

**ACTS**  
**AND**  
**RESOLUTIONS**  
**OF THE**  
**FORTY-THIRD**  
**LEGISLATURE**  
**OF**  
**WEST VIRGINIA**  
**REGULAR SESSION**  
**1937**

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**AND**  
**FIRST and SECOND**  
**EXTRAORDINARY SESSIONS**  
**(June 15-20, and December 14-16)**  
**1936**





## FOREWORD

This volume contains all the acts of the 1937 Regular Session of the Forty-Third Legislature, the acts of the First Extraordinary Session (June 15-20) 1936, and the acts of the Second Extraordinary Session (December 14-16) 1936. It also contains all Concurrent and Joint Resolutions as well as all Senate and House Resolutions adopted during these sessions.

During the sixty-day session, which convened January 13, 1937, 327 Senate Bills and 470 House Bills were introduced. Of these, 64 Senate and 96 House Bills passed both Houses. However, the Governor vetoed two Senate Bills (S. B. No. 40 and S. B. No. 277) and one House Bill (H. B. No. 441).

At the 1937 regular session there were one Senate Joint, 26 Senate Concurrent and 23 Senate Resolutions offered, of which 22 Senate Concurrent Resolutions and 20 Senate Resolutions were adopted. There were six House Joint, 38 House Concurrent and 42 House Resolutions offered, of which one House Joint, 23 House Concurrent and 34 House Resolutions were adopted.

The First Extraordinary Session of 1936 was convened for the purpose of enacting a Public Welfare Law, and the Second Extraordinary Session of 1936 was convened for the purpose of enacting an Unemployment Compensation Law. These laws were enacted and appear as Chapter One of the acts of the respective sessions.

The Advance copies of the Acts of the 1937 Regular Session were distributed as directed by House Concurrent Resolution No. 37 of that session.

There is no provision made for free distribution of the bound volume of the acts. Copies of this volume, indexed and bound in buckram, may be purchased from the Supervisor of Printing in the State Department of Purchases.

JOHN S. HALL,

*Clerk of the House of Delegates.*

## **ERRATA**

### **ACTS 1937, REGULAR SESSION**

Page 265, Chapter 56, change "Article 6. Taxation and Finance" to "Article 5. Taxation and Finance."

Page 615, S. C. R. No. 13, line 5, after the resolving clause, change the word "two" to the word "three."

**TABLE OF CONTENTS**

---

**ACTS AND RESOLUTIONS**

---

**Regular Session, 1937**

---

**GENERAL LAWS**

---

**APPROPRIATIONS**

<b>Chapter</b>	<b>Page</b>
1. General appropriations (Budget Bill).....	1
2. Markers for graves of Francis H. Pierpont and Julia A. Pierpont at Fairmont.....	74
3. Memorial to Confederate Veterans at Shepherdstown.....	76

**BANKS AND BANKING**

4. Loans and investments by banks and others under the Federal Housing Act.....	77
5. Limitation on loans by banking institutions and valuation of securities purchased.....	78
6. Interest on state and county deposits in depositories.....	82
7. Submitting to the voters the banking institutions constitutional amendment, removing the double liability of bank stockholders.....	84
8. Banking institutions incorporated under state laws but whose entire business is conducted without the state.....	87
9. Reports by banking institutions to Commissioner of Banking	90
10. Interest on state deposits in insolvent banking institutions ..	91
11. Repeal of business (gross sales) tax on business of banking	92

---

**BEER AND INTOXICATING LIQUORS**

Chapter	Page
12. Regulating the sale of nonintoxicating beer.....	93
13. Purchase and sale of intoxicating liquors and ethyl alcohol by wholesale and retail druggists.....	109
14. Opening and closing state liquor stores and agencies; intoxi- cation or drinking in public places; transportation of liquor into or through state.....	111

**CIRCUIT COURTS**

15. Eleventh circuit, terms of court (Pocahontas, Greenbrier, Monroe and Summers counties).....	117
16. Thirteenth circuit, judge authorized to appoint law clerk (Kanawha county).....	118
17. Fourteenth circuit, terms of court (Braxton, Clay, Gilmer and Webster counties).....	119

**CORPORATIONS**

18. Restoration of forfeited charter rights and franchises of cor- porations upon payment of delinquent license (charter) taxes .....	120
19. Method of consolidating or merging corporations.....	121
20. Appeal from valuation of public service corporation property	125
21. Collection of taxes of public service corporations .....	127
22. Director not to vote on question in which he is interested otherwise than as a stockholder.....	129

**COUNTY COURTS**

23. Salaries of County Commissioners for services other than in court .....	129
24. County Court may lease county lands for oil, gas or other minerals .....	132
25. Purchase of land and construction of buildings by County Courts with borrowed funds.....	133
26. When authorized levies for debt purposes are not required therefor, County Court may use same for current expenses	140

**DAIRYING AND AGRICULTURE**

<b>Chapter</b>	<b>Page</b>
27. Regulating the sale of agricultural lime.....	141
28. Regulating the sale of cream and butter.....	145
29. State aid for agricultural and industrial fairs.....	148
30. Deeds of trust for agricultural loans.....	150
31. Regulating the sale of meat, poultry, game, fish and shell fish	153
32. Regulating the sale of eggs.....	155

**EDUCATION**

33. Publication of financial statement by County Board of Education .....	159
34. Election, qualifications, removal and duties of County Super- intendent of Schools.....	160

**ELECTIONS**

35. Filing fees of candidates in primary elections .....	162
36. Corrupt practices in elections by employer or corporation.....	165

**HUNTING AND FISHING**

37. Dip net fishing for nongame fish in Berkeley and Jefferson counties .....	166
38. Classes and fees, hunting and fishing licenses.....	167

**INTERSTATE COOPERATION**

39. Creating West Virginia Commission on Interstate Coopera- tion .....	172
40. Uniform act on fresh pursuit and arrests.....	176
41. Uniform act to secure the attendance of witnesses from with- out the state in criminal proceedings .....	178
42. Uniform criminal extradition act.....	181
43. Uniform act for out-of-state parole supervision.....	192

**MINES AND MINING**

44. Regulating the use of explosives in mines.....	194
45. When miner paid by weight for coal mined, coal shall be weighed before it is screened.....	196

**MOTOR VEHICLES**

<b>Chapter</b>	<b>Page</b>
46. Regulations for motor vehicles passing street cars or school buses .....	197
47. Auditor as attorney for service of process on nonresident operator of motor vehicle involved in accident or collision on streets or highways of state .....	198
48. Regulations for motor vehicle transporting gasoline or explosives at railroad crossing .....	201
49. Certificate of title to motor vehicle; fee for and tax on .....	202
50. Regulation by Public Service Commission of motor vehicles used for the transportation of passengers and property for hire and private carriers of property .....	204
51. Registration fee, certificate and plates for motor vehicles ..	228

**MUNICIPALITIES**

52. Purchase, construction and operation of waterworks systems within municipalities and three miles extension beyond corporate limits; right of eminent domain .....	231
53. Hours of work by members of paid fire departments in municipalities having a population of eighteen thousand or more; firemen's and policemen's pension or relief funds .....	232
54. Political activity by members of fire departments under civil service prohibited .....	235
55. Municipal public works; revenue bonds for construction .....	236
56. Municipal home rule law .....	238
57. Civil service commission for members of municipal paid police departments .....	277
58. Arrest fee of one dollar taxed as part of costs when arrest made by officer of municipality having policemen's pension or relief fund .....	293

**NURSING**

59. Registration of nurses and illegal practice of nursing .....	294
60. Schools for nurses .....	295

**PLEADING AND PRACTICE**

<b>Chapter</b>	<b>Page</b>
61. Regulating assignment of assets of an insolvent debtor to a trustee for the benefit of all of his creditors .....	297
62. Admission to bail .....	311
63. When commissioner of accounts disqualified to act as such ...	312
64. Accounting by fiduciary and filing of inventories and appraisal .....	313
65. Duties of commissioner of accounts as to inventories and accounts of sale returned to him by fiduciaries .....	315
66. Appraisal of estate of deceased person .....	316
67. Competency of witnesses .....	318

**PROSECUTING ATTORNEYS**

68. Duties of prosecuting attorneys .....	319
69. Assistants and stenographers to prosecuting attorneys.....	321

**PUBLIC WELFARE**

70. Special grants for flood relief by department of public assistance .....	324
71. Administration of public welfare law by director in default of county compliance.....	326
72. Definition of "general relief" under public welfare law .....	328
73. Institutional care under public welfare law.....	329
74. "Special Fund" under public welfare law created.....	331
75. Liens against benefits to blind persons under public welfare law .....	332
76. Public assistance grants exempt from levy of execution or other legal process and taxation, except sales tax .....	333

