirty-three, shall present the same for payment and cancellation to the board of education of said county within thirty days after the date of said notice, whereupon the said board shall proceed to pay off and liquidate such claims by issuing drafts on said liquidating fund of said county for the aggregate amount of all claims held by such persons, firms or corporations, plus interest that may have accrued thereon, and such cancelled claims shall be filed by the county superintendent: *Provided, however,* That no check, draft or order drawn on said fund, shall be paid or honored by any bank or depository until the same has been countersigned by the county superintendent of said county.

Sec. 5. If any balance remains in said fund after the afore-said thirty days have expired, then the board of said county shall deposit the same to the credit of the sinking fund as hereinafter provided and created.

Sec. 6. The said board shall set apart a sufficient amount from the taxes, levied and collected annually, to create a sinking fund for the repayment of the aforesaid loan on the basis of five per cent of the principal plus the interest thereon annually. The said board, after a period of five years from the date of said loan, if it has sufficient funds on hand, may pay off and discharge the whole amount of the money so borrowed.

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

CHAPTER 103

(Senate Bill No. 52—By Mr. Reynolds, of Mineral)

AN ACT to authorize any and all boards of education of Grant county to transfer funds, excepting proceeds of bond issues, or moneys raised by levy for the purpose of meeting the interest and sinking fund requirements of outstanding bond issues,

from any school fund or funds to any other school fund or funds, under their control, for the fiscal year ending June thirty, one thousand nine hundred thirty-three.

[Passed May 18, 1933 : in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. All boards of education in Grant county authorized to transfer any school funds under their control, excepting proceeds of bond issues or money levied for

SEC.

purpose of meeting interest and sinking fund requirements of bond issues, to any other school fund, for fiscal year ending June 30, 1933.

Be it enacted by the Legislature of West Virginia:

Section 1. Any and all boards of education of Grant county
 2 are authorized to transfer any school fund or funds under their
 3 control, excepting proceeds of bond issues, or moneys raised by
 4 levy for the purpose of meeting the interest and sinking fund
 5 requirements of outstanding bond issues, to any other school
 6 fund or funds, for the fiscal year ending June thirty, one
 7 thousand nine hundred thirty-three.

CHAPTER 104

(House Bill No. 160—By Mr. Coffindaffer)

AN ACT to authorize the board of education of each independent school district of Harrison county, West Virginia, and the board of education of each of the other school districts of said county to transfer funds, excepting proceeds of bond issues, or moneys raised by levy for the purpose of meeting the interest and sinking fund requirements of outstanding bond issues, from any school fund or funds to any other school fund or funds, under its control, for the fiscal year ending June thirty, one thousand nine hundred thirty-three.

[Passed May 22, 1933 : in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. All boards of education in Harrison county authorized to transfer any funds under their control, except proceeds of bond issues or money levied to meet interest and

SEC.

sinking fund requirements of bond issues, to any other school fund, for fiscal year ending June 30, 1933.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of each independent school
 2 district of Harrison county, West Virginia, and the board of
 3 education of each of the other school districts of said county

4 are hereby authorized to transfer any school fund or funds
5 under its control, excepting proceeds of bond issues, or moneys
6 raised by levy for the purpose of meeting the interest and
7 sinking fund requirements of outstanding bond issues, to any
8 other school fund or funds, for the fiscal year ending June thirty,
9 one thousand nine hundred thirty-three.

CHAPTER 105

(House Bill No. 211—By Mr. Hogg)

AN ACT authorizing the board of education of Harvey district, Mingo county, West Virginia, to transfer certain funds from what is known as the mandamus fund of said school district to the high school teachers' fund, the elementary maintenance fund, and the elementary teachers' fund of said district.

[Passed June 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Board of education of Harvey district, Mingo county, authorized to transfer the funds and proceeds of mandamus fund amounting to four thousand two hun-

SEC.

dred sixty-one dollars ninety-three cents to other funds of district; specified amounts to be transferred to certain funds.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Harvey district, Mingo county, West Virginia, is hereby vested with authority, power, and right to transfer the funds and proceeds of what is known and designated as the mandamus fund of said district, amounting to the sum of four thousand two hundred sixty-one dollars and ninety-three cents to the following respective funds of said district:

The sum of two thousand dollars may be transferred to the high school teachers' fund;

The sum of one thousand two hundred sixty-one dollars and ninety-three cents may be transferred to the elementary maintenance fund;

The sum of one thousand dollars may be transferred to the elementary teachers' fund.

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

CHAPTER 106

(Senate Bill No. 50—By Mr. Fleming)

AN ACT to authorize the board of education of any magisterial district of Pleasants county to transfer funds, except proceeds of bond issues, or money raised by levy for the purpose of meeting the interest and sinking fund requirements of outstanding bond issues, from any school fund or funds to any other school fund or funds, under its control, for the fiscal year ending June thirtieth, one thousand nine hundred thirty-three.

[Passed May 18, 1933 : in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. District boards of education, Pleasants county, authorized to transfer any school funds under their control except proceeds of bond

SEC.

issues or money levied to meet interest and sinking fund, to any other school funds for fiscal year ending June 30, 1933.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of any magisterial district in the county of Pleasants is authorized to transfer any school fund or funds under its control, except proceeds of bond issues, or moneys raised by levy for the purpose of meeting the interest and sinking fund requirements of outstanding bond issues, to any other school fund or funds under its control, for the fiscal year ending June thirtieth, one thousand nine hundred thirty-three.

CHAPTER 107

(House Bill No. 153—By Mr. Hill)

AN ACT to authorize and empower the board of education of Greenbank district, Pocahontas county, to transfer eight hundred dollars from the high school teachers' fund to the high school maintenance fund.

[Passed May 18, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Board of education of Greenbank district, Pocahontas county, authorized to transfer eight hundred dollars from high school

SEC.

teachers' fund to high school maintenance fund for year ending June 30, 1933.

Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of Greenbank district, 2 Pocahontas county, is hereby authorized and empowered to 3 transfer eight hundred dollars from the high school teachers' 4 fund of said district to the high school maintenance fund, for 5 the year ending June thirty, one thousand nine hundred thirty- 6 three.

CHAPTER 108

(House Bill No. 220—By Mr. Carrico)

AN ACT to authorize the boards of education of Grant district, Kingwood district, Lyon district, Pleasant district, Portland district, Reno district, Union district and Valley district, of Preston county, to transfer school funds, excepting proceeds of bond issues or moneys raised by levy for the purpose of meeting interest and sinking fund requirements of outstanding bond issues, from any school fund or funds in which there is a

balance to any other school fund or funds in which there is a deficit, under their control, for the fiscal year ending June thirtieth, one thousand nine hundred thirty-three.

[Passed June 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.

1. District boards of education, Preston county, authorized to transfer any school funds under their control to elementary teachers' fund and high school teachers'

Sec.

fund for fiscal year ending June 30, 1933; proceeds of bond issues or money levied to meet interest and sinking fund not to be transferred.

Be it enacted by the Legislature of West Virginia:

Section 1. The respective boards of education of Grant district, Kingwood district, Lyon district, Pleasant district, Portland district, Reno district, Union district and Valley district, 4 of Preston county, are hereby authorized to transfer any school 5 fund or funds not needed to meet the requirements of such fund 6 or funds for the present fiscal year, to the elementary teachers' 7 fund and/or the high school teachers' fund of the said respective 8 districts, for the purpose of paying valid claims for teachers 9 salaries for the current fiscal year ending June thirtieth, one 10 thousand nine hundred thirty-three: *Provided, however,* That 11 no transfer shall be made from the proceeds of bond issues or 12 moneys raised by levy for the purpose of meeting the interest 13 and sinking fund requirements of outstanding bond issues.

CHAPTER 109

(House Bill No. 131—By Mrs. Suddarth)

AN ACT to authorize the board of education of Grafton independent school district, Taylor county, to transfer funds, excepting proceeds of bond issues, or moneys raised by levy for the purpose of meeting the interest and sinking fund requirements of outstanding bond issues, from any school fund

or funds to any other school fund or funds, under its control, for the fiscal year ending June thirty, one thousand nine hundred thirty-three.

[Passed May 16, 1933; in effect from passage. Approved by the Governor.]

SEC.

1. Board of education of Grafton independent school district, Taylor county, authorized to transfer any school fund under its control, except proceeds of bond issues

SEC.

or money levied to meet interest and sinking fund, to any other school fund, for fiscal year ending June 30, 1933.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Grafton independent school district, Taylor county, is hereby authorized to transfer any school fund or funds under its control, excepting proceeds of bond issues, or moneys raised by levy for the purpose of meeting the interest and sinking fund requirements of outstanding bond issues, to any other school fund or funds, for the fiscal year ending June thirty, one thousand nine hundred eighty-three.

CHAPTER 110

(House Bill No. 221—By Mr. Carrico, by request)

AN ACT to authorize the respective boards of education of Centerville district, Ellsworth district, Lincoln district, McElroy district, Meade district, Union district and Sistersville Independent School district, of Tyler county, to transfer elementary and new building school funds to their respective teachers' funds for the purpose of meeting obligations for the payment of teachers' salaries for the present fiscal year.

[Passed June 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Magisterial and Sistersville independent boards of education, Tyler county, authorized to transfer funds from maintenance

SEC.

and new building fund to elementary teachers' funds for respective districts, for current fiscal year.

Be it enacted by the Legislature of West Virginia:

Section 1. The respective boards of education of Centerville district, Ellsworth district, Lincoln district, McElroy district, Meade district, Union district and Sistersville Independent school district, of Tyler county, are hereby authorized

5 to transfer surplus money from the maintenance fund and new
6 building fund to the elementary teachers' funds of the said re-
7 spective districts for the purpose of meeting obligations against
8 the elementary teachers' funds of the said respective districts,
9 for the payment of elementary teachers' salaries for the current
10 fiscal year.

CHAPTER 111

(Senate Bill No. 48—By Mr. Millender)

AN ACT to authorize the board of education of Ceredo magisterial district, Wayne county, to transfer funds, excepting proceeds of bond issues or moneys raised by levy for the purpose of meeting the interest and sinking fund requirements of outstanding bond issues, from any school fund or funds to any other school fund or funds, under its control, for the fiscal year ending June thirty, one thousand nine hundred thirty-three.

[Passed May 19, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Board of education of Ceredo magisterial district, Wayne county, authorized to transfer any school fund under its control except proceeds of bond issues

SEC.

or moneys raised by levy to meet interest and sinking fund, to any other school fund, for fiscal year ending June 30, 1933.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Ceredo magisterial district, Wayne county, is authorized to transfer any school fund or funds under its control, excepting proceeds of bond issues or moneys raised by levy for the purpose of meeting the interest and sinking fund requirements of outstanding bond issues, to any other school fund or funds, for the fiscal year ending June thirty, one thousand nine hundred thirty-three.

CHAPTER 112

(House Bill No. 212—By Mr. Dyer)

AN ACT to authorize and empower the board of education of Fork Lick district, Webster county, West Virginia, to transfer funds from the new building and improvement fund, the elementary

maintenance fund and the high school maintenance fund to the high school teachers' and the elementary teachers' funds in said district.

[Passed June 3, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Board of education of Fork Lick district, Webster county, authorized to transfer funds from the new building and improvement

SEC.

fund to other school funds: specified amounts to be transferred to certain funds.

Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of Fork Lick district, Webster county, West Virginia, is authorized and empowered to transfer from the new building and improvement fund to the high school teachers' fund of said district, not to exceed the sum of one thousand two hundred dollars from the high school maintenance fund to the high school teachers' fund of said district not to exceed the sum of two thousand three hundred dollars, from the new building and improvement fund to the elementary teachers' fund of said district not to exceed the sum of four thousand dollars and from the elementary maintenance fund to the elementary teachers' fund of said district not to exceed the sum of two thousand four hundred dollars.

CHAPTER 113

(Senate Bill No. 35—By Mr. White, of Hampshire)

AN ACT to authorize and empower the county court of Hampshire county to transfer a sum not exceeding fifteen thousand dollars in the aggregate in the year one thousand nine hundred thirty-three, from the unexpended balances in the county road fund, the county dog fund, and each of the several district road funds of said county to the general county fund of said county.

[Passed May 18, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. County court of Hampshire county authorized to transfer not to exceed fifteen thousand dollars in 1933, from unexpended bal-

SEC.

ances in county road, county dog and district road funds, to general county fund.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Hampshire county is hereby authorized and empowered to transfer a sum not exceeding

3 fifteen thousand dollars in the aggregate in the year one thousand
4 and nine hundred thirty-three, from the unexpended balances
5 in the county road fund, the county dog fund, and each of the
6 several district road funds of said county to the general county
7 fund of said county.

CHAPTER 114

(House Bill No. 123—By Mr. McCoy)

AN ACT to empower the county court of Marion county to transfer a sum, not exceeding sixty thousand dollars, for the fiscal year ending June thirtieth, one thousand nine hundred thirty-three, only, from the county road fund to the general county fund.

[Passed May 17, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.

1. County court of Marion county authorized to transfer not to exceed sixty thousand dollars from

SEC.

the county road fund to the general county fund, for the fiscal year ending June 30, 1933.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Marion county is hereby
2 authorized and empowered to transfer a sum, not exceeding
3 sixty thousand dollars, for the fiscal year ending June thirtieth,
4 one thousand nine hundred thirty-three, only, from the county
5 road fund to the general county fund.

CHAPTER 115

(House Bill No. 147—By Mr. Watson)

AN ACT to authorize and empower the county court of Preston county to transfer from the courthouse fund to the general county fund a sum not to exceed fifty thousand dollars, and to replace the amount so transferred from the general county fund, at the rate of twelve thousand five hundred dollars per year, until said money so transferred is replaced.

[Passed May 17, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.

1. County court of Preston county authorized to transfer from court house fund to general county fund not to exceed fifty thou-

SEC.

sand dollars; transfer not to reduce court house repair fund below one hundred three thousand dollars; money transferred

SEC.

shall be replaced from general county fund in court house fund at the rate of twelve thousand

SEC.

five hundred dollars per year, beginning with the fiscal year July 1, 1933.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Preston county is hereby 2 authorized and empowered to make a transfer from the court- 3 house fund of said county of a sum of money not to exceed fifty 4 thousand dollars to the general county fund of Preston county 5 for the purpose of satisfying a present existing indebtedness in 6 Preston county, payable from the general county fund, but such 7 transfer shall not reduce said courthouse repair fund below one 8 hundred three thousand dollars. In case the said county court 9 shall make such transfer, the county court shall replace the 10 money so transferred from the general county fund to said 11 courthouse fund, at the rate of twelve thousand five hundred 12 dollars per year, beginning with the fiscal year July one, one 13 thousand nine hundred thirty-three, and continuing, at said rate 14 per year, until the money so transferred is repaid in full.

CHAPTER 116

(House Bill No. 121—By Mr. Craig)

AN ACT to authorize the municipal corporation of Follansbee to purchase, acquire, extend, operate, maintain and improve the existing waterworks systems located in said city of Follansbee and defray the cost of such purchase, acquisition, extensions and improvements by issuing bonds secured by and payable from the revenues of such systems.

[Passed May 26, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. City of Follansbee authorized to purchase and operate waterworks systems of the Follansbee Water and Light Company and to construct betterments and improvements.
2. Act cumulative authority for said purchase; what the term waterworks to include; definition of governing body.
3. If municipality decides to purchase said waterworks system, estimate of cost to be made according to terms of franchise now existing; ordinance to provide for the issuance of revenue

SEC.

- bonds; what ordinance to show: form, negotiability, tax exemption, interest rate and life of bonds; lien of bonds on property acquired; revenues from waterworks system pledged for payment of bond and interest; rate of service charges.
4. Publication of ordinance and hearing on; action on, when written protest filed.
 5. How bonds issued and negotiated.
 6. Bonds to be paid solely from revenue from waterworks systems and not to constitute a municipal indebtedness.
 7. Statutory mortgage lien in favor

Sec.

- of bondholders upon system purchased; how enforced; receivership upon default of payment of bonds.
8. Accumulated surplus, if any, to be transferred to depreciation account or to bond redemption account; surplus in depreciation account to be transferred to bond redemption account; surplus in bond redemption account to be applied to retirement of bonds.
 9. Revenue bonds for improvements and betterments to waterworks system; what ordinance concerning to show.
 10. Municipality, while any bonds outstanding, to operate waterworks and collect sufficient revenues therefrom to provide operation costs, depreciation fund and bond retirement fund; to pledge revenues from waterworks to above purpose; what funds to be re-

Sec.

- mitted to state sinking fund commission; amount of bonds; additional bonds when proceeds of bond issue less than cost of property or improvement.
11. Holder of bond may by proper action, compel governing body to perform duties imposed by this act; receivership for system upon default in payment of principal or interest of bonds.
 12. Act to be full authority for raising revenue for acquisition, improvement and maintenance of waterworks system, and for issuance and sale of bonds; act self sufficient for raising revenue, purchase works and for sale of bonds; terms of franchise between city and Follansbee Water and Light Company not altered or modified by act.
 13. Act to be liberally construed; if part of act illegal, remaining parts not affected.

Be it enacted by the Legislature of West Virginia:

Section 1. That the municipal corporation of Follansbee may purchase, acquire and operate the waterworks systems of the Follansbee water and light company, construct betterments and improvements to said waterworks system, after purchase and acquisition, as in this act provided.

Sec. 2. This act shall be construed as cumulative authority for the purchase and operation of the waterworks system of the Follansbee water and light company, or for the construction of betterments and improvements thereto and shall not be construed to repeal any existing laws with respect thereof. The term "waterworks" as used in this act shall be construed to mean and include a waterworks system in its entirety or any integral part thereof, including mains, hydrants, meters, valves, standpipes, storage tanks, pumping stations, intakes, wells, impounding reservoirs or purification plants. The term "governing body" as used in this act shall be construed to mean the legally constituted governing body of the municipality.

Sec. 3. Whenever the municipality shall determine to purchase and acquire the waterworks system of the Follansbee water and light company, under the provisions of its franchise that now exists between it and the Follansbee water and light company, it shall cause an estimate to be made of the cost thereof, according to the terms of the franchise now existing between said city of Follansbee and the Follansbee water and light company, and shall, by ordinance, provide for the issuance of revenue

9 bonds under the provisions of this act, which ordinance shall
10 set forth a brief description of the contemplated improvement,
11 the estimated cost thereof, the amount, rate of interest, time and
12 place of payment and other details in connection with the
13 issuance of the bonds. Such bonds shall be in such form and
14 shall be negotiated in such manner and upon such terms as the
15 governing board of such city or town may by ordinance specify.
16 All such bonds shall be exempt from taxation by the state of
17 West Virginia or any county or municipality therein. Such
18 bonds shall bear interest at not more than six per cent per
19 annum, payable semi-annually, and shall be payable at such
20 times and place not exceeding thirty-four years from their date
21 as shall be prescribed in the ordinance providing for their
22 issuance. Such ordinance shall also declare that a statutory
23 mortgage lien shall exist upon the property so to be acquired or
24 constructed, fix a minimum rate or rates for water to be col-
25 lected prior to the payment of all of said bonds, and shall pledge
26 the revenues derived from the waterworks system for the pur-
27 pose of paying such bonds and interest thereon, which pledge
28 shall definitely fix and determine the amount of revenues which
29 shall be necessary to be set apart and applied to the payment
30 of the principal of and interest on the bonds, and the propor-
31 tion of the balance of such revenues and income which are to be
32 set aside as a proper and adequate depreciation account, and the
33 remainder shall be set aside for the reasonable and proper oper-
34 ation thereof. The rates to be charged for the services from
35 such waterworks shall be sufficient to provide for the payment
36 of interest upon all bonds and to create a sinking fund to pay
37 the principal thereof as and when the same become due, and to
38 provide for the operation and maintenance of the system, and to
39 provide an adequate depreciation fund.

Sec. 4. After such ordinance shall have been adopted same
2 shall be published once in a newspaper published in such munici-
3 pality, or if there be no newspaper so published, then such ordi-
4 nance shall be posted in at least three public places therein, with
5 a notice to all persons concerned, stating that said ordinance
6 has been adopted, and that the municipality contemplates the
7 issuance of the bonds described in the ordinance, and that any
8 person interested may appear before the governing body, upon
9 a certain date which shall not be less than ten days subsequent

10 to the publication or posting of such ordinance and notice, and
11 present protests. At such hearing all objections and suggestions
12 shall be heard and the governing body shall take such action as
13 it shall deem proper in the premises: *Provided, however,* That
14 if at such hearing written protest is filed by thirty per cent or
15 more of the owners of real estate situate in said municipality,
16 then the governing body of said municipality shall not take
17 further action unless four-fifths of the qualified members of said
18 governing body assent thereto.

Sec. 5. Bonds herein provided for shall be issued in such
2 amounts as may be necessary to provide sufficient funds to pay
3 all costs of purchase or acquisition, including engineering, legal
4 and other expenses, together with interest to date six months
5 subsequent to the estimated date of completion. Bonds issued
6 under the provisions of this act are hereby declared to be nego-
7 tiable instruments, and shall be executed by the proper legally
8 constituted authorities of the municipality and be sealed with the
9 corporate seal of the municipality, and in case any of the officers
10 whose signatures appear on the bonds or coupons shall cease
11 to be such officers before delivery of such bonds, such signa-
12 tures shall nevertheless be valid and sufficient for all purposes
13 the same as if they had remained in office until such delivery.
14 Said bonds shall not be negotiated at a price lower than a price
15 which computed to maturity upon standard tables of bond values
16 will show a net return of six per cent per annum to the pur-
17 chaser upon the amount paid therefor.

Sec. 6. Bonds issued under the provisions of this act shall be
2 payable solely from the revenues derived from such water-
3 works systems, and such bonds shall not in any event constitute
4 an indebtedness of such municipality within the meaning of the
5 constitutional provisions or limitations, and it shall be plainly
6 stated on the face of each bond that the same has been issued
7 under the provisions of this act, and that it does not consti-
8 tute an indebtedness of such municipality within any consti-
9 tutional or statutory limitation.

Sec. 7. There shall be and there is hereby created a statutory
2 mortgage lien upon the waterworks system so purchased or ac-
3 quired from the proceeds of bonds hereby authorized to be
4 issued, which shall exist in favor of the holder of said bonds and
5 each of them, and to and in favor of the holder of the coupons

6 attached to said bonds, and such waterworks system shall re-
7 main subject to such statutory mortgage lien until payment in
8 full of the principal and interest of said bonds. Any holder
9 of bonds issued under the provisions of this act or of any cou-
10 pons representing interest accrued thereon, may, either at law
11 or in equity, enforce the statutory mortgage lien hereby con-
12 ferred, and may, by proper suit, compel the performance of the
13 duties of the officials of the issuing municipality set forth in this
14 act. If there be default in the payment of the principal of
15 and/or interest upon any of said bonds, any court having juris-
16 diction in any proper action may appoint a receiver to ad-
17 minister said waterworks system on behalf of the municipality
18 with power to charge and collect rates sufficient to provide for
19 the payment of said bonds and interest thereon, and for the
20 payment of the operating expenses and to apply the income and
21 revenues in conformity with this act and the ordinance provid-
22 ing for the issuance of such bonds.

Sec. 8. If any surplus shall be accumulated in the operating
2 and maintenance fund which shall be in excess of the cost of
3 maintaining and operating the plant during the remainder of
4 the fiscal year then current, and the cost of maintaining and
5 operating the said plant during the fiscal year then next ensuing,
6 then any such excess may be transferred to either the depreci-
7 ation account or to the bond and interest redemption account,
8 and if any surplus shall be accumulated in the depreciation ac-
9 count over and above that which the municipality shall find
10 may be necessary for the probable replacements which may be
11 needed during the then present fiscal year, and the next en-
12 suing fiscal year, such excess may be transferred to the bond and
13 interest redemption account, and if surplus shall exist in the
14 bonds and interest redemption account same shall be applied
15 insofar as possible in the purchase or retirement of outstanding
16 revenue bonds payable from such account.

Sec. 9. Whenever the municipality shall own and operate a
2 waterworks system, whether constructed under the provisions of
3 this act or not, and shall desire to construct improvements and
4 betterments thereto, it may issue revenue bonds under the pro-
5 visions of this act to pay for same, and the procedure therefor, in-
6 cluding the fixing of rates and the computation of the amount
7 thereof, shall be the same as in this act provided for the issuance

8 of bonds for purchase or acquisition of a waterworks system in a
9 municipality which has not heretofore owned and operated a
10 waterworks system: *Provided, however,* That in the ordinance
11 declaring the intention to issue the bonds and providing details
12 in connection therewith, the governing body shall provide, find
13 and declare in addition to the other requirements set out in this
14 act, the value of the then existing system and the value of the
15 property proposed to be constructed, and the revenues derived
16 from the entire system when the contemplated betterments and
17 improvements are completed, shall be divided according to such
18 values and so much of the revenue as is in proportion to the
19 value of such betterments and improvements as against the value
20 of the previous existing plant as so determined, shall be set
21 aside and used solely and only for the purpose of paying the
22 revenue bonds issued for such betterments, together with costs
23 of the operation and the depreciation thereof, and such reve-
24 nue shall be deemed to be income derived exclusively from such
25 betterments and improvements.

Sec. 10. The municipality when issuing bonds under the pro-
2 visions of this act shall thereafter, so long as any of such bonds
3 remain outstanding, operate and maintain its waterworks as
4 hereinafter provided and shall charge, collect and account for
5 revenues therefrom as will be sufficient to pay all operating
6 costs, provide a depreciation fund, retire the bonds and pay
7 the interest requirements of the bonds as the same become due.
8 The ordinance pursuant to which any such bonds are issued shall
9 pledge the revenues derived from the waterworks to the pur-
10 poses aforesaid and shall definitely fix and determine the amount
11 of revenues which shall be necessary and set apart in a special
12 fund for the bond requirements. The amounts as and when
13 so set apart into said special fund for the bond requirements
14 shall be remitted to the state sinking fund commission to be re-
15 tained and paid out by said commission consistent with the pro-
16 visions of this act and the ordinance pursuant to which such
17 bonds have been issued. The bonds hereby authorized shall be
18 issued in such amounts as may be determined necessary to pro-
19 vide funds for the purpose for which they are authorized, and
20 in determining the amount of bonds to be issued it shall be proper
21 to include interest on the bonds for a period not beyond six
22-23 months from the estimated construction period for the im-

24 provement. If the proceeds of bonds because of error or other-
25 wise shall be less than the cost of the property or improvement
26 for which authorized, additional bonds may be issued to provide
27 the amount of such deficit and such additional bonds shall be
28 deemed to be of the same issue and shall be entitled to payment
29 from the same fund without preference or priority over the
30 bonds first authorized and issued. If the proceeds of bonds shall
31 exceed the cost of the property or improvement, the surplus shall
32 be converted into the fund for the retirement of the bonds and
33 payment of the interest thereon.

Sec. 11. Any holder of any of the bonds issued under the pro-
2 visions of this act or of any coupons representing interest accrued
3 thereon, may, either at law or in equity, by proper suit, compel
4 the performance of the duties of the governing body of the
5 municipality having bonds outstanding under the provisions
6 of this act as such duties are imposed by this act or by the
7 ordinance pursuant to which such bonds were issued. If there
8 be default in the payment of the principal of and/or interest
9 upon any of such bonds, any court having jurisdiction in any
10 proper action shall appoint a receiver to administer said water-
11 works system on behalf of the municipality with power to
12 charge and collect rates sufficient to provide for the retirement
13 of the bonds and pay the interest thereon, and for the payment
14 of the operating expenses, and such receiver shall apply the
15 income and revenues in conformity with this act and the ordi-
16 nance pursuant to which such bonds have been issued.

Sec. 12. This act shall, without reference to any other statute
2 be deemed full authority for the raising of revenue for the pur-
3 pose and acquisition, improvement, equipment, maintenance,
4 operation and repair of the works herein provided for and for
5 the issuance and sale of the bonds by this act authorized, and
6 shall be construed as an additional and alternative method
7 therefor and for the financing thereof, and no petition or elec-
8 tion or other or further proceeding in respect to the raising of
9 revenue for the purchase or acquisition of the works or to the
10 issuance or sale of bonds under this act and no publication of
11 any resolution, ordinance, notice or proceeding relating to such
12 raising of revenue for the purchase or acquisition or to the
13 issuance or sale of such bonds shall be required except such as
14 are prescribed by this act, any provisions of other statutes of

15 the state to the contrary notwithstanding: *Provided, however,*
 16 That all functions, powers and duties of the state department of
 17 health shall remain unaffected by this act: *Provided further,*
 18 That nothing herein contained shall in any manner change, alter
 19 or modify the terms of the franchise now existing between the
 20 Follansbee water and light company and the city of Follans-
 21 bee.

Sec. 13. This act being necessary for the public health, safety
 2 and welfare it shall be liberally construed to effectuate the pur-
 3 poses thereof.

Sec. 14. The sections and provisions of this act are separable
 2 and are not matters of mutual essential inducement, and it is the
 3 intention to confer the whole or any part of the powers herein
 4 provided for, and if any of the sections or provisions or parts
 5 thereof is for any reason illegal, it is the intention that the re-
 6 maining sections and provisions or parts thereof shall remain in
 7 full force and effect.

CHAPTER 117

(House Bill No. 207—By Mr. Peters)

AN ACT to authorize the county court of Mercer county to pay the
 Sunset News and the Princeton Observer for printing list of
 real estate and list of persons and property other than real estate
 in said county delinquent for the nonpayment of taxes thereon
 for the year one thousand nine hundred thirty.

