

**ACTS OF THE LEGISLATURE OF
WEST VIRGINIA, AT ITS SIXTH
SESSION, COMMENCING
JANUARY 21ST, 1868**

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Acts of the Legislature of West Virginia, at Its Sixth Session, Commencing January 21st, 1868 by
Various

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VARIOUS

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SIXTH SESSION, .

COMMENCING JANUARY 21ST, 1868.



WHEELING:

JOHN FREW, PUBLIC PRINTER.

1868.

A C T S .

CHAPTER 1.—An ACT to provide for the employment of a Record Clerk in the Adjutant General's Office.

Passed January 30, 1868.

Be it enacted by the Legislature of West Virginia:

That the Adjutant General is hereby authorized to expend in the payment of record clerks during the ensuing year, such sum, not to exceed five hundred dollars, as may be necessary for that purpose. Expenditure of \$500 authorized.

CHAPTER 2.—An ACT changing the times of holding the terms of the Circuit Court in Brooke county.

Passed February 3, 1868.

Be it enacted by the Legislature of West Virginia:

1. The commencement of the terms of the circuit court in the county of Brooke, of the first judicial circuit, instead of being as heretofore prescribed by law, shall be as follows: On the third Tuesday of March, fourth Tuesday of June, September and November. Commencement of terms.

2. The first section of the act passed February twenty-eight, eighteen hundred and sixty-five, entitled "An Act in relation to the time of holding the terms of the circuit court in the first judicial circuit," is hereby repealed. Act repealed.

CHAPTER 3.—An ACT to authorize John G. Cockrell to build Lock Gates.

Passed February 4, 1868.

Be it enacted by the Legislature of West Virginia:

1. That John G. Cockrell, of Jefferson county, be authorized and empowered to put in new lock gates on the site of the old ones at Willis' Mill, in the Shenandoah river, in said county, and to put in such dams and make such improvements as he may think necessary, for the purpose of the navigation of said river; and the said John G. Cockrell shall keep in repair and have control of the same. Lock gates in Shenandoah river. Repair and control of same.

2. That the said John G. Cockrell be authorized and empowered to receive tolls on all produce and other property that may be shipped through said locks, to a point where the navigation of said river reaches the Winchester and Potomac Railroad, known as Shenandoah City, at the following rates: Iron, twenty-five cents per ton; flour, two cents per barrel; on all grain, one-half cent per bushel; and on J. G. Cockrell may collect tolls. Rates of toll.

lumber, twenty-five cents per thousand feet; with full power and authority to sue for and collect the same according to law.

Person injuring locks guilty of misdemeanor.

3. That any person, or persons, who injures or interferes with said locks, or obstructs the navigation of said river, within the limits of said county, by putting in dams, or injuring or interfering with such as may be placed there by authority of this act, shall, for each offence, be guilty of a misdemeanor, and on conviction thereof, be liable to a fine of not less than ten or more than one hundred dollars; provided, that nothing contained in this act shall be construed to interfere with the right of the said John G. Cockrell to proceed by civil action for the recovery of damages sustained in the premises.

and liable to Cockrell for damages.

CHAPTER 4.—An ACT to authorize the construction of a Bridge over the Potomac River, near the mouth of New Creek.

Passed February 4, 1863.

Be it enacted by the Legislature of West Virginia:

Commissioners.

1. That Thomas B. Davis, Samuel M. Haller, Nimrod Alkire, Roland S. Dayton, Thomas R. Carskadon, and Aquilla B. McCarty be and they are hereby constituted and appointed commissioners, with full power and authority to contract for the building of a bridge over the Potomac river, at such point near the mouth of New creek, in Mineral county, as they, or a majority of them, may deem most suitable and convenient, on such plan as they, or a majority of them, shall adopt as most practicable; and are likewise authorized to receive and collect contributions and appropriations sufficient to enable them to pay for said bridge.

Location and plan of bridge.

Contributions for bridge.

Power of commissioners to acquire lands.

2. That said commissioners, or a majority of them, are hereby empowered to acquire by purchase, or otherwise, such lands as may be necessary to construct the abutments for said bridge, as well as to secure the right of way for roads leading from the county roads, to enable all species of travel to reach said bridge at either terminus.

CHAPTER 5.—An ACT to amend and re-enact Chapter 14 of the Acts of 1836, entitled "An Act to amend and re-enact the 1st section of an Act entitled 'An Act providing for issuing grants for lands in certain cases,' passed December 9th, 1863."

Passed February 4, 1866.

Be it enacted by the Legislature of West Virginia:

Act amended.