**ROADS AND BRIDGES**

77. Issue of ten million dollars of bonds for road construction purposes authorized.....	334
78. Authority and control of State Road Commissioner over roads; advertisement of contracts .....	341
79. State convict road force .....	344
80. Regulation by State Road Commissioner of traffic on roads ..	350
81. Designation of streets and bridges within municipalities and of free interstate bridges as part of state road system .....	352

<b>Chapter</b>	<b>SALARIES</b>	<b>Page</b>
82.	Fixing salaries of certain elective and appointive state officers and judges and prohibiting the employment of his wife at public expense by any official or employee of the state .....	353
83.	Fixing salaries of sheriffs, county and circuit clerks and prosecuting attorneys .....	357
<b>STATE DEPARTMENTS AND INSTITUTIONS</b>		
84.	Attorney General, duty to represent state; instructions to prosecuting attorneys .....	363
85.	Attorney General, to appoint regular and special attorneys general .....	365
86.	Board of Control, to expend legislative appropriation for state penitentiary by increasing capacity, within or without penitentiary; Governor empowered to accept and provide for expenditure of federal funds for the purpose .....	365
87.	Board of School Fund, investment of fund; extension for payment of principal and interest .....	367
88.	Capitol Grounds, Board of Public Works to develop; Governor may appoint advisory committee to assist .....	369
89.	Department of Labor, appointment, powers and duties of commissioner; construction equipment of factories; regulations on operation of steam boilers .....	370
90.	Department of Labor, weights and measures, commissioner, deputies and inspectors; reports to .....	376
91.	Department of Public Safety, pensions for members and dependents .....	377
92.	Department of Public Safety, equipment, headquarters, etc., for members .....	379
93.	Department of Public Safety, superintendent authorized to establish radio broadcasting stations .....	382
94.	Governor, authorized to take proper action to secure benefits of federal appropriations made while the Legislature is not in session .....	385
95.	Historian and Archivist, duties; hours department to remain open .....	386
96.	Huntington state hospital, purchase of additional farm land ..	387
97.	Public Service Commission, appropriation to of accumulated special fund in treasury .....	389
98.	State Road Commission, authorized to sell property of road commission .....	391
99.	State treasury, payment of money from; form of checks and time of payment .....	391



## STATE DEPARTMENTS AND INSTITUTIONS (Continued)

Chapter	Page
100. Unemployment compensation, definitions; powers and duties of director of department; employment service division; when employing unit is subject to provisions of act; payments by employers; payments to unemployed; clearing and benefit accounts; work records of employing unit .....	393
101. West Virginia State College, establishing a Four-H camp, institute and state exhibit for negroes.....	411
102. West Virginia Training School, admission; discharge or parole from .....	414
103. West Virginia University, transfer of funds to purchase the Hunt properties.....	415
104. Workmen's compensation, state and its agencies and departments to subscribe to; employers and employees; classification of industries and premiums; when certain defenses to actions prohibited; injury self-inflicted or intentionally caused by employer.....	416

## TAXES AND TAXATION

105. Business and occupation tax (gross sales), measure and amount of tax on business of selling tangible property; exemptions .....	433
106. Business and occupation tax (gross sales), exemption in amount of tax and of certain businesses; penalty for default in payment; collection of delinquent tax .....	434
107. Business and occupation tax (gross sales), collection of delinquent tax on certain carrier corporations.....	437
108. Consumers sales tax and an additional surtax on certain businesses and occupations; definitions; amount of tax; exemptions .....	439
109. Gasoline tax, amount; collection; expiration of additional tax of one cent per gallon .....	450
110. Gasoline tax, refund .....	452
111. Income tax, graduated rate on net income; determination of gain or loss from sale of property; deductions; reports .....	453
112. Inheritance and transfer tax, exemptions.....	455
113. Listing property (including public utilities) for purpose of taxation .....	457
114. State license tax, for what businesses required .....	460

**GENERAL LAWS (Unclassified)**

<b>Chapter</b>	<b>Page</b>
115. Acts of Legislature, headings, headnotes, etc., are catchwords and not part of acts.....	463
116. Assessors, annual meeting.....	464
117. Bonds, official, time for giving.....	465
118. Bonds, refunding, of counties, districts, municipalities and other political divisions.....	467
119. Bonds, validating bonds and other obligations issued by public bodies for public works projects.....	469
120. Bonds, state and political subdivisions, revenue producing works .....	471
121. Dentistry, regulating practice of.....	485
122. Eminent domain, right of exercised by state or political subdivision; when proceeding may not be abandoned.....	490
123. Fair trade act, contracts establishing minimum resale prices .	492
124. Marriage, license not to issue until after three days written application; when notice may be dispensed with.....	495
125. Optometry, regulating practice of.....	497
126. Pipe lines, penalty for breaking and stealing therefrom .....	500
127. Real estate, creating West Virginia Real Estate Commission	502
128. Redistricting, apportioning membership in state Senate .....	510
129. Smallpox and diphtheria, compulsory vaccination for before entering school.....	512
130. Stream pollution, abatement of by State Water Commission....	514
131. Wages, assignment of.....	519
132. Wages, minimum rate on public improvements .....	521

## LOCAL LAWS

Chapter	Page
133. Barbour County Court authorized to pay Herman J. Poling for services as prosecuting attorney.....	523
134. Braxton County Court authorized, with consent of the holders, to postpone payment of certificates of indebtedness.....	524
135. Clay County Court authorized to pay Wilma Pugh for services	525
136. Clay County Court authorized to pay J. W. Wheeler, ex-sheriff, for extra expense of office.....	526
137. Fairmont, Marion County, authorized to furnish water from its municipal waterworks to corporations and persons in the county.....	527
138. Gilmer County Court authorized to transfer contractual debt fund (not bonded) to general county fund.....	528
139. Grafton, Taylor County, city hospital.....	528
*140. Grafton, Taylor County, city hospital, increase of levies.....	535
141. Harrison County Court authorized to transfer balance of courthouse fund to general county fund.....	537
142. Harrison County Court authorized to transfer balance of contractual debt fund to general county fund.....	537
143. Kanawha County, terms of intermediate court.....	538
144. Kanawha County, M. H. Hix, clerk of circuit, common pleas and intermediate courts, relieved of personal liability for payment of certain sums for costs, deposited in Peoples Exchange Bank.....	539
145. Kanawha County, J. M. Slack, former county clerk, relieved of personal liability for payment of certain sums for costs, deposited in Peoples Exchange Bank and Security Bank and Trust Company.....	540
146. Kanawha County Court authorized to provide compensation for George Dudley, former deputy sheriff, injured in line of duty.....	541
147. Kanawha County Board of Education authorized to settle claim of Thomas C. Halstead for alleged negligent operation of a school bus in Cabin Creek district.....	542

\* Amending Chapter 139, this volume.

Chapter	LOCAL LAWS (Continued)	Page
148.	Kanawha County Court authorized to expend not to exceed fifteen thousand dollars annually for construction and maintenance of Four-H camp .....	542
149.	Lincoln County Board of Education authorized to construct bridges for use of school pupils .....	543
150.	Mercer County Board of Education and sheriff authorized to transfer certain magisterial district funds to building and maintenance fund of board .....	544
151.	Nicholas County Court authorized to lay an additional county levy .....	545
152.	Raleigh County Court authorized to lay an additional county levy .....	547
153.	Randolph County Court authorized to transfer funds from general county road fund to general county fund .....	550
154.	Webster County Court, with consent of the holders, authorized to postpone payment of certificates of indebtedness .....	550
155.	Webster County Court authorized to lay an additional county levy .....	552
156.	Wetzel County hospital, revenue bonds; board of visitors .....	554
157.	Wheeling city library, board of trustees .....	558

## RESOLUTIONS

## HOUSE CONCURRENT RESOLUTIONS

Number	Page
1. Raising a joint committee to notify the Governor that the Legislature was organized.....	561
2. Concerning death of Miss Elizabeth Kump .....	561
4. Raising a joint assembly to hear biennial message of the Governor .....	562
5. Extending time for submission of Budget Bill.....	562
8. Parking space for automobiles of members of the Legislature	563
9. Raising a joint committee to consider construction of a capitol office building .....	564
13. Establishment of Reserve Officers' Training Corps Unit at West Virginia State College.....	565
14. Inviting the Governor to address the Legislature .....	566
15. Providing for a joint assembly to hear an address by the Governor .....	567
18. Deploring the death of the Honorable Ben H. Butcher .....	567
20. Concerning the death of the Honorable John L. Wever .....	569
21. Relating to the death of Mr. Robert H. Horner.....	570
22. Approving 160th anniversary of organization of Greenbrier County .....	571
23. Requesting editors of National Geographic Magazine to publicize West Virginia .....	572
25. Concerning state printing .....	573
28. Relating to the death of the Honorable Roy R. Hornor.....	574
30. Approving 100th anniversary of City of Beckley.....	575
31. Granting permission to introduce a bill relating to Grafton municipal hospital .....	575
32. Granting permission to introduce a bill concerning Public Service Commission funds .....	576
34. Granting permission to introduce a bill relating to bridges ...	576
35. Appreciation of administration of Colonel P. D. Shingleton as Superintendent of Department of Public Safety.....	577