[Passed June 3, 1933; in effect from passage. Became a law without the approval
 of the Governor.]

SEC.	1. County court of Mercer county authorized to pay certain news- papers for printing lists of real estate and lists of persons and		SEC. property other than real estate, in said county, delinquent for nonpayment of taxes for 1930.
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Be it enacted by the Legislature of West Virginia:

Section 1. The county court of the county of Mercer is here-
 2 by authorized and empowered, within its discretion, to pay the
 3 Sunset News and the Princeton Observer, newspapers of op-
 4 posite politics, published in said county, at the rate provided by

5 law, for publishing, as required by law, in the month of June,
 6 one thousand nine hundred thirty-one, copy of the list of real
 7 estate and copy of the list of persons and property, other than
 8 real estate of said county, delinquent for the nonpayment of
 9 taxes thereon for the year one thousand nine hundred thirty.

CHAPTER 118

(Com. Sub. for Senate Bill No. 55—Originating in the Committee
 on Education)

AN ACT to provide for the transfer of the property heretofore known as the Wheeling public library and heretofore owned and operated by the independent school district of the city of Wheeling, to a board of trustees created hereby and to be known as the board of trustees of the Ohio county public library and providing for the ownership, management and operation of the said public library by such board of trustees.

[Passed May 31, 1933; in effect from passage. Became a law without the approval of the Governor.]

Sec.

1. Title of Wheeling public library vested in a board of trustees hereby created; board a body corporate; number, appointment, compensation and qualifications of board members.
2. Terms, and appointment of members by Judges of Ohio county circuit court; filling vacancies; organization of board and removal from office.
3. Title to library property of whatever nature vested in board as of

SEC.

- July 1, 1933; board to have sole power to operate and manage library and all other public libraries or branches established or acquired by board.
4. Annual levy by board of education of Ohio county for maintenance of library; proceeds of levy for exclusive use of library or branches; how disbursed; income from operation of library to be paid direct to board; how expended by board.

Be it enacted by the Legislature of West Virginia:

Section 1. Title to the public library of the city of Wheeling 2 heretofore owned and operated by the independent school dis- 3 trict of said city, is hereby vested in a board of trustees to be 4 known as the board of trustees of the Ohio county public 5 library, which board is hereby created. Said board is hereby 6 made a body corporate and by that name may sue and be sued, 7 plead and be impleaded, contract and be contracted with. Said 8 board shall consist of five citizens of the county of Ohio, and 9 shall be appointed in the manner hereinafter set out and shall 10 serve without compensation, and shall hold no remunerative 11 political office, either state, county or municipal; no member

12 of the board shall be eligible to appointment to any remunera-
13 tive office or position under the jurisdiction of said board.

Sec. 2. Before the first day of July, one thousand nine
2 hundred thirty-three, the judges of the circuit court of Ohio
3 county shall appoint the members of said board; one person
4 shall be appointed for one year; one for two years; one for three
5 years; one for four years; and one for five years, respectively,
6 as designated by the said judges, the term of office commencing
7 July first, one thousand nine hundred thirty-three. Their re-
8 spective successors, however, shall be appointed for the term of
9 five years each, excepting that any person appointed to fill a
10 vacancy occurring before the expiration of the term vacated,
11 shall serve only for the unexpired term, and a member shall be
12 eligible for reappointment; *Provided, however,* That any
13 vacancy created, except by the expiration of a term, shall be
14 filled by the said board of trustees. Upon the appointment of
15 said board the members thereof shall elect from among their
16 number a chairman and a secretary-treasurer, who shall hold
17 office for one year and be eligible for reelection, and annually
18 thereafter said board shall organize by the election of a chair-
19 man and secretary-treasurer. Members of the board may be
20 removed from office in the same manner as provided for the re-
21 moval of county officers under section six, article six, chapter
22 seven of the code of West Virginia, one thousand nine hundred
23 thirty-one.

Sec. 3. Title to said library property, including real estate,
2 equipment, books, and all other property of whatsoever nature
3 is hereby vested as of July first, one thousand nine hundred
4 thirty-three, in said board of trustees and their successors. Said
5 board shall have all and sole power necessary, convenient and
6 advisable for the proper operation, equipment and management
7 of said library, and any and all other public libraries or branch
8 libraries established or acquired by the said board, either by gift
9 or purchase, and shall make such rules and regulations as it
10 shall deem expedient for the care and management thereof.

Sec. 4. In order to provide for the maintenance and operation
2 of said public library and any and all other branches thereof,
3 the board of education of Ohio county shall levy annually not
4 to exceed three cents upon request by the said board of trustees,
5 on each one hundred dollars of the assessed valuation of the
6 property within the limits of Ohio county, according to the last

7 assessment thereof for state and county purposes. The proceeds
 8 of this levy will be for the exclusive use of said public library
 9 or any branches thereof or any other public libraries acquired
 10 by purchase or otherwise by said board of trustees, and shall be
 11 disbursed only upon order of the said board of trustees evi-
 12 denced by warrants drawn on the sheriff of Ohio county and
 13 signed by the chairman and secretary-treasurer of said board.
 14 Said levy shall be included within the limits and be a part of
 15 the levy or levies authorized by law to be laid by said board of
 16 education of Ohio county.

17 All income realized by the operation of said public library or
 18 other libraries or branches thereof, from the rental of books or
 19 otherwise other than as proceeds of the levy hereinbefore men-
 20 tioned, shall be paid direct to said board of trustees, and by it
 21 used in the purchase of new books for any public library or
 22 branch and for the maintenance and operation thereof in the
 23 discretion of said board.

24 All acts or parts of acts inconsistent herewith are hereby re-
 25 pealed.

CHAPTER 119

(Senate Bill No. 42—By Mr. Wiseman)

AN ACT to amend and reenact section four of chapter one hun-
 dred ten of the acts of the legislature, one thousand nine hun-
 dred twenty-nine, and to repeal section ten of said chapter,
 relating to the Nicholas county high school.

[Passed May 12, 1933; in effect from passage. Became a law without the approval
 of the Governor.]

SEC.

1. Board of directors of Nicholas county high school authorized to lay annual levies provided by law for new building and improvement fund, salaries of principal, teachers and employees, and maintenance, equipment and re-

SEC.

pair of high school; board to have full power to employ teachers and employees, fix their compensation and control and operate school; independent school district of Richwood excepted from said levies.

Be it enacted by the Legislature of West Virginia:

That section four of chapter one hundred ten of the acts of the legislature, one thousand nine hundred twenty-nine, be amended and reenacted to read as follows, and section ten of said chapter is hereby repealed.

Section 4. Said board of directors is hereby empowered and authorized to lay annually such levies as are provided by general law for new building and improvement fund purposes, and for the purpose of paying the salaries of the principal teachers and other employees for said high school, and for the maintenance, equipment and repairs of said high school; and said board shall have full power to employ teachers and other necessary employees for said school, fix their compensation and prescribe and enforce rules and regulations for the control and operation of said school. But the independent school district of Richwood is excepted from any and all said levies.

CHAPTER 120

(Senate Bill No. 19—By Mr. Taylor)

AN ACT to amend section eleven, chapter twenty-six, acts of the legislature (municipal charters), one thousand nine hundred twenty-five, relating to the charter of the board of park commissioners of the city of Huntington.

[Passed April 24, 1933; in effect from passage. Approved by the Governor.]

SEC.

11. Annual levy by board of park commissioners of city of Huntington; amounts on different classes of property; to be included in maximum rates of levy for city; levy laid to be certified to treasurer of city, extended by him on tax tickets and collected by city treasurer as treasurer of board of park commissioners; treasurer to deposit funds in

SEC.

special deposit to his credit as treasurer of board and to pay same upon vouchers signed by city president of board and countersigned by secretary; board to contribute proportionate part of levy, along with city, to pay county assessor's fees for making out for city's use copies of land and personal property books.

Be it enacted by the Legislature of West Virginia:

That section eleven, chapter twenty-six of the acts of the legislature (municipal charters), one thousand nine hundred twenty-five, relating to the charter of the board of park commissioners of the city of Huntington, be amended to read as follows:

Section 11. For the purpose mentioned in the foregoing section, the board of park commissioners is hereby given the power to and is required annually to levy on each one hundred dollars of the assessed valuation of the property taxable in said district, according to the last assessment thereof for state and county purposes, as follows: On class 1 property, one and one-half cents, on class 2 property, three cents, on class

8 4 property, six cents; except that the board of park commis-
9 sioners may levy a lesser amount, in which case the above levies
10 shall be reduced proportionally. These levies shall be made at
11 the time and in the manner provided by article eight, chapter
12 eleven of the code, as amended by the acts of one thousand nine
13 hundred thirty-three, in so far as the same are applicable, ex-
14 cept that the levies shall be included in the maximum rates for
15 the city of Huntington, established by section eleven, article
16 eight, chapter eleven of the code as amended by the acts of one
17 thousand nine hundred thirty-three. After the board of park
18 commissioners has made the levy, it shall certify to the treas-
19 urer of the city of Huntington, the amount of the said levy,
20 and the said city treasurer shall thereupon extend the levy
21 upon the tax tickets and all levies made by the said board of
22 park commissioners shall be collected and held by the city
23 treasurer, who is hereby made treasurer of the board of park
24 commissioners, and who is required to deposit all park funds
25 received or collected by him in a special deposit to his credit
26 as treasurer of the board of park commissioners, and to pay
27 out such money upon vouchers drawn upon the order of the
28 board of park commissioners on the city treasurer, which
29 orders are to be signed by the city president of the board of
30 park commissioners, and countersigned by its secretary:

31 *Provided.* That inasmuch as the city of Huntington
32 annually pays to the county assessor, certain fees for making
33 out for its use copies of the land and personal property books,
34 the board of park commissioners shall hereafter contribute to
35 the payment of this amount such a proportional part thereof as
36 the amount of the levy made by the said board of park com-
37 missioners bears to the amount of the levy made by the city
38 of Huntington.

CHAPTER 121

(House Bill No. 53—By Mr. Marsh, of Ohio)

AN ACT to amend section fifty, chapter six of the acts of the legislature (municipal charters), one thousand nine hundred twenty-nine, relating to the charter of the city of Wheeling.

[Passed April 19, 1933; in effect from passage. Approved by the Governor.]

Sec.

50. For what purposes council may take or damage property within city limits; how compensation purposes it may take or damage property for use of city outside city limits; how compensation for property taken or damaged ascertained; additional levy by council for obtaining and maintaining parks, playgrounds and recreation centers; Wheeling park commission created for Wheeling and other parks; commission a body corporate; number, appointment, qualifications

Sec.

and terms of members of commission; filling vacancy on commission; organization; removal from office; duties and powers of commission; amounts of levies on different classes of property by council for purchase of equipment for and upkeep of Wheeling and Oglebay parks; levies to be included in maximum levies of city; levy to be for exclusive use of parks and to be disbursed on orders of commission signed by chairman and secretary-treasurer.

Be it enacted by the Legislature of West Virginia:

That section fifty, chapter six of the acts of the legislature (municipal charters), one thousand nine hundred twenty-nine, relating to the charter of the city of Wheeling, be amended to read as follows:

Section 50. The council may cause to be taken or damaged for the use of the city, for streets, alleys, markets, bridges, public squares, parks, playgrounds and other municipal purposes, including occupation by sewer, water pipes, gas pipes, heating pipes, compressed air pipes and electric or other subways, any private property within the city (but where such use is to secure or improve the water supply, or for park, playgrounds, sanitary or cemetery purposes, outside the limits of the city), but no such property shall be taken or damaged without just compensation. The compensation, if it cannot be determined by agreement with the owner of the property so taken or damaged, shall be ascertained in such manner as is or may be prescribed by general law for the condemnation of land for public purposes. In addition to all other levies provided by law, the council of the city of Wheeling shall have the right to levy annually not to exceed five cents on each one hundred dollars of the assessed valuation of the property within the limits of the city according to the last assessment thereof for state and county

19 purposes, for the purpose of obtaining and maintaining parks,
20 playgrounds and recreation centers.

21 For the management of that plat of ground heretofore known
22 as Wheeling park, and donated to the city of Wheeling on the
23 eighteenth day of December, one thousand nine hundred twenty-
24 four, for use as a municipal park, and for the management of
25 such other parks as may hereafter be acquired by the city of
26 Wheeling there shall be, and there is hereby created a commis-
27 sion to be known as "Wheeling park commission," and the
28 same is hereby made a body corporate, and by that name the
29 commission may sue and be sued, plead and be impleaded; and
30 contract and be contracted with. The said commission shall
31 consist of five citizens of the city of Wheeling, who shall be
32 appointed in the manner hereinafter set out, and who shall
33 serve without compensation and shall hold no remunerative
34 political office, either state, county or municipal; and no mem-
35 ber of the commission shall be eligible to appointment to
36 any remunerative office or position under the jurisdiction of
37 the commission. Before the first day of March, one thousand
38 nine hundred twenty-five, the board of directors of the Wheel-
39 ing chamber of commerce shall appoint three members of the
40 said commission, and the city council shall appoint two mem-
41 bers of the same commission. The said commissioners ap-
42 pointed by the board of directors of the Wheeling chamber of
43 commerce shall hold office from March first, one thousand nine
44 hundred twenty-five, for one, two and four years, respectively,
45 as designated by said board of directors, and the two members
46 of the commission appointed by the city council shall hold office
47 from March first, one thousand nine hundred twenty-five for
48 three and five years respectively, as designated by the city
49 council. Their respective successors, however, shall be ap-
50 pointed for the term of five years each, excepting that any per-
51 son appointed to fill a vacancy occurring before the expiration
52 of a term shall serve only for the unexpired term; any com-
53 missioner shall be eligible for reappointment: *Provided,*
54 That any vacancy created either by the expiration of a
55 term, or otherwise, shall be filled by appointing body, either the
56 board of directors of Wheeling chamber of commerce, or the
57 city council, as the case may be which may have appointed the
58 commissioner whose place on the commission is being filled.

59 Upon the appointment of said commission, the members there-
60 of shall elect from among their number a chairman and a sec-
61 retary-treasurer who shall hold office for one year and be eligi-
62 ble for reelection. Annually thereafter the commission shall
63 organize by the election of a secretary-treasurer and such other
64 officers from its own number as it may deem advisable. Mem-
65 bers of the commission may be removed from office in the same
66 manner as provided for the removal of county officers under
67 section seven, article six, chapter six of the code of West Vir-
68 ginia, one thousand nine hundred thirty-one. The commission
69 shall have all and sole power necessary, convenient and ad-
70 visable for the proper care, equipment and management of
71 the said Wheeling park and other parks hereafter acquired by
72 the city of Wheeling, either by gift or purchase, and shall make
73 such rules and regulations as it shall deem expedient for the
74 care and management thereof.

75 In order to provide for the purchase of the equipment for
76 use in Wheeling park and Oglebay park (Waddington) and for
77 the maintenance and upkeep of said Wheeling park and Ogle-
78 bay park, the city council of Wheeling shall levy annually
79 on each one hundred dollars of the assessed valuation of the
80 property in the limits of the city, according to the last as-
81 sessment thereof for state and county purposes, as follows:

82 On class I property, one and one-half cents.

83 On class II property, three cents.

84 On class IV property, six cents.

85 Except that the city council may levy a lesser amount when
86 requested to do so by the commission, in which case the above
87 levies shall be reduced proportionally. These levies shall be in-
88 cluded in the maximum rates established by section eleven,
89 article eight, chapter eleven of the code, as amended by the
90 acts of one thousand nine hundred thirty-three. The proceeds
91 of this levy shall be for the exclusive use of said Wheeling
92 park, Oglebay park and any other parks hereafter acquired as
93 aforesaid by the city of Wheeling, and shall be disbursed only
94 upon the order of the commission evidenced by warrants drawn
95 on the city treasurer, and signed by the chairman and the
96 secretary-treasurer of the commission.

RESOLUTIONS

SENATE CONCURRENT RESOLUTION NO. 1

(BY MR. WHITE, of Hampshire)

[Adopted April 10, 1933.]

Providing for the appointment of a joint committee to wait upon the Governor.

Resolved by the Senate, the House of Delegates concurring therein:

That a committee of three on the part of the Senate, to be appointed by the President, and three on the part of the House of Delegates, to be appointed by the Speaker, be appointed to wait upon the Governor and notify him that the Legislature is now in extraordinary session, pursuant to his proclamation dated March twenty-fourth, one thousand nine hundred thirty-three, with a quorum of each house present, and awaits any communication he may desire to make.

SENATE CONCURRENT RESOLUTION NO. 2

(BY MR. FLEMING)

[Adopted April 10, 1933.]

Relating to the payment by the auditor of mileage and contingent and other expenses of this extraordinary session of the legislature.

Resolved by the Senate, the House of Delegates concurring therein:

That the Auditor, in advance of the appropriation for the purpose, is hereby authorized, upon proper warrants of the Clerk of the Senate and Sergeant-at-Arms of the House of Delegates, to pay the mileage of the members of the Senate and House of Delegates, bills incurred for supplies and services furnished to the

legislature for this extraordinary session including contingent expenses, per diem of the officers and attaches of the Senate and House of Delegates and legislative printing for this session as the accounts for same may come due.

SENATE CONCURRENT RESOLUTION NO. 3

(BY MR. ABBOT)

[Adopted April 11, 1933.]

Providing for the appointment of a joint supervisor of printing for the two Houses.

Resolved by the Senate, the House of Delegates concurring therein:

That the clerks of the Senate and of the House of Delegates appoint a joint supervisor of printing for the session, who shall have general oversight and direction of the printing and the enrollment of bills, under the direction and supervision of the clerks, one-half of his compensation to be paid by the Senate and one-half by the House of Delegates, at a per diem of ten dollars.

SENATE CONCURRENT RESOLUTION NO. 5

(BY MR. BENEKE)

[Adopted April 25, 1933.]

Concerning the death of Honorable J. Ness Porter, a former member of both houses of the Legislature of this state.

WHEREAS, The Legislature has learned today, with deep regret, of the death of Honorable J. Ness Porter, of Newell; and

WHEREAS, He was one of the most prominent and efficient business men of the great manufacturing Northern Panhandle District of our state; and

WHEREAS, He had served his state with honor and distinction as a member of the House of Delegates from Hancock county in the sessions of 1915 and 1917 and as a member of the Senate from the first senatorial district in the sessions of 1921 and 1923; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature deplores the early and untimely death of this distinguished citizen and statesman; and, be it

Resolved further, That the sympathy of the two houses of the Legislature is extended to Senator Porter's family, to whom the Clerks of the two houses are directed to send copies of this resolution.

SENATE CONCURRENT RESOLUTION NO. 6

(BY MR. SMITH)

[Adopted May 2, 1933.]

Memorializing the Congress of the United States to grant to the state of West Virginia the right to sue the United States.

WHEREAS, In the grant from the state of Virginia to the Congress of the United States, dated March first, one thousand seven hundred eighty-four, there was conveyed to the United States the territory of Virginia lying west of the Ohio river, now comprising the states of Ohio, Indiana, Illinois, Wisconsin, Michigan, and a large part of the state of Minnesota; and

WHEREAS, Contrary to general understanding, the said grant was not unconditional, but was made upon a specific trust in the following language:

“That all land within the territory so ceded to the United States and not reserved or appropriated to any of the before-mentioned purposes, or disposed of in bounties to the officers and soldiers of the American army, shall be considered as a common fund for the use and benefit of such of the United States as have become or shall become members of the confederation, or federal alliance, of the said states, Virginia, inclusive, according to their usual respective proportions in the general charge and expenditures, and shall be faithfully and bona fide disposed of for that purpose and for no other use or purpose whatsoever;” and

WHEREAS, No settlement with the beneficiaries under said grant has ever been made, but on the contrary, the United States govern-

ment has sold, donated and otherwise disposed of the land embraced within the said grant and has kept the proceeds for its own use and benefit, ignoring the specific trust set forth in the said grant; and

WHEREAS, It is the opinion of the legislature of West Virginia that it is not only unfair and unwise for the federal government to remain in the position of a defaulting trustee, but it is not in harmony with the theory of the federal compact for the United States to deny to that state the right to settle in the courts of the United States any matter in dispute in law or equity between one or more of the states upon the one side and the United States upon the other; and persistent refusal of the United States to cooperate in peaceful solutions in any such controversy leads to bad feeling and is out of harmony with the purpose of the national constitution; and

WHEREAS, The United States cannot be sued by a state except with the consent of congress; and

WHEREAS, By joint resolution of the legislature of West Virginia, adopted at its regular session in 1913, the congress was memorialized to pass Senate Bill 6247, introduced in the senate by William E. Chilton, a senator from this state, which bill had for its purpose the giving of the consent of congress to the bringing of any such suit by any state interested as a beneficiary under the grant from Virginia, as aforesaid; and

WHEREAS, A bill giving such consent of the congress was passed by the senate of the United States, without a dissenting vote, in 1916, and was sent to the house of representatives, where it received the unanimous approval of the committee on the judiciary of the latter body, but on account of the long calendar of the house of representatives it was not reached before the adjournment of that congress on March 4, 1917, although Hon. M. M. Neely, then a member of the house of representatives from the first district of West Virginia, moved to take the bill up out of its order, but that motion, to prevail, requiring two-thirds vote, failed; and

WHEREAS, A bill having the same general purpose as the Chilton bill, aforesaid, has been introduced in the house of representatives,

at this session, by the Hon. Robert L. Ramsey, a member of the house from the first congressional district of this state; and

WHEREAS, West Virginia, having been a part of the original commonwealth of Virginia, was adjudged, by the Supreme Court of the United States, liable to the payment of a large part of the debt of the state of Virginia at the time of the separation, is in law and equity entitled to a part of the assets of the state of Virginia, at the time of separation, one of which assets is a proportional part of the trust subject reserved to the original states, Virginia inclusive, set forth in the said grant of 1784; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the congress of the United States be and is hereby memorialized to enact a bill into law, allowing an adjustment of the sums of money due the state of West Virginia derived from the disposition of the lands ceded by Virginia to the United States March first, one thousand seven hundred eighty-four, and not accounted for in accordance with the terms of the said cession to the government of the United States; and that the just proportion of the amount due the state of Virginia be held to be for the use and benefit of the state of West Virginia; and that the senators and representatives of the state of West Virginia in the congress of the United States be requested to use all honorable efforts to bring about such action by the congress of the United States as will preserve the rights of West Virginia in the premises, and that her part of the trust subject above set out shall be paid to her under and according to the terms of the convention aforesaid between Virginia and the United States; and, be it

Resolved further: That a copy of this resolution shall be sent to each of the senators and members of the house of representatives in the congress of the United States, and that a copy be sent to the president of the senate and to the speaker of the house of representatives of the United States.

SENATE CONCURRENT RESOLUTION NO. 8

(By MR. HENDERSON)

[Adopted May 31, 1933.]

Providing for an examination, investigation and audit of the books and accounts of the executive and administrative departments of the state government for the past eight years, to ascertain the exact amount of the deficit in the state revenues and fix the responsibility therefor.

WHEREAS, It is apparent that there exists a huge deficit in the state revenues, which has accumulated during the past eight years ending June thirtieth, one thousand nine hundred thirty-three, estimated to amount to approximately seven or eight millions of dollars, the exact amount of which cannot be ascertained by an ordinary inspection of the books and records of the several departments of the state government; and

WHEREAS, It appears that from time to time there has been a confusion of the accounts required by law to be kept with respect to the separate funds by reason of the fact that the moneys belonging to certain funds have been unlawfully used to pay charges upon other funds; and

WHEREAS, It is apparent that there have been flagrant violations of the law by those entrusted with the administration of government for the period aforesaid, to bring about such an enormous shortage in the revenues; and

WHEREAS, It is due to those members of the two last preceding state administrations, who may be blameless, to fix the responsibility where it belongs and upon those who are culpable; and

WHEREAS, In a spirit of fairness to all concerned it would seem that the ascertainment of the facts in connection with the subject matter should be made by wholly disinterested agencies, not connected with the present or past administrations; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

First: That the Governor be and he is hereby authorized and empowered to employ such competent agencies as he shall deem proper, to cause to be made an examination and investigation of

the books and accounts of each of the executive and administrative departments of the state government, for the past eight years ending June thirtieth, one thousand nine hundred thirty-three, and a complete audit of all such books and accounts, which shall show separately the various funds by law required to be kept, and a report thereof in such detail as shall be required to show the exact amount of such deficit and to trace the several items thereof to those responsible therefor.

Second: That the head of each of such departments shall give to such agents full and free access to all the books, accounts, documents and papers thereof and facilitate in every reasonable way the work of such examination, investigation and audit, and to that end cause to be rendered to such agents, such clerical assistance from the office force of such department as may be required and as will not interfere with the performance of the regular duties of such office force.

Third: That there be incorporated in the budget about to be submitted to the legislature, an item to provide for paying the cost of such investigation and audit, in the sum of ten thousand dollars, or so much thereof as shall be required for the purpose, payable on the order of the Governor.

HOUSE JOINT RESOLUTION NO. 3

(By MR. HINER, Mr. Speaker)

[Adopted June 3, 1933.]

Proposing an amendment to the constitution of the state, amending section two, article ten thereof, relating to the imposition and collection of capitation taxes.

Resolved by the Legislature of West Virginia, two-thirds of all the members elected to each house agreeing thereto:

That the following be and the same is hereby proposed as an amendment to the constitution of the state:

That section two, article ten of the constitution of the state be amended to read as follows:

Section 2. The legislature shall levy an annual capitation tax

of one dollar upon each inhabitant of the state who has attained the age of twenty-one years, which shall be annually appropriated to the support of free schools, and the payment of such capitation tax and the presentation of a receipt therefor may be made a qualification for voting in all elections in such manner and form as the legislature may by law direct. Persons afflicted with bodily infirmity may be exempted from this tax.

In the event of any inconsistency between any of the provisions of this section and any of the other provisions of the constitution, the provisions of this section shall prevail.

HOUSE JOINT RESOLUTION NO. 7

(BY MR. BUTCHER)

[Adopted June 3, 1933.]

Proposing an amendment to section one of article seven of the constitution of the state changing the time of the commencement of the terms of office of the governor and other officials of the executive department of the state.

Resolved by the Legislature of West Virginia, two-thirds of all the members elected to each house agreeing thereto:

That the question of the ratification or rejection of an amendment to the constitution of the state be submitted to the voters thereof at the next general election to be held in the year one thousand nine hundred thirty-four, which proposed amendment is:

That section one of article seven of the constitution of the state be amended to read as follows:

Section 1. The executive department shall consist of a governor, secretary of state, state superintendent of free schools, auditor, treasurer, commissioner of agriculture and attorney general, who shall be, *ex officio*, reporter of the court of appeals. Their terms of office shall be four years, and shall commence on the first Monday after the second Wednesday of January next after their election. They shall reside at the seat of government during their terms of office, and keep there the public records, books and papers pertaining to their respective offices, and shall perform such duties as may be prescribed by law.

HOUSE CONCURRENT RESOLUTION NO. 1

(BY MR. NORTON)

[Adopted April 10, 1933.]

Relating to joint rules of the Senate and the House of Delegates.

Resolved by the House of Delegates, the Senate concurring therein:

That the joint rules of the Senate and House of Delegates for the regular session of the Legislature, one thousand nine hundred thirty-three, are hereby adopted and shall govern the proceedings of this extraordinary session.

HOUSE CONCURRENT RESOLUTION NO. 2

(BY MR. CARDEN)

[Adopted April 10, 1933.]

Providing for a joint assembly.

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature meet in joint assembly in the chamber of the House of Delegates at 3:00 o'clock P. M. this day, to hear the address of His Excellency, Governor H. G. Kump.

HOUSE CONCURRENT RESOLUTION NO. 3

(BY MR. HARPER)

[Adopted April 10, 1933.]

Relating to the allocation of federal relief funds appropriated under the federal reforestation and flood control unemployment relief act.

WHEREAS, There resides within a radius of four hundred miles of the Monongahela National Forest upwards of fifty-two millions of the inhabitants of this Republic, yet there has been but a scant million dollars appropriated for the reforestation projects upon same out of the two hundred million dollars recently appropriated by the Congress to be expended upon reforestation and flood control projects as an unemployment relief measure; and

WHEREAS, Only in the past few weeks the citizens of the entire Ohio Valley have again been visited by floods of devastating proportions wreaking incalculable damages to cities, towns, homes and farms extending from Pittsburgh to Cairo; and

WHEREAS, The fountain head of flood control of the entire Ohio Valley is conceded to be situated in the Appalachian watershed, and particularly centralized in those watersheds of northern West Virginia and western Pennsylvania; and therefore within these last mentioned regions, namely the watersheds of northern West Virginia and western Pennsylvania should be concentrated the major flood control activities and consequent expenditures under this recent act of Congress; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That a committee be designated to comprise the Governor of West Virginia, the President of the State Senate, and the Speaker of the House of Delegates, and that said committee be authorized and directed to confer first with the Governors of Ohio, Virginia, Pennsylvania and Kentucky, with a view to obtaining their cooperation, and then with the President of the United States and the Secretary of Agriculture, with the object of obtaining a larger allocation of relief funds appropriated blanketly under the reforestation and flood control unemployment relief act, to the Monongahela and kindred Appalachian forests, and an appropriation

more nearly commensurate with the importance of the Appalachian forest watersheds as the only source of effective and permanent flood control of the great Ohio Valley.