That chapter 14 of the Acts of 1866, entitled "An Act to amend and re-enact the first section of an act entitled 'An Act providing for issuing grants for lands in certain cases,' passed the ninth day of December, eighteen hundred and sixty-three," shall be amended and re-enacted to read as follows:

"1. All entries made before the twentieth day of June, eighteen hundred and sixty-three, under the provisions of chapter one hundred and twelve of the Code of Virginia, second edition, which were in force on that day, and which have not heretofore been surveyed, shall be surveyed according to the provisions of said chapter of said Code. All plats and certificates of such surveys, whether heretofore or hereafter made; plats and certificates of all other surveys in force on said twentieth day of June, eighteen hundred and sixty-three, and copies of all plats and certificates of surveys heretofore filed in the land office at Richmond, on which no grants have issued, and been delivered to the parties to whom issued, shall, before the ninth day of December, eighteen hundred and sixty-nine, be returned by those for whom the surveys are made, to the secretary of the State, and they may demand receipts from him for the same; and no grant shall issue for any land until the conditions imposed by section forty-three of the said chapter of the said Code be complied with by the person applying for the grants."

Survey of entries made before June 20, 1863.

Time for returning plats extended.

On what conditions grant to issue.

"2. For all services rendered under this act by the secretary, he shall be entitled to the same fees that the register of the land office of the State of Virginia would be entitled to for like services, which fees shall be in consideration of his services in completing the grant. Fees heretofore paid for like services, under chapter one hundred and thirty-four, acts of eighteen hundred and sixty-three, shall be the compensation of the secretary of the State for the additional duties imposed upon him by said chapter one hundred and thirty-four, but in all cases in which plats and certificates of surveys have been returned to the land office at Richmond, and all the fees there paid, the secretary shall not charge or receive any further fees."

Fees of secretary of the State.

Secretary to have the fees heretofore paid.

CHAPTER 6.—An ACT constituting a certain part of the bank of the Ohio River, within Jackson county, a lawful fence.

Passed February 4, 1868.

Be it enacted by the Legislature of West Virginia:

1. So much of the bank of the Ohio river, within the county of Jackson, as is included within the following boundary, to-wit: Beginning at E. Beatty's upper line, below the town of Murrayville, near the mouth of the first run; thence down the river to the lower line of James and Bennet Wheaton's lands, below the mouth of Carr's run, is hereby declared a lawful fence.

Part of bank specified.

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

Acts repealed.

Ohio River a Lawful Fence—Wm. E. Balsley. [CH. 7.]

CHAPTER 7.—An ACT constituting a certain part of the bank of the Ohio river within Jackson county a lawful fence.

Passed February 4, 1868.

Be it enacted by the Legislature of West Virginia:

Part of bank specified.

1. So much of the bank of the Ohio river as is included in the following boundary, to wit: Beginning at the mouth of Cedar run, in Jackson county, thence up the river to the mouth of Big Sand creek, is hereby declared a lawful fence.

Acts repealed.

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

CHAPTER 8.—An ACT for the relief of William E. Balsley, Jailor of Upshur county.

Passed February 5, 1868.

Be it enacted by the Legislature of West Virginia:

\$150.01 appropriated.

The auditor is hereby directed to issue his warrant on the treasurer for the sum of one hundred and sixty dollars and sixty-one cents, payable to William E. Balsley, jailor of Upshur county, for keeping and supporting Rachel Pringle, a lunatic, while confined in the jail of Upshur county.

CHAPTER 9.—An ACT to amend and re-enact the fifteenth section of an act providing for the completion of a line or lines of Railroad from the waters of the Chesapeake to the Ohio River, passed February twenty-sixth, eighteen hundred and sixty-seven.

Passed February 6, 1868.

Be it enacted by the Legislature of West Virginia:

That the fifteenth section of an act to provide for the completion of a line or lines of railroad, from the waters of the Chesapeake to the Ohio river, passed February twenty-sixth, eighteen hundred and sixty-seven, shall be and is hereby amended and re-enacted so as to read as follows:

Vote on county subscription to railroad.

Who may vote.

"15. It shall be lawful for the board of supervisors of any county, whether the vote of said county has already been taken thereon or not, to take the sense of the qualified voters of their county, and of all other white male residents thereof, who are neither minors, persons of unsound mind, paupers, nor under conviction of treason, felony or bribery, in an election, and who have been residents of the State for one year and of the county for thirty days, and are assessed with a tax therein for the year eighteen hundred and sixty-seven, upon the question of subscription to the stock of any company which may be authorized to construct the railroad from Covington, in the State of Virginia, to the Ohio river, at the mouth of the Kanawha or Sandy river, or both; and should a majority of the persons who may