## HOUSE CONCURRENT RESOLUTIONS (Continued)

Number	Page
37. Authorizing printing and distribution of acts of this session of the Legislature.....	578
38. Raising a joint committee to notify the Governor that the Legislature was ready to adjourn sine die.....	580

## HOUSE JOINT RESOLUTION

3. Proposing "Banking Institutions Amendment" to section six, article eleven of the State Constitution.....	581
---	-----

## HOUSE RESOLUTIONS

1. Adopting rules of the House of Delegates .....	581
2. Election of Speaker and other House officers.....	581
3. Raising committee to notify Senate that House was organized	583
4. Authorizing appointment of delegates to Third General Assembly.....	583
5. Authorizing publication of Legislative Manual .....	585
6. Payment of mileage of members of the House of Delegates ..	585
7. Providing for mailing list for House Journals .....	588
8. Payment for services preliminary to opening of session .....	588
9. Authorizing Clerk to procure codes for members of the House of Delegates .....	589
10. Expressing confidence in the honesty, integrity and character of the Honorable D. Homer Stephenson.....	589
11. Requesting members, officers and employees of House to contribute to the American Red Cross .....	591
12. Concerning the death of Mr. J. W. Calvert.....	591
13. Payment of expenses of committee to attend funeral of Miss Elizabeth Kump .....	592
14. Expressing confidence in the honesty, integrity and character of the Honorable John B. Wilson.....	593
15. Memorializing Congress to appropriate funds for survey of flood conditions in Ohio Valley.....	594
16. Authorizing the appointment of attaches for the House of Delegates .....	595
17. Appointment of assistant janitors.....	598
19. Payment of expenses of delegate to Interstate Commission on Crime.....	599

HOUSE RESOLUTIONS (Continued)	
Number	Page
21. Payment of expenses of delegates to Third General Assembly	599
23. Amending Rule No. 69 of the House of Delegates.....	600
24. Deploring illness of the Honorable Ben H. Butcher.....	600
25. Deploring illness of the Honorable W. A. Light.....	601
28. Authorizing Rules Committee to arrange a special calendar....	602
29. Raising a committee to consider advisability of installing amplifying system in House chamber.....	602
30. Authorizing payment of expenses of committee to attend funeral of the Honorable John L. Wever.....	603
31. Deploring the death of Major Joseph E. Chilton.....	603
32. Concerning a banquet in honor of the Speaker.....	604
34. Payment of salaries of members appointed to fill vacancies....	605
35. Payment of mileage of the Honorable Joseph D. Fry and of the Doorkeeper.....	605
37. Raising a committee to investigate the Department of Public Assistance .....	606
38. Relating to markers on state route number two, showing location of Mound in Marshall County.....	607
40. Amending House rules, relating to joint sponsors of bills .....	607
41. Authorizing printing of Journals and Bills.....	608
42. Raising a committee to notify Senate that House was ready to adjourn sine die .....	609

#### SENATE CONCURRENT RESOLUTIONS

1. Concerning death of mother of Senator Dan B. Fleming .....	610
2. Concerning the death of the Honorable M. O. Rouss .....	610
3. Adoption of joint rules of the Senate and House of Delegates	611
4. Authorizing payment of legislative expenses in advance of appropriation.....	611
6. Providing for a recess of the Legislature.....	612
7. Postponing legislative hearings on Unemployment Compensa- tion .....	612
8. Setting date for legislative hearings on Unemployment Com- pensation .....	613
9. Requesting Congress to appropriate funds for survey of flood conditions in the Ohio Valley.....	613

<b>SENATE CONCURRENT RESOLUTIONS (Continued)</b>	
<b>Number</b>	<b>Page</b>
11. Requesting State Department of Education to make survey on loss of school property in flood area.....	614
13. Creating New York World Fair Commission of the State of West Virginia.....	615
15. Requesting West Virginia members of the Congress to secure federal funds to replace school property and equipment destroyed by flood.....	616
16. Giving assent of Legislature to Bankhead-Jones Act.....	617
17. Raising a joint committee to draft Municipal Home Rule legislation.....	618
18. Endorsing and approving efforts of the President to improve and strengthen the federal judiciary.....	619
19. Creating an interim legislative committee.....	619
20. Granting permission to introduce a bill relating to deeds of trust for agricultural loans.....	622
21. Approving celebration of the 100th anniversary of the foundation of Mercer County.....	622
22. Endorsing the sesqui-centennial celebration of invention of steamboat by James Rumsey.....	623
23. Providing for joint memorial service in memory of deceased members.....	624
24. Granting permission to introduce a bill providing for development of capitol grounds.....	625
25. Commending members of the press.....	625
26. Authorizing payment of expenses of Legislature after close of session.....	626

#### **SENATE RESOLUTIONS**

1. Authorizing appointment of committee to notify House that Senate was organized.....	627
2. Adopting rules of the Senate.....	627
3. Authorizing Clerk to mail Journals and Bills.....	627
4. Authorizing appointment of delegates to Third General Assembly.....	628
5. Authorizing the appointment of attaches.....	629
6. Payment for services preliminary to session.....	630
7. Fixing per diem of assistant janitors.....	631



---

SENATE RESOLUTIONS (Continued)	
Number	Page
8. Expressing confidence in the honesty, integrity and character of the Honorable D. Homer Stephenson .....	631
9. Expressing confidence in the honesty, integrity and character of the Honorable John B. Wilson .....	632
10. Payment of expenses of members attending funerals .....	633
11. Payment of G. B. Heare for services to the Senate .....	634
14. Requesting Commissioner of Banking to make study of, and report on, small loan business .....	634
16. Authorizing Committee on Rules to arrange special calendar .....	636
17. Payment of expenses of committee to attend funeral of the Honorable John L. Wever .....	636
18. Relating to persons allowed the privilege of the floor .....	637
19. Payment of expenses of committee to attend funeral of the Honorable Ben H. Butcher .....	637
20. Providing for janitor service after adjournment .....	638
21. Extending per diems of officers and attaches to complete work of session .....	638
22. Authorizing payment for stenographic services rendered the President of the Senate .....	639
23. Raising a committee to notify the House that the Senate was ready to adjourn sine die .....	640

# LIST OF MEMBERS AND OFFICERS OF THE LEGISLATURE OF WEST VIRGINIA

REGULAR SESSION, 1937

## SENATE

### OFFICERS

*President*—CHARLES E. HODGES, Morgantown.

*Clerk*—CHARLES LIVELY, Weston

*Sergeant-at-Arms*—C. P. DENT, Montgomery

*Doorkeeper*—M. W. HEFNER, Burnsville.

District	Members	Address
<b>First</b>	†Carl B. Galbraith (D)	Wheeling
	*James Paull, Jr. (D)	Wellsburg
<b>Second</b>	Frank A. Young (R)	Sistersville
	*L. B. Snyder (D)	New Martinsville
<b>Third</b>	Clinton L. Howard (D)	Parkersburg
	*Dan B. Fleming (D)	St. Marys
<b>Fourth</b>	L. O. Curtis (R)	Spencer
	*Howard S. Johnson (R)	Point Pleasant
<b>Fifth</b>	J. Patrick Beacom (D)	Huntington
	*C. N. Hall (D)	Hamlin
<b>Sixth</b>	John H. Greene (D)	Williamson
	*C. Frank Millender (D)	Wayne
<b>Seventh</b>	O. C. Canterbury (D)	Beckley
	*W. Broughton Johnston (D)	Princeton
<b>Eighth</b>	Alvin J. Barnhart (D)	Charleston
	*John J. Pelter (D)	Dehue
<b>Ninth</b>	F. W. Tuckwiller (D)	Lewisburg
	*Emmett O. Wiseman (D)	Fayetteville
<b>Tenth</b>	G. C. Belknap (D)	Gassaway
	*Fred C. Allen (D)	Marlinton
<b>Eleventh</b>	Chas. E. Hodges (D)	Morgantown
	*Earl H. Smith (D)	Fairmont
<b>Twelfth</b>	Byron B. Randolph (D)	Clarksburg
	*George W. Jackson (D)	Jane Lew
<b>Thirteenth</b>	G. O. Young (R)	Buckhannon
	*J. Buhl Shahan (D)	Elkins
<b>Fourteenth</b>	E. Bunker Reynolds (R)	Keyser
	*A. L. Helmick (R)	Thomas
<b>Fifteenth</b>	†Clayton L. Haines (D)	Charles Town
	*D. Grove Moler (D)	Martinsburg

\* Hold-over Senators, who will serve in the 1939 session.