Said committee is furthermore authorized and directed to ask of the federal authorities charged with the apportionment of this appropriation for the allocation of at least twenty-five million dollars to the Appalachian forests and to furthermore stress the fact that due to the peculiarly adapted location of the Monongahela National Forest and its kindred Appalachian forests that same will afford a greater degree and extent of relief to the unemployed because of the lower transportation costs to and from the great centers of population to said Appalachian forests because of the latter's close proximity to said great centers of population.

HOUSE CONCURRENT RESOLUTION NO. 4

(BY MR. HARPER)

[Adopted April 10, 1933.]

Petitioning members of Congress from West Virginia to secure such legislation as will permit the Federal Government to acquire lands on headwaters of Ohio and Potomac Rivers, for the purpose of flood control.

WHEREAS, The people of the entire Ohio Valley have, within the past few weeks, experienced another devastating flood, in some sections estimated as the most severe in twenty years; and

WHEREAS, It is conceded by conservation and flood control specialists that the maintenance of the forest cover on the headwaters of streams is one of the most effective methods of flood control and that this protection can adequately be secured only by public ownership and control of large areas of forest lands in these head-water areas; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the West Virginia representatives and Senators in the Congress of the United States be and are hereby requested to in-

dividually and collectively exert their influence, and to work unceasingly for the passage of such legislation as will permit the Government to acquire sufficient lands on the headwaters of the Ohio and Potomac Rivers, in the mountainous sections of central and northern West Virginia, in existing National forest units or additional units which may be established by the Government, to favorably affect the control of flood waters in the rivers above mentioned.

HOUSE CONCURRENT RESOLUTION NO. 5

(BY MR. RANDOLPH)

[Adopted April 21, 1933.]

Extending the greetings and congratulations of the Legislature of West Virginia to Honorable Louis A. Johnson, Honorable Joseph Rosier and Honorable Clarence Martin.

WHEREAS, Signal honor has come to the State of West Virginia through the selection of three of its distinguished citizens as leaders of the three great national organizations that wield a powerful influence in the social fabric of our country, the men so chosen being as follows: Honorable Louis A. Johnson, of Clarksburg, National Commander of the American Legion; Honorable Joseph Rosier, of Fairmont, President of the National Education Association; and Honorable Clarence Martin, of Martinsburg, President of the American Bar Association; and

WHEREAS, The wisdom exercised by these distinguished men in guiding the destinies of their respective organizations has been of a character that reflects honor and credit to them, as well as to the state and its citizenship; and

WHEREAS, The achievements of these men has focused attention upon West Virginia, and given to the state advertising of incalculable value; and

WHEREAS, Civic organizations of the city of Clarksburg have fostered a state dinner to be given in that city Thursday night, April 20, to pay honor to Messrs. Johnson, Rosier and Martin; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature of West Virginia extend its greetings and congratulations to the three distinguished citizens to be thus honored, and that the Speaker of the House and the President of the Senate be authorized and directed to dispatch forthwith by telegraph the greetings of the Legislature.

HOUSE CONCURRENT RESOLUTION NO. 9

(BY MR. HILL)

[Adopted May 3, 1933.]

Providing for the payment of expenses of the committee raised under House Concurrent Resolution No. 3.

Resolved by the House of Delegates, the Senate concurring therein:

That the Sergeant-at-Arms of the House of Delegates, upon the order of the Clerk, and the Clerk of the Senate, are hereby authorized and directed to draw their warrants upon the auditor, in advance of the appropriation for the purpose, for any expense incurred by the committee raised under House Concurrent Resolution No. 3, in carrying out the provisions of said resolution, one-half of said expense to be paid out of the contingent fund of the House of Delegates and one-half out of the contingent fund of the Senate.

HOUSE CONCURRENT RESOLUTION NO. 14

(BY MR. SUMMERFIELD)

[Adopted May 31, 1933.]

Authorizing the Attorney General to make an investigation of loans made by the board of the school fund and to institute such proceedings as may be necessary for the collection of said loans.

WHEREAS, Provision was made in section four, article twelve of the constitution of this state for the collection of certain sums of money from the sale of forfeited and delinquent lands and from other sources for the purpose of "creating an existing permanent and invested school fund" which was therein required to be set apart as a separate fund to be called the "school fund" and invested in "interest-bearing securities of the United States or of this state" if such could be obtained and if not then, said "school fund" was therein required to be invested in "such other solvent interest bearing securities" as should be approved by the "Governor, Superintendent of Free Schools, Auditor and Treasurer", who were thereby "constituted the 'Board of the School Fund' to manage the same" and to apply the interest arising therefrom to the support of the "free schools" throughout this state; and

WHEREAS, In pursuance to said constitutional provision, large sums of money were from time to time, from the year 1921 to the year 1931, inclusive, collected and placed into said fund for the purposes therein designated; and

WHEREAS, The Governor, Superintendent of Free Schools, Auditor and Treasurer of this state, acting as such "Board of the School Fund", disposed of the whole of said "school fund" so entrusted to their care excepting the sum of \$141.04 upon the dates, in the amounts and to the following persons, corporations and firms as follows:

THE SCHOOL FUND—INVESTMENTS—FISCAL YEAR ENDING JUNE 30, 1932

Date Issued	Int. Rate	Int. Due	Bonds Due	Amount
6 / 1/25	5%	June-Dec.	1932/50	\$ 22,800.00
1 / 1/28	6	Jan.-Jul.	1932/48	13,600.00
6 / 1/25	6	Jun.-Dec.	1945	18,000.00
2 / 1/25	5 1/2	Feb.-Aug.	1930	52,000.00
9 / 1/31	6	Mar.-Sept.	1932/42	67,500.00
10/20/30	6	Oct. Annl.	1932/7	9,435.96
1 / 19/23	6	Jun.-Dec.	1932	40,000.00
6 / 1/28	5	Jun.-Dec.	1953	3,000.00
10/ 1/31	6	Apr.-Oct.	1932/41	60,000.00
1 / 15/30	6	Jan.-Jul.	1933/40	7,200.00
1 / 1/20	6	Jan.-Jul.	1935	800.00
9 / 1/21	6	Mar.-Sept.	1936	3,900.00
4 / 1/26	5 1/2	Sept. Annl.	1931/5	175,000.00
10/10/22	5	Oct. Annl.	1932	15,000.00
7 / 1/29	6	Jan.-Jul.	1935/47	25,000.00
7 / 1/26	6	Jan.-Jul.	1931/46	40,000.00
11/ 1/24	6	May-Nov.	1931/42	12,000.00
6 / 1/28	6	Jun.-Dec.	1935-6	4,000.00
5 / 1/27	5	May Annl.	1947	60,000.00
10/23/29	6	Jan.-Jul.	1931-9	7,443.00
12/15/30	5	Jun.-Dec.	1950	35,000.00
7 / 1/27	6	Jan.-Jul.	1937/39	10,000.00
7 / 1/26	6	Jan.-Jul.	1932-6	15,000.00
5 / 1/22	6	May-Nov.	1931/47	22,200.00

THE SCHOOL FUND—INVESTMENTS—FISCAL YEAR ENDING JUNE 30, 1932

Date Issued	Int. Rate	Int. Due	Bonds Due	Amount
7 / 1/25	6	Jan.-Jul.	1932/45	17,000.00
6 / 1/28	5	Jun.-Dec.	1935/7	20,000.00
8 / 15/29	6	Feb.-Aug.	1931/47	32,500.00
9 / 15/26	6	Mar.-Sept.	1931/46	16,000.00
3 / 1/28	6	Mar.-Sept.	1938	25,000.00
1 / 1/28	6	Jan.-Jul.	1931/48	35,500.00
8 / 1/23	5	Aug.-Annl.	1943	36,000.00
6 / 3/29	6	Jun. Annl.	1934	8,000.00
8 / 1/28	6	Feb.-Aug.	1932/53	91,000.00
TOTAL INVESTMENTS—SCHOOL FUND.....				\$ 999,878.96
Cash on hand.....				141.04
Grand Total—The School Fund.....				\$1,000,020.00

And,

WHEREAS, It is currently reported that a large portion of said loans were made to irresponsible persons and upon insufficient security and that there is great danger of said fund, or a large portion thereof, being lost to the irreparable injury of said fund, and the school children of this state, and there being immediate necessity for same; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Attorney General of this state be and is hereby requested to make a full and complete investigation of said loans including the validity thereof, the sufficiency of the securities thereon, and especially the liability of the members of said "Board of the School Fund" or their several official bonds, and to institute such suit or suits as may be required in the collection of said "School Fund", or any portion thereof; and, be it

Further resolved, That the Governor of this state is hereby empowered and authorized to expend such sums of money as may be deemed necessary by him in the investigation of said loans or the collection thereof, including attorney's fees should the same be by him deemed necessary, to the end that such portions of said \$999,878.96 be collected as can be and restored to said "school fund" for the benefit of the free schools of this state.

HOUSE CONCURRENT RESOLUTION NO. 16

(BY MR. RAIRDEN)

[Adopted May 31, 1933.]

Concerning the death of the Honorable Edwin M. Keatley.

WHEREAS, The Honorable Edwin M. Keatley, of Charleston, West Virginia, died on this the 31st day of May, 1933, from a sudden attack of illness; and

WHEREAS, The Honorable Edwin M. Keatley, was a trusted public servant of this state, having served as a member of the House of Delegates in the 1921, 1925, 1927 and 1929 sessions of the Legislature and was Speaker of the House of Delegates in the sessions

of 1921 and 1925. He also served as Clerk of the Federal Court for the southern district of West Virginia for seventeen years, had been a member of the West Virginia Capitol Commission since its creation, a director of the National Chamber of Commerce, and at the time of his death was secretary of the West Virginia Taxpayers Association, serving in all these positions with distinction and fidelity; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature deplores the sudden removal of this faithful and just man from public activities; that a copy of this resolution be forwarded to Mrs. Keatley; that the Speaker of the House of Delegates appoint five members of this body, and that the President of the Senate appoint five members of the Senate to officially represent the Legislature at the funeral services out of respect to his memory; and that the Sergeants-at-Arms of the two houses be directed to make necessary arrangements for the conveyance of the committee to the funeral; the necessary expenses incurred to be paid equally out of the contingent funds of the two houses, including a floral emblem.

HOUSE CONCURRENT RESOLUTION NO. 19

(BY MR. HARPER)

[Adopted June 3, 1933.]

Commending members of the press for manner in which proceedings of this session have been presented to the public and for their cooperation with members and officers of the Legislature.

WHEREAS, The West Virginia Legislature, in regular and extraordinary sessions, has been in continuous meeting for almost six months; and

WHEREAS, Numerous laws have been enacted of great moment and importance to the citizens of West Virginia; and

WHEREAS, It is necessary that the citizenry receive accurate and comprehensive information of the acts of the Legislature; and

WHEREAS, The members of the press galleries of both houses have been in constant attendance at all sessions, preparing information

on the acts of the Legislature for the benefit of the people of West Virginia; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature commends the members of the press for their untiring efforts to disseminate accurately and fairly all proceedings of this body, their courteous and wholehearted cooperation with officers and members of the Legislature and the fair and comprehensive manner in which said proceedings have been presented to the public.

HOUSE CONCURRENT RESOLUTION NO. 20

(BY MR. NEAL)

[Adopted June 3, 1933.]

Concerning the death of Honorable David McQueen.

WHEREAS, The Honorable David McQueen, of St. Albans, West Virginia, died on the 1st day of June, 1933, after an illness of four weeks; and

WHEREAS, The Honorable David McQueen was formerly a citizen of Nicholas county, West Virginia, and served as a member of the House of Delegates in the year 1899; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature deploras the removal of this faithful and just man from public activities; that a copy of this resolution be forwarded to Mrs. David McQueen and family at St. Albans, West Virginia, and to the newspapers of Nicholas county.

HOUSE CONCURRENT RESOLUTION NO. 22

(BY MR. HINER, Mr. Speaker)

[Adopted June 3, 1933.]

Providing for the printing and distribution of advance copies of the Acts of the extraordinary session of one thousand nine hundred thirty-three.

Resolved by the House of Delegates, the Senate concurring therein:

That the Clerks of the two Houses are hereby directed to have printed by the public printer two thousand five hundred advance copies of the Acts of this session, exclusive of municipal charters, properly head noted, and with a full table of contents, and in paper binding, for distribution among the members of the Legislature, judges of the Supreme Court of Appeals and of the circuit, criminal and intermediate courts, circuit and county clerks, sheriffs and prosecuting attorneys.

Said public printer shall print and deliver said advance copies to the clerks of the two houses as soon as possible after the adjournment of this session. Upon receipt of the same, the clerks shall, without delay, forward by mail or express to each member of the Senate and House of Delegates at least ten of said advance copies, and one copy to each of the state officials, and the remainder, if any, they shall deliver to the superintendent of public printing for distribution. The said clerks are also authorized and directed to have printed in signature form for advance sheets any general law which they may deem of sufficient importance to be issued and distributed in that form. The sum of two hundred dollars out of the contingent fund of the House of Delegates and one hundred dollars out of the contingent fund of the Senate is hereby directed to be paid by the Auditor upon proper warrants respectively, to pay the postage or expressage on said advance copies.

For the extra work provided for in this resolution, the time of the Clerk of the Senate and his secretary, at eighteen dollars and nine dollars per day, respectively, two assistant clerks at eleven dollars per day each, three assistant clerks at nine dollars per day each, and the messenger to the clerk at four dollars per day is extended for thirty days.

The per diem of the following on the part of the House of Delegates is extended as follows: The Clerk, thirty days at twenty dollars per day; Lynn Moomau, thirty days at twelve dollars; Ernest Crawford and Mary Moore, thirty days each at ten dollars; Julia Roseberry, twenty days at ten dollars; Maud Christian and W. B. Curry, thirty days each at ten dollars; and Sam White, twenty days at four dollars.

The Clerk of the House of Delegates and Speaker shall certify the extensions given in this resolution to the Sergeant-at-Arms. The compensation of all those designated hereunder shall be paid out of the contingent funds of the Senate and House of Delegates, respectively, upon proper warrants drawn therefor by the Clerk of the Senate and Sergeant-at-Arms of the House of Delegates and the Auditor is hereby authorized and directed to pay the same.



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ACTS

Extraordinary Session

1932



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EXTRAORDINARY SESSION 1932

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	Byron B. Randolph (D).....	Clarksburg
Jackson.....	H. O. Faber (R).....	Kenna
	J. F. Alderman (R).....	Fletcher
Jefferson.....	C. L. Haines (D).....	Charles Town
Kanawha.....	Alvin J. Barnhart (D).....	Charleston
	Jo N. Kenna (D).....	Charleston
	J. Shirley Ross (D).....	Charleston
	Carl C. Calvert (D).....	Chelyan
	Samuel E. Bowen (D).....	South Charleston
	John H. Campbell (D).....	Chelyan
Lewis.....	Rush D. Holt (D).....	Weston
Lincoln.....	M. D. Goode (D).....	Griffithsville
Logan.....	W. E. Ferrell (D).....	Chapmansville
Marion.....	Earl H. Smith (D).....	Fairmont
	J. Minor Dunham (D).....	Fairmont
	Paul Haymond (D).....	Fairmont
Marshall.....	Chauncey D. Hinerman (R).....	Cameron
	John C. Myers (D).....	Moundsville

*Died March 10, 1931. Vacancy in office not filled.

COUNTY	MEMBERS	POSTOFFICE
Mason.....	George A. Rairden (R).....	Leon
	M. J. Lilly (R).....	Fraziers Bottom
Mercer.....	O. H. Ballard (D).....	Princeton
	Will C. Easley (D).....	Bluefield
	A. J. Lubbluer (D).....	Bluefield
Mineral.....	O. S. W. Fazenbaker (R).....	Keyser
Mingo.....	Robert C. Pritchard (R).....	Williamson
Monongalia.....	J. W. Hartigan (R).....	Morgantown
	Hu S. Vandervort (R).....	Morgantown
Monroe.....	L. H. Talbott (D).....	Union
Morgan.....	Mrs. Lucille Scott Strite (D).....	Berkeley Spgs.
McDowell.....	M. H. Tabor (R).....	Crumpler
	P. T. Holbrook (R).....	Davy
	Joe Mirable (R).....	Welch
	Stewart A. Calhoun (R).....	Keystone
Nicholas.....	E. S. Frame (D).....	Fenwick
Ohio.....	J. Wm. Cummins (R).....	Wheeling
	John T. Carter (R).....	Wheeling
	John Ulrich (R).....	Wheeling
	George A. Laughlin (R).....	Wheeling
Pendleton.....	R. M. Hiner (D).....	Franklin
Pleasants.....	T. J. Hickel (D).....	Belmont
Pocahontas.....	W. C. Gardner (D).....	Cloverlick
Preston.....	James Henry Smith (R).....	Bruceston Mills
	J. Ben Brady (R).....	Kingwood
Putnam.....	R. L. Gibson (D).....	Plymouth
Raleigh.....	W. A. Thornhill, Jr. (D).....	Beckley
	Clarence W. Meadows (D).....	Beckley
Randolph.....	Frank C. Baker (D).....	Elkins
	C. H. Scott (D).....	Elkins
Ritchie.....	D. S. Boggs (D).....	Pennsboro
Roane.....	W. Hunter Smith (R).....	Wallback
	O. C. Pence (D).....	Spencer
Summers.....	W. J. B. Simmons (D).....	Sandstone
Taylor.....	Fred B. Watkins (D).....	Grafton
Tucker.....	L. H. Mott (R).....	Davis
Tyler.....	H. Cliff Hamilton (D).....	Bearsville
Upshur.....	Lycurgus Hyre (R).....	Buckhannon
Wayne.....	O. J. Rife (D).....	Kenova
	J. O. Marcum (D).....	Ceredo
Webster.....	F. N. Sycamoose (D).....	Webster Spgs.
Wetzel.....	Lee Cusack (D).....	New Martinsville
	Donley E. Brown (D).....	Paden City
Wirt.....	James L. Smith (D).....	Elizabeth
Wood.....	Ben H. Butcher (D).....	Parkersburg
	George W. Dye (D).....	Parkersburg
	J. M. Melrose (D).....	Mineral Wells
Wyoming.....	George W. Sutherland (D).....	Pineville

68—Democrats

26—Republicans

—
94—Total

Standing Committees of the House of Delegates

ELECTIONS AND PRIVILEGES

Messrs. Smith (of Marion), (*Chairman*), Ballard, Barnhart, Bassel, Butcher, Campbell, Goode, Lubliner, Matthews, McGuire, Ross, Sutherland. Brown (of Hancock), Calhoun, Pritchard, Rexroad and Ulrich.

JUDICIARY

Messrs. Barnhart (*Chairman*), Armstrong, Calhoun, Cowgill, Harbert, Haymond, Hiner, Kenna, Lubliner, Marcum, McGuire, Norton, Poling, Scott, Smith (of Wirt), Sycamore, Thornhill, Brown (of Hancock), Carter, Hartigan, Hinerman and Hyre.

FEDERAL RELATIONS

Messrs. Cottrill (*Chairman*), Barnhart, Bassel, Bryant, Butcher, Calvert, Davis, Foster, Gardner, Gilbert, Hickel, Kenna, Simmons, Wilkinson, Calhoun, Carter, Faber, Lilly and Mott.

TAXATION AND FINANCE

Messrs. Harbert (*Chairman*), Baker, Ballard, Bowen, Campbell, Cusack, Ferrell, Hamilton, Matthews, Pence, Randolph, Ross, Smith (of Marion), Thornhill, White, Wilkinson, Dailey, Hartigan, Laughlin, Rairden and Tabor.

MILITARY AFFAIRS

Messrs. Ross (*Chairman*), Ballard, Calvert, Campbell, Dunham, Easley, Hays, Hiner, Meadows, Simmons, Fazenbaker, Holbrook, Hyre, Smith (of Preston) and Wolverton.

PROHIBITION AND TEMPERANCE

Messrs. Boggs (*Chairman*), Ballard, Chipley, Dunham, Gibson, Hickel, Matthews, McGuire, Rife, Righter, Wilkinson, Brady, Dailey, Hinerman, Rexroad and Tabor.

EDUCATION

Messrs. Hamilton (*Chairman*), Barnhart, Bassel, Ferrell, Gardner, Goode, Hays, Holt, Lubliner, Melrose, Rife, Sutherland, Sycamore, Talbott, Watkins, Alderman, Brady, Calhoun, Fazenbaker and Rexroad.

COUNTIES, DISTRICTS AND MUNICIPAL CORPORATIONS

Messrs. Ballard (*Chairman*), Bowen, Butcher, Cowgill, Ferrell, Foster, Harbert, Haymond, Hiner, Kenna, Martin, Myers, Norton, Rife, Talbott, Thornhill, Brown (of Hancock), Carter, Mirable, Mott and Vandervort.

BANKS AND CORPORATIONS

Messrs. White (*Chairman*), Baker, Ballard, Barnhart, Cowgill, Douglas, Dunn, Gilbert, Haines, Haymond, Matthews, Meadows, Myers, Randolph, Starcher, Sutherland, Brown (of Hancock), Carter, Pritchard, Rairden and Tabor.

ROADS

Messrs. Talbott (*Chairman*), Boggs, Bryant, Cowgill, Davis, Hamilton, Harbert, Hays, Hickel, MacQueen, Martin, Simmons, Smith (of Wirt), Thornhill, Watkins, Dailey, Mirable, Mott, Rairden, Smith (of Preston) and Ulrich.

FORFEITED AND UNAPPROPRIATED LANDS

Messrs. Scott (*Chairman*), Bowen, Brown (of Wetzel), Chipley, Cottrill, Foster, Haines, Hiner, MacQueen, Meadows, Poling, Ross, Sycamore, Talbott, Faber, Holbrook, Hyre, Lilly and Smith (of Preston).

CLAIMS AND GRIEVANCES

Messrs. Simmons (*Chairman*), Armstrong, Baker, Boggs, Butcher, Cusack, Dye, Frame, Gardner, Marcum, Melrose, Pence, Smith (of Wirt), Sutherland, Watkins, White, Alderman, Calhoun, Fazenbaker, Hinerman and Lilly.

HUMANE INSTITUTIONS AND PUBLIC BUILDINGS

Messrs. Thornhill (*Chairman*), Boggs, Brown (of Wetzel), Bryant, Calvert, Cottrill, Douglas, Dunn, Frame, Haines, Holt, Matthews, McGuire, Pence, Starcher, White, Brady, Hartigan, Rexroad, Smith (of Roane) and Wolverton.

FORESTRY AND CONSERVATION

Messrs. Chipley (*Chairman*), Bryant, Douglas, Dunn, Easley, Ferrell, Frame, Gardner, Hamilton, Hiner, Martin, Melrose, Norton, Scott, Dailey, Mott, Rexroad, Smith (of Roane) and Ulrich.

ARTS, SCIENCE, AND GENERAL IMPROVEMENTS

Messrs. Smith (of Wirt) (*Chairman*), Boggs, Brown (of Wetzel), Cowgill, Cusack, Davis, Dye, Frame, Gibson, Haines, Hickel, Holt, MacQueen, Pence, Righter, Watkins, Calhoun, Faber, Hartigan, Smith (of Preston) and Wolverton.

PENITENTIARY

Messrs. Cusack (*Chairman*), Armstrong, Boggs, Campbell, Chipley, Dunham, Meadows, Melrose, Myers, Ross, Scott, Smith (of Marion), Talbott, Thornhill, Carter, Cummins, Hinerman, Hyre, Mirable and Rairden.

MINES AND MINING

Messrs. Ferrell (*Chairman*), Baker, Bassel, Bryant, Campbell, Easley, Gibson, Haymond, Lubliner, MacQueen, Martin, Meadows, Myers, Poling, Sycamore, Laughlin, Pritchard, Smith (of Preston), Smith (of Roane), Tabor and Vandervort.

AGRICULTURE

Messrs. Gardner (*Chairman*), Armstrong, Boggs, Bowen, Chipley, Dunn, Goode, Haines, Hamilton, Hays, Hickel, Melrose, Poling, Scott, Talbott, Brady, Dailey, Rairden, Smith (of Roane), Vandervort and Wolverton.

STATE BOUNDARIES

Messrs. Marcum (*Chairman*), Barnhart, Cowgill, Cusack, Easley, Foster, Hiner, Kenna, McGuire, Sutherland, Carter, Holbrook, Pritchard and Tabor.

RAILROADS

Messrs. Starcher (*Chairman*), Cusack, Easley, Gilbert, Marcum, Martin, McGuire, Poling, Randolph, Ross, Simmons, Smith (of Marion), Watkins, White, Wilkinson, Cummins, Dailey, Fazenbaker Hinerman and Holbrook.

LABOR

Messrs. Lubliner (*Chairman*), Baker, Bassel, Calvert, Davis, Douglas, Dunham, Dye, Ferrell, Hiner, Marcum, Randolph, Smith (of Marion), Watkins, Calhoun, Fazenbaker, Mott, Ulrich and Vandervort.

MEDICINE AND SANITATION

Messrs. Frame (*Chairman*), Armstrong, Chipley, Cottrill, Dunham, Dunn, Foster, Gibson, Gilbert, Goode, Harbert, Hickel, Righter, Sycamore, Watkins, Brady, Hartigan, Laughlin, Lilly, Tabor and Wolverton.

GAME AND FISH

Messrs. Hays (*Chairman*), Brown (of Wetzel), Butcher, Calvert, Chipley, Easley, Gardner, Goode, Haines, Kenna, MacQueen, Martin, Norton, Randolph, Righter, Brady, Hyre, Mott, Rexroad and Ulrich.

INSURANCE

Messrs. Campbell (*Chairman*), Dye, Harbert, Haymond, Holt, Lubliner, MacQueen, Martin, Norton, Rife, Starcher, Thornhill, White, Wilkinson, Calhoun, Fazenbaker, Hinerman, Smith (of Preston) and Vandervort.

RE-DISTRICTING

Messrs. Cowgill (*Chairman*), Bowen, Bryant, Butcher, Chipley, Cottrill, Harbert, Lubliner, Marcum, Matthews, Meadows, McGuire, Myers, Norton, Pence, Scott, Brady, Hyre, Laughlin, Mott and Rairden.

EXECUTIVE OFFICES AND LIBRARY

Messrs. Dunn (*Chairman*), Armstrong, Brown (of Wetzel), Campbell, Davis, Douglas, Gibson, Gilbert, Holt, Meadows, Melrose, Poling, Rife, Righter, Simmons, Sutherland, Carter, Lilly, Mirable, Pritchard and Tabor.

PRINTING AND CONTINGENT EXPENSES

Messrs. Haines (*Chairman*), Armstrong, Baker, Brown (of Wetzel), Bryant, Cottrill, Dunn, Gibson, Hays, Myers, Poling, Randolph, Rife, Smith (of Marion), Smith (of Wirt), Brown (of Hancock), Dailey, Fazenbaker, Mott and Smith (of Roane).

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PROCLAMATION OF HIS EXCELLENCY, THE GOVERNOR,
CALLING THE LEGISLATURE OF WEST VIRGINIA TO
CONVENE IN EXTRAORDINARY SESSION ON JULY
12, 1932, AND ALSO STATEMENT SENT MEMBERS OF
THE LEGISLATURE AND GIVEN TO THE PRESS BY
THE GOVERNOR AT THE TIME OF ISSUING SAID
PROCLAMATION.

STATE OF WEST VIRGINIA
EXECUTIVE DEPARTMENT
CHARLESTON

A P R O C L A M A T I O N

BY THE GOVERNOR

I, Wm. G. Conley, Governor of the State of West Virginia, by virtue of the authority conferred upon me by Section 7 of Article VII of the Constitution of said state, do hereby call the legislature of West Virginia to convene in extraordinary session at the State Capitol in the City of Charleston at noon on Tuesday, the twelfth day of July, nineteen hundred and thirty-two, to consider and act upon the following business, to-wit:

First: An enabling statute to authorize the receivers of closed banks to negotiate loans from the Reconstruction Finance Corporation or other source for distribution among the creditors and stockholders of said banks.

Second: The amendment of Section 4, Article 10, Chapter 11 of the Official Code, relating to the time of publication of delinquent tax lists and the time of making sale by the sheriff of delinquent lands, and an amendment of Section 30, Article 10, Chapter 11 of said Code, extending the time of forfeiture of the 1929 and 1930 delinquent lands and delinquent lands for subsequent years.

Third: The revision of salaries paid all public officials now fixed or authorized by general or special statute.

Fourth: The revision of fees or compensation allowed for keeping and feeding prisoners, other than federal prisoners or prisoners under civil process, as now provided by Section 12, Article 7, Chapter 7, Official Code of West Virginia, and the revision of fees now fixed by general or special statute where any public official is paid fees as part of his compensation.

Fifth: A bill authorizing semi-annual or quarterly payment of all property taxes levied by the state and its subdivisions.

Sixth: The re-enactment and/or modification of Chapter 64 and Chapter 65 of the Acts of the Legislature of West Virginia of 1931, which authorize municipalities and county courts to transfer money from certain funds for the relief of unemployment.

Seventh: An enabling act authorizing municipalities, county courts and the State of West Virginia to obtain the benefit of any relief for unemployment or other purposes that has been or may be provided by the Congress of the United States.

Eighth: An emergency revenue measure to balance the state budget, and to raise an additional sum of five hundred thousand dollars, or such part thereof as may be deemed proper, to be applied to the relief of unemployment over a specified period, and to pay the expenses of this session, such revenue to be raised by indirect taxation by a special tax on cigarettes and/or other forms of tobacco and other luxuries, no part of the revenue for such purposes to be raised by a direct property tax.

Ninth: A statutory limitation of levies to become effective from passage and to apply to the levies of 1932.