vote on such question, vote in favor of the proposed subscription, the said board of supervisors shall appoint an agent to subscribe, on behalf of the county, for the amount of stock which may have been authorized by such vote, and to negotiate a loan, or loans, in the name of the county, at a rate of interest not exceeding ten per centam per annum, for the purpose of paying such subscription of stock; and said board of supervisors shall be authorized to issue the bonds, coupon or registered, of the county for the amount of such loans; and it shall be the duty of such board of supervisors, from time to time, to assess and collect taxes alike upon the taxable subjects of their county, including the same subjects in the incorporated towns and villages, sufficient to pay the interest on such loans, and for the final extinction of the principal thereof. No registration of the persons herein named, who are not qualified voters under the constitution of this State as amended, shall be required to enable such persons to vote on said question. It shall be the duty of the supervisors and inspectors of elections, at the several places of voting, to cause separate lists to be kept of the registered and non-registered persons who may vote on said question, and to keep their ballots separate. They shall also make separate returns showing the number of votes cast by each class of persons so voting, for and against such subscription. The vote shall be taken at the several places of voting in each county, and a notice thereof shall be posted at such places, and at three other public places in each township, at least twenty days prior thereto. Upon the failure of a majority of the said persons who may vote upon the said question of subscription, to vote in favor thereof, it shall be lawful for the board of supervisors to direct another vote of said persons to be taken upon the question of subscribing a different amount. It shall be lawful for the board of supervisors of any county to direct such vote to be taken upon the question of subscription to the stock of such company, upon such conditions as they may deem proper, which conditions the said board shall insert in their order directing the said vote, and if a majority of the vote cast on said question shall be in favor of such conditional subscription, the agent appointed as aforesaid to subscribe for said stock, shall subscribe for the same upon the conditions prescribed in the said order, which conditions shall be strictly complied with by said company, if it accepts such subscription; and upon the failure or refusal of the said company to comply with such conditions, or any of them, the circuit court of the county shall have full power and authority to compel such compliance by mandamus or injunction, or both, as the case may require; but nothing herein contained shall be so construed as to prevent the board of supervisors of any county in which a vote has already been had in favor of subscription to the stock of such company, from subscribing the amount of stock authorized by such vote, without submitting the question to another vote, and if the vote was for a subscription on conditions, the subscription shall be made on such conditions, and the company, if it accepts such subscription, shall comply with the conditions, which compliance may be compelled as aforesaid. The subscription made by the board of

Subscription, if majority favorable.

Issue of bonds.

Taxes for their payment.

Registration of certain persons not necessary to enable them to vote.

Separate lists of registered and non-registered voters.

Separate returns of their votes.

Places and notice of voting.

Supervisors in certain case may hold another election.

Subscription on conditions.

How compliance with such conditions compelled.

Subscription for stock heretofore voted not affected by this act.

Subscription of board of public works to W. Va. Central Railroad withdrawn.

Use of track from Charleston to mouth of Sandy.

Transfer of State interest in Covington and Ohio Railroad to company completing railroad.

Vote not to be taken on day of election of officers.

public works, on the part of this State, to the capital stock of the West Virginia Central Railway Company, under and by virtue of the act passed February twenty-fourth, eighteen hundred and sixty-five, entitled "An Act to amend the charter of the West Virginia Central Railway Company," is hereby withdrawn, and shall henceforth form no part of said capital stock, and the company which may be authorized to construct the railroad from Covington to the Ohio river, as aforesaid, may use the track of the Covington and Ohio Railroad from Charleston, in the county of Kanawha, to the mouth of Sandy, in the county of Wayne; and in case the said company shall enter upon the completion of said railroad, between the points last aforesaid, within one year after the passage of this act, and shall complete and put the same in running order from Charleston to the mouth of Sandy aforesaid, within three years after the passage of this act, then all the right, title and interest of this State in and to the track, masonry, works and property of the Covington and Ohio Railroad, between the said points, shall be and the same is hereby transferred to the said company so completing the said road; *Provided*, That no such vote shall be taken on any day on which an election for State, county or township officers is held.

CHAPTER 10.—An ACT changing the times of holding Courts in the Ninth Judicial Circuit.

Passed February 6, 1868.

Be it enacted by the Legislature of West Virginia:

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| Commencement of terms. | 1. The commencement of the terms of the circuit court in the several counties composing the ninth judicial circuit, after the first day of March next, shall be as follows: |
| Pocahontas. | For the county of Pocahontas, on the first of April, June, September and November. |
| Greenbrier. | For the county of Greenbrier, on the twelfth of April, June, September and November. |
| Monroe. | For the county of Monroe, on the twenty-fifth of April, June, September and November. |
| Mercer. | For the county of Mercer, on the seventh of March, May, October and December. |
| McDowell. | For the county of McDowell, on the thirteenth of March, May, October and December. |
| Act repealed. | 2. The act entitled "An Act to alter the terms of the circuit courts in the ninth circuit," passed February twelfth, eighteen hundred and sixty-six, is hereby repealed. |