† Appointed to fill vacancy caused by the resignation of Senator C. Lee Spillers.

‡ Appointed to fill vacancy caused by the death of Senator M. O. Rouss.

(D) Democrats	24
(R) Republicans	6
<b>Total</b>	<b>30</b>

## Standing Committees of the Senate

### RULES

Messrs. Hodges (*Chairman ex officio*), Paull, Fleming, Barnhart and Helmick.

### PRIVILEGES AND ELECTIONS

Messrs. Beacom (*Chairman*), Millender, Belknap, Shahan, Randolph, Haines, Jackson, Young (of Tyler) and Curtis.

### THE JUDICIARY

Messrs. Paull (*Chairman*), Greene, Fleming, Beacom, Barnhart, Tuckwiller, Belknap, Smith, Randolph, Shahan, Johnston (of Mercer), Pelter, Moler, Galbraith, Howard, Reynolds, Young (of Tyler) and Curtis.

### FINANCE

Messrs. Barnhart (*Chairman*), Howard, Paull, Fleming, Greene, Millender, Tuckwiller, Smith, Snyder, Haines, Wiseman, Hall, Jackson, Allen, Canterbury, Helmick, Reynolds and Young (of Upshur).

### EDUCATION

Messrs. Smith (*Chairman*), Wiseman, Paull, Fleming, Pelter, Hall, Allen, Helmick and Reynolds.

### COUNTIES AND MUNICIPAL CORPORATIONS

Messrs. Greene (*Chairman*), Galbraith, Howard, Beacom, Barnhart, Randolph, Moler, Young (of Upshur) and Helmick.

### ROADS AND NAVIGATION

Messrs. Howard (*Chairman*), Belknap, Beacom, Millender, Canterbury, Smith, Randolph, Shahan, Johnston (of Mercer), Pelter, Galbraith, Moler, Wiseman, Snyder, Helmick, Young (of Upshur) and Young (of Tyler).

### BANKS AND CORPORATIONS

Messrs. Tuckwiller (*Chairman*), Fleming, Allen, Pelter, Galbraith, Haines, Jackson, Helmick and Young (of Upshur).

**PUBLIC BUILDINGS AND HUMANE INSTITUTIONS**

Messrs. Canterbury (*Chairman*), Galbraith, Howard, Beacom, Millender, Snyder, Randolph, Wiseman, Allen, Curtis and Johnson (of Mason).

**THE PENITENTIARY**

Messrs. Snyder (*Chairman*), Galbraith, Belknap, Tuckwiller, Smith, Hall, Beacom, Helmick and Young (of Tyler).

**RAILROADS**

Messrs. Belknap (*Chairman*), Tuckwiller, Paull, Greene, Pelter, Jackson, Canterbury, Helmick and Reynolds.

**MILITIA**

Messrs. Hall (*Chairman*), Canterbury, Smith, Beacom, Johnston (of Mercer), Haines, Wiseman, Curtis and Johnson (of Mason).

**FEDERAL RELATIONS**

Messrs. Wiseman (*Chairman*), Jackson, Fleming, Canterbury, Johnston (of Mercer), Haines, Smith, Young (of Tyler) and Curtis.

**INSURANCE**

Messrs. Johnston (of Mercer) (*Chairman*), Moler, Paull, Greene, Hall, Tuckwiller, Pelter, Reynolds and Young (of Upshur).

**AGRICULTURE**

Messrs. Haines (*Chairman*), Shahan, Millender, Tuckwiller, Belknap, Hall, Allen, Helmick and Curtis.

**MINES AND MINING**

Messrs. Pelter (*Chairman*), Greene, Canterbury, Barnhart, Shahan, Smith, Wiseman, Helmick and Reynolds.

**MEDICINE AND SANITATION**

Messrs. Allen (*Chairman*), Snyder, Beacom, Barnhart, Greene, Moler, Wiseman, Young (of Upshur) and Johnson (of Mason.)

**LABOR**

Messrs. Randolph (*Chairman*), Shahan, Fleming, Greene, Barnhart, Galbraith, Snyder, Reynolds and Johnson (of Mason).

**CLAIMS AND GRIEVANCES**

Messrs. Fleming (*Chairman*), Paull, Millender, Barnhart, Pelter, Hall, Allen, Young (of Tyler) and Curtis.

**FORFEITED, DELINQUENT AND UNAPPROPRIATED LANDS**

Messrs. Moler (*Chairman*), Howard, Randolph, Galbraith, Johnston (of Mercer), Jackson, Greene, Reynolds and Young (of Tyler).

**PUBLIC LIBRARY**

Messrs. Shahan (*Chairman*), Beacom, Canterbury, Johnston (of Mercer), Haines, Wiseman, Snyder, Young (of Tyler) and Johnson (of Mason).

**PUBLIC PRINTING**

Messrs. Galbraith (*Chairman*), Howard, Canterbury, Belknap, Haines, Hall, Snyder, Curtis and Johnson (of Mason).

**TO EXAMINE THE CLERK'S OFFICE**

Messrs. Jackson (*Chairman*), Snyder and Johnson (of Mason).

**TEMPERANCE**

Messrs. Howard (*Chairman*), Johnston (of Mercer), Tuckwiller, Shahan, Pelter, Moler, Hall, Helmick and Young (of Upshur).

**FORESTRY AND CONSERVATION**

Messrs. Millender (*Chairman*), Allen, Howard, Barnhart, Belknap, Wiseman, Moler, Smith, Jackson, Reynolds and Young (of Upshur).

**REDISTRICTING**

Messrs. Fleming (*Chairman*), Randolph, Paull, Greene, Barnhart, Tuckwiller, Moler, Helmick and Young (of Tyler).

**INTERSTATE ASSEMBLY**

Messrs. Randolph (*Chairman*), Beacom, Johnston (of Mercer), Galbraith and Helmick.

**JOINT COMMITTEE ON ENROLLED BILLS ON THE PART OF THE SENATE**

Messrs. Galbraith (*Chairman*), Belknap, Millender, Jackson and Reynolds.

**JOINT COMMITTEE ON JOINT RULES ON THE PART OF THE SENATE**

Messrs. Hodges (*Chairman ex officio*), Fleming and Helmick.

# HOUSE OF DELEGATES

## OFFICERS

*Speaker*—JAMES KAY THOMAS, Charleston  
*Clerk*—JOHN S. HALL, Williamson  
*Sergeant-at-Arms*—HARRY HOLSWADE, Spencer  
*Doorkeeper*—CLARK NEAL, Fenwick

County	Members	Address
Barbour	Wm. Taylor George, Jr. (D)	Philippi
Berkeley	Joseph D. Fry* (D)	Hedgesville
Boone	E. E. White (D)	Madison
Braxton	Claude R. Linger (D)	Burnsville
Brooke	B. O. Cresap (D)	Wellsburg
Cabell	Geo. H. Gunnoe (D)	Huntington
	W. D. Keister (D)	Huntington
	A. M. Martin (D)	Barboursville
	J. B. Porter (D)	Huntington
	Claude V. Swann (D)	Huntington
Calhoun	C. C. Kingsbury (D)	Rocksdale
Clay	W. C. Bobbitt (D)	Clay
Doddridge	S. L. Smith (R)	West Union
Fayette	R. L. Matthews (D)	Montgomery
	J. Alfred Taylor (D)	Fayetteville
	J. Alex. Tinsley (D)	Ansted
	Mrs. Nell W. Walker (D)	Winona
Gilmer	Emmett J. Bush (D)	Glenville
Grant	Melvin C. Muntzing (R)	Maysville
Greenbrier	John B. Sydenstricker (D)	Lewisburg
	Harry L. Van Sickler (D)	Lewisburg
Hampshire	William T. Milleson (D)	Springfield
Hancock	William J. Long (D)	Weirton
Hardy	George Miley (D)	Moorefield
Harrison	Howard J. James (D)	Clarksburg
	Wm. Bryan Jennings (D)	Lost Creek
	Edgar E. Righter (D)	Shinnston, R. D. 2
	Fred L. Shinn (D)	Clarksburg
Jackson	Charles F. Ong (R)	Ripley
Jefferson	John Cochran Skinner (D)	Charles Town
Kanawha	W. T. Brotherton (D)	Charleston
	Carl C. Calvert (D)	Chelyan
	Roy F. Jimison (D)	Kayford
	K. L. McClung (D)	Charleston
	E. M. McConihay (D)	Chesapeake
	P. H. Murphy (D)	Charleston
	R. N. Stephens, Jr. (D)	Charleston
	James Kay Thomas (D)	Charleston
	Kenneth S. Kurtz (R)	Weston
Lewis	Greely Isaacs (D)	Branchland
Lincoln	W. Carson Browning (D)	Logan
	Hugh Paul (D)	Logan
	Lester Perry (D)	Logan