Tenth: An amendment of Section 1 of Article X of the Constitution of West Virginia, relating to taxation, so as to provide for a constitutional limitation of levies, and the necessary legislative action to submit the same to the voters at the general election of 1932.

Eleventh: To make the necessary appropriations of public monies to pay the expenses of this extraordinary session; to provide for the relief of unemployment as provided in *Eighth* above, on con-

dition, however, that the revenue for such purpose is provided for at this extraordinary session; and to pay for the expenses of submitting to a vote of the people any constitutional amendment or amendments that may be authorized at this extraordinary session.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the great seal of the state to be affixed.

[GREAT SEAL]

Done at the Capitol in the City of Charleston this twenty-fifth day of June in the year of our Lord nineteen hundred thirty-two, and of the State the Seventieth.

By the Governor:

WM. G. CONLEY,

GEORGE W. SHARP,

Secretary of State.

EXECUTIVE OFFICES

CAPITOL BUILDING

CHARLESTON

June 25, 1932

To the Members of the West Virginia Legislature:

Under ordinary circumstances, for reasons apparent to everyone, I would not call the members of the legislature together in extraordinary session. However, conditions over which we have no control have arisen, and it is not only proper but I deem it my official duty to call them to the attention of the legislative branch of our government in session assembled. Accordingly, in response to a general demand coming from the people in every section of the state and from every walk of life, I have called the legislature to meet on the 12th day of July to act upon a practical and specific program which, in my opinion, will give much needed relief.

In approaching the matters to which I have directed the attention of the legislature, all of us should keep constantly in mind that at this time the welfare of our citizens demands that we lay aside partisanship and selfishness and that we concentrate ourselves in the highest sense to the discharge of our respective responsibilities.

In taking this action I fully realize the possibility that such a session can be utterly futile, and will be if partisan politics and petty jealousies are allowed to chart the course to be pursued, but I believe that the members of the West Virginia Legislature, realizing the seriousness of conditions which prevail today, will gladly lay aside all interests except those for the public good, and will wholeheartedly and unitedly support a constructive, practical, simple program of remedial legislation much needed at the present time. As I said to the legislature of 1931, in my regular and special messages, it is imperative for the general welfare that partisanship be laid aside and that each member devote himself to reaching the single objective of assisting a distressed people. We should all be patriotic West Virginians first and Republicans or Democrats second. We must be big enough and brave enough to rise above our own selfish and party interests. The times demand it.

Requests for an extraordinary session of the legislature have been made by influential leaders in both the Republican and Democratic parties. Similar requests have been made by most of the newspaper editors of the state, and citizens representing every type of industry and business and every stratum of society have urged that the legislature be assembled for one or more of the purposes for which I have now called it.

A session earlier in the year would not, I believe, have been productive of any beneficial results. Party leaders at that time were so at variance, not only on details of legislation but even on the desirability of having an extra session, that I believe such a session would have been a useless waste of public funds. The picture has now changed, and assurances have been given by influential Democrats and Republicans, both within and without the legislature, that they will get squarely behind a constructive, non-partisan program such as is now presented in the call. On this assurance I have called the legislature to convene to consider specific plans for relief.

I am asking the legislature to consider an equitable revision of the salaries of all public officials, municipal, county, and state.

I am asking that the law requiring counties to pay sheriffs sixty cents a day for feeding jail prisoners be amended to provide for the payment to the sheriffs of the actual cost of feeding such prisoners, with a maximum charge imbedded in the statute, and that the laws

allowing other fees to public officers be revised in accordance with present day conditions.

I am asking that the laws relating to the sale and redemption of delinquent lands be so revised as to give thousands of property owners whose homes and farms and businesses are about to be forfeited to the state for non-payment of taxes, a better opportunity to redeem those properties.

I am asking that the statutes be revised to provide for the semi-annual or quarterly payment of taxes.

I am asking that the law passed in 1931 allowing municipalities and county courts to transfer money from road and other funds to general funds for the relief of the poor be reenacted and revised, with the restriction that such funds shall be used for direct relief only in case of the aged, the ill, and the physically handicapped, and that all other assistance be in the most practicable form of work relief.

I am asking that legislation be enacted to make it possible for the receivers of closed state banks to borrow on the frozen assets of those banks from the Reconstruction Finance Corporation and other sources in order that the depositors and creditors of such banks may be paid the dividends now due them.

I am asking that essential legislation be enacted to enable the state to take full advantage of any relief legislation that has been or may be enacted by the federal Congress.

I am asking, as I did in 1931 at the regular session, that limitation of levies be set by statute, effective at once, and that a constitutional amendment limiting levies until changed by a vote of the people be submitted to the voters of this state at the coming November election. If this action is taken at this time, the result will be that we will have relief from high levies two years sooner than we otherwise could, because a constitutional amendment can be voted upon only at a general election.

I am asking the legislature to provide by indirect taxation sufficient funds to balance a budget which now shows a deficit caused by general business conditions over which we have no control and which resulted in an unforeseen falling off in the state's revenue, and to provide also the sum of five hundred thousand dollars, or such

portion thereof as the legislature may deem necessary or available, for the relief of unemployment during a specific period. The funds for this purpose can be raised by imposition of a tax on cigarettes and all other forms of tobacco and on other so-called luxuries, or any one of such articles as the legislature may deem best.

It is my firm conviction that if the subjects here listed are acted upon fairly, the state and its citizens will be greatly benefitted and that the honor and credit for doing something constructive can justly be claimed by all members of the legislature and others who help, regardless of their political affiliation.

I trust, of course, that the expenses of the session will be kept to the absolute minimum required by efficient legislative practice, and I have every confidence that each house will see that no useless burden of expense is placed upon the people and that the business before the legislature may be speedily dispatched.

WM. G. CONLEY,
Governor.

LEGISLATURE OF WEST VIRGINIA

ACTS OF 1932

EXTRAORDINARY SESSION

CHAPTER I

(Senate Bill No. 37—Originating in Joint Committee appointed under S. C. R. No. 2)

AN ACT repealing section fourteen of article seventeen of chapter seventeen of the official code of West Virginia, creating the West Virginia bridge commission and providing for the appointment, qualification, and salaries of its members and for its employees; and transferring to the State Road Commission of West Virginia, the functions, rights, powers, duties, and obligations of said West Virginia bridge commission.

[Passed July 29, 1932; in effect from passage. Vetoed by the Governor and passed by both houses over veto.]

Sec.

1. Repeals section of code creating West Virginia Bridge Commission.
2. Transfers all rights, powers, etc., of Bridge Commission to State Road Commission.

Sec.

3. Defines "commission" to mean "The State Road Commission of West Virginia".

Be it enacted by the Legislature of West Virginia:

Section 1. That section fourteen of article seventeen of 2 chapter seventeen of the official code of West Virginia, creating 3 a commission known as the West Virginia bridge commis- 4 sion and providing for the appointment, qualification, and 5 salaries of members thereof, and for employees of said com- 6 mission, is hereby repealed.

Sec. 2. All rights, powers, privileges, and functions which 2 are conferred upon, or vested in, said West Virginia bridge 3 commission by sections fifteen to twenty-eight, inclusive, of the 4 official code of West Virginia, are hereby transferred to, con- 5 ferred upon, and vested in the State Road Commission of

6 West Virginia, created by section one of article two of chapter
7 seventeen of the official code of West Virginia, and said the
8 State Road Commission of West Virginia is hereby charged
9 with the performance of all duties, contracts, and other obliga-
10 tions imposed upon the said West Virginia Bridge Commission
11 by said sections fourteen to twenty-eight, inclusive, of said
12 official code of West Virginia.

Sec. 3. Wherever the word "commission" is used in sections
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 article seventeen of
5 chapter seventeen of the official code of West Virginia, or either
6 thereof, or in any amendment thereto, it shall, from and after
7 the time this act becomes effective, mean and refer to said The
8 State Road Commission of West Virginia.

CHAPTER 2

(House Bill No. 75—Originating in Joint Committee appointed under
S. C. R. No. 2)

AN ACT to amend and re-enact section one of article three of chap-
ter five of the official code of West Virginia by enlarging the
duties of the attorney general therein specified, and to pro-
hibit the expenditures of public funds by public officers and
departments of said state for the purpose of employing legal
counsel.

[Passed August 17, 1932; in effect from passage. Vetoed by the Governor and passed
by both houses over veto.]

SEC.

1. Specifies persons and departments to whom the Attorney General shall give official opinions and render legal service.

SEC.

2. Duty of Attorney General to render opinions to President of Senate and Speaker of the House of Delegates.
3. Repeals conflicting acts.

Be it enacted by the Legislature of West Virginia:

Section 1. That section one of article three of chapter five
2 of the official code of West Virginia be amended and re-enacted
3 so as to read as follows:

4 The attorney general shall give his written opinion and
5 advice upon questions of law, and shall prosecute and defend
6 suits, actions, and other legal proceedings, and generally render
7 and perform all other legal services, whenever required to do
8 so, in writing, by the governor, the secretary of state, the audi-

9 tor, the state superintendent of free schools, the treasurer, the
10 commissioner of agriculture, the board of public works, the
11 tax commissioner, the state archivist and historian, the com-
12 missioner of banking, the adjutant general, the chief of the de-
13 partment of mines, the superintendent of public safety, the
14 board of control, the state road commission, the workmen's com-
15 pensation commissioner, the public service commission, or any
16 other state officer, board or commission, or the head of any state
17 educational, correctional, penal or eleemosynary institution;
18 and it shall be unlawful from and after the time this act be-
19 comes effective for any of the public officers, commissions, or
20 other persons above mentioned to expend any public funds of
21 the state of West Virginia, for the purpose of paying any per-
22 son, firm, or corporation, for the performance of any legal
23 services: *Provided, however,* That nothing contained in this
24 act shall impair or affect any existing valid contracts of em-
25 ployment for the performance of legal services heretofore made.

Sec. 2. It shall also be the duty of the attorney general to
2 render to the president of the senate and/or the speaker of the
3 house of delegates, a written opinion or advice, upon any ques-
4 tions submitted to him by them or either of them whenever he
5 shall be requested in writing so to do.

Sec. 3. All acts or parts of acts in conflict with the foregoing
2 acts, or any part thereof, are hereby repealed.

CHAPTER 3

(Senate Bill No. 41—Originating in Joint Committee appointed under
S. C. R. No. 2)

AN ACT to repeal sections one, two and three of article two of
chapter sixty of the code of West Virginia, nineteen hundred
and thirty-one, relating to the creation of the office of com-
missioner of prohibition, the appointment of deputies and
agents, relating to the duties and powers of the commissioner
and his deputies, the carrying of weapons, the making of annual
reports and general supervision of the commissioner of pro-
hibition over, and rules and regulations governing, lawful
manufacture and sale of alcohol, etc.; to provide for the
enforcement of the provisions of chapter sixty of said code:

and to terminate appointments of deputies and agents heretofore made by the state commissioner of prohibition.

[Passed August 4, 1932; in effect ninety days from passage. Vetoed by the Governor and passed by both houses over veto.]

SEC.

1. Repeals sections of code creating office of Commissioner of Prohibition.
2. Imposes duty of enforcing prohibition law on the officers charged with the duty of enforcing other

SEC.

- laws concerning crimes and offenses.
3. Terminates appointment of deputies and agents made by Commissioner of Prohibition.

Be it enacted by the Legislature of West Virginia:

Section 1. That sections one, two and three of article two of chapter sixty of the code of West Virginia are hereby repealed.

Sec. 2. The duty of enforcing the provisions of chapter two sixty of the code of West Virginia imposed upon the state commissioner of prohibition and his deputies by section two of article two of said chapter sixty, above repealed, shall be performed by the proper officers of this state, and of the several counties, districts and municipalities thereof, who are charged by law with the enforcement of other statutes for the prevention and punishment of other crimes and offenses.

Sec. 3. All appointments heretofore made by the state commissioner of prohibition of deputies and agents, and all certificates of authority issued to them by said commissioner, under section one of article two of chapter sixty of the code, above repealed, are hereby terminated and revoked.

CHAPTER 4

(Senate Bill No. 40—Originating in Joint Committee appointed under S. C. R. No. 2)

AN ACT to amend section two of article one of chapter eleven of the official code of West Virginia, relating to the general duties and powers of the tax commissioner.

[Passed August 4, 1932; in effect ninety days from passage. Vetoed by the Governor and passed by both houses over veto.]

SEC.

2. Specifies general duties and powers of state tax commissioner and transfers to him the supervision of the manufacture of alcohol.

SEC.

wine, etc., and sale of same by the manufacturers, wholesale druggists and other dealers.

Be it enacted by the Legislature of West Virginia:

Section two of article one of chapter eleven of the code of West Virginia is amended and re-enacted to read as follows:

Section 2. It shall be the duty of the tax commissioner to see 2 that the laws concerning the assessment and collection of all 3 taxes and levies, whether of the state or of any county, district 4 or municipal corporation thereof, are faithfully enforced. He 5 shall prepare all proper forms and books for the use and 6 guidance of assessors, and shall perform all such other duties 7 as may be required by law. He shall from time to time visit the 8 several counties and municipal corporations of the state; shall 9 inspect the work of the several assessors, boards of review and 10 equalization, justices, prosecuting attorneys, clerks of the 11 courts, sheriffs, constables and collecting officers, among whom 12 are included commissioners of school lands, and shall confer 13 with them respecting such work for the future. In such con- 14 ference, or by writing or otherwise, he may inquire into the 15 proceedings of any such officer, make to him such suggestions 16 respecting the discharge of his duty as may seem proper, and 17 give such information and require such action as will tend to 18 produce full and just assessment throughout the state, and the 19 diligent collection of all taxes and levies, including licenses and 20 inheritance taxes, and of fines.

21 The manufacture of alcohol, wine, and other liquors, and the 22 sale of the same by the manufacturer, by wholesale druggists, 23 and other dealers shall be under the supervision of the tax com- 24 missioner and under such rules and regulations as he may from 25 time to time prescribe.

26 The tax commissioner may, with the approval of the board of 27 public works, appoint competent persons to appraise property 28 values, and may employ experts to examine and report upon the 29 different kinds and classes of property in the state, with a view 30 to ascertaining the true and actual value thereof for assessment 31 purposes, to the end that he may furnish to county assessors, 32 county boards of review and equalization, and the state board 33 of public works more accurate information, and more effectively 34 aid and supervise the assessors and the county boards of re- 35 view and equalization in their work of assessment and valuation 36 of property for purposes of taxation. Any such appraiser, or 37 expert person, so appointed by the tax commissioner for the 38 purpose of ascertaining property values, as aforesaid, shall 39 have authority to examine, under oath the owner or owners, of 40 any property subject to taxation in this state as to any matters

41 touching the value thereof; and he may examine, under oath,
42 any other person as to any pertinent facts or matters within his
43 knowledge, relative to the character and value of any such
44 property. And, for the purposes of this provision, such
45 appraisers and expert examiners shall have authority to ad-
46 minister oaths and to subpoena witnesses. If any person refuse
47 to appear and to testify in response to any subpoena issued by
48 such appraiser or expert examiner, he may apply to any judge of
49 any criminal, intermediate, common pleas or circuit court, or the
50 clerk thereof, either in term time or in vacation, for subpoena
51 or other proper process, for any such witness; and the judge
52 of the court or such clerk shall thereupon issue a subpoena, or
53 other proper process, requiring the attendance and testimony
54 of any such person before such appraiser, or examiner, and if
55 any such person refuse to obey any such order, he shall be
56 guilty of contempt and punish accordingly.

57 Upon the application of any officer concerned with the asses-
58 sment or collection of taxes, he shall as to any matter specified
59 by such officer, make like suggestions and give like information.
60 In case of the failure of any assessing or collecting officer in the
61 discharge of any duty, imposed upon him by law, the said tax
62 commissioner shall, after due notice to any such assessor or
63 collecting officer, proceed to enforce such penalty as may be
64 provided by law, including in any proper case the removal
65 of such officer, and to that end he is authorized to appear be-
66 fore any court or tribunal having jurisdiction. He may cause
67 the violation of any law respecting the assessment or collection
68 of taxes to be prosecuted. He may also be heard before any
69 court, council or tribunal, in any proceeding in which an abate-
70 ment of taxes is sought.

CHAPTER 5

(House Bill No. 51—By Mr. Hiner)

AN ACT to repeal section fifteen, article one, of chapter fifty-one of the code of West Virginia, relating to retirement and pay of judges of the supreme court of appeals who shall have served at least one full term of twelve consecutive years and shall have reached the age of at least sixty-five years.

[Passed August 17, 1932; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC. 1. Repeals section of code relating to retirement and retirement pay of		SEC. Judges of the supreme court of appeals.
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Be it enacted by the Legislature of West Virginia:

Section 1. That section fifteen, article one, of chapter fifty-one 2 of the code of West Virginia, relating to the retirement and 3 pay of judges of the supreme court of appeals who shall have 4 served at least one full term of twelve consecutive years and 5 shall have reached the age of at least sixty-five years, be and the 6 same is hereby repealed.

CHAPTER 6

(House Bill No. 7—By Mr. Taylor, by request)

AN ACT to amend and re-enact section twelve of article eight of chapter thirty-one of the code of West Virginia, and to amend article eight of chapter thirty-one of the code of West Virginia by enacting an additional section to be numbered section thirty-two-(a), relating to the business operations and supervision of banking institutions, and providing for banking institutions and the receivers of closed and/or insolvent banking institutions and the commissioner of banking to borrow money and negotiate loans and pledge, assign, hypothecate, rediscount and/or sell the assets and securities of such banking institutions.

[Passed July 27, 1932; in effect from passage. Approved by the Governor.]

SEC. 12. Amends banking law to permit directors of banking institutions to borrow money from Reconstruction Finance Corporation, etc.,		SEC. and to pledge its assets or securities as collateral security for the payment of such loans.
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SEC.
32(a) Permits receivers of closed or insolvent banking institutions under certain restrictions, to borrow money from Reconstruction Fi-

SEC.
nance Corporation, etc., for specified purposes and to pledge, sell, etc., the assets or securities of the banking institution for such loans.

Be it enacted by the Legislature of West Virginia:

That section twelve of article eight of chapter thirty-one of the code of West Virginia be, and the same is, hereby amended and re-enacted and article eight of chapter thirty-one of the code of West Virginia be, and the same is, hereby amended by enacting an additional section to be numbered section thirty-two-(a), which sections shall read as follows:

Section 12. Any banking institution organized and authorized to transact business hereunder may borrow money, rediscount any of its notes, or borrow bonds for the use of the bank in order to maintain its legal required reserve, or meet any emergency that may arise. The books and accounts of such banking institutions shall at all times show the amount of such borrowed money, bonds or rediscounts. No officer, director or employee of any such banking institution shall issue the note of such banking institution for borrowed money, or rediscount any note or pledge any of the assets of such banking institution except when authorized by resolution of the board of directors of such banking institution: *Provided*, That it shall be unlawful for any such banking institution to issue its certificate of deposit for the purpose of borrowing money.

It shall be unlawful for such banking institution to pledge or hypothecate more than two dollars of the book value of any of its assets for each one dollar of borrowed money: *Provided*, however, That any such banking institution, when authorized by resolution of the board of directors of such banking institution, with the consent in writing of the commissioner of banking, may borrow money from and contract for loans with the Reconstruction Finance Corporation, authorized and functioning pursuant to an act of congress of the United States of America, approved January twenty-two, one thousand nine hundred thirty-two, or any other agency authorized by an act of congress of the United States of America, or with any person or persons, and may pledge, hypothecate, assign, rediscount and/or sell to said Reconstruction Finance Corporation, or other authorized agency of the United States, or any person or persons, any assets or

30 securities belonging to any such banking institution in such man-
31 ner or form as may be approved, and subject to any and all terms
32 and conditions in connection with the granting thereof imposed,
33 by such Reconstruction Finance Corporation, or other author-
34 ized agency of the United States, or other person or persons, as
35 collateral security for the payment of any and all such loans.

36 An accurate record of all securities and exact copies of all
37 notes withdrawn from the files of such banking institutions, to
38 be pledged as collateral for borrowed money or other purposes,
39 shall be kept in the files of such banking institution at all times.

Sec. 32-(a). Any receiver of a banking institution heretofore
2 or hereafter closed and/or insolvent, appointed under the pro-
3 visions of section thirty-two of article eight of chapter thirty-
4 one of the code of West Virginia, if there be no proceeding insti-
5 tuted as authorized by law by such receiver in any court in this
6 state against such banking institution and its stockholders, with
7 the consent in writing of the commissioner of banking, and if
8 there be a proceeding instituted as authorized by law by such
9 receiver in any court in this state against such banking insti-
10 tution and its stockholders, with the consent in writing of the
11 commissioner of banking and the approval of the court, and any
12 receiver of a banking institution heretofore or hereafter closed
13 and/or insolvent, appointed by any court in this state in con-
14 nection with any proceeding in such court against such bank-
15 ing institution, with the consent in writing of the commissioner
16 of banking and the approval of the court, is hereby authorized
17 and empowered to borrow money from and contract for loans
18 with the Reconstruction Finance Corporation, authorized and
19 functioning pursuant to an act of congress of the United States
20 of America, approved January twenty-two, one thousand nine
21 hundred thirty-two, or any other agency authorized by an act of
22 congress of the United States of America, or with any person or
23 persons, for the purpose of furnishing immediate relief to, the
24 reorganization or liquidation or reopening of, such banking
25 institution, protecting and/or preserving the assets in the charge
26 of such receiver, expediting the making of distributions and the
27 payment of dividends to depositors and other creditors of such
28 banking institution, providing for the expenses of administra-
29 tion and liquidation and aiding in the reorganization or reopen-
30 ing of such banking institution or its merger or consolidation

31 with another banking institution, and paying the claims of se-
32 cured creditors where the security is deemed by the receiver and
33 the commissioner of banking to be of a value in excess of the
34 debt so secured and to be for the preservation of the assets of
35 such banking institution; and to pledge, hypothecate, assign,
36 rediscount and/or sell to said Reconstruction Finance Corpora-
37 tion, or other authorized agency of the United States, or any
38 person or persons, any assets or securities belonging to any such
39 banking institution, in such manner or form as may be approved,
40 and subject to any and all terms and conditions in connection
41 with the granting thereof imposed, by such Reconstruction
42 Finance Corporation, or other authorized agency of the United
43 States, or other person or persons, as collateral security for the
44 payment of any and all such loans.

45 All such acts of the receiver and/or commissioner of banking
46 in connection with such closed and/or insolvent banking insti-
47 tution are hereby declared to be legal, valid, binding and effec-
48 tive to transfer and vest in said Reconstruction Finance Cor-
49 poration, or other authorized agency of the United States, or
50 other person or persons, its, his or their successors or assigns,
51 ownership and title to the said assets and securities according
52 to the terms of the contract of transfer, assignment or sale.

53 The commissioner of banking and/or receiver of any such
54 closed and/or insolvent banking institution shall be under no
55 personal obligation to repay any such loans so made, and shall
56 have power to take any and all action necessary or proper to
57 consummate such loans and to provide for the repayment thereof
58 and to give bond, when required, for the faithful performance
59 of all undertakings in connection therewith.

60 The authority herein conferred on a receiver of a closed and/
61 or insolvent banking institution for the procuring and obtain-
62 ing of such loans includes authority to renew the same from
63 time to time, with the consent in writing of the commissioner of
64 banking.

65 An accurate record of all securities and exact copies of all
66 notes withdrawn from the files of such banking institution, to
67 be pledged as aforesaid as collateral for borrowed money, shall
68 be kept in the files of such banking institution at all times.

69 All acts or parts of acts inconsistent herewith are hereby ex-
70 pressly repealed.

CHAPTER 7

(Senate Bill No. 28—By Mr. Reynolds, of Mineral)

AN ACT to amend and re-enact section nine of article four of chapter thirty-one of the code of West Virginia, relating to banking institutions, and providing for the hypothecation of securities and/or assets as security for deposits.

[Passed July 28, 1932; in effect from passage. Approved by the Governor.]

<p>Sec. 9. Amends banking law to permit banks and trust companies to pledge, etc., its securities to guarantee deposits of the federal and</p>		<p>Sec. state government, or its political subdivisions, and of the receivers of closed or insolvent banking institutions.</p>
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Be it enacted by the Legislature of West Virginia:

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

Section 9. No banking institution chartered and authorized to engage in business under the laws of this state, shall hereafter install or maintain any branch bank, or engage in business at any place other than at its principal office in the state of West Virginia; or engage in any business other than as authorized in this article. No banking institution shall become or be accepted as surety on any bond or undertaking required by the laws or by the courts of this state, or any other state, or shall become surety or guarantor of any person for the discharge of any duty in any position or the performance of any contract or undertaking. No banking institution shall pledge, hypothecate or deliver any of its assets of any description whatsoever to any person to indemnify him as surety for such banking institution or as surety for any other person: *Provided*, That a bank or trust company may pledge, hypothecate, deliver or deposit securities to guarantee deposits of the United States, state of West Virginia, a county, district, school district or a municipal corporation, and, with the consent in writing of the commissioner of banking, may pledge, hypothecate, deliver or deposit securities and/or assets to guarantee deposits made by receivers of closed and/or insolvent banking institutions, and the receiver of a closed and/or insolvent bank-

23 ing institution, if the proceeding be not in court, with the con-
24 sent in writing of the commissioner of banking, and if the pro-
25 ceeding be in court, with the consent in writing of the com-
26 missioner of banking and the approval of the court, may ac-
27 cept securities and/or assets of a banking institution to secure
28 deposits made by such receiver: *Provided further*, That the
29 hypothecation of such securities and/or assets shall be by
30 proper legal transfer as collateral security to protect and in-
31 demnify by trust any and all loss in case of any default on the
32 part of the banking institution in its capacity as a depository
33 for any such deposits as aforesaid, and such collateral security
34 shall be released only by order of record of the public officer
35 or public body, or by the receiver of a closed and/or insolvent
36 banking institution, if the proceeding be not in court, with
37 the consent in writing of the commissioner of banking, and if
38 the proceeding be in court, with the consent in writing of the
39 commissioner of banking and the approval of the court, when
40 satisfied that full and faithful accounting and payment of all
41 the moneys has been made under the provisions hereof. The
42 public officer or public body, or the receiver of a closed and/or
43 insolvent banking institution, shall make ample provision for
44 the safekeeping of such hypothecated securities and/or assets,
45 and the interest thereon when paid shall be turned over to
46 the banking institution, so long as it is not in default as afore-
47 said.

48 The foregoing shall not prevent the hypothecation of the
49 securities and/or assets of any banking institution to secure
50 the repayment of money borrowed from another banking in-
51 stitution.

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

* CHAPTER 8

(House Bill No. 60—By Mr. Taylor, by request)

AN ACT to amend and re-enact sections two and three of article six of chapter seven of the code of West Virginia, relating to county depositories, and providing for the execution of bonds and/or the hypothecation of securities as security for deposits.

[Passed August 26, 1932; in effect ninety days from passage. Approved by the Governor.]

S^{EC.}
2. Amends county depository law to permit county courts to accept as partial or total security for money deposited, securities of the federal and state government and its political subdivisions.

S^{EC.}
3. Additional security may be required from depository by county court; provisions for temporary depositories; bond secured by real estate to be recorded.

Be it enacted by the Legislature of West Virginia:

That sections two and three of article six of chapter seven of the code of West Virginia be, and the same are hereby amended and re-enacted so as to read as follows:

Section 2. No such designation shall be binding on such
2 county, nor shall any public money be deposited thereunder,
3 until the banking institution designated shall execute bond with
4 good and sufficient sureties, to be accepted and approved by the
5 county court, payable to the state of West Virginia, in such sum
6 as the county court shall direct, and which shall not be less than
7 the maximum sum that shall be deposited in the depository at
8 any one time. Such bond shall be executed by at least four resi-
9 dent freeholders as sureties owning in the aggregate unencum-
10 bered real estate having an assessed valuation thereon equal
11 to the penalty of the bond, or by a fidelity or indemnity
12 company authorized to do such business within the state, satis-
13 factory to, and acceptable by the county court, and having not
14 less than six hundred thousand dollars capital; and such bond
15 shall be conditioned for the receipt, safe-keeping and payment
16 over of all money which may be deposited in or come under the
17 custody of the banking institution designated a county deposi-
18 tory under the provisions hereof, together with the interest
19 thereon at the rate specified by this article; and such bond shall
20 be further conditioned for the faithful performance, by the
21 banking institution so designated, of all the duties imposed by
22 this article upon a depository of public moneys. An action shall

*See chapter sixty-three, acts extraordinary session 1933, in this volume.

23 lie on such bond at the instance of the county court, or the
24 sheriff, for the recovery of any money deposited in the deposi-
25 tory, upon failure or default of the depository to fully and faith-
26 fully account for and pay over any and all public moneys de-
27 posited by the sheriff, and of all interests earned and accrued
28 thereon as required by this article. Such bond shall not be ac-
29 cepted by the county court until it shall have been submitted to
30 the prosecuting attorney, and certified by him to be in due and
31 legal form, and conformable to the provisions of this article,
32 which certificate shall be indorsed thereon: *Provided, however,*
33 That the county court may, in lieu of the bond provided for
34 hereinbefore, accept as security for money deposited as afore-
35 said, interest-bearing securities of the United States, or a state,
36 county, district or municipal corporation, the indebtedness
37 whereof does not exceed five per centum of the assessed valu-
38 ation; the face value of which securities shall not be less than
39 the sum hereinbefore specified as the amount to be named in the
40 bond in lieu of which such securities are accepted; or the county
41 court may accept such securities as partial security to the ex-
42 tent of their face value for the money so deposited, and require
43 bond for the remainder of the full amount hereinbefore speci-
44 fied, to be named in the bond, and in the bond so required, such
45 acceptance of securities as partial security, and the extent there-
46 of, shall be set forth. The hypothecation of such securities shall
47 be by proper legal transfer as collateral security to protect and
48 indemnify by trust any and all loss in case of any default on the
49 part of the banking institution in its capacity as depository as
50 aforesaid, and such collateral security shall be released only by
51 order of record of the county court when satisfied that full and
52 faithful accounting and payment of all the moneys has been
53 made under the provisions hereof. The county court shall make
54 ample provision for the safekeeping of such hypothecated securi-
55 ties, and the interest thereon when paid shall be turned over to
56 the banking institution, so long as it is not in default as afore-
57 said.

58 If any banking institution designated as aforesaid fail to exe-
59 cute bond or to hypothecate securities as required hereby, to the
60 satisfaction and acceptance of the county court, before August
61 first, following such designation, it shall not serve during that
62 fiscal year.

Sec. 3. The banking institutions designated in the manner 2 hereinbefore provided shall, upon the acceptance by the county 3 court of the bond and/or upon the hypothecation of the securi- 4 ties, as provided for hereinbefore, be the depositories of public 5 moneys, and remain such for one year, but the county court, at 6 any time it deems the same necessary, may require additional 7 security from a depository in such sum as the court shall by 8 order designate; and if a depository refuse or neglect, for the 9 period prescribed by the court, to give such additional security, 10 or to comply with the provisions of this article, the court may 11 order the removal of the public moneys therefrom to some other 12 depository and if no other county depository is available at the 13 time, then to some reliable banking institution to be the deposi- 14 tory thereof temporarily. Such removal, and all other removals, 15 ordered by the county court under the provisions of this article, 16 shall be made by order of record and upon the check of the 17 county treasurer, countersigned by the county clerk, after notice 18 to such depository. In the event any county depository shall 19 cease to do business or shall suspend business, its rights as a de- 20 pository shall cease, and the funds on deposit with it shall be 21 transferred to the other depositories of the county, but in the 22 event there is no other approved depository in the county, and 23 pending the designation and approval of another depository, 24 the county treasurer shall deposit public funds coming into his 25 hands, in some reliable banking institution, designated by the 26 county court as a temporary depository, until a depository is 27 designated and approved in the manner herein prescribed. If 28 the money, in case of such removal, be deposited in a banking 29 institution, designated as a temporary depository, such banking 30 institution shall, before the receipt by it of any such money, 31 enter into a bond or hypothecate securities as required by this 32 article; and the county court shall at once proceed to designate 33 a new depository under this article. Every such bond secured by 34 real estate executed under this section or the preceding section 35 shall be placed of record in the office of the clerk of the county 36 court in the county wherein the real estate or any part thereof 37 is located, and shall constitute a valid lien upon said real estate 38 until the said bond is duly released by the proper authorities.

39 All acts and parts of acts in conflict with this act are hereby
40 expressly repealed.

CHAPTER 9

(House Joint Resolution No. 3—By Mr. Smith, of Marion)

(H. J. R. No. 3)—“Providing for the submission to the voters of the state of an amendment to the constitution of the state, amending section one, of article ten thereof.”

[Adopted August 6, 1932. Approved by the Governor.]

SEC.	1. Proposes to amend section one of article ten of state constitution		SEC.	by classifying property and fixing maximum rates of levy on same.
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Resolved by the Legislature of West Virginia, two-thirds of all the members elected to each House agreeing thereto:

That the question of ratification or rejection of an amendment to the constitution of West Virginia shall be submitted to the voters of the state at the next general election to be held in the year one thousand nine hundred thirty-two, which proposed amendment is as follows:

That section one, of article ten of the constitution of West Virginia be amended, as follows:

Section 1. Subject to the exceptions in this section contained, taxation shall be equal and uniform throughout the state, and all property, both real and personal, shall be taxed in proportion to its value to be ascertained as directed by law. No one species of property from which a tax may be collected shall be taxed higher than any other species of property of equal value; except that the aggregate of taxes assessed in any one year upon personal property employed exclusively in agriculture, including horticulture and grazing, products of agriculture as above defined, including live stock, while owned by the producer, and money, notes, bonds, bills and accounts receivable, stocks and other similar intangible personal property shall not exceed fifty cents on each one hundred dollars of value thereon and upon all property owned, used and occupied by the owner thereof exclusively for residential purposes and upon farms occupied and cultivated by their owners or bona fide tenants one dollar; and upon all other property situated outside of municipalities, one dollar and fifty cents; and upon all other such property situated within municipalities, two dollars; and

the legislature shall further provide by general law, for increasing the maximum rates, authorized to be fixed, by the different levying bodies upon all classes of property, by submitting the question to the voters of the taxing units affected, but no increase shall be effective unless at least sixty per cent of the qualified voters shall favor such increase, and such increase shall not continue for a longer period than three years at any one time, and shall never exceed by more than fifty per cent the maximum rate herein provided and prescribed by law; and the revenue derived from this source shall be apportioned by the legislature among the levying units of the state in proportion to the levy laid in said units upon real and other personal property; but property used for educational, literary, scientific, religious or charitable purposes, all cemeteries, public property, the personal property, including live stock, employed exclusively in agriculture as above defined and the products of agriculture as so defined while owned by the producers may by law be exempted from taxation; household goods to the value of two hundred dollars shall be exempted from taxation. The legislature shall have authority to tax privileges, franchises, and incomes of persons and corporations and to classify and graduate the tax on all incomes according to the amount thereof and to exempt from taxation, incomes below a minimum to be fixed from time to time, and such revenues as may be derived from such tax may be appropriated as the legislature may provide. After the year nineteen hundred thirty-three, the rate of the state tax upon property shall not exceed one cent upon the hundred dollars valuation, except to pay the principal and interest of bonded indebtedness of the state now existing.

CHAPTER 10

(House Bill No. 118—By Mr. Barnhart)

AN ACT to provide for the submission to the voters of the state of an amendment to the constitution of the state of West Virginia, as follows: Amending section one of article ten.

[Passed August 6, 1932: in effect from passage. Approved by the Governor.]

<p>SEC. 1. Provides for submission to voters of proposed amendment to section</p>		<p>SEC. one of article ten of state constitution, classifying property.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1. That the question of the ratification or rejection of an amendment to the constitution of West Virginia, proposed in accordance with the provisions of section two of article fourteen of said constitution, shall be submitted to the voters of the state at the next general election, to be held in the year nineteen hundred thirty-two, which proposed amendment is as follows:

Proposed Amendment

Section 1. Subject to the exceptions in this section contained, taxation shall be equal and uniform throughout the state, and all property, both real and personal, shall be taxed in proportion to its value to be ascertained as directed by law. No one species of property from which a tax may be collected shall be taxed higher than any other species of property of equal value; except that the aggregate of taxes assessed in any one year upon personal property employed exclusively in agriculture, including horticulture and grazing, products of agriculture as above defined, including live stock, while owned by the producer, and money, notes, bonds, bills and accounts receivable, stocks and other similar intangible personal property shall not exceed fifty cents on each one hundred dollars of value thereon and upon all property owned, used and occupied by the owner thereof exclusively for residential purposes and upon farms occupied and cultivated by their owners or bona fide tenants one dollar; and upon all other property situated outside of municipalities, one dollar and fifty cents; and upon all other such property situated within municipalities, two dollars; and the legislature

20 shall further provide by general law, for increasing the maxi-
21 mum rates, authorized to be fixed, by the different levying bodies
22 upon all classes of property, by submitting the question to the
23 voters of the taxing units affected, but no increase shall be effec-
24 tive unless at least sixty per cent of the qualified voters shall
25 favor such increase, and such increase shall not continue for a
26 longer period than three years at any one time, and shall never
27 exceed by more than fifty per cent the maximum rate herein
28 provided and prescribed by law; and the revenue derived from
29 this source shall be apportioned by the legislature among the
30 levying units of the state in proportion to the levy laid in said
31 units upon real and other personal property; but property used
32 for educational, literary, scientific, religious or charitable pur-
33 poses, all cemeteries, public property, the personal property,
34 including live stock, employed exclusively in agriculture as above
35 defined and the products of agriculture as so defined while
36 owned by the producers may by law be exempted from taxation;
37 household goods to the value of two hundred dollars shall be
38 exempted from taxation. The legislature shall have authority
39 to tax privileges, franchises, and incomes of persons and cor-
40 porations and to classify and graduate the tax on all incomes
41 according to the amount thereof and to exempt from taxation,
42 incomes below a minimum to be fixed from time to time, and
43 such revenues as may be derived from such tax may be appro-
44 priated as the legislature may provide. After the year nineteen
45 hundred thirty-three, the rate of the state tax upon property
46 shall not exceed one cent upon the hundred dollars valuation,
47 except to pay the principal and interest of bonded indebtedness
48 of the state now existing.

Sec. 2. For convenience in referring to the said proposed
2 amendment and in the preparation of the form of the ballot here-
3 inafter provided for, said proposed amendment is hereby desig-
4 nated as follows: To be known as "Tax Limitation Amend-
5 ment."

Sec. 3. For the purpose of enabling the voters of the state to
2 vote on the question of said proposed amendment to the constitu-
3 tion, at the said general election to be held in the year nineteen

4 hundred thirty-two, the board of ballot commissioners of each
5 county is hereby required to place upon, and at the foot of, the
6 official ballots to be voted at said election, the following :

7 Ballot on constitutional Tax Limitation Amendment, amend-
8 ing section one of article ten.

9 For ratification of Tax Limitation Amendment.

10 Against ratification of Tax Limitation Amendment.

11 The said election on the proposed amendment, at each place
12 of voting, shall be superintended, conducted and returned, and
13 the result thereof ascertained, by the same officers and in the
14 same manner as the election of officers to be voted for at said
15 election ; and all of the provisions of law relating to general elec-
16 tions, including all duties to be performed by any officer or
17 board, as far as applicable and not inconsistent with anything
18 herein contained, shall apply to the election held under the pro-
19 visions of this act, except when it is herein otherwise provided.
20 The ballots cast on the question of said proposed amendment
21 shall be counted as other ballots cast at said election.

Sec. 4. As soon as the result is ascertained the commissioners,
2 or a majority of them, and the canvassers (if there be any), or
3 a majority of them, at each place of voting, shall make out and
4 sign two certificates thereof in the following form or to the fol-
5 lowing effect: "We, the undersigned, who acted as commission-
6 ers (or canvassers, as the case may be,) of the election held at
7 precinct No., in the district of, in
8 the county of, on the day of No-
9 vember, nineteen hundred thirty-two, upon the question of the
10 ratification or rejection of the proposed constitutional amend-
11 ment to section one of article ten, do hereby certify that the
12 result of said election is as follows:

13 Amending section one of article ten :

14 For ratification of Tax Limitation Amendment votes.

15 Against ratification of Tax Limitation Amendment votes.

16 Given under our hands this day of November, nineteen
17 hundred thirty-two."

18 The said two certificates shall correspond with each other in
19 all respects, and contain the full and true returns of said elec-
20 tion at each place of voting on said question. The said commis-
21 sioners, or any one of them, (or said canvassers, or any one of
22 them, as the case may be,) shall within four days, excluding
23 Sunday, after that on which said election was held, deliver one
24 of said certificates to the clerk of the county court of his county,
25 together with the ballots, and the other to the clerk of the circuit
26 court of the county.

27 The said certificates, together with the ballots cast on the
28 question of said proposed amendment, shall be laid before the
29 commissioners of the county court at the court house at the same
30 time the ballots, poll books and the certificates of the election
31 for the members of the legislature are laid before them; and as
32 soon as the result of said election in the county upon the question
33 of such ratification or rejection is ascertained, two certificates of
34 such result shall be made out and signed by said commissioners,
35 as a board of canvassers, in the following form or to the follow-
36 ing effect;

37 "We, the board of canvassers of the county of ,
38 having carefully and impartially examined the returns of the
39 election held in said county, in each district thereof, on the
40 day of November, nineteen hundred thirty-two, do certify that
41 the result of the election in said county, on the question of the
42 ratification or rejection of the proposed constitutional amend-
43 ment to section one of article ten is as follows:

44 For ratification of Tax Limitation Amendment votes.
45 Against ratification of Tax Limitation Amendment . . . votes.
46 Given under our hands this day of , nine-
47 teen hundred thirty-two."

48 One of the certificates shall be filed in the office of the clerk of
49 the county court, and the other forwarded by mail to the secre-
50 tary of state, who shall file and preserve the same until the day
51 on which the result of said election in the state is to be ascer-
52 tained, as hereinafter stated.

Sec. 5. On the twenty-fifth day after the election is held, or
2 as soon thereafter as practicable, the said certificates shall be

3 laid before the governor, whose duty it shall be to ascertain
4 therefrom the result of said election in the state, and declare
5 the same by proclamation published in one or more newspapers
6 printed at the seat of government. If a majority of the votes
7 cast at said election upon said question be for the ratification of
8 the said amendment, the proposed amendment so ratified shall
9 be of force and effect from and after the time of such ratification
10 as part of the constitution of the state.

Sec. 6. The governor shall cause the said proposed amend-
2 ment, with the proper designation for the same as hereinbefore
3 adopted, to be published one time, at least three months before
4 such election, in some newspaper in every county in this state
5 in which a newspaper is printed, at a price to be agreed upon in
6 advance in writing, and the cost of such advertising shall in the
7 first instance, if found necessary by him, be paid out of the gov-
8 ernor's contingent fund and be afterwards repaid to such fund
9 by appropriation of the legislature.

CHAPTER 11

(Senate Bill No. 5—By Mr. Reynolds, of Mineral)

AN ACT to provide for the limitation of levies by county courts,
boards of education and municipal corporations.

[Passed July 29, 1932; in effect from passage. Approved by the Governor.]

<p>SEC. 1. Limits aggregate estimates for taxes by county courts, boards of education and municipal corporations for 1932, to eighty-five per</p>		<p>SEC. cent of the amount estimated to be raised for taxes for like purposes in 1931.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1. For the year one thousand nine hundred and
2 thirty-two, no county court, board of education or municipal
3 corporation shall levy taxes, other than for interest and sinking
4 fund purposes, unless approved by a vote of the people as now
5 authorized by law, which shall be estimated to produce in the
6 aggregate in excess of eighty-five per cent of the amount esti-
7 mated to be raised by taxes levied for like purposes for the year
8 one thousand nine hundred and thirty-one, except that taxes in
9 excess of the limit herein fixed may be levied and collected by

10 any taxing unit within the state when necessary to meet
 11 emergencies arising from and caused by act of God, when the
 12 existence of such emergency, and the necessity for such addi-
 13 tional tax, together with the amount of taxes and the rate of
 14 levy proposed to meet such emergency is certified by such
 15 taxing unit to the state tax commissioner and the levying of such
 16 additional tax is approved by him.

17 All acts and parts of acts, general and special, inconsistent
 18 with this act are hereby repealed in so far as inconsistent herc-
 19 with.

*CHAPTER 12

(Conf. Com. Sub. for Senate Bill No. 9—Originating in the Conference Committee)

AN ACT to amend and re-enact sections six, seven and ten of article nine of chapter eleven and section eighteen of article six of chapter eleven of the official code of West Virginia, one thousand nine hundred and thirty-one, relating to tax levies and collections.

[Passed August 23, 1932: in effect from passage. Approved by the Governor.]

- | | |
|---|--|
| <p>SEC.
 6. Fixes dates for posting and publication of notices by sheriff of tax collections.</p> <p>7. Provides that taxes may be paid in semi-annual installments on November 1 and May 1, and for discounts and penalties.</p> | <p>SEC.
 10. Provides for distraint of goods and chattels for taxes due.</p> <p>18. Provides that taxes of public service corporations may be paid in semi-annual installments on November 1 and May 1, and for discounts and penalties.</p> |
|---|--|

Be it enacted by the Legislature of West Virginia:

That sections six, seven and ten of article nine of chapter eleven and section eighteen of article six of chapter eleven of the official code of West Virginia, one thousand nine hundred and thirty-one, be amended and re-enacted so as to read as follows:

Section 6. It shall be the duty of the sheriff or collector to
 2 give notice by posting at not less than six public places in each
 3 magisterial district, for at least ten days before the time
 4 appointed, that he will attend at one or more of the most public
 5 and convenient places for the people in each district, such
 6 places to be specified in such notice, between the fifteenth day of
 7 September and the date such taxes are due for the purpose of
 8 receiving taxes due by the people residing or paying taxes in

*See chapter thirty-nine, acts regular session 1933, in this volume.

9 such district, and that he will make a discount of two and one-
10 half per centum to all such persons as shall pay their taxes on
11 or before the first day of November of that year; which discount
12 shall be made on the whole amount of taxes and levies of every
13 kind so collected by such sheriff or collector. Any sheriff or
14 collector failing to post such notice as herein required shall
15 forfeit one hundred dollars for every such failure. The county
16 court of any county may order that the notice hereinbefore re-
17 quired shall also be given by the sheriff or collector by advertis-
18 ing the same. After such order is made, and until it is set
19 aside, the sheriff or collector shall, besides posting as hereinafter
20 required, advertise such notice once a week for three successive
21 weeks, next preceding the first day of October in every year, in
22 all newspapers published in such county, and for each failure
23 so to advertise, the sheriff or collector shall forfeit one hundred
24 dollars.

Sec. 7. All taxes assessed on real and personal property by
2 the state, county court and boards of education, including the
3 independent school district of Wheeling, and the city of Wheel-
4 ing, and all other municipalities, not having semi-annual pay-
5 ments of taxes, beginning with taxes assessed for the year one
6 thousand nine hundred and thirty-two, shall be collected by the
7 sheriff or municipal collector and may be paid in two equal in-
8 stallments; the first installment shall be payable on or before
9 November first of the year in which the assessment is made; the
10 second installment shall be payable on or before the first day
11 of the following May. All taxes paid on or before the date such
12 taxes are payable, including both first and second installments,
13 shall be subject to a discount of two and one-half per centum.
14 If the first installment is not paid before December first of any
15 year, interest at the rate of nine per centum per annum shall be
16 added from said December first until paid; if the second in-
17 stallment is not paid before June first, interest at the rate of
18 nine per centum per annum shall be added from said June
19 first until paid. The sheriff shall on the first day of December
20 and the first day of June following the year for which the taxes
21 were levied proceed immediately to collect the taxes then due.

Sec. 10. Any goods or chattels in the county belonging to the
2 person or estate assessed with taxes, which are due and payable,
3 may be distrained therefor after the last day of November in

4 the year following the year for which the taxes were assessed;
5 or before that day if such goods or chattels are about to be re-
6 moved from the county.

Sec. 18. The auditor shall, as soon as possible after such
2 assessment is completed, make out and transmit by mail or
3 otherwise, to such owner or operator, a statement of all taxes
4 and levies so charged, and it shall be the duty of such owner or
5 operator, so assessed and charged, to pay one-half of the amount
6 of such taxes and levies into the treasury of the state by the first
7 day of November and the remaining one-half by the first day of
8 the following May, subject to a deduction of two and one-half
9 per centum if the taxes be paid on or before the date due. If
10 such owner or operator fail to pay such taxes and levies when
11 due, interest thereon at the rate of nine per centum per annum
12 until paid shall be added, and the auditor shall certify, after
13 the date the second installment is due, to the sheriff of each
14 county, the amount of such taxes and levies assessed within his
15 county; and it shall be the duty of every sheriff to collect and
16 account for such taxes and levies in the same manner as other
17 taxes are levied or collected and accounted for by him. The
18 payment of such taxes and levies by any such owner or operator
19 shall not prejudice or affect the right of such owner or operator
20 to obtain relief against the assessment or valuation of its prop-
21 erty in proceedings now pending or hereafter brought under
22 the provisions of section twelve of this article, or in any suit,
23 action or proceeding in which such relief may be obtainable;
24 and if under the provisions of said section twelve or in any suit,
25 action or proceeding, it be ascertained that the assessment or
26 valuation of the property of such owner or operator is too high
27 and the same is accordingly corrected, it shall be the duty of the
28 auditor of the state to issue to the owner or operator a certificate
29 showing the amount of taxes and levies which have been over-
30 paid, and such certificate shall be receivable thereafter for the
31 amount of such overpayment in payment of any taxes and levies
32 assessed against the property of such owner or operator, its
33 successors or assigns. It shall likewise be the duty of said
34 auditor to certify to the county courts, school districts and
35 municipalities, the amounts of the respective overpayments
36 distributable to such counties, school districts and munici-
37 palities.

38 All moneys received by the auditor under the provisions of
39 this section shall be transmitted to the several counties within
40 twenty days from receipt thereof.

41 All acts and parts of acts, general and special, inconsistent
42 with this act are hereby repealed.

CHAPTER 13

(Senate Bill No. 10—By Mr. Smith)

AN ACT to provide for the relief of persons who, by act of Providence or otherwise, are in needy and necessitous circumstances, by authorizing county courts to transfer money from the county road fund to the general county fund for the fiscal year beginning July first, one thousand nine hundred thirty-two.

[Passed August 23, 1932; in effect ninety days from passage. Approved by the Governor.]

Sec.

1. Authorizes county courts, for relief of the needy, to transfer ten cents on each one hundred dollars assessed valuation of property from county road fund to general county fund.
2. Specifies purposes for which transferred money may be expended.

Sec.

3. Transferred money to be placed in special fund and its misuse made a felony.
4. County welfare board and governor to be notified of transfers and provisions made for application for relief funds through governor, from reconstruction finance corporation.

Be it enacted by the Legislature of West Virginia:

Section 1. The county courts of the several counties of the state, in addition to authority already provided by statute, are hereby authorized and empowered to transfer during the fiscal year beginning July first, one thousand nine hundred thirty-two, from the county road fund to the general county fund, a sum not exceeding ten cents on each one hundred dollars of the one thousand nine hundred thirty-two assessed valuation of all property of the county for the relief of persons who, by act of Providence or otherwise, are in needy or necessitous circumstances: *Provided, however,* That Logan county shall be excluded from the operation of this act.

Sec. 2. The county court shall have authority under the provisions hereof, any law to the contrary notwithstanding, to expend the moneys so transferred for the purpose of providing food, clothing, medical attention, or other necessities (but no money or order for money) for residents within their counties who are unemployed and/or without means of support and who

7 are aged, ill, physically handicapped and/or dependent chil-
8 dren: *Provided*, That any able-bodied resident, eighteen years
9 of age or over, who is unemployed and/or without means of
10 support and who performs such work as may be designated by
11 the county court may be paid out of such funds so transferred,
12 except that of the amount so paid for such work not more than
13 twenty per centum (20%) shall be in money or order therefor
14 and the balance in necessities as hereinbefore provided.

Sec. 3. Whenever any such transfer of funds is ordered and
2 directed, the county courts and the sheriffs and ex-officio treas-
3 urers of the several counties shall cause such funds to be specially
4 deposited in the bank or banks and placed in a special account
5 to be known and designated as "General County Fund—Relief,"
6 and it shall be unlawful and shall constitute a felony punishable
7 by confinement in the penitentiary for a period of not less than
8 one nor more than five years for such funds to be used for any
9 purpose other than provided for herein, except that the county
10 courts may re-transfer and return all or any part of such funds
11 to the county road fund.

Sec. 4. Each county court shall notify in writing the county
2 welfare board of the county, if there be one, and the governor,
3 at the time each transfer of funds is made as herein provided;
4 and at the time of giving notice to the governor of such transfer
5 of funds, and at the time of making application to the gover-
6 nor for additional relief funds, the county court of the county
7 concerned shall certify to the governor the necessity for funds
8 to be used in furnishing relief and work relief to needy and
9 distressed people and all facts showing that moneys then avail-
10 able and which can be made available by the county and by
11 private contributions are inadequate to meet its relief needs,
12 and such additional information as the governor may request,
13 to enable him to comply with the requirements for making
14 application to the Reconstruction Finance Corporation for
15 funds, as set forth in an act of the Congress of the United
16 States, entitled "emergency relief and construction act of one
17 thousand nine hundred thirty-two" or in any similar act here-
18 after passed by said Congress.

CHAPTER 14

(Senate Bill No. 13—By Mr. Smith)

AN ACT to provide for the relief of persons who by act of Providence or otherwise, are in needy and necessitous circumstances by authorizing municipalities, whether incorporated under the general or a special law to transfer money from other funds to the general fund for the fiscal year beginning July first, one thousand nine hundred thirty-two.

[Passed August 26, 1932; in effect ninety days from passage. Approved by the Governor.]

SEC.

1. Empowers municipalities to transfer from any funds under their control, except those authorized by a vote of the people, to the general fund for relief of the needy, ten cents on each one hundred dollars assessed valuation.
2. Names purposes for which transferred money may be expended.
3. Transferred money to be placed in

SEC.

- special fund, no part of which may be used prior to November 10, 1932; misuse of fund made a felony.
4. County welfare board and governor to be notified of transfers and provisions made for application for relief funds through governor, from reconstruction finance corporation.

Be it enacted by the Legislature of West Virginia:

Section 1. The council or other governing body of any municipality, whether incorporated under the general or a special law, in addition to authority already provided by statute, is hereby authorized and empowered to transfer during the fiscal year beginning July first, one thousand nine hundred thirty-two, from any fund under its control, except funds derived from levies authorized by a vote of the people, to the general fund, a sum not exceeding ten cents on each one hundred dollars of the one thousand nine hundred thirty-two assessed valuation of all property of the municipality, for the relief of persons who, by act of Providence or otherwise, are in needy or necessitous circumstances.

Sec. 2. The council or other governing authority of each municipality shall have authority under the provisions hereof, any law to the contrary notwithstanding, to expend the moneys so transferred for the purpose of providing food, clothing, medical attention, or other necessities (but no money or order for money) for residents within such municipality who are unemployed and/or without means of support and who are aged, ill, physically handicapped and/or dependent children: *Provided,* That any able-bodied resident, eighteen years of age or over, who is unemployed and/or without means of support and who

11 performs such work as may be designated by the council or other
12 governing body of such municipality, may be paid out of such
13 funds so transferred, except that of the amount so paid for
14 such work not more than twenty per centum (20%) shall be
15 in money or order therefor and the balance in necessities as
16 hereinbefore provided.

Sec. 3. Whenever any such transfer of funds is ordered and
2 directed, the council or governing body of each such munici-
3 pality and the treasurer thereof shall cause such funds to be
4 placed in a special account to be known and designated as
5 "General Fund—Relief," and it shall be unlawful and shall
6 constitute a felony, punishable by imprisonment in the state
7 penitentiary for not less than one, nor more than five years,
8 in the discretion of the court, for such funds to be used for
9 any purpose other than provided for herein, except that the
10 council or other governing body of the municipality may re-
11 transfer and return all or any part of such funds to the res-
12 pective funds from which the transfer was made. No part of
13 this fund shall be used prior to November tenth, one thousand
14 nine hundred thirty-two.

Sec. 4. The council or governing body of each municipality
2 shall notify in writing the county welfare board of the county
3 in which such municipality is situated, if there be one, and the
4 governor, at the time each transfer of funds is made as herein
5 provided; and at the time of giving notice to the governor of
6 such transfer of funds, and, at the time of making application
7 to the governor for additional relief funds, the council or gov-
8 erning body, of the municipality concerned, shall certify to the
9 governor the necessity for funds to be used in furnishing
10 relief and work relief to needy and distressed people, and all
11 facts showing that moneys then available and which can be
12 made available by the municipality and by private contribu-
13 tions are inadequate to meet its relief needs, and such addi-
14 tional information as the governor may request, to enable him
15 to comply with the requirements for making application to the
16 Reconstruction Finance Corporation for funds, as set forth
17 in an act of the Congress of the United States, entitled "emer-
18 gency relief and construction act of one thousand nine hun-
19 dred thirty-two" or in any similar act hereafter passed by
20 said Congress.

CHAPTER 15

(House Bill No. 65—By Mr. Campbell)

AN ACT to amend and re-enact section one, of article one, of chapter nine of the code of West Virginia of nineteen hundred thirty-one, relating to overseers of the poor.

[Passed August 26, 1932: in effect from passage. Approved by the Governor.]

SEC.

1. Amends section of code providing for appointment of overseers of the poor in counties of one hundred thousand population or more

SEC.

by permitting the appointment of two investigators of the poor in lieu of overseers and fixes salaries and prescribes duties.

Be it enacted by the Legislature of West Virginia:

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

Section 1. The county court of every county may appoint, 2 for each magisterial district in the county, an intelligent and 3 discreet voter residing therein, as overseer of the poor for such 4 district, who shall hold his office during the will and pleasure 5 of the court. Every person so appointed shall take the oath 6 of office prescribed by the fifth section of the fourth article of 7 the constitution of this state, before entering upon the discharge 8 of the duties of his office. The county court of the county shall 9 allow each overseer therein, out of the county treasury, such 10 sum as it may deem reasonable for his services, not exceeding 11 one dollar and a half for each day necessarily employed by him 12 in the duties of his office; and his own affidavit shall be received 13 as prima facie evidence of the number of days so employed. 14 *Provided*, That in all counties having a population of one hun- 15 dred thousand or more, such county court may appoint in lieu 16 of the said overseers of the poor as herein provided for two 17 intelligent and discreet voters who shall be designated as in- 18 vestigators of the poor, who shall be under the supervision of 19 the secretary of the welfare board of the county, and the per- 20 sons so appointed as investigators of the poor shall serve as such 21 during the pleasure of the court so appointing them, and such 22 investigators shall be paid a salary of not more than one hun- 23 dred and fifty dollars each per month and the necessary ex- 24 penses pursuant to said work to be determined by the court, 25 payable out of the county treasury of such county. The said

26 investigators shall take over and discharge the duties at present
27 performed by the overseers of the poor.