HOUSE OF DELEGATES

XXV

County	Members	Address
Marion	Fred L. Doring (D)	Fairmont
	Robert L. McCoy (D)	Fairmont
	Ashby L. Thomas (D)	Barrackville
Marshall	Charles Heath (D)	Moundsville
	John Storm (D)	Wheeling, R. D. 2
Mason	Jason T. Weissenburger (R)	Point Pleasant
Mercer	John W. Haldren (D)	Bluefield
	W. A. Light (D)	Bluefield
Mineral	H. Dennis Wright (D)	Montcalm
	H. G. Shores (D)	Keyser
Mingo	Mark Russell, Jr. (D)	Williamson
	Glenn Taylor (D)	Matewan
Monongalia	Harold D. Slaven (D)	Morgantown
	Junius M. Strouss (D)	Morgantown
	William M. LaFon (D)	Union
Morgan	H. D. Beeler (R)	Berkeley Springs
McDowell	George Evans (D)	Jaeger
	Lewis E. Fite (D)	War
	Lee L. Foster (D)	Northfork
	Fleming A. Jones, Jr. (D)	Welch
	Harry R. Pauley (D)	Jaeger
Nicholas	J. A. Neal (D)	Fenwick
Ohio	Malcolm T. Brice (D)	Wheeling
	William H. Havercamp (D)	Wheeling
	George W. Oldham (D)	Wheeling
	Stephen J. Russek (D)	Wheeling
Pendleton	Robert L. Eye (D)	Franklin
Pleasants	J. C. Powell (R)	St. Marys
Pocahontas	June McElwee (D)	Marlinton
Preston	Clarence B. Bishoff (R)	Manheim
Putnam	Virgil M. Bias (D)	Hurricane
Raleigh	T. E. Bibb (D)	Beckley
	O. C. Flint (D)	Beckley
	Ermil D. Hodson (D)	Stanaford
Randolph	John W. Bosworth (D)	Elkins
Ritchie	Robert Morris (R)	Harrisville
Roane	A. T. Gordon (R)	Spencer
Summers	Forest L. McNeer (D)	Hinton
Taylor	William J. Hussion (D)	Grafton
Tucker	Lloyd Erhard (D)	Davis
Tyler	Orren L. Jones (R)	Middlebourne
Upshur	Lorentz Sec (R)	French Creek
Wayne	Grover C. Hunter (D)	Wayne
	James O. Marcum (D)	Ceredo
Webster	E. H. Morton (D)	Webster Springs
Wetzel	John W. Pyles (D)	New Martinsville
Wirt	Delbert C. Daugherty (D)	Sandyville, R. D. 1
Wood	Geo. W. Dye (D)	Parkersburg
	T. H. McKinley (D)	Parkersburg
	A. D. Prunty† (D)	Williamstown
Wyoming	J. O. Bailiff (D)	Mullens

\* Appointed to fill vacancy caused by the death of Delegate John L. Wever.

† Appointed to fill the vacancy caused by the death of Delegate Ben H. Butcher.

(D) Democrats	82
(R) Republicans	12

Total 94

## Standing Committees of the House of Delegates

### AGRICULTURE

Messrs. Brotherton (*Chairman*), Eye (*Vice Chairman*), Bobbitt, Bosworth, Bush, Daugherty, Dye, Heath, Isaacs, Keister, Miley, Milleson, Neal, Righter, Sydenstricker, Thomas (of Marion), Muntzing, Ong and See.

### ARTS, SCIENCE, AND GENERAL IMPROVEMENTS

Messrs. Storm (*Chairman*), Daugherty (*Vice Chairman*), Bibb, Bosworth, Brice, Brotherton, Browning, Hunter, McKinley, Miley, Morton, Pauley, Righter, Slaven, Swann, Mrs. Walker, Messrs. Muntzing, Ong and Smith.

### BANKS AND CORPORATIONS

Messrs. White (*Chairman*), Matthews (*Vice Chairman*), Brotherton, Browning, Dye, Hussion, Jennings, LaFon, McCoy, McNeer, Russek, Shinn, Skinner, Mrs. Walker, Messrs. Beeler, Muntzing and Weissenburger.

### CLAIMS AND GRIEVANCES

Messrs. Taylor (of Fayette) (*Chairman*), Jimison (*Vice Chairman*), Bobbitt, Daugherty, Dye, Flint, Fry, Haldren, Havercamp, Heath, Hodson, Isaacs, Oldham, Perry, Stephens, Sydenstricker, Bishoff, Jones (of Tyler) and Morris.

### COUNTIES, DISTRICTS AND MUNICIPAL CORPORATIONS

Messrs. McCoy (*Chairman*), Light (*Vice Chairman*), Brice, Calvert, Isaacs, Marcum, Matthews, McClung, McNeer, Porter, Righter, Russek, Strouss, Swann, Van Sickler, Jones (of Tyler), Kurtz and Smith.

### EDUCATION

Messrs. Oldham (*Chairman*), Linger (*Vice Chairman*), Bobbitt, Bush, Calvert, Heath, Hunter, James, Jimison, Jones (of McDowell), Marcum, Martin, Matthews, McNeer, Perry, Strouss, Thomas (of Marion), Wright, Jones (of Tyler), Powell and Smith.



**ELECTIONS AND PRIVILEGES**

Messrs. Porter (*Chairman*), Tinsley (*Vice Chairman*), Erhard, Eye, Flint, Foster, Haldren, Hussion, Keister, Marcum, McClung, McNeer, Murphy, Oldham, Perry, Shinn, Bishoff, Gordon and Morris.

**EXECUTIVE OFFICES AND LIBRARY**

Messrs. Fite (*Chairman*), Heath (*Vice Chairman*), Bias, Evans, Haldren, McConihay, McKinley, Prunty, Righter, Shores, Swann, Tinsley, Bishoff, Jones (of Tyler) and See.

**FEDERAL RELATIONS**

Messrs. Martin (*Chairman*), Bias (*Vice Chairman*), Cresap, Daugherty, Foster, Fry, George, Gunnoe, Jones (of McDowell), Matthews, McConihay, McElwee, McKinley, Prunty, Sydenstricker, Mrs. Walker, Messrs. Wright, Powell, Smith and Weissenburger.

**FORESTRY AND CONSERVATION**

Messrs. Erhard (*Chairman*), McElwee (*Vice Chairman*), Bias, Bush, Cresap, Hussion, Jennings, Miley, Milleson, Neal, Pauley, Prunty, Taylor (of Mingo), Thomas (of Marion), Gordon, Ong and See.

**FORFEITED, DELINQUENT AND UNAPPROPRIATED LANDS**

Messrs. Paul (*Chairman*), Murphy (*Vice Chairman*), Evans, Fite, Gunnoe, Isaacs, McKinley, Porter, Russell, Shinn, Shores, Skinner, Stephens, Taylor (of Fayette), Beeler, Gordon and Morris.

**GAME AND FISH**

Messrs. Calvert (*Chairman*), Skinner (*Vice Chairman*), Erhard, Eye, George, Haldren, Hunter, Isaacs, Keister, Kingsbury, McElwee, Milleson, Pyles, Righter, Swann, Thomas (of Marion), Tinsley, Beeler, Bishoff and See.

**HUMANE INSTITUTIONS AND PUBLIC BUILDINGS**

Messrs. Hussion (*Chairman*), Gunnoe (*Vice Chairman*), Bibb, Browning, Evans, Havercamp, Hodson, James, Kingsbury, Linger, Martin, Taylor (of Fayette), Thomas (of Marion), Mrs. Walker, Messrs. Gordon, Powell and See.

## INSURANCE

Messrs. Shinn (*Chairman*), Keister (*Vice Chairman*), Bush, Doring, Evans, Light, Marcum, Martin, Matthews, McClung, McKinley, Miley, Righter, Stephens, Kurtz, Smith and Weissenburger.

## JUDICIARY

Messrs. LaFon (*Chairman*), George, Gunnoe, James, Jones (of McDowell), Marcum, Morton, Murphy, Porter, Prunty, Russell, Shinn, Shores, Skinner, Slaven, Stephens, Van Sickler, Kurtz, Powell and Weissenburger.

## LABOR

Messrs. Hodson (*Chairman*), Hussion (*Vice Chairman*), Bailiff, Calvert, Flint, Fry, George, Haldren, Havercamp, Jennings, Long, Marcum, McConihay, Pauley, Slaven, Storm, Taylor (of Fayette), Taylor (of Mingo), Tinsley, Wright, Muntzing, Smith and Weissenburger.

## MEDICINE AND SANITATION

Messrs. Bailiff (*Chairman*), Pyles (*Vice Chairman*), Bias, Brotherton, Evans, George, Havercamp, Hunter, Jones (of McDowell), McCoy, Morton, Murphy, Swann, Taylor (of Mingo), Gordon, Morris and Ong.

## MILITARY AFFAIRS

Messrs. Jones (of McDowell) (*Chairman*), McClung (*Vice Chairman*), Bailiff, Bias, Bibb, Bobbitt, Brice, Calvert, Evans, Long, Pauley, Pyles, Russell, Thomas (of Marion), Bishoff, Ong and Powell.

## MINES AND MINING

Messrs. Bibb (*Chairman*), Paul (*Vice Chairman*), Bailiff, Browning, Cresap, Erhard, Fite, Flint, Foster, Havercamp, Jennings, Jimison, McClung, McCoy, Neal, Russell, Slaven, Taylor (of Fayette), White, Wright, Jones (of Tyler), Kurtz and See.

## PENITENTIARY

Messrs. Russek (*Chairman*), Hunter (*Vice Chairman*), Brice, Calvert, Cresap, Daugherty, Doring, Fite, Flint, Kingsbury, Linger, Long, Perry, Pyles, Russell, Shores, Storm, White, Bishoff, Jones (of Tyler) and Ong.

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**PRINTING AND CONTINGENT EXPENSES**

Messrs. Dye (*Chairman*), Brice (*Vice Chairman*), Gunnoe, Hussion, Isaacs, James, Keister, Milleson, Oldham, Stephens, Strouss, Beeler, Gordon and Morris.

**RAILROADS**

Messrs. Morton (*Chairman*), Russell (*Vice Chairman*), Bailiff, Bibb, Doringer, Foster, Hunter, Linger, Long, Marcum, McElwee, Neal, Paul, Prunty, Russek, Stephens, Storm, Tinsley, Van Sickler, Beeler, Kurtz and Muntzing.

**REDISTRICTING**

Messrs. Russell (*Chairman*), Kingsbury (*Vice Chairman*), Bailiff, Brice, Fite, Fry, Gunnoe, Havercamp, Light, Long, Murphy, Perry, Prunty, Shores, Sydenstricker, Taylor (of Fayette), White, Wright, Kurtz, Powell and Weissenburger.

**ROADS**

Messrs. Van Sickler (*Chairman*), Jennings (*Vice Chairman*), Bobbitt, Browning, Bush, Cresap, Dye, Erhard, George, Heath, Isaacs, Jimison, Kingsbury, McClung, Miley, Morton, Neal, Pauley, Skinner, Taylor (of Mingo), Bishoff, Gordon and Muntzing.

**RULES**

Messrs. Thomas (Mr. Speaker) (*Chairman*), Doringer, LaFon, Paul, Shinn, Strouss, Van Sickler and Kurtz.

**STATE BOUNDARIES**

Messrs. Shores (*Chairman*), McNeer (*Vice Chairman*), Bosworth, Dye, Eye, Fry, Haldren, Light, McConihay, McElwee, McKinley, Milleson, Paul, Perry, Porter, Pyles, Skinner, Slaven, Taylor (of Mingo), Bishoff, Morris and See.

**TAXATION AND FINANCE**

Messrs. Strouss (*Chairman*), Righter (*Vice Chairman*), Bibb, Brotherton, Cresap, Doringer, Fite, Jimison, Linger, Martin, Matthews, McCoy, McNeer, Oldham, Paul, Russek, Swann, Sydenstricker, Taylor (of Mingo), White, Beeler, Jones (of Tyler) and Smith.

**TEMPERANCE**

Messrs. Neal (*Chairman*), McKinley (*Vice Chairman*), Bobbitt, Eye, Foster, Heath, James, Jennings, Keister, Kingsbury, Light, Long, McConihay, McCoy, Storm, Morris, Muntzing and Ong.

**JOINT COMMITTEE ON ENROLLED BILLS ON THE PART OF THE HOUSE**

Mrs. Walker (*Chairman*), Messrs. Havercamp, Neal, Storm and See.

**JOINT COMMITTEE ON JOINT RULES ON THE PART OF THE HOUSE**

Messrs. Thomas, Mr. Speaker (*Chairman ex officio*), LaFon and Kurtz.

**HOUSE MEMBERS OF THE COMMISSION ON INTERSTATE COOPERATION**

Messrs. Doring (*Chairman*), Russek, Brotherton, Taylor (of Mingo) and Jones (of Tyler).

# LEGISLATURE OF WEST VIRGINIA

## ACTS OF 1937

### REGULAR SESSION

#### CHAPTER 1

(House Bill No. 148—By Mr. Speaker, Mr. Thomas)

AN ACT making an appropriation of public money out of the treasury in accordance with section fifty-one, article six of the constitution.

[Passed March 13, 1937; in effect from passage.]

##### Title

1. General Provisions.
2. Appropriations.
3. Administration.

*Be it enacted by the Legislature of West Virginia:*

##### Title 1. General Provisions.

##### Section

1. General policy and purpose of act.
2. Definitions.
3. Classification of appropriations.
4. Method of expenditure.
5. Limitations on Expenditures.
6. Maximum expenditures.

Section 1. *General Policy.* The purpose of this act is to  
2 appropriate money necessary for economical and efficient dis-  
3 charge of the duties and responsibilities of the state and its  
4 agencies during the fiscal years one thousand nine hundred

5 thirty-eight and one thousand nine hundred thirty-nine. To  
6 give effect to this purpose, the board of public works shall  
7 supervise the fiscal policy, control the assumption of obliga-  
8 tions, and regulate the expenditures of the agencies of the  
9 state.

Sec. 2. *Definitions.* For the purpose of this act:

2 "Board" shall mean the board of public works;

3 "Spending unit" shall mean the department, agency, or  
4 institution to which an appropriation is made.

5 The "fiscal year one thousand nine hundred thirty-eight"  
6 shall mean the period from July first, one thousand nine hun-  
7 dred thirty-seven through June thirtieth, one thousand nine  
8 hundred thirty-eight; and the "fiscal year one thousand nine  
9 hundred thirty-nine" shall mean the period from July first,  
10 one thousand nine hundred thirty-eight through June thir-  
11 tieth, one thousand nine hundred thirty-nine.

12 "From collections" shall mean the amount of the total  
13 appropriation which must be collected by the spending unit  
14 to be available for expenditure. If the authorized amount of  
15 collections is not collected, the total appropriation for the  
16 spending unit shall be reduced automatically by the amount  
17 of the deficiency in the collection. If the amount collected  
18 exceeds the amount designated "from collections" the excess  
19 shall be set aside in a special surplus fund and may be ex-  
20 pended for the purpose of the spending unit as provided by  
21 section seventeen of Title III of this act.

Sec. 3. *Classifications of Appropriations.* An appropriation  
2 for:

3 "Personal services" shall be extended only for the payment  
4 of salaries, wages, fees, and other compensation for skill, work,  
5 or employment;

6 "Current expenses" shall be expended only for operating  
7 costs other than personal services or capital outlay.

8 "Buildings" shall include construction and alteration of  
9 structures and the improvement of lands and shall include  
10 shelter, support, storage, protection, or the improvement of a  
11 natural condition;

- 12 "Lands" shall be expended only for the purchase of land  
 13 or interests in lands;
- 14 "Equipment" shall be expended only for things which have  
 15 an appreciable and calculable period of usefulness in excess  
 16 of one year;
- 17 "Repairs and alterations" shall include all expenditures for  
 18 materials, supplies and labor used in repairing and altering  
 19 buildings, grounds and equipment.

Sec. 4. *Method of Expenditure.* Money appropriated by  
 2 this act, unless otherwise specifically directed, shall be appro-  
 3 priated and expended according to the provisions of article  
 4 three, chapter twelve of the code of one thousand nine hundred  
 5 thirty-one, or according to any law detailing a procedure  
 6 specifically limiting that article.

Sec. 5. *Limitations on Expenditures.* The expenditure of  
 2 money appropriated by this act shall be limited to the specific  
 3 amount appropriated to each item. There shall be no transfer  
 4 of amounts between items of the appropriation of the spend-  
 5 ing unit without prior authorization by the board of public  
 6 works, as provided by section eighteen, Title III of this act.