28 It shall be the duty of such investigators to make a general
29 and special investigation of the condition and needs of the poor
30 of the county in such manner and in pursuance to rules and
31 regulations prescribed by the secretary of the welfare board and
32 to said secretary report thereon.

33 The word "overseer" or "overseers", when used in this ar-
34 ticle, shall be construed as if the words "of the poor" immedi-
35 ately followed it.

* CHAPTER 16

(House Bill No. 47—By Mr. Tabor)

AN ACT to raise revenue by amending and re-enacting section five
of article one of chapter sixty of the official code of West Vir-
ginia, to permit licensed physicians to prescribe spirituous
liquors for medicinal purposes and to levy a tax on same.

[Passed August 3, 1932; in effect ninety days from passage. Vetoed by the Gov-
ernor and passed by both houses over veto.]

SEC.

5. Amends section to permit the manu-
facture and sale to druggists and
sales by druggists of spirituous
liquors, all in accordance with the

SEC.

national prohibition act, and fixes
a tax of fifty cents per pint on
such sales by druggists.

Be it enacted by the Legislature of West Virginia:

That section five of article one of chapter sixty of the official
code of West Virginia be hereby amended and re-enacted to read
as follows:

Section 5. Exception to chapter: wine; cider; vinegar;
2 alcohol; spirituous liquor. The provisions of this chapter shall
3 not be construed to prevent anyone from manufacturing (other
4 than by "moonshine still"), from fruit grown exclusively in this
5 state, non-intoxicating wine for his own domestic consumption;
6 or to prevent the manufacture from fruit grown exclusively
7 within this state of vinegar and non-intoxicating cider for use
8 or sale; or to prevent the manufacture and sale of pure grain
9 alcohol, at wholesale to druggists, hospitals, sanitariums, labora-
10 tories and manufacturers of medicinal, pharmaceutical, scien-
11 tific and mechanical purposes, or of wine for sacramental pur-
12 poses by religious bodies; or to prevent the manufacture and sale

*See chapter twenty-three, acts regular session 1933, in this volume.

13 of spirituous liquors to druggists, or to prevent the sale and
14 keeping and storing for sale by druggists of wine for sacra-
15 mental purposes by religious bodies, or any United States phar-
16 macopoeia or national formulary preparation in conformity with
17 the West Virginia pharmacy law, or any preparation which is
18 exempted by the provisions of the national pure food law; or to
19 prevent the sale by druggists through pharmacists, of pure grain
20 alcohol for medicinal, scientific, pharmaceutical and mechanical
21 purposes; or to prevent the use of such alcohol by physicians,
22 dentists and veterinarians in the practice of their profession;
23 or to prevent the medication and sale of pure grain alcohol ac-
24 cording to formulae and under regulations of the National pro-
25 hibition act; or to prevent the sale by druggists, through phar-
26 macists, of spirituous liquors under prescriptions properly is-
27 sued by licensed physicians in conformity and in accordance
28 with the provisions of Title II of the act of congress known
29 as National prohibition act, passed October twenty-eight, one
30 thousand nine hundred nineteen; or to prevent the purchase and
31 use in the manufacture of medicinal preparations and com-
32 pounds by wholesale druggists only of sherry wine in quanti-
33 ties not exceeding twenty-five wine gallons during any period
34 of ninety days:

35 *Provided*, That no one shall manufacture, sell, keep for sale,
36 purchase or transport any liquors, as defined in section one of
37 this article and as herein excepted, without first obtaining a
38 permit from the commissioner of prohibition so to do. Forms
39 of applications and permits shall be prepared by the commis-
40 sioner and a fee for each permit issued shall be collected by him
41 as follows:

42 (a) All manufacturers of liquors and wholesale dealers
43 therein shall pay a fee of fifty dollars for each permit;

44 (b) All purchasers in wholesale quantities of ethyl alcohol
45 in any form, whether pure, medicated, or denatured, for use as
46 herein provided, shall pay a fee of ten dollars for each permit;

47 (c) All purchasers in wholesale quantities of liquors as
48 defined in section one of this article for sale at retail, except duly
49 licensed druggists, shall pay a fee of two dollars for each per-
50 mit;

51 (d) All persons except duly licensed druggists registering
52 stills and given permits to use the same for lawful purposes shall

53 pay a fee of five dollars for each permit. *Provided*, That any
54 still used only for the manufacture of chemicals, including
55 water, in which the process of distillation is a common and nec-
56 essary operation, and which still shall not be used for the dis-
57 tillation of ethyl alcohol in any form, shall be required to be
58 registered, but the owner and operator thereof shall not be
59 required to obtain a permit therefor, or to pay license tax there-
60 on. No fee shall be required for a permit to obtain wine for
61 sacramental or religious rites.

62 (e) All purchasers of spirituous liquors shall be required
63 to pay a fee of fifty cents per pint, such fee to be represented
64 by a stamp furnished to druggists and duly cancelled by the
65 initials in ink of the person affixing the same. Said stamp shall
66 be prepared by the state tax commissioner and sold by him to
67 the parties permitted by law to handle the same. The persons
68 for whom the prescriptions are given shall pay for the stamps
69 affixed thereto.

70 Permits shall be issued for the calendar year and shall expire
71 on the thirty-first day of December next following the issuance
72 thereof. All moneys received by the state tax commissioner
73 shall belong to the state and shall be by him immediately paid
74 into the state treasury:

75 *Provided, further*, That such liquors shall be manufactured,
76 sold, kept for sale, transported and used under permits issued
77 by the federal prohibition commissioner and in accordance with
78 regulations issued in pursuance of the national prohibition act.

* CHAPTER 17

(Com. Sub. for Senate Bill No. 7—Originating in the Committee on
Finance)

AN ACT to extend the time for redemption of real estate as pro-
vided in sections sixteen and thirty, respectively, article ten,
chapter eleven of the code of West Virginia, sold or to be sold
for the non-payment of taxes and purchased by individuals or
the state, for each of the years nineteen hundred and twenty-
nine, nineteen hundred and thirty and nineteen hundred and
thirty-one; and to extend the time in which the auditor may
certify to the commissioner of school lands lists of lands
purchased for the state at sales thereof for taxes, as provided

*Repealed by chapter sixteen, acts extraordinary session 1933.

in section five, article three, chapter thirty-seven of the code of West Virginia, and not heretofore certified; and to extend the time in which the commissioner of school lands shall start proceedings against all forfeited lands heretofore certified to him.

[Passed August 23, 1932; in effect from passage. Approved by the Governor.]

SEC.

1. Extends time within which real estate sold for non-payment of 1929 and 1930 taxes and purchased by individuals may be redeemed for three years and for 1931 taxes for two years.
2. Extends time within which real estate sold for non-payment of 1929 and 1930 taxes and purchased by the state, may be redeemed for

SEC.

- three years and for 1931 taxes for two years.
3. Extends time for three years for auditor to certify to commissioner of school lands copies of certificates of land purchased by state for taxes and prohibits commissioner of school lands from starting proceedings against forfeited land heretofore certified to him by auditor for three years, with certain exceptions.

Be it enacted by the Legislature of West Virginia:

Section 1. The time within which real estate sold for the 2 non-payment of taxes and purchased by individuals may be 3 redeemed, and the time within which a deed may be procured 4 therefor, as provided in section sixteen, article ten, chapter 5 eleven of the code of West Virginia, for each of the years nine- 6 teen hundred and twenty-nine and nineteen hundred and 7 thirty, shall be extended for a period of three years, from the 8 time now fixed by statute, and, for the year nineteen hundred 9 and thirty-one, shall be extended for a period of two years, from 10 the time now fixed by statute.

Sec. 2. The time within which real estate sold for the 2 non-payment of taxes and purchased by the state may be re- 3 deemed as provided in section thirty, article ten, chapter eleven 4 of the code of West Virginia, for each of the years nineteen 5 hundred and twenty-nine and nineteen hundred and thirty, 6 shall be extended for a period of three years, from the time now 7 fixed by statute, and for the year nineteen hundred and thirty- 8 one, shall be extended for a period of two years, from the time 9 now fixed by statute.

Sec. 3. The time within which the auditor shall certify 2 to the commissioner of school lands of the proper counties 3 copies of the certificates of the clerks of the county courts of 4 such counties of lands purchased for the state at sales thereof 5 for taxes, as provided in section five, article three, chapter 6 thirty-seven, of the code of West Virginia, shall be extended 7 for a period of three years in addition to the time now fixed by

8 statute. The commissioner of school lands shall cause no pro-
 9 ceedings to be started against any forfeited lands, heretofore
 10 certified to him, by the auditor, for a period of three years, from
 11 the taking effect hereof, except at the instance and request
 12 of the owner or owners of any particular tract or tracts or
 13 of a redeemable interest therein to enable such owner or owners
 14 to redeem such tract or tracts, or unless the court for good rea-
 15 sons otherwise orders and directs.

CHAPTER 18

(Conf. Com. Sub. for Senate Bill No. 14—Originating in the Conference Committee)

AN ACT to amend and re-enact section twelve of article seven of chapter seven of the official code of West Virginia, one thousand nine hundred and thirty-one, relating to allowance for expenses of the sheriff and the keeping and feeding of prisoners.

[Passed August 26, 1932; in effect from passage. Approved by the Governor.]

SEC.

12. Requires county courts to allow sheriffs for keeping and feeding prisoners, other than federal prisoners or prisoners under civil process, forty-two cents per day while actually in jail and fifty-two cents per day while working on the roads and requires a detailed,

SEC.

monthly statement from sheriff as to name, dates of commitment and discharge of prisoner, etc.; allows actual and necessary expense to sheriff for arresting, pursuing, etc., persons accused or convicted of crimes.

Be it enacted by the Legislature of West Virginia:

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

Section 12. The county court, or tribunal in lieu thereof, of every county shall, in addition to the salary herein provided, allow to the sheriff of keeping and feeding prisoners, other than federal prisoners or prisoners under civil process, as provided by law, forty-two cents per day while such prisoner is actually in jail, and fifty-two cents per day while such prisoner is working on the roads. The limitation per day shall not include cost of personal service, bed or bedding, soaps and disinfectants and items of like kind, the cost of all which shall be paid out of the allowance fixed by the county court under the provisions of present law. All supplies of whatever kind for keeping and feeding prisoners shall be purchased under such

13 rules and regulations as may be prescribed by the county court
 14 upon the requisition of the sheriff. At the end of each month
 15 the sheriff shall file with the county court a detailed statement
 16 showing the name of each prisoner, date of commitment and
 17 date of discharge, and number of days in jail; also file an item-
 18 ized statement showing each purchase and the cost thereof for
 19 keeping and feeding prisoners.

20 The county court shall allow the actual and necessary ex-
 21 pense incurred or expended in arresting, pursuing or transport-
 22 ing persons accused or convicted of crime and offenses, and in
 23 conveying or transferring to or from any state institution to
 24 which any person may be committed from his county, where,
 25 by law, the sheriff is authorized to convey or transfer such per-
 26 sons, and may allow the actual and necessary expenses incurred
 27 or expended in serving summonses, notices and other official
 28 papers in connection with the sheriff's office: *Provided, how-*
 29 *ever,* That the amount of such expenses so allowed shall not
 30 in the aggregate exceed the total fees earned by the sheriff for
 31 any year for serving such papers. Every sheriff shall file,
 32 under oath, monthly, a full and accurate account of all his
 33 actual and necessary expenses mentioned in this section before
 34 the same shall be allowed by the county court.

35 All acts and parts of acts inconsistent with this act are here-
 36 by repealed.

CHAPTER 19

(House Bill No. 5—By Mr. Tabor, by request)

AN ACT to amend and re-enact sections one, two, three, four and five of article seven of chapter seven of the code of one thousand nine hundred thirty-one, relating to the salaries of county officers.

[Passed August 27, 1932; in effect ninety days from passage. Approved by the Governor.]

Sec.

1. Fixes the annual compensation, beginning January 1, 1933, of sheriffs in all counties of state.
2. Fixes annual compensation, beginning January 1, 1933, of clerks of county courts.
3. Fixes annual compensation, beginning January 1, 1933, of clerks of circuit courts.

Sec.

4. Fixes annual compensation, beginning January 1, 1933, of clerks serving as clerks of both county and circuit courts.
5. Fixes annual compensation, beginning January 1, 1933, of prosecuting attorneys.

Be it enacted by the Legislature of West Virginia:

That sections one, two, three, four and five of the code, relat-

ing to the salary of county officers be amended and re-enacted so as to read as follows:

Section 1. On and after the first day of January, one thousand nine hundred thirty-three, the annual compensation of the sheriff of each county shall be as follows: Barbour county, two thousand dollars; Berkeley county, two thousand seven hundred dollars; Boone county, two thousand one hundred dollars; Braxton county, two thousand four hundred dollars; Brooke county, two thousand five hundred dollars; Cabell county, four thousand dollars; Calhoun county, one thousand six hundred dollars; Clay county, one thousand seven hundred dollars; Doddridge county, two thousand two hundred dollars; Fayette county, three thousand six hundred dollars; Gilmer county, one thousand eight hundred dollars; Grant county, one thousand five hundred dollars; Greenbrier county, two thousand five hundred dollars; Hampshire county, one thousand eight hundred dollars; Hancock county, two thousand dollars; Hardy county, twelve hundred dollars; Harrison county, three thousand six hundred dollars; Jackson county, one thousand eight hundred dollars; Jefferson county, two thousand two hundred fifty dollars; Kanawha county, five thousand dollars; Lewis county, two thousand four hundred dollars; Logan county, three thousand dollars; Lincoln county, two thousand dollars; Marion county, four thousand five hundred dollars; Marshall county, two thousand eight hundred dollars; Mason county, two thousand one hundred dollars; Mercer county, three thousand six hundred dollars; Mineral county, two thousand five hundred fifty dollars; Mingo county, three thousand five hundred dollars; Monongalia county, three thousand dollars; Monroe county, one thousand six hundred dollars; McDowell county, four thousand two hundred dollars; Morgan county, one thousand five hundred dollars; Nicholas county, two thousand two hundred fifty dollars; Ohio county, four thousand dollars; Pendleton county, one thousand four hundred dollars; Pleasants county, one thousand six hundred twenty dollars; Pocahontas county, one thousand eight hundred dollars; Preston county, two thousand five hundred dollars; Putnam county, one thousand eight hundred dollars; Raleigh county, three thousand dollars; Randolph county, two thousand four hundred dollars;

38 Ritchie county, two thousand three hundred forty dollars; Roane
39 county, two thousand dollars; Summers county, one thousand
40 six hundred dollars; Taylor county, two thousand dollars;
41 Tucker county, one thousand eight hundred and seventy dollars;
42 Tyler county, two thousand dollars; Upshur county, two thou-
43 sand two hundred dollars; Wayne county, two thousand four
44 hundred dollars; Webster county, one thousand nine hundred
45 dollars; Wetzel county, two thousand four hundred dollars;
46 Wirt county, one thousand four hundred and fifty dollars; Wood
47 county, three thousand four hundred dollars; Wyoming county,
48 two thousand dollars.

Sec. 2. On and after the first day of January, one thousand
2 nine hundred and thirty-three, the annual compensation of the
3 clerk of the county court in each county shall be as follows:
4 Barbour county, fifteen hundred dollars; Berkeley county, eight-
5 een hundred dollars; Boone county, two thousand dollars;
5-a Braxton county, two thousand dollars; Brooke county,
6 nineteen hundred dollars; Cabell county, three thousand six
7 hundred dollars; Calhoun county, twelve hundred dollars; Clay
8 county, fifteen hundred dollars; Doddridge county, seventeen
9 hundred dollars; Fayette county, two thousand five hundred fifty
10 dollars; Gilmer county, fourteen hundred dollars; Greenbrier
11 county, twenty-two hundred fifty dollars; Hampshire county,
12 sixteen hundred twenty dollars; Hancock county, eighteen hun-
13 dred dollars; Harrison county, three thousand two hundred dol-
14 lars; Jackson county, sixteen hundred twenty dollars; Jefferson
15 county, one thousand nine hundred dollars; Kanawha county,
16 four thousand five hundred dollars; Lewis county, twenty-one
17 hundred dollars; Lincoln county, seventeen hundred dollars;
18 Logan county, twenty-five hundred dollars; Marion county,
19 thirty-six hundred dollars; Marshall county, twenty-two hun-
20 dred dollars; Mason county, two thousand one hundred dollars;
21 Mercer county, three thousand dollars; Mineral county, twenty-
22 five hundred dollars; Mingo county, twenty-seven hundred dol-
23 lars; Monongalia county, twenty-seven hundred dollars; Monroe
24 county, twelve hundred dollars; Morgan county, fifteen hun-
25 dred dollars; McDowell county, thirty-eight hundred dollars;
26 Nicholas county, two thousand twenty-five dollars; Ohio county,
27 thirty-six hundred dollars; Pleasants county, sixteen hundred

28 twenty dollars; Pocahontas county, fifteen hundred dollars;
29 Preston county, twenty-three hundred dollars; Putnam county,
30 eighteen hundred dollars; Raleigh county, twenty-four hundred
31 dollars; Randolph county, two thousand dollars; Ritchie county,
32 twenty-one hundred forty dollars; Roane county, nineteen hun-
33 dred dollars; Summers county, twelve hundred eighty dollars;
34 Taylor county, two thousand dollars; Tucker county, seventeen
35 hundred ten dollars; Tyler county, seventeen hundred dollars;
36 Upshur county, two thousand dollars; Wayne county, two thou-
37 sand dollars; Webster county, one thousand eight hundred dol-
38 lars; Wetzel county, two thousand dollars; Wirt county, eleven
39 hundred dollars; Wood county, twenty-five hundred fifty dol-
40 lars; Wyoming county, twenty-four hundred dollars.

Sec. 3. On and after the first day of January, one thousand
2 nine hundred thirty-three, the annual compensation of the clerk
3 of the circuit court (without further compensation for acting
4 as clerk of the criminal, intermediate, common pleas, juvenile,
5 and other courts of limited jurisdiction) in each county shall be
6 as follows: Barbour county, thirteen hundred fifty dollars;
7 Berkeley county, thirteen hundred fifty dollars; Boone county,
8 sixteen hundred dollars; Braxton county, two thousand dollars;
9 *Provided, further,* That no assistant clerk or stenographer shall
10 hereafter be provided for by the county court of said county;
11 Brooke county, eighteen hundred dollars; Cabell county, thirty-
12 six hundred dollars; Clay county, fifteen hundred dollars; Cal-
13 houn county, nine hundred dollars; Doddridge county, fourteen
14 hundred dollars; Fayette county, twenty-two hundred fifty dol-
15 lars; Gilmer county, twelve hundred dollars; Greenbrier county,
16 sixteen hundred dollars; Hampshire county, one thousand dol-
17 lars; Hancock county, one thousand two hundred dollars; Harri-
18 son county, three thousand two hundred dollars; Jackson county,
19 thirteen hundred fifty dollars; Jefferson county, two thousand
20 dollars; Kanawha county, four thousand five hundred dollars;
21 Lewis county, eighteen hundred dollars; Lincoln county, seven-
22 teen hundred dollars; Logan county, two thousand dollars;
23 Marion county, thirty-six hundred dollars; Marshall county,
24 eighteen hundred dollars; Mason county, eighteen hundred dol-
25 lars; Mercer county, three thousand dollars; McDowell county,
26 thirty-eight hundred dollars; Mineral county, two thousand
27 dollars; Mingo county, twenty-seven hundred dollars; Monon-

28 galia county, three thousand dollars; Monroe county, one
29 thousand dollars; Morgan county, eight hundred dollars;
29-a Nicholas county, eighteen hundred dollars; Ohio county,
30 four thousand five hundred fifty dollars; Pleasants county,
31 thirteen hundred dollars; and the clerk of the circuit court
32 in this county shall have no assistants or deputies; Poca-
33 hontas county, fifteen hundred dollars; Preston county, two thou-
34 sand dollars; Putnam county, fourteen hundred dollars; Ral-
35 eigh county, twenty-four hundred dollars; Randolph county,
36 eighteen hundred dollars, Ritchie county, sixteen hundred twen-
37 ty dollars; Roane county, fifteen hundred dollars; Summers
38 county, twelve hundred dollars; Taylor county, eighteen hundred
39 dollars; Tucker county, fourteen hundred forty dollars; Tyler
40 county, fifteen hundred dollars; Upshur county, two thousand
41 dollars; Wayne county, eighteen hundred dollars; Webster
42 county, one thousand six hundred twenty dollars; Wetzel coun-
43 ty, eighteen hundred dollars; Wirt county, nine hundred dollars;
44 Wood county, twenty-five hundred fifty dollars; Wyoming
45 county, twenty-two hundred dollars.

46 The clerk of the circuit court shall be entitled to retain, in
47 addition to his salary, all fees taxed and allowed him by the
48 United States of America and paid by the person to him for
49 services rendered and performed in the naturalization of per-
50 sons to citizenship in the United States of America, and for
51 preparing applications for passports from the United States, and
52 none other.

Sec. 4. On and after the first day of January, one thousand
2 nine hundred thirty-three, the annual compensation of the clerks
3 of the courts in the counties where both the office of the clerk of
4 the county court and clerk of the circuit court are held by the
5 same person shall be as follows: Hardy county, fifteen hundred
6 dollars; Grant county, sixteen hundred dollars; Pendleton
7 county, fifteen hundred dollars.

Sec. 5. On and after the first day of January, one thousand
2 nine hundred thirty-three, the annual compensation of the
3 prosecuting attorney in each county, including the compensation
4 provided by law for his services as attorney for boards of educa-
5 tion and other administrative boards and officers in the county,
6 shall be as follows: Barbour county, sixteen hundred dollars;
7 Berkeley county, one thousand eighty dollars; Boone county, two

8 thousand dollars; Braxton county, eighteen hundred dollars;
9 Brooke county, eighteen hundred dollars; Cabell county, four
10 thousand dollars; Calhoun county, eight hundred dollars;
11 Clay county, fifteen hundred dollars; Doddridge county, one
12 thousand dollars; Fayette county, two thousand five hundred
13 fifty dollars; Gilmer county, twelve hundred dollars; Grant coun-
14 ty, six hundred dollars; Greenbrier county, eighteen hundred
15 dollars; Hampshire county, one thousand dollars; Hancock coun-
16 ty, eighteen hundred dollars; Hardy county, eight hundred dol-
17 lars; Harrison county, three thousand dollars; Jackson county,
18 nine hundred dollars; Jefferson county, twelve hundred dollars;
19 Kanawha county, five thousand dollars; Lewis county, twelve
20 hundred dollars; Lincoln county, fifteen hundred dollars;
21 Logan county, twenty-four hundred dollars; Marion county,
22 four thousand dollars; Marshall county, fourteen hundred forty
23 dollars; Mason county, sixteen hundred dollars; McDowell coun-
24 ty, forty-three hundred dollars; Mercer county, three thousand
25 dollars; Mineral county, eighteen hundred dollars; Mingo coun-
26 ty, forty-three hundred twenty dollars; Monongalia county,
27 three thousand four hundred dollars; Monroe county, six hun-
28 dred dollars; Morgan county, eight hundred dollars; Nicholas
29 county, eighteen hundred dollars; Ohio county, forty-two hun-
30 dred dollars; Pendleton county, six hundred dollars; Pleasants
31 county, one thousand one hundred dollars; Pocahontas county,
32 twelve hundred dollars; Preston county, two thousand dollars;
33 Putnam county, twelve hundred dollars; Raleigh county,
34 beginning on the first day of January, one thousand
35 nine hundred thirty-three it shall be not less than twenty-
36 four hundred and not more than four thousand dollars, with-
37 in the discretion of the county court of said county; Randolph
38 county, fourteen hundred forty dollars; Ritchie county, twelve
39 hundred dollars; Roane county, twelve hundred dollars; Sum-
40 mers county, one thousand two hundred sixty dollars; Taylor
41 county, eighteen hundred dollars; Tucker county, eleven hun-
42 dred forty dollars; Tyler county, eleven hundred dollars; Up-
43 shur county, fifteen hundred dollars; Wayne county, fifteen
44 hundred dollars; Webster county, eighteen hundred dollars;
45 Wetzel county, eighteen hundred dollars; Wirt county, six hun-
46 dred dollars; Wood county, two thousand five hundred fifty
47 dollars; Wyoming county, thirty-two hundred dollars.

48 All acts and parts of acts, whether general or special, in so far
49 as they are in conflict with or contrary to the provisions of this
50 act, are hereby repealed.

* CHAPTER 20

(Senate Bill No. 47—Originating in Joint Committee appointed under
S. C. R. No. 2)

AN ACT authorizing and directing a reduction in the salary of each and every holder of a public office or position, or place of public employment in the state of West Virginia, or any of its subdivisions, from and after the date that this act becomes effective, or as soon thereafter as the term of the present incumbent of an office shall expire, or existing legal contracts of employment shall terminate, providing certain exceptions thereto, and also fixing the salary of the holders of certain other offices, public positions or places of public employment in this state, and certain political subdivisions thereof, as hereinafter set out and specified, and providing penalties for the violation of this act.

[Passed August 26, 1932; In effect September 1, 1932. Approved by the Governor.]

SEC.

1. Reduces, by stated and varying percentages, salaries of all public officials and holders of every public office, position or place of public employment in the state and its political subdivisions.
2. Act to be construed as an amendment to existing laws governing salaries payable to all holders of public office, position or place of public employment in the state or its political subdivisions.
3. Fixes penalties for violation of act

SEC.

- and places duty of enforcing act on state tax commissioner and prosecuting attorney.
4. Act does not apply to those whose salaries are specially fixed by any other act passed at this session.
5. Specifies salaries of elective state officials, supreme court and circuit court judges and various other state officials and employees of state departments.
6. Provisions of act declared separable and several.

Be it enacted by the Legislature of West Virginia:

Section 1. That the salary or compensation of all public
2 officials of the state of West Virginia, and of all holders of
3 every public office, public position, or place of public employ-
4 ment in this state, including all counties, districts, munic-
5 palities, and other political subdivisions thereof, who shall
6 have been designated, chosen, or employed by election, ap-
7 pointment, contract, or otherwise, and whose salary or compen-
8 sation shall in any way be paid or payable out of any public
9 funds, including the salaries or compensation of all superin-
10 tendents, principals and teachers of public schools, and all other

*See chapter twenty-eight, extraordinary session 1933, in this volume.

11 employees, or boards of education, or independent boards, other
12 than those whose salaries and compensation are by other acts
13 of the present session of the legislature specifically fixed, is,
13-a subject to the provisions, exceptions and terms hereinafter
13-b contained, hereby reduced as follows:

14 (a) All such salaries or compensation in any amount in ex-
15 cess of twelve hundred dollars to and including two thousand
16 dollars shall be reduced ten per centum thereof: *Provided*,
16-a however, That such reduction shall not decrease such salaries
16-b below the amount of twelve hundred dollars;

17 (b) All such salaries or compensation in any amount in ex-
18 cess of two thousand dollars to and including three thousand
19 dollars shall be reduced fifteen per centum thereof;

20 (c) All such salaries or compensation in any amount in ex-
21 cess of three thousand dollars shall be reduced twenty per
22 centum thereof, except as herein specifically otherwise pro-
23 vided:

24 *Provided, however*, That such reduction in the salary or com-
25 pensation of any public officer now holding office shall not be
26 effective during his term of office, unless such public officer
27 shall voluntarily accept the same and so signify in writing
28 to the proper disbursing officer of the state from whom he
29 receives such salary or compensation. Such reduction in
30 salary or compensation shall, in any event, become effective
31 from and after the expiration of the existing term of office of
32 any such public officer, and thereafter he and his successors in
33 said office shall be paid said reduced salary.

34 *Provided, further*, That the reduction made by this act
35 shall not apply to the salary or compensation of any officer,
36 employee, or other person hereby affected, during any period
37 of time in which such reduction would impair the obligation
38 of any existing valid contract of employment between the
39 state of West Virginia, or any board or subdivision thereof,
40 with such officer, employee, or other person, or in which such
41 reduction would be contrary to any provision of the consti-
42 tution of the United States or the constitution of West Virginia,
43 unless such officer, employee, or person shall voluntarily accept
44 such reduction in salary or compensation during such period,
45 and so signify in writing to the proper disbursing officer
46 thereof. However, such reduction shall immediately become

47 effective in each and every such case upon the termination of
48 such period; provided, that as to all teachers of public schools
49 in both magisterial and independent school districts, and all
50 other school employees mentioned in this section, the salary
51 reductions above provided for shall apply and be computed only
52 upon the salary such teacher or other employee received dur-
53 ing the school year of one thousand nine hundred thirty and
54 thirty-one. *Provided, further,* That the reduction made by
55 this act shall not apply to any salary, the amount of which as
56 now fixed by law, or by order of any department, or by agree-
57 ment, or otherwise, shall be less than at the rate of one hun-
58 dred dollars per month for a full calendar year; *Provided,*
59 *further,* That this act, or any part hereof, shall not apply to
60 the state department of public safety, other than as to the
61 superintendent of said department as herein provided.

Sec. 2. This act shall be construed as an amendment to the
2 existing law governing the amount of salaries payable to every
3 public officer and every holder of any public office, public
4 position, or place of public employment in this state, and every
5 other person hereinafter mentioned or referred to, and as an
6 amendment to the existing law governing each and every
7 municipal corporation, or other political subdivision of his
8 state, whether the same shall be created or governed by general
9 law or by special charter, and the proper officials of each such
10 municipality or other political subdivision are hereby charged
11 with the duty of enforcing the provisions of this act applicable
12 thereto.