Sec. 6. *Maximum Expenditures.* No authority or require-  
 2 ment of law shall be interpreted as requiring or permitting  
 3 an expenditure in excess of the appropriations set out in this  
 4 act.

## Title 2. Appropriations.

### Section

#### 1. Governmental appropriations.

AGRICULTURE	PAGE
Acct. No. 510—Department of agriculture .....	43
Acct. No. 515—Fairs and association awards .....	43
BUSINESS AND INDUSTRIAL RELATIONS	
Acct. No. 156—Auditor's office (securities department) .....	40
Acct. No. 450—Bureau of labor and department of weights and measures .....	37
Acct. No. 4719—Commission on interstate cooperation .....	38
Acct. No. 900—Compensation commission .....	40
Acct. No. 901—Compensation commission (silicosis) .....	40
Acct. No. 480—Department of banking .....	39
Acct. No. 460—Department of mines .....	37, 52
Acct. No. 6676—Liquor control commission .....	41
Acct. No. 470—Public service commission (salaries of members) ..	38

BUSINESS AND INDUSTRIAL RELATIONS (Cont'd)	PAGE
Acct. No. 6617—Public service commission .....	38
Acct. No. 6082—Racing commission .....	41
Acct. No. 6412—Unemployment compensation commission (reem- ployment division) .....	37
 <b>CHARITIES AND CORRECTIONS</b>	
Acct. No. 384—Colored day nursery and child shelter .....	31
Acct. No. 385--Davis child shelter .....	31
Acct. No. 377—Florence Crittenden home .....	29
Acct. No. 380—West Virginia children's home .....	29
Acct. No. 381—West Virginia colored children's home .....	30
Acct. No. 3816—West Virginia colored children's home (current expenses) .....	53
Acct. No. 386—West Virginia foundation for crippled children .....	31
Acct. No. 382—West Virginia home for aged and infirm colored men and women .....	30
Acct. No. 373—West Virginia industrial home for colored girls .....	28
Acct. No. 372—West Virginia industrial home for girls .....	28
Acct. No. 370—West Virginia industrial school for boys .....	27
Acct. No. 371—West Virginia industrial school for colored boys .....	28
Acct. No. 375—West Virginia penitentiary .....	28
 <b>CONSERVATION AND DEVELOPMENT</b>	
Acct. No. 5658—Carrick's Ford battlefield (markers on monuments) .....	46
Acct. No. 522—Clarke-McNary .....	45
Acct. No. 521—Conservation commission (game, fish and forestry) .....	45
Acct. No. 6612—Conservation commission (general administration) .....	44
Acct. No. 522—Conservation commission (state parks) .....	44
Acct. No. 5609—Droop Mountain battlefield monument .....	45
Acct. No. 520—Geological survey .....	44
Acct. No. 5649—Grafton G. A. R. post .....	46
Acct. No. 5639—Morgan Morgan memorial .....	46
Acct. No. 5669—Pierpont monument .....	46
Acct. No. 5619—Point Pleasant battle monument commission .....	45, 51
Acct. No. 5629—Rumseyan society .....	45
Acct. No. 5659—Septimius Hall monument .....	46
Acct. No. 5657—Sons of confederate veterans .....	46
 <b>EDUCATIONAL</b>	
Acct. No. 340—Archives and history .....	27, 52
Acct. No. 329—Bluefield State Teachers college .....	26
Acct. No. 325—Concord State Teachers college .....	25
Acct. No. 710—Department of education .....	19
Acct. No. 6407—Department of education (school fund) .....	20, 51
Acct. No. 321—Fairmont State Teachers college .....	24
Acct. No. 335--4-H camp for colored boys and girls .....	27
Acct. No. 322—Glennville State Teachers college .....	24
Acct. No. 401—Marshall college .....	23
Acct. No. 320—Marshall college (flood damages) .....	51
Acct. No. 327—New River State college .....	25
Acct. No. 324—Shepherd State Teachers college .....	25
Acct. No. 700—State board of education .....	19
Acct. No. 702—State board of education (rehabilitation) .....	19
Acct. No. 701—State board of education (vocational) .....	19
Acct. No. 330—Storer college .....	26
Acct. No. 323—West Liberty State Teachers college .....	24
Acct. No. 334—West Virginia schools for colored deaf and blind .....	26
Acct. No. 333—West Virginia schools for deaf and blind .....	26
Acct. No. 328—West Virginia State college .....	25
Acct. No. 300—West Virginia university .....	21
Acct. No. 302—West Virginia university (agricultural, etc.) .....	21



EDUCATIONAL (Cont'd)		PAGE
Acct. No. 310—West Virginia university (agricultural experiment station) .....		22
Acct. No. 311—West Virginia university (experiment farm) .....		22
Acct. No. 305—West Virginia university (extension division) .....		22
Acct. No. 314—West Virginia university (forestry) .....		23
Acct. No. 313—West Virginia university (Inwood apple packing plant) .....		23
Acct. No. 303—West Virginia university (Jackson's Mill) .....		22
Acct. No. 301—West Virginia university (mining and industrial) .....		21
Acct. No. 304—West Virginia university (Oglebay institute) .....		22
Acct. No. 315—West Virginia university (Potomac State school) .....		23
Acct. No. 312—West Virginia university (Reymann memorial farm) .....		23
<b>EXECUTIVE</b>		
Acct. No. 240—Attorney general .....		17
Acct. No. 150—Auditor's office .....		14
Acct. No. 720—Auditor's office (land department) .....		14
Acct. No. 190—Board of control .....		16
Acct. No. 270—Capitol building and grounds .....	17, 52	
Acct. No. 280—Central mailing office .....		18
Acct. No. 210—Director of the budget .....		17
Acct. No. 120—Governor's office .....		12
Acct. No. 122—Pardon attorney .....		14
Acct. No. 290—Purchasing department .....		18
Acct. No. 250—Secretary of State .....		17
Acct. No. 170—Sinking fund commission .....		15
Acct. No. 182—Tax commissioner (accounting department) .....		16
Acct. No. 671—Tax commissioner (gasoline department) .....		16
Acct. No. 180—Tax commissioner (general administration) .....		16
Acct. No. 181—Tax commissioner (revenue department) .....	16, 50	
Acct. No. 160—Treasurer's office .....		15
<b>HEALTH AND WELFARE</b>		
Acct. No. 522—Barbers and beauticians .....		32
Acct. No. 436—Berkeley Springs sanitarium .....	37, 52	
Acct. No. 403—Bureau of Negro welfare and statistics .....		33
Acct. No. 432—Denmar sanitarium .....		36
Acct. No. 6410—Department of public assistance .....		32
Acct. No. 6410-A—Department of public assistance .....		32
Acct. No. 425—Fairmont emergency hospital .....		34
Acct. No. 400—Health department and public health council .....		31
Acct. No. 430—Hopemont sanitarium .....		35
Acct. No. 422—Huntington state hospital .....		34
Acct. No. 423—Lakin state hospital .....		34
Acct. No. 424—McKendree emergency hospital .....		34
Acct. No. 437—Morris memorial hospital .....		37
Acct. No. 431—Pinecrest sanitarium .....		35
Acct. No. 421—Spencer state hospital .....		33
Acct. No. 435—Treatment of tuberculosis .....		36
Acct. No. 434—Tuberculosis field clinics .....		36
Acct. No. 401—Water commission .....		31
Acct. No. 426—Welch emergency hospital .....		35
Acct. No. 420—Weston state hospital .....	33, 51	
<b>HIGHWAYS</b>		
Acct. No. 670—Road commission (administration and engineering) .....		42
Acct. No. 6406—Road commission (secondary roads) .....		42
<b>JUDICIAL</b>		
Acct. No. 111—Circuit courts .....		12
Acct. No. 113—Compensation of special judges .....	12, 52	
Acct. No. 119—Criminal charges .....		12
Acct. No. 114—State law library .....		12
Acct. No. 110—Supreme court of appeals .....		11