Sec. 3. Any person who shall either receive or pay out
2. public money, or who shall authorize or permit such payment,
3 or participate therein, in excess of the amount authorized by
4 this act, shall be guilty of a misdemeanor if the amount of
5 public money so unlawfully received or disbursed shall be less
6 than twenty dollars, and upon conviction of such misdemeanor
7 shall be fined not less than fifty dollars, nor in excess of one
8 hundred dollars, and in addition thereto may, in the discre-
9 tion of the court, be confined in the jail of the county where
10 such conviction shall occur for a period not to exceed sixty
11 days. Any person who shall either receive or pay out public
12 money, or shall authorize or permit such payment, or partici-
13 pate therein in excess of the amount authorized by this act,

14 shall be guilty of a felony if the amount of public money so
15 unlawfully received or disbursed shall equal or exceed twenty
16 dollars, and upon conviction of such felony shall be fined not
17 less than one hundred dollars, nor more than one thousand
18 dollars, and may, in the discretion of the court, be confined
19 in the penitentiary of this state not to exceed one year. In
20 addition to the above penalties any conviction of an
21 offense under this act shall operate as a forfeiture of any
22 office or position of public trust or confidence held by
23 the person so convicted.

24 It shall be the duty of the state tax commissioner of West
25 Virginia, and of the prosecuting attorney of each of the
26 counties of this state, to see that this act and all said penalties
27 hereby imposed for violation thereof are promptly enforced.

Sec. 4. This act shall not apply to any public officer, or the
2 holder of any public office, public position, or place of public
3 employment, whose salary or compensation shall be specially
4 fixed by any act passed at this extraordinary session of the
5 legislature of West Virginia, but otherwise this act shall apply
6 to all officers, employees, and other persons herein mentioned,
7 as above provided.

Sec. 5. In order to fix and provide for the salaries of cer-
2 tain public officers and holders of public positions and places
3 of public employment in this state, and in certain political
4 subdivisions thereof, whose salaries are not fixed and reduced
5 under the foregoing provisions of this act, the salary of each
6 of the following officials and holders of public positions and
7 places of public employment in this state, or any subdivision
8 thereof, is hereby fixed as follows:

9 (a) The salary of the governor shall be eight thousand
10 dollars per annum;

11 (b) The salary of each, the auditor, treasurer, attorney
12 general, commissioner of agriculture, superintendent of free
13 schools, and secretary of state, respectively, shall be five thou-
14 sand dollars per annum; and the secretary of state shall re-
15 duce the employees of the bureau of the sinking fund commis-
16 sion in his office by the discharge of one assistant bookkeeper
17-19 therein;

20 (c) The salary of each of the judges of the supreme court
21-22 of appeals shall be eight thousand dollars per annum;

23 (d) The salary of the private secretary to the governor shall
24 be three thousand six hundred dollars per annum;

25 (e) The salary of the pardon attorney shall be three thou-
26 sand six hundred dollars per annum;

27 (f) The salaries of the following employees in and about
28 the state capitol building shall be as follows: of the superin-
29 tendent of capitol buildings and grounds, one thousand eight
30 hundred dollars per annum; of the engineer at said building,
31 one thousand three hundred fifty dollars per annum; of the
32 night engineer at said building, one thousand six hundred
33 twenty dollars per annum; of the chief engineer and electri-
34 cian, two thousand four hundred dollars per annum; of the
35 keeper of the lawn and elevator operator, one thousand eighty
36 dollars per annum; of all janitors at the capitol building who
37 received one hundred dollars per month during the fiscal year
38 ending June thirty, one thousand nine hundred and thirty-
39 two, ninety dollars per month each; of all janitors at said
40 building who received in excess of one hundred dollars per
41 month during said fiscal year ending June thirty, one thousand
42 nine hundred and thirty-two, one hundred dollars per month
43-48 each;

49 (h) Each of the employees in the office of the secretary of
50 state shall receive the following salary, respectively: chief
51 clerk, two thousand five hundred fifty dollars per annum;
52 charter clerk, one thousand eight hundred eighty-seven dollars
53 per annum; clerk of the board of public works, two thousand
54 five hundred fifty dollars per annum; certificate clerk, one
55 thousand seven hundred eighty-five dollars per annum;
56 recorder, one thousand seven hundred eighty-five dollars per
57 annum; stenographer, one thousand seven hundred eighty-five
58 dollars per annum; record clerk, one thousand seven hundred
59 eighty-five dollars per annum;

60 (i) The following employees of the state department of edu-
61 cation shall each receive the following salary: assistant to state
62 superintendent, three thousand two hundred dollars per annum;
63 chief clerk, two thousand eight hundred eighty dollars per-
64 annum; supervisor of negro schools, two thousand eight hun-
65 dred eighty dollars per annum; state supervisor of high
66 schools, three thousand two hundred dollars per annum; super-
67 visor of rural schools, three thousand two hundred dollars per
68 annum; assistant supervisors of rural school, each two thou-

69 sand eight hundred eighty dollars per annum ; state aid clerk,
70 one thousand seven hundred eighty-five dollars per annum ;
71 and each of the persons listed in the payroll of said depart-
72 ment as clerks and stenographers shall receive and be paid not
73 in excess of ninety per centum of the salary received by each
74 thereof during the fiscal year ending June thirty, one thousand
75 nine hundred and thirty-two ; and the positions of statistical
76 clerk, printing and supply clerk, director of physical educa-
77 tion, supervisors of teacher training, stenographer to secretary
78 of state board, secretary to the board of education, are hereby
79 abolished ; the director of investigation and research and/or his
79-a department shall receive no money from the state of West
79-b Virginia or its sub-divisions.

80 (j) The employees in the department of the state auditor
81 shall receive the reduced salaries provided by section one of
82 this act, but such reduction shall be based upon and applicable
82-a to salaries paid as of June thirty, one thousand nine hundred
82-b thirty-one, except that the positions of three department heads
83 in said auditor's office who received four thousand dollars
84 each per annum during the fiscal year ending June thirty,
85 one thousand nine hundred and thirty-one, and the messenger,
86 signature clerk, and the position of said department actuary
87 are hereby abolished ;

88 In the fire marshal's office in said auditor's department, five
89 assistant fire marshals and two stenographers only shall be
90 retained, at the percentage of reduction provided in section one
91 of this bill, and the employees classified respectively, as fol-
92 lows, that is to say, the employee assigned to investiga-
93 tion and office work, and the janitor and messenger, are
94 each hereby directed to be discharged, and their posi-
95 tions abolished, and the auditor shall take judicial notice
96 of this section and carry the same into effect in accordance
97 with the intent and direction of the legislature ;

98 (k) That of the employees of the supreme court of appeals,
99 five law clerks shall each receive a salary of two thousand five
100 hundred dollars per annum ;

101 (l) That the salary of the state tax commissioner shall be
102 five thousand dollars per annum, and that of the chief
103 accountant in his office four thousand eight hundred dollars
104 per annum ; and that the percentage of salary reductions pro-
105 vided in section one of this act shall apply to all other employees

106 in the office of said tax commissioner, except that the position
107 of the employee listed as law assistant is hereby abolished;

108 (m) The salary of each of the members of the public service
109 commission shall be five thousand dollars per annum, and that
110 of the statistician of said department shall be four thousand
111 dollars per annum; the salary of the engineer of said depart-
112 ment shall be forty-eight hundred dollars per annum; and the
113 position of legal adviser to said public service commission is
114 hereby abolished and his duties transferred to the office of the
114-a attorney general;

115 (n) The salary of the state compensation commissioner shall
116 be five thousand dollars per annum;

117 (o) The salary of the commissioner of banking shall be five
118 thousand dollars per annum;

119 (p) The salary of the state commissioner of health shall be
120 four thousand dollars per annum;

121 (q) The salary of the superintendent of the department of
122 public safety shall be four thousand dollars per annum;

123 (r) The salary of each of the members of the state road
124 commission shall be six thousand dollars per annum; the
125 salary of the secretary and of the purchasing agent of said
126 commission shall be four thousand dollars each per annum;
127 and the salary of the superintendent of transportation of said
128 commission shall be three thousand eight hundred forty dollars
129 per annum;

130 (s) The salary of the superintendent of each of the follow-
131 ing state schools, sanitariums, and hospitals shall be as follows:

132 (1) of Weston State hospital, four thousand dollars per
133 annum; (2) of Spencer State hospital, three thousand six
134 hundred dollars per annum; (3) of Huntington State hospital,
135 four thousand dollars per annum; (4) of Rutherford Sani-
136 tarium, three thousand five hundred dollars per annum; (5)
137 of Denmar Sanitarium, three thousand dollars per annum;
138 (6) of Welch Emergency hospital, four thousand eight hun-
139 dred dollars per annum; (7) of McKendree Emergency hos-
140 pital, four thousand dollars per annum; (8) the superin-
140-a tendent of Hopemont Sanitarium shall receive thirty-five
140-b hundred dollars per annum;

141 (t) The salary of the president of West Virginia University
142 shall be seven thousand five hundred dollars per annum; the
143 salary of the athletic director of said university shall be

144 four thousand dollars per annum, which shall include all pay-
145 ments out of athletic fees; the salary of the head football coach
146 shall be four thousand dollars per annum, which shall include
147 all payments out of athletic fees; no assistant football coach
148 shall receive in excess of three thousand dollars per annum,
149 but the salary of all such assistants shall be subject to the
150 general reduction provided in section one of this act; the salary
151 of each of the other employees of said university who now re-
152 ceives a salary in excess of five thousand dollars per annum
153 shall be reduced twenty per centum of the salary now re-
154-161 ceived; and the position of secretary of the alumni asso-
162 ciation of said university is hereby abolished;

163 (u) The salary of the warden of the West Virginia peni-
164 tentiary shall be four thousand dollars per annum; and the
165 positions of parole officers, as shown by the payroll of said
166 West Virginia penitentiary, are hereby abolished;

167 (v) The positions of members of the state board of edu-
168 cation and of each of its advisory members, together with its
169 secretary and director are hereby abolished and the duties
170 heretofore performed by said state board of education and its
171 employees are hereby transferred to the state board of public
172 works, which board, with the aid of an additional secretary
173 which it is hereby authorized to employ at a salary not to ex-
174 ceed three thousand six hundred dollars per annum, and a sten-
174-a ographer for the secretary at a salary not to exceed fifteen
174-b hundred dollars per annum, shall perform said duties with-
175 out additional compensation;

176 (w) The salary of each and every circuit judge in this state
177 is hereby reduced twenty per centum below the salary or com-
178 pensation that he is now receiving, and the salary or allowance
179 of each and every person serving as special judge of a circuit
180 or other court is hereby fixed at seven dollars and fifty cents
181 per day;

182 (x) The salary of each of the members of the state board
183-184 of control shall be five thousand dollars per annum;

185 (y) The salary of the chief of the department of mines shall
186 be five thousand dollars per annum;

186-a (z) The employment of his wife at public expense, by any
186-b officer or employee of the state, is expressly prohibited.

187 It is the purpose and object of the legislature to put into
188 effect the aforesaid salary, for each of the officials or holders

189 of public positions and places of public employment in this
 190 state, regardless of whether the salary of each thereof shall be
 191 now fixed at a different sum by other statutes which are not
 192 specifically referred to in the title of this bill, and in order to
 193 affect such reductions in accordance with the purpose of this
 194 enactment, all courts and other persons shall construe this act
 195 liberally and in such way as to carry out and effectuate said
 196 purpose of the legislature.

Sec. 6. All acts and parts of acts in conflict with the fore-
 2 going act, or any part thereof, are hereby repealed. The
 3 various provisions of this act shall be construed as separable
 4 and several, and should any of the provisions or parts thereof
 5 be construed or held to be unconstitutional, or for any other
 6 reason invalid, the remaining provisions of this act shall not be
 7 thereby affected.

CHAPTER 21

(House Bill No. 86—Originating in Joint Committee appointed under
 S. C. R. No. 2)

AN ACT to amend Engrossed House Bill No. 84 of the acts of the
 legislature of one thousand nine hundred and thirty-one, known
 as the 'Budget Bill,' by reducing the appropriations set forth
 therein for the fiscal year ending June thirty, one thousand
 nine hundred thirty-three, and providing for the transfer of
 certain sums accruing from the reduction of certain appropri-
 ations to the general revenue fund, all for the purpose of bal-
 ancing the budget.

[Passed August 27, 1932; in effect from passage. Vetoed by the Governor and passed
 by both houses over veto.]

Sec.

1. Reduces, by fixed and varying per-
centages, the appropriations made
in the 1931 Budget Bill for the
fiscal year ending June 30, 1933.
2. Reduces by twenty per cent all ap-
propriations not included in sec-
tion 1.

Sec.

3. When appropriations were made
payable out of collections and
special revenue and collections
and special revenue exceed reduced
appropriations herein, balances
remaining appropriated to general
revenue fund; exceptions as to
certain state departments and
commissions.

Be it enacted by the Legislature of West Virginia:

Section 1. That the sums appropriated out of the treasury
 2 for the fiscal year ending June thirty, one thousand nine hun-
 3 dred and thirty-three, as set forth in Engrossed House Bill No.
 4 84 of the acts of the legislature of one thousand nine hundred
 5 and thirty-one, and known as the "Budget Bill," and which

6 sums are set forth in the several sections of said "Budget Bill"
7 in the column headed "one thousand nine hundred and thirty-
8 three," be, and the same hereby are severally reduced in the
9 amounts and in the manner hereinafter prescribed;

10 Sub-Sec. (a). Each and every sum appropriated exclusively
11 for the payment of a salary or of a group of salaries, where
12 such salary or salaries are fixed by statute or designated
13 specifically in the "Budget Bill", shall be reduced in the follow-
14 ing proportions thereof:

15 Twenty-five per cent of all salaries in excess of seven thou-
16 sand, five hundred dollars per annum;

17 Twenty per cent of all salaries of four thousand dollars or
18 more per annum and not exceeding seven thousand, five hundred
19 dollars per annum;

20 Fifteen per cent of all salaries of one thousand, five hundred
21 dollars, or more per annum and not exceeding three thousand,
22 nine hundred and ninety-nine dollars and ninety-nine cents per
23 annum;

24 Ten per cent of all salaries less than one thousand, five
25 hundred dollars per annum.

26 Sub-Sec. (b). Each and every sum appropriated for any
27-28 department, for any purpose whatsoever other than those
29 included under sub-section (a) of section one of this act, and
30 those included under sub-section (c), (d), and (e) of this
31 act shall be reduced by the amount of twenty-five per cent
32 thereof.

33 Sub-Sec. (c). Each and every sum appropriated for the
34 operation and maintenance of any and every educational in-
35 stitution of the state, for any purpose whatsoever, shall be re-
36 duced by the amount of twenty per cent thereof.

37 Sub-Sec. (d). Each and every sum appropriated for the
38 operation and maintenance of any hospital or other eleemosy-
39 nary institution or service of the state, for any purpose whatso-
40 ever, shall be reduced by the amount of fifteen per cent thereof.

41 Sub-Sec. (e). Each and every sum appropriated to an in-
42 dividual in allowance for disability sustained while serving the
43 state shall be reduced by the proportion set forth in sub-section
44 (a) of section one of this act.

Sec. 2. Each and every sum appropriated for any purpose
2 whatsoever and not included under the provisions of section one

3 of this act shall be reduced by an amount equal to twenty per
4 cent thereof.

Sec. 3. Where appropriations for any purpose whatsoever
2-3 for any department maintained by the state are made pay-
4 able out of collections, and such collections for the year ending
5 June thirty, one thousand nine hundred and thirty-three, are
6 in excess of the appropriations therefrom as provided in this
7 act, the balances remaining are appropriated to the general
8 revenue fund for the purpose of balancing the budget, except
9-23 as hereinafter provided.

24 All balances created by the reduction of appropriations as
25 provided in this act, where such appropriations are payable out
26 of special revenue and which revenue is not required to be paid
27 into the general revenue of the state under the provisions of
28 section two, article two, chapter twelve of the code, as amended,
29 shall be transferred to the general revenue fund for the pur-
30 pose of balancing the budget: *Provided*, That no section or
31 part of this act shall apply to any funds appropriated for or
32 collected and received by the state game, fish and forestry com-
33 mission, the department of public safety, the state road com-
34 mission or the workmen's compensation department.

CHAPTER 22

(Senate Bill No. 58—By Mr. Reynolds, of Mineral)

AN ACT making appropriations of public moneys out of the
treasury.

[Passed August 27, 1932; in effect from passage. Approved by the Governor.]

- | | |
|---|---|
| <p>SEC.
1. Appropriations for legislative print-
ing and legal fees.
2. Appropriations for expenses of Sen-
ate, extraordinary session.</p> | <p>SEC.
3. Appropriations for expenses of the
House of Delegates, extraordi-
nary session, and unpaid bills of
regular session of 1931.</p> |
|---|---|

Be it enacted by the Legislature of West Virginia:

That there be and is hereby appropriated outof the treasury for
the fiscal year ending June thirtieth, one thousand nine hundred
and thirty-three, the following sums of money for the following
named purposes:

Section 1.	Legislative printing.....	\$10,000.00
2 R. S. Spilman,	for legal services to Joint Committee	
3 raised under S. C. R. No. 2.....		500.00

SENATE

Sec. 2: Salary of members.....	500.00
2 Mileage of members and officers for the extraordinary	
3 session of one thousand nine hundred thirty-two..	1,100.60
4 President of the Senate, two dollars per day as pre-	
5 siding officer for forty-seven days.....	94.00
6 Chaplain of the Senate.....	120.00
7 Compensation of other officers and attaches, chief	
8 janitor and assistant janitors, and including \$97.00	
9 advanced by the Clerk for postage.....	6,200.00
10 Contingent fund of the Senate, including \$2,000.00	
11 paid Charleston Chapter, American Red Cross for	
12 flood relief	6,500.00
13 The Clerk of the Senate is authorized upon the	
14 approval of the President of the Senate, to draw his	
15 warrants upon the Auditor, payable out of the	
16 contingent fund, for any bills for supplies and	
17 services that may have been incurred by the Senate	
18 and not included in the appropriation bill, for bills	
19 for supplies and services incurred after adjourn-	
20 ment, the requisition for same to be accompanied by	
21 a bill to be filed with the Auditor.	

MISCELLANEOUS APPROPRIATIONS

22 Brawley Hardware Company.....	3.75
23 Charleston Towel Supply Company.....	8.26
24 The C. & P. Tel. Co. of West Virginia.....	146.36
25 Clutter Typewriter Company.....	100.50
26 Diamond Ice and Coal Company.....	10.13
27 H. R. Judy.....	3.50
28 S. S. Kresge Company.....	2.95
29 Laird Office Equipment Co.....	502.22
30 Mock Orange Mineral Water Co.....	114.20
31 S. Spencer Moore Company.....	164.70
32 B. Preiser Company, Inc.....	67.25
33 Frank R. Sevy.....	15.00
34 Smith & Brooks.....	44.97
35 Swift & Company.....	4.50
36 J. E. Thomas.....	36.81
37 F. H. Tinsley.....	1.00

38	Underwood Elliott Fisher Company.....	10.00
39	Virginian Electric, Inc.....	43.55
40	C. W. Wendell.....	56.00

HOUSE OF DELEGATES

	Sec. 3. Mileage of the members and officers of the	
2	House of Delegates, extraordinary session, one	
3	thousand nine hundred thirty-two.....	2,945.80
4	Contingent fund of the House of Delegates, includ-	
5	ing \$2,000.00 paid Charleston Chapter, American	
6	Red Cross.....	6,500.00
7	Per diem of the Speaker, as presiding officer, forty-	
8	seven days at two dollars.....	94.00
9	Compensation of the Clerk of the House of Delegates	
10	forty-seven days.....	705.00
11	Compensation of the Sergeant-at-Arms of the House	
12	of Delegates, forty-seven days.....	470.00
13	Compensation three assistants to the Clerk, forty-	
14	seven days.....	1,410.00
15	Joint supervisor of printing, per diem on part of	
16	House of Delegates, forty-seven days.....	235.00

SPEAKER'S APPOINTEES

17	Secretary to the Speaker, forty-seven days.....	376.00
18	Stenographer to the Speaker, forty-two days.....	252.00
19	Clerk to the committee on Taxation and Finance,	
20	forty-two days.....	252.00
21	Clerk to the Committee on the Judiciary, forty-two	
22	days.....	252.00
23	Five assistants to the Clerk.....	1,800.00
24	Desk stenographer, forty-seven days.....	470.00
25	One floor stenographer, forty-two days.....	210.00
26	One floor stenographer, forty-seven days.....	235.00
27	One floor stenographer, twenty-eight days.....	140.00
28	Mailing clerk, forty-seven days.....	329.00
29	Four pages, forty-two days.....	672.00
30	One page, forty days.....	160.00
31	Two printing clerks, forty-seven days.....	705.00
32	One assistant Sergeant-at-Arms, forty-seven days...	329.00
33	Two door-keepers, forty-two days.....	504.00

34	Two assistant door-keepers, forty-two days.....	420.00
35	One assistant door-keeper, forty-seven days.....	376.00
36	One Journal room worker, forty-seven days.....	235.00
37	Two Journal room workers, forty-two days.....	420.00
38	One Ladies' Rest Room attendant, forty-two days...	168.00
39	One cloak room attendant, forty-two days.....	168.00
40	Compensation of the Chaplain, forty-two days.....	210.00

MISCELLANEOUS APPROPRIATIONS

41	Broyles Electric Co.....	2.00
42	Brawley Hardware Co.....	8.15
43	Clutter Typewriter Co.....	144.50
44	A. C. Frame.....	4.00
45	Laird Office Equipment Co.....	85.19
46	S. Spencer Moore Co.....	123.81
47	Smith & Brooks.....	49.75
48	E. J. Thomas.....	33.35
49	Virginia Electric, Inc.....	6.06
50	Frank R. Sevy.....	14.00
51	Mirth Kuhl, services.....	30.00
52	Western Union.....	2.88
53	The Chesapeake & Potomac Telephone Co. (Speaker's	
54	telephone).....	42.35
55	Mock Orange Water Co., July 12th to August 15th,	
56	inclusive.....	32.40
57	To pay the following persons for labor preliminary to	
58	the opening of the Extraordinary Session:	
59	Hal W. DePue, Sergeant-at-Arms.....	100.00
60	E. J. Thomas, labor.....	15.00
61	L. D. Mullins, labor.....	10.00
62	Harry Goldstein, labor.....	25.00
63	Chester Kyle, labor.....	40.00
64	Ernest Crawford, labor.....	50.00
65	Chilton DePue, labor.....	50.00
66	Sam White, labor.....	30.00
67	To pay the following unpaid bills from the nineteen	
68	hundred thirty-one regular session of the Legis-	
69	lature:	
70	J. K. Lance, hauling and storage of furniture.....	290.00
71	Charleston Towel Supply Co.....	12.50

72 Oak Dale Water Co.....	40.40
73 Sam White, Janitor service.....	135.00
74 Laird Office Equipment Co.....	2.40
75 Smith & Brooks Co.....	6.72
76 Chesapeake & Potomac Telephone Co.....	65.33
77 Clutter Typewriter Co.....	17.50
78 Diamond Ice & Coal Co.....	16.09
79 R. H. Kidd, Clerk, eight days.....	200.00
80 C. V. Greynolds, services.....	225.00
81 O. C. Parsons, services.....	360.00
82 Lee Jack, services.....	60.00

CHAPTER 23

(House Bill No. 54—By Mr. Carter)

AN ACT to amend and re-enact section nine, of chapter six, it being senate bill number one fifty-six, of the legislature of West Virginia of one thousand nine hundred twenty-nine, (municipal charters), with relation to the charter for the city of Wheeling, in the county of Ohio.

[Passed August 6, 1932; in effect ninety days from passage. Approved by the Governor.]

SEC.

9. Fixes compensation of councilmen
and manager-mayor of Wheeling.

Be it enacted by the Legislature of West Virginia:

That section nine, of chapter six, it being senate bill number one fifty-six, of the acts of the legislature of West Virginia of one thousand nine hundred twenty-nine (municipal charters), be, and the same is hereby, amended and re-enacted so as to read as follows:

Section 9. Councilmen shall be paid ten dollars each for 2 every meeting they attend but no compensation shall be allowed 3 for special meetings, nor for any committee meeting of the 4 council. After the expiration of the term of the present incumbent, the manager-mayor shall be paid the salary of six 5 thousand dollars per annum.

7 No extra compensation shall be granted or allowed to any 8 member of council, agent or servant of the city, or contractor 9 therewith after the services shall have been rendered or the 10 contract made; nor shall any payment be made or any claim

11 or part thereof, created against the city under any agreement
 12 or contract made without express authority of law; and all such
 13 unauthorized agreements shall be null and void. Nor shall the
 14 compensation of any member of council or the manager-mayor
 15 be increased or diminished during their term of office. No mem-
 16 ber of the council shall receive any additional emoluments, al-
 17 lowances or perquisite on any account, save the compensation
 18 hereinbefore provided in this section.

CHAPTER 24

(Senate Bill No. 49—By Mr. Beneke)

AN ACT to amend and re-enact section seven of chapter forty-
 four of the acts of the legislature of nineteen hundred and
 twenty-three relating to the investment of moneys received oy
 the board of trustees of the firemen's and policemen's pension
 funds of the city of Wheeling.

[Passed August 3, 1932; in effect from passage. Became a law without the ap-
 proval of the Governor.]

<p>SEC. 7. Permits boards of trustees of fire- men's and policemen's pension funds of Wheeling, under certain</p>		<p>SEC. conditions and restrictions, to loan said funds to the city.</p>
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Be it enacted by the Legislature of West Virginia:

That section seven of chapter forty-four of the acts of the legis-
 lature of nineteen hundred and twenty-three be amended and re-
 enacted so as to read as follows:

Section 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, or may, from time to time loan such moneys or any
 8 part thereof to the city of Wheeling, for a period not to exceed
 9 three months, upon city of Wheeling tax and/or paving lien
 10 security, equal in amount to one and one-fourth times the
 11 amount of said loan or loans; and no such loan or loans shall
 12 be made until first the same is authorized by ordinance of the
 13 council of the city of Wheeling, and such loan or loans to be
 14 approved by the board of trustees, at the rate of six per centum

15 per annum. Said board of trustees shall make a report to the
16 council, or other legislative body of the municipality on the
17 condition of said fund on the thirty-first day of December of
18 each year.

* CHAPTER 25

(House Bill No. 93—By Mr. Rife)

AN ACT to amend and re-enact section two of chapter seventy-seven of the acts of the legislature (municipal charters) of one thousand nine hundred thirty-one, relating to the charter of the city of Huntington.

[Passed August 18, 1932; in effect from passage. Vetoed by the Governor and passed by both houses over veto.]

SEC. 2. Defines the corporate limits of the city of Huntington. |

Be it enacted by the Legislature of West Virginia:

That section two of chapter seventy-seven of the acts of the legislature (municipal charters) of one thousand nine hundred thirty-one, relating to the charter of the city of Huntington, be amended and reenacted so as to read as follows:

Section 2. The corporate limits of the city of Huntington shall be as follows, to-wit:

3 Beginning at a stake at low-water mark of the Ohio river,
4 southerly side thereof, about a mile above the mouth of the
5 Guyandotte river, in 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 leaving the corporation line as heretofore estab-
8 lished, and continuing southerly with the west line of the Peck
9 farm and with the property lines in a general southerly direc-
10 tion to the south line of the Chesapeake and Ohio railway com-
11 pany right-of-way; thence easterly and with the said south right-
12 of-way line of the Chesapeake and Ohio railway company to a
13 point where said line intersects with the west line of Fifth street
14 as shown upon plat number one of Altizer place, a map of which
15 was filed in the county court clerk's office of Cabell county, West
16 Virginia; thence with the westerly line of said Fifth street south-

*See chapter one hundred twenty-one, acts regular session 1933, in this volume.

17 erly to the northerly line of state road number three (now known
18 at this point as Riverside drive); thence westerly with the
19 northerly line of said state road number three to the easterly
20 line of the International Nickel company property; thence
21 northerly with the east line of said International Nickel com-
22 pany property to the southerly right-of-way line of the Ches-
23 peake and Ohio railway; thence westerly with the south line of
24 said railway company right-of-way line to the top of the west
25 bank of Pat's branch; thence southwestery with the west bank
26 of Pat's branch to the southerly line of state road number three;
27 thence with said southerly line of said state road number three
28 and therewith in an easterly direction to a point in said line
29 where said state road number three turns in the southerly direc-
30 tion to cross the Guyan river; thence continuing with the west
31 line of said state road number three southerly to the south bank
32 of Guyan river; thence westerly with the south bank of the
33 Guyan river to the east line of Elwood avenue, as said latter
34 line is shown on a map of Arlington addition, Huntington, West
35 Virginia, Arlington Land Company, owners, a subdivision of
36 said city of Huntington, which said map was made by R. W.
37 Breece, engineer, and dated March twenty-eight, one thousand
38 nine hundred twenty-five, a copy of which map is now filed in the
39 office of the clerk of the county court of said Cabell county;
40 thence in a southerly direction along and with the east side of
41 Elwood avenue to the southerly side of Washington boulevard,
42 as shown on said map; thence in an easterly direction with the
43 southerly line of Washington boulevard continuing with the
44 same to the point of juncture of Washington boulevard with
45 Arlington boulevard, and thence continuing in a southerly di-
46 rection with the westerly line of Arlington boulevard to a point
47 which is five hundred feet south of the top of the bank of Guyan
48 river; thence in an easterly direction at a right angle to Arling-
49 ton boulevard to a point in the southeasterly corporation line
50 of the city of Huntington, as heretofore constituted by chapter
51 one hundred fifty of the acts of the legislature of one thousand
52 nine hundred one, thence south and then westerly with said cor-
53 poration line to the Huntington-Hamlin pike; thence in a
54 straight line and westerly direction to a point on the west side

55 of the McCoy (Eighth street) road two feet northeast of the
56 northeasterly corner of the F. L. Weymouth land; thence west-
57 erly across the McCoy road to the northeasterly corner of the
58 F. L. Weymouth land; thence following the northeasterly line
59 of the F. L. Weymouth land and the northerly line of the land
60 of F. L. and F. A. Weymouth to the intersection of the present
61 corporation line at the left fork of Hisey creek; thence westerly
62 with the northerly bank of the said left fork to its intersection
63 with the right fork; thence westerly with the northerly bank
64 of Hisey fork of Four Pole creek to a point in the center of the
65 Hisey fork of Four Pole creek, a corner of Mrs. F. L. Whittaker
66 and the Andrew J. Cox estate, thence in a southerly direction
67 and with the west line of the said Whittaker land to the south-
68 westerly corner of same; thence continuing with the south line
69 of the said Whittaker land in a southeasterly direction to a large
70 white oak, a corner to the Wm. Lond land (now Mullins), which
71 is also the most southern corner to the said Whittaker land and
72 on the Porter ridge, thence southwestwardly with the Long and
73 Overby (now Mullins) land and with said Porter ridge to the
74 northeast corner of the Ollis Simmons land; thence with the
75 east line of said Simmons land and continuing with the said Por-
76 ter ridge to the northeast corner of Sam Simmons land; thence
77 with the east line of said Sam Simmons land and the said Porter
78 ridge in a southerly direction to the northeast corner of T. H.
79 Reece's land; thence with the north line of same and with said
80 Porter ridge in a southeasterly direction to the southeast corner
81 of said Reece's land; thence with the east line of said Reece in
82 a southerly direction and with said Porter Ridge to a locust
83 stump, a corner to the said T. H. Reece and Oliver Morrow;
84 thence in a southwestwardly direction and with the line between
85 said Reece and Morrow and continuing with said Porter ridge
86 to the most southerly corner of said Reece's land and on top of
87 said Porter ridge; thence leaving the said Reece and Morrow line
88 and running through the said Oliver Morrow lands in a south-
89 westerly direction and with the center of the main Porter ridge
90 to the Wayne county line, and with Wayne county line in a
91 northwesterly direction to a point in the south right-of-way of
92 the Chesapeake and Ohio railroad right-of-way; thence continu-

93 ing with the southerly line of the right-of-way of said railway
 94 company to Camden crossing of Piedmont Road; thence due
 95 north to the low-water mark of the southerly side of the Ohio
 96 river; thence easterly with said low-water mark of the Ohio
 97 river to the point of beginning.

98 *Provided*, That the territory embraced relating to that part
 99 of the boundary line in Wayne county shall always remain in
 100 Wayne county.

CHAPTER 26

(Senate Bill No. 57—By Mr. Beneke)

AN ACT to amend and reenact section two of chapter eighty-two of the acts of the legislature, passed February eleventh, one thousand nine hundred thirty-one, relating to the charter of the city of Wellsburg.

[Passed August 26, 1932; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.
 2. Defines the corporate limits of the
 city of Wellsburg. |

Be it enacted by the Legislature of West Virginia:

That section two of chapter eighty-two of the acts of the legislature of one thousand nine hundred thirty-one, relating to the charter of the city of Wellsburg, be amended and reenacted so as to read as follows:

Section 2. The boundaries of the city of Wellsburg shall be 2 as follows: Beginning at the mouth of Buffalo creek and extending eastwardly along the center line of the meandering of 3 said creek to a point in the west line of the Pan Handle Trac- 4 tion company right-of-way; thence in a northerly direction 5 along the west line of the Pan Handle Traction company right- 6 of-way until it strikes the west line of Commerce street; thence 7 northward along the west line of Commerce street to the south- 8 west corner of Commerce and Fourth streets; thence eastward 9 to the southeast corner of Fourth and Commerce streets; thence 10 southward along the east line of Commerce street to the north 11 line of an alley located immediately south of Third street; 12 thence in a straight line in an easterly direction along the north 13 line of said alley to the line of the lands of F. A. Chapman; 14

15 thence in a northerly direction along the west line of the lands
16 owned by F. A. Chapman and the lands owned by S. H.
17 Hubbard and Dorrie Hubbard to a corner at the joining of the
18 lands of S. H. Hubbard and Dorrie Hubbard with those of
19 Josephine Du Point Leonard and of the J. F. Cree estate;
20 thence in a northerly direction in a straight line across the lands
21 of J. F. Cree, now deceased, to the southeast corner of lot fifty-
22 four of the plan of lots platted and recorded by I. H. Duval;
23 thence in a northerly direction in a straight line to the north-
24 east corner of lot fifty-two of said plan of lots; thence in a
25 northeast direction in a straight line to the southeast corner of
26 the lands of H. W. Paull; thence in a northerly direction along
27 the east boundary line of the property of said H. W. Paull, of
28 the property of Elizabeth P. Jacobs, of the property of W. H.
29 Tarr, deceased, and of the property of Miss Lou Tarr, deceased,
30 of the property of G. L. and S. R. Caldwell, of the property of
31 A. P. Oxtoby, of the property platted into lots by Fred L. Hall,
32 of the property of Edward Rithner and of the property of the
33 Brooke Cemetery company; thence from the northeast corner
34 of the said cemetery property in a northwesterly direction in a
35 straight line to a point in a ravine situate at the foot of what
36 is known as Gilchrist Hill and four hundred feet east of the
37 Ohio river; thence in a westwardly direction following the
38 meandering of said run or ravine to the east shore of the Ohio
39 river; thence on a direct line to the west shore of said river;
40 thence extending along the west shore of said river in a southerly
41 direction to a point opposite the mouth of Buffalo creek; thence
42 from said point to the mouth of Buffalo creek, the place of be-
43 ginning, including all the land and water between the boundary
44 lines aforesaid.

45 The boundaries of the city of Wellsburg shall also extend to
46 and include the tract of land conveyed to the city by I. H.
47 Duval and wife, by deed dated March twenty-ninth, one thou-
48 sand eight hundred eighty-six, recorded in deed book number
49 twenty-six, page four hundred sixty-six, of the records of
50 Brooke county, which said tract contains the reservoir of the
51 city water works.

CHAPTER 27

(House Bill No. 27—By Mr. Righter)

AN ACT to amend and reenact section four of chapter twenty-seven of the acts of the legislature of one thousand nine hundred nine, as amended and reenacted by section four of chapter twelve, of the acts of the legislature of one thousand nine hundred nineteen, as amended and reenacted by section four of chapter one hundred forty-six of the acts of the legislature of one thousand nine hundred twenty-nine, relating to the salary of the judge of the criminal court of Harrison county.

[Passed August 27, 1932: in effect ninety days from passage. Approved by the Governor.]

SEC.	4. Fixes salary of judge of criminal court of Harrison county at four	SEC.	thousand dollars after January 1, 1933.
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Be it enacted by the Legislature of West Virginia:

That section four of chapter twenty-seven of the acts of the legislature of one thousand nine hundred nine, as amended and reenacted by section four of chapter twelve of the acts of the legislature of one thousand nine hundred nineteen, as amended by section four of chapter one hundred forty-six of the acts of the legislature on the judge of the criminal court of Harrison county, be amended and reenacted so as to read as follows:

Section 4. The judge of the criminal court of Harrison 2 county, West Virginia, on and after the first day of January, 3 one thousand nine hundred thirty-three, shall receive for his 4 services a salary of four thousand dollars per year; said amount 5 to be fixed and paid from year to year by the county court of 6 said county, out of the funds of said county, as provided by 7 statute.

CHAPTER 28

(Senate Bill No. 51—By Mr. Smith)

AN ACT to amend and reenact sections seven, nine and ten of chapter ninety-two of the acts of the legislature of West Virginia of one thousand nine hundred twenty-nine, entitled: An act to create and establish a joint district high school for the districts of Sheridan, Laurel Hill, and Hart's Creek, in the county of Lincoln, upon the site of Guyan valley high school, and to provide for the maintenance thereof, and for the erection of future units thereto.

[Passed August 19, 1932; in effect from passage. Approved by the Governor.]

<p>SEC. 7. Provides for transportation of pupils attending Sheridan, Laurel Hill and Hart's Creek joint district high school, Lincoln county.</p> <p>9. Fixes salaries of commissioners of board of education and makes</p>	<p>SEC. 10. Provides for election of, and prescribes qualifications and duties of principal of Guyan valley high school.</p>
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Be it enacted by the Legislature of West Virginia:

That sections seven, nine and ten of chapter ninety-two of the acts of the legislature of West Virginia of one thousand nine hundred twenty-nine be amended and reenacted so as to read as follows:

Section 7. The said board of education may make provisions for the transportation of high school pupils entitled to attend said high school, and, for this purpose, it may purchase school buses and employ capable drivers therefor at not more than sixty-five dollars per month for the regular school term. Said school buses may only be used on county or state roads. The board shall, where it is impracticable to provide transportation for any pupil, allow such pupil, while attending said high school, an optional sum per month in lieu of transportation, such sum to be the same for all pupils affected by this clause, and such sum to be established for each term by action of said board at a date preceding the opening of the term and to not exceed fifteen dollars per month. *Provided*, That in no case, shall any such allowance be furnished to any pupil living within three miles of the high school by the nearest traveled way, or within two miles, by such traveled way, of any point where

17 transportation facilities furnished by the board may be reached.

Sec. 9. The salary of each commissioner of the said high
2 school board of education and the commissioner acting as presi-
3 dent, as herein provided, shall be five dollars per day for not
4 more than fifteen days in any one year. The said high school
5 board of education may annually make proper provisions for a
6 summer school of nine weeks, in accordance with the recommen-
7 dation of the principal of said Guyan valley high school, and
8-9 under his supervision. Said summer school shall be conducted
10 in such a manner as to maintain the first-class standing of the
11 high school. Teachers for such summer school shall be em-
12 ployed as herein provided for the regular term, and their
13 salaries shall be fixed for the summer school by the board.
14 Transportation for the summer term may be provided at the
15 discretion of the board and under such conditions as may be
16 decided upon by the board. There shall be no allowance paid
17 to students in lieu of transportation during the summer school.
18 No pupil shall be entitled to enter Guyan valley high school
19 until the principal of the said school shall have satisfied him-
20 self that the said pupil has made due proficiency in the grades
21 below the one he wishes to enter.

Sec. 10. At any time after the first of January, in any year,
2 the said board of education shall elect a principal of Guyan
3 valley high school, for a period of not more than one year, and
4 fix his salary. Said principal shall be qualified according to the
5 provisions established by the West Virginia state department
6 of education for principalship of a first class high school. It
7 shall be the duty of said principal to keep himself constantly
8 acquainted with the conditions of the high school and to make
9 definite recommendations to the board of education for the
10 efficient working and control of said high school, and he shall
11 have final authority and control in determining the discipline
12 and management of said school. He shall investigate and nomi-
13 nate to the board a sufficient number of thoroughly qualified
14 teachers and a librarian or other assistants as, in his discretion,
15 may be necessary to conduct the high school in such a way as to
16 insure its first-class rating. He may, in case of sickness or other
17 emergencies, employ substitutes to be paid at the expense of
18 teachers or other employees off duty.

RESOLUTIONS

SENATE CONCURRENT RESOLUTION NO. 1

(BY MR. JOHNSON)

[Adopted July 12, 1932.]

Providing for a joint assembly.

Resolved by the Senate, the House of Delegates concurring therein:

That the Legislature meet in joint assembly in the chamber of the House of Delegates at 2 P. M., this day to hear the address of His Excellency, Governor William G. Conley.

SENATE CONCURRENT RESOLUTION NO. 2

(BY MR. HEROLD)

[Adopted July 18, 1932.]

Providing for the appointment of a committee.

Resolved by the Senate, the House of Delegates concurring therein:

That a joint committee of ten members, five from the House of Delegates, to be appointed by the Speaker thereof, and five members from the Senate, to be appointed by the President thereof, be raised to consider the question of the reduction of all governmental expenses, which committee shall report back its recommendations to the Legislature at the earliest possible date, accompanied by bills to make its recommendations effective. The President of the Senate and the Speaker of the House of Delegates shall be ex officio members of said committee.

Said committee is authorized to call before it the heads of all departments and institutions of the state government and all other parties deemed necessary, and shall have access, if desired, to all records of said departments and institutions.

Said committee shall incur no expense in this work.

SENATE CONCURRENT RESOLUTION NO. 5

(BY MR. HODGES)

[Adopted July 16, 1932.]

Requesting certain information from the Tax Commissioner.

WHEREAS, There is to be submitted to the people of this state at the general election November 8, 1932, a constitutional amendment providing for the limitation of levies upon all classes of property; and

WHEREAS, The limitations provided in the amendment, should the same be ratified, must necessarily greatly curtail the local revenues now devoted to municipal and to county government, and to schools; and

WHEREAS, Such severe losses shall probably necessitate complementary revenue in the form of state aid for the local costs of schools and roads; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the state tax commissioner is requested to provide each member of the 1933 legislature with the following information for his respective county or counties:

First: The total of assessed valuations for 1932 for each county as a whole, for each magisterial district, for each municipality, and for each independent school district, as the same would be divided under the classification provided in the pending constitutional amendment.

Second: The amount of money estimated to be raised in each of the several funds by the application to such classified valuations of the maximum levies provided in the pending constitutional amendment, and the comparison of these totals with the amounts estimated to be raised for the fiscal year 1932-33 by the local levying bodies, including comparisons for each county as a whole, each magisterial district, each municipality, and each independent school district.

Third: Such other information as the tax commissioner

may consider useful and necessary for the intelligent consideration by the 1933 legislature of any revenue legislation appropriate to the constitutional limitation of local levies.

And in the event the pending constitutional amendment is ratified, that the tax commissioner be requested to furnish such information to the members of the 1933 legislature at the earliest possible convenience of his office after the general election of November 8, 1932, in order that the legislators may have the most complete opportunity for the study and knowledge of the information thus adduced prior to the convening of the regular session of the legislature in January, 1933.

SENATE CONCURRENT RESOLUTION NO. 9

(BY MR. REYNOLDS, of Mineral)

[Adopted August 27, 1932.]

Extending the commendation of the legislature to the newspaper correspondents who reported this extraordinary session.

WHEREAS, The legislature has been in extraordinary session for six weeks, acting upon measures it feels will inure for the benefit of West Virginia taxpayers in reduced governmental costs, and

WHEREAS, It is of the greatest interest and benefit to the citizens of West Virginia that information concerning the acts of the legislature be given the widest dissemination through the press, and

WHEREAS, The various correspondents of the newspapers engaged in reporting the activities of the session have labored industriously that such information be fairly and accurately disseminated; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the various correspondents who have reported this session for newspapers be commended for the accurate manner in which they have reported all the activities of the session and the fair and courteous way in which they have performed their duties.

SENATE CONCURRENT RESOLUTION NO. 10

(BY MR. JOHNSON)

[Adopted August 27, 1932.]

Providing for the printing and distribution of advance copies of the acts of the extraordinary session of one thousand nine hundred thirty-two.

Resolved by the Senate, the House of Delegates concurring therein:

That the clerks of the two houses are hereby directed to have printed by the public printer, two thousand five hundred advance copies of the acts of this session including municipal charters, properly head noted, and with a full table of contents, and in paper binding, for the distribution among the members of the legislature, judges of the supreme court of appeals, and of the circuit, criminal and intermediate courts, circuit and county clerks, sheriffs and prosecuting attorneys.

Said public printer shall print and deliver said advance copies to the clerks of the two houses as soon as possible after the adjournment of this session. Upon receipt of the same, the clerks shall, without delay, forward by mail or express to each member of the Senate and House of Delegates at least ten of said advance copies, and one copy to each of the officials hereinbefore enumerated, and ten copies to each of the state officials, and the remainder, if any, they shall deliver to the superintendent of public printing for distribution. The said clerks are also authorized and directed to have printed in signature form or advance sheets, any general law which they may deem of sufficient importance to be issued and distributed in that form. The sum of two hundred dollars out of the contingent fund of the House and one hundred dollars out of the contingent fund of the Senate is hereby directed to be paid by the Auditor upon proper warrants, respectively, to pay the postage or expressage on said advance copies.

For the extra work provided for in this resolution, the time of said Clerks and the Joint Supervisor of printing is extended for fifteen days at the same per diem as received during the extra session, and the time of the following, to be designated by the Clerk of the Senate, secretary to the Clerk, one printing clerk, one

proof reader and messenger, is extended for fifteen days at the same per diem paid for those holding these positions in this extraordinary session, payable out of the contingent fund of the Senate. The time of Maud Christian, Julia Lewis Roseberry and O. C. Parsons, on the part of the House of Delegates, is extended for fifteen days at the same per diem as designated and paid during the extraordinary session, payable out of the contingent fund of the House. The Clerk of the Senate and Sergeant-at-Arms of the House are authorized to draw their warrants upon the Auditor and the Auditor is authorized and directed to pay the same, but no warrants shall be drawn for the per diem herein set out until the services for same have been rendered.

SENATE CONCURRENT RESOLUTION NO. 11

(BY MR. HELMICK)

[Adopted August 27, 1932.]

Raising a joint committee to wait upon the Governor.

Resolved by the Senate, the House of Delegates concurring therein:

That a joint committee of five, consisting of two on the part of the Senate, to be appointed by the President thereof, and three on the part of the House of Delegates, to be appointed by the Speaker thereof, be appointed for the purpose of notifying the Governor that the Legislature is ready to adjourn *sine die* and ask him if he has any further communication to make.

HOUSE JOINT RESOLUTION NO. 2

(BY MR. THORNHILL)

[Adopted July 30, 1932.]

Relating to the proposed amendment to the Constitution of the United States fixing the commencement of the terms of President and Vice-President and members of congress and fixing the time of the assembling of congress.

WHEREAS, At the first session of the seventy-second congress of

the United States of America it was resolved by the Senate and House of Representatives of the United States in Congress assembled (two-thirds of each House concurring therein) that the following article be proposed as an amendment to the Constitution of the United States, which, when ratified by the legislatures of three-fourths of the several states, shall be valid to all intents and purposes as part of the Constitution, viz:—

“ARTICLE—

Section 1. The terms of the president and vice-president shall end at noon on the twentieth day of January and the terms of senators and representatives at noon on the third day of January of the years in which such terms would have ended if this article had not been ratified, and the terms of their successors shall then begin.

Sec. 2. The congress shall assemble at least once in every year, and such meeting shall begin at noon on the third day of January, unless they shall by law appoint a different day.

Sec. 3. If, at the time fixed for the beginning of the term of the president, the president elect shall have died, the vice-president elect shall become president. If a president shall not have been chosen before the time fixed for the beginning of his term or if the president elect shall have failed to qualify, then the vice-president elect shall act as president until a president shall have qualified; and the congress may by law provide for the case wherein neither a president elect nor a vice-president elect shall have qualified, declaring who shall then act as president or the manner in which one who is to act shall be selected, and such person shall act accordingly until a president or vice-president shall have qualified.

Sec. 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a president whenever the right of choice shall have devolved upon them and for the case of the death of any of the persons from whom the Senate may choose a vice-president whenever the right of choice may have devolved upon them.

Sec. 5. Sections one and two shall take effect on the fifteenth day of October following the ratification of this article.

Sec. 6. This article shall be inoperative unless it shall have been

ratified as an amendment to the Constitution by the legislatures of three-fourths of the several states within seven years from the date of its submission ;” therefore, be it

Resolved by the Legislature of the State of West Virginia:

That the foregoing amendment to the Constitution of the United States of America be, and the same is hereby ratified to all intents and purposes as a part of the Constitution of the United States.

2. That the Governor of the State of West Virginia is hereby requested to forward to the Secretary of State and to the presiding officer of the United States Senate and to the Speaker of the House of Representatives of the United States an authentic copy of the foregoing resolution. The clerk of the House and secretary of the Senate are hereby instructed to send to the Governor a certified copy of the action of the House and Senate on this resolution.

HOUSE JOINT RESOLUTION NO. 3

(BY MR. SMITH, of Marion)

[Adopted August 6, 1932.]

Providing for the submission to the voters of the state of an amendment to the constitution of the state, amending section one, of article ten thereof.

Resolved by the Legislature of West Virginia, two-thirds of all the members elected to each House agreeing thereto:

That the question of ratification or rejection of an amendment to the constitution of West Virginia shall be submitted to the voters of the state at the next general election to be held in the year one thousand nine hundred thirty-two, which proposed amendment is as follows:

That section one, of article ten of the constitution of West Virginia be amended, as follows:

Section 1. Subject to the exceptions in this section contained, taxation shall be equal and uniform throughout the state, and all property, both real and personal, shall be taxed in proportion to its value to be ascertained as directed by law. No one species of property from which a tax may be collected shall be taxed higher than

any other species of property of equal value; except that the aggregate of taxes assessed in any one year upon personal property employed exclusively in agriculture, including horticulture and grazing, products of agriculture as above defined, including live stock, while owned by the producer, and money, notes, bonds, bills and accounts receivable, stocks and other similar intangible personal property shall not exceed fifty cents on each one hundred dollars of value thereon and upon all property owned, used and occupied by the owner thereof exclusively for residential purposes and upon farms occupied and cultivated by their owners or bona fide tenants one dollar; and upon all other property situated outside of municipalities, one dollar and fifty cents; and upon all other such property situated within municipalities, two dollars; and the legislature shall further provide by general law, for increasing the maximum rates, authorized to be fixed, by the different levying bodies upon all classes of property, by submitting the question to the voters of the taxing units affected, but no increase shall be effective unless at least sixty per cent of the qualified voters shall favor such increase, and such increase shall not continue for a longer period than three years at any one time, and shall never exceed by more than fifty per cent the maximum rate herein provided and prescribed by law; and the revenue derived from this source shall be apportioned by the legislature among the levying units of the state in proportion to the levy laid in said units upon real and other personal property; but property used for educational, literary, scientific, religious or charitable purposes, all cemeteries, public property, the personal property, including live stock, employed exclusively in agriculture as above defined and the products of agriculture as so defined while owned by the producers may by law be exempted from taxation; household goods to the value of two hundred dollars shall be exempted from taxation. The legislature shall have authority to tax privileges, franchises, and incomes of persons and corporations and to classify and graduate the tax on all incomes according to the amount thereof and to exempt from taxation, incomes below a minimum to be fixed from time to time, and such revenues as may be derived from such tax may be appropriated as the legislature may provide. After the year nineteen hundred thirty-three, the rate of the state tax upon property shall not exceed one cent upon the hundred dollars valuation, except to pay the principal and interest of bonded indebtedness of the state now existing.

HOUSE JOINT RESOLUTION NO. 4

(BY MR. ROSS)

[Adopted August 3, 1932.]

Relating to bids and contracts for public work, submitted to and made by, the state road commission of West Virginia.

Resolved by the Legislature of West Virginia:

First: That the state road commission of West Virginia, be and is hereby respectfully requested to require all bidders for contracts for road construction.

(a). To specify, in their bids minimum wage scales they will observe in the performance of their contracts.

(b). To specify in their bids the percentage of skilled and unskilled local labor they will employ in the performance of their contracts in so far as available.

Second: That said commission, be and is hereby, further requested to take into consideration said wage scales and percentages of skilled and unskilled local labor in awarding such contracts.

Third: That said commission is further requested to treat all information contained in such bids, except the totals thereof, as confidential.

HOUSE JOINT RESOLUTION NO. 6

(BY MR. LAUGHLIN)

[Adopted August 26, 1932.]

Relating to the adjournment of this extraordinary session of the Legislature.

Resolved by the Legislature of West Virginia:

That it is the sense of the members of the Senate and House of Delegates, that this session of the Legislature be brought to a final close on or before Saturday, August 27th, 1932.

With this in view, night sessions are urged, should they be found necessary to consider the few remaining bills before both houses.

HOUSE CONCURRENT RESOLUTION NO. 1

(BY MR. WILKINSON)

[Adopted July 12, 1932.]

Providing for the appointment of a joint committee to wait upon the Governor.

Resolved by the House of Delegates, the Senate concurring therein:

That a committee of three on the part of the House, to be appointed by the Speaker, and three on the part of the Senate, to be appointed by the President, be appointed to wait upon the Governor and to notify him that the Legislature is now in extraordinary session, pursuant to his proclamation dated June twenty-fifth, one thousand nine hundred thirty-two, with a quorum of each house present and awaits any communication he may desire to make.

HOUSE CONCURRENT RESOLUTION NO. 4

(BY MR. CUMMINS)

[Adopted July 16, 1932.]

Payment of legislative expenses in advance of appropriation.

Resolved by the House of Delegates, the Senate concurring therein:

That the auditor is authorized to draw his warrants upon the treasurer for the per diem and mileage of officers and attaches and printing and other contingent expenses of the House of Delegates and Senate in advance of the appropriation for these purposes.

HOUSE CONCURRENT RESOLUTION NO. 5

(BY MR. CAMPBELL)

[Adopted July 16, 1932.]

Providing for the appointment of a committee to visit the flood section of Fayette and Kanawha counties and report back to the Senate and the House of Delegates conditions thereof.

WHEREAS, Since the convening of this Legislature an unusual disaster has taken place in the counties of Fayette and Kanawha, in the section of Armstrong, Paint and Cabin Creeks, whereby a great number of people are reported to have lost their lives and others lost their property, thereby causing an unusual amount of distress in that section which is said to be beyond the power of local authorities to relieve; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That a committee consisting of three members of the House of Delegates, to be appointed by the Speaker, and three members of the Senate, to be appointed by the President of the Senate, be and the same is hereby raised for the purpose of going to the scene of such disaster and reporting back their findings with a view to granting some special relief to those in distress, and said committee shall report back to the House of Delegates and Senate on Monday, July 18, 1932, its findings as to the necessity of granting such special relief.

HOUSE CONCURRENT RESOLUTION NO. 6

(By Mr. CUMMINS)

[Adopted July 16, 1932.]

Providing for the appointment of a joint supervisor of printing for the two houses.

Resolved by the House of Delegates, the Senate concurring therein:

That the clerk of the House of Delegates and of the Senate appoint a joint supervisor of printing for the extraordinary session, who shall have general oversight and direction of the printing and the enrollment of bills, under the direction and supervision of the clerks, one-half of his compensation to be paid by the Senate and one-half by the House of Delegates, at a per diem of ten dollars.

HOUSE CONCURRENT RESOLUTION NO. 14

(BY MR. KENNA)

[Adopted August 9, 1932.]

Providing for a recess of the two houses of the Legislature.

Resolved by the House of Delegates, the Senate concurring therein:

That the Senate and the House of Delegates, when they adjourn today, adjourn until Monday, August 15, 1932, at 2:00 o'clock P. M.

HOUSE CONCURRENT RESOLUTION NO. 15

(BY MR. BAKER)

[Adopted August 19, 1932.]

Requesting the Secretary of Agriculture of the United States to allocate federal funds at his disposal for public works.

WHEREAS, Honorable William G. Conley, Governor of the state of West Virginia, in his proclamation of June 25, 1932, calling an extraordinary session of the Legislature on July 12, 1932, takes cognizance of the serious economic situation and grave concern confronting the state of West Virginia in the problems arising from unemployment; and

WHEREAS, The citizens of the state of West Virginia, being a thrifty and industrious people, demand employment whereby they may honorably support themselves and families and object to a dole or any means of support by charitable organizations; and being mindful of their welfare and the fact that the Federal Government recognizes its responsibility to all citizens and has at its disposal through its duly authorized officers, large amounts of money to promote the welfare of the people and to provide for them honorable means of support and maintenance; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

First: That the Secretary of Agriculture of the United States be and he is hereby requested to allocate for expenditure, out of

Federal funds now at his disposal on public works provided by an act of the seventy-second Congress cited as the "Emergency Relief and Construction Act of 1932", the following amounts of money:

(a) \$200,000.00 for the construction and improvement of national-forest highways; and

(b) \$400,000.00 for the construction of roads, trails, bridges, fire lanes, lookout towers, tourist camps, and so forth.

Such money to be spent in the national forests located within the boundaries of this state, with a view to providing the maximum employment of local labor consistent with reasonable economy construction.

Second: That a copy of this resolution be forwarded to Honorable Herbert Hoover, President of the United States, and Honorable Arthur M. Hyde, Secretary of Agriculture of the United States; and, be it

Further resolved, That a copy of this resolution be transmitted to the United States Senators and members of the House of Representatives from the State of West Virginia.

HOUSE CONCURRENT RESOLUTION NO. 18

(BY MR. THORNHILL)

[Adopted August 27, 1932.]

Providing for the payment of attorney's fees for services rendered special committee raised under Senate Concurrent Resolution No. 2.

Resolved by the House of Delegates, the Senate concurring therein:

That there be included in the appropriation bill for the expenses of this extraordinary session of the Legislature, an appropriation in the amount of five hundred dollars in payment of attorneys for services rendered the joint legislative committee raised under Senate Concurrent Resolution No. 2, in the preparation of bills for said committee.

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