LEGISLATIVE	PAGE
Acct. No. 102—House of Delegates .....	8
Acct. No. 103—Joint expenses .....	11
Acct. No. 101—Senate .....	7
MISCELLANEOUS	
Acct. No. 245—Commission for uniform state laws .....	53
Acct. No. 471—Editorial association .....	53
Acct. No. 472—New York World Fair .....	53
PROTECTION	
Acct. No. 580—Adjutant general; state militia .....	47
Acct. No. 6017—Athletic commission .....	49
Acct. No. 6605—Auditor's office—Fire marshal .....	48
Acct. No. 6045—Board of dental examiners .....	49
Acct. No. 6049—Board of embalmers and funeral directors .....	50
Acct. No. 6069—Board of examiners for architects .....	50
Acct. No. 6076—Board of examiners for veterinarians .....	50
Acct. No. 6007—Board of examiners of accounts .....	49
Acct. No. 6044—Board of examiners of registered nurses .....	49
Acct. No. 6005—Board of law examiners .....	49
Acct. No. 6048—Board of optometry .....	49
Acct. No. 6047—Board of osteopathy .....	49
Acct. No. 6046—Board of pharmacy .....	49
Acct. No. 6068—Board of registration for professional engineers .....	50
Acct. No. 6086—Bureau of aeronautics .....	50
Acct. No. 570—Department of public safety .....	47
Acct. No. 570-A—Department of public safety (radio system) .....	47
Acct. No. 6720—Department of public safety (traffic violations) .....	47
2. Claims against the state.	
Acct. No. 6730—Claims to be paid from the state road fund .....	56
Acct. No. 6222—Refunding erroneous gross sales tax payments .....	54
Acct. No. 6222—Refunding erroneous inheritance, transfer and estate tax payments .....	54
3. Appropriation for bonded obligations.	
4. Special revenue appropriations.	
5. Appropriations revived and extended.	
6. Specific statutory appropriations.	
7. Specific funds and collection accounts.	
8. Appropriations for refunding erroneous payments.	
9. Contingent funds.	
10. Sinking fund deficiencies.	
11. Appropriations from forfeitures and license fees.	
12. Appropriations for local government.	
13. Payment of printing costs.	
14. What total appropriations include.	
15. General school fund.	

Section 1. *Governmental Appropriations.* From the state  
2 fund, general revenue, except as otherwise provided, there  
3 is hereby appropriated conditionally upon the fulfillment of  
4 the provisions set forth in Title III of this act, the following  
5 amounts, as itemized, for expenditures during the fiscal years  
6 one thousand nine hundred thirty-eight and one thousand  
7 nine hundred thirty-nine.

## LEGISLATIVE

1—Senate

Acct. No. 101

	<i>Fiscal Years</i>	
	1937-38	1938-39
1 Salaries of members.....\$	16,000.00	\$ 15,000.00
2 Mileage of members.....	928.10	
3 Compensation and per diem of		
4 officers and attaches.....	33,745.00	
5 Contingent Fund of the Senate	45,000.00	
6 To pay Charles Lively for		
7 editing, compiling and pub-		
8 lishing the West Virginia		
9 Blue Book under the same		
10 provisions as to distribution		
11 as were adopted in the session		
12 of one thousand nine hundred		
13 and twenty-one, including all		
14 expenses incurred in the em-		
15 ployment of contributors,		
16 preparation of matter, clerical		
17 hire, stenographic services		
18 and proof reading, and for		
19 shipping charges in connec-		
20 tion with the distribution of		
21 the book; which distribution		
22 shall include seventy-five		
23 copies each to members of the		
24 Legislature;		
25 For the fiscal year ending June		
26 thirty, one thousand nine hun-		
27 dred and thirty-eight .....	10,000.00	
28 For fiscal year ending June		
29 thirty, one thousand nine hun-		
30 dred and thirty-nine .....		8,000.00
31 After the distribution provided		
32 for in the acts of one thou-		
33 sand nine hundred and		
34 twenty-one above referred to,		

35 or by further resolution of the  
 36 Legislature, the remainder of  
 37 the edition shall be sold by the  
 38 superintendent of public  
 39 printing to persons desiring  
 40 to purchase the same at the  
 41 price of three dollars per  
 42 volume.

43 The Clerk of the Senate is au-  
 44 thorized to draw his warrants  
 45 upon the Auditor, payable out  
 46 of the contingent fund of the  
 47 Senate, for any bills for sup-  
 48 plies and services that may  
 49 have been incurred by the  
 50 Senate and not included in  
 51 the appropriation bill, and for  
 52 bills for supplies and services  
 53 incurred after adjournment,  
 54 the requisition for same to be  
 55 accompanied by bills to be  
 56 filed with the Auditor.

2—House of Delegates  
 Acct. No. 102

1	Salaries of Members.....	\$ 48,000.00	\$ 47,000.00
2	Current Expenses	<i>Fiscal Year 1937</i>	
3	Mileage .....	\$ 2,931.40	
4	Speaker House of Delegates as		
5	presiding officer for 60 days		
6	@ \$2.00 per day.....		120.00
7	Compensation of Clerk for 60		
8	days .....		1,200.00
9	Compensation of Sergeant-at-		
10	arms for 60 days .....		600.00
11	Compensation of Doorkeeper for		
12	60 days .....		600.00
13	Compensation of Attaches and		
14	other employees .....		70,500.00

*Miscellaneous Appropriations*

15	House Resolution No. 19.....	91.81
16	House Resolution No. 13.....	93.41
17	House Resolution No. 21.....	150.00
18	House Resolution No. 30.....	506.50
19	Services Preliminary to Session	210.00
20	Chesapeake & Potomac Tele-	
21	phone Co. ....	648.33
22	Central Mailing Office.....	1,549.64
23	Charleston Cut Flower Co.....	52.24
24	Charleston Electric Supply Co...	2.94
25	Charleston Towel Supply Co....	3.00
26	Diamond Ice & Coal Co.....	30.31
27	Elite Laundry Co.....	6.20
28	Gates Paint Manufacturing Co.	21.25
29	H. R. Judy.....	55.25
30	M. Kimberling .....	4.50
31	Laird Office Supply Co.....	366.50
32	S. Spencer Moore Co.....	170.90
33	The Michie Company .....	45.00
34	Pugh Furniture Company.....	217.50
35	Rose City Press.....	1,108.24
36	Rohr's Drug Company.....	3.65
37	Bert Silman & Company.....	61.80
38	Security Steel Equipment Com-	
39	pany .....	40.00
40	Smith & Brooks .....	43.34
41	State of W. Va. Department of	
42	Purchases .....	369.76
43	State Road Commission .....	52.50
44	Sutler Brothers .....	70.00
45	Thomas Office Supply Company	190.77
46	Underwood Elliott Fisher Com-	
47	pany .....	140.00
48	C. W. Windell .....	107.70
49	W. Va. Lighting Company.....	330.00
50	Walnut Hill Lithia Water Com-	
51	pany .....	66.68
52	Winter Floral Company.....	13.00

53	Woodrum Furniture Company..	2,061.50
54	Central Mailing Office.....	1,145.90
55	Thomas O. Laird Company.....	600.00
56	O. P. Oldham .....	84.00
57	John Wynham .....	15.00
58	W. M. Hickman .....	135.00
59	Louise Anderson .....	80.00
60	M. P. Geene .....	660.00
61	Walter Foster .....	84.00
62	Contingent Fund .....	60,000.00
63	The Clerk of the House of Dele-	
64	gates with the approval of the	
65	Speaker of the House, is au-	
66	thorized to draw his warrants	
67	upon the Auditor, payable out	
68	of the contingent fund, for	
69	any bills for supplies and	
70	services that may have been	
71	incurred by the House of	
72	Delegates and not included	
73	in this appropriation bill, for	
74	bills for supplies and services	
75	incurred after adjournment,	
76	the requisition for same to be	
77	accompanied by a bill to be	
78	filed with the Auditor, but no	
79	payment shall be made to at-	
80	taches under this paragraph.	
81	For duties imposed by law and	
82	by the House of Delegates, in-	
83	cluding the salary allowed by	
84	law as keeper of the rolls, be-	
85	ginning August fifteen, one	
86	thousand nine hundred thirty-	
87	seven, the Clerk of the House	
88	of Delegates shall be paid a	
89	monthly salary at the rate of	
90	five thousand dollars per an-	
91	num, payable from the con-	
92	tingent fund of the House of	

93 Delegates, and the Clerk may  
 94 employ a secretary at a salary  
 95 of not to exceed eighteen hun-  
 96 dred dollars per annum, pay-  
 97 able monthly from the same  
 98 fund.  
 99 During sessions of the Legisla-  
 100 ture the Clerk of the House of  
 101 Delegates shall keep his office  
 102 open during such hours as  
 103 the House may direct. When  
 104 the Legislature is not in ses-  
 105 sion the office of the House  
 106 of Delegates shall be kept  
 107 open as other public offices in  
 108 the capitol are kept open.

3—*Joint Expenses*  
 Acct. No. 103

1 To pay the cost of legislative  
 2 printing and stationery, the  
 3 appropriation to be available  
 4 for the year ending June  
 5 thirty, one thousand nine  
 6 hundred thirty-seven. If this  
 7 work is not completed prior  
 8 to June thirty, one thousand  
 9 nine hundred thirty-seven,  
 10 then the appropriation shall  
 11 continue in effect until com-  
 12 pleted ..... \$ 80,000.00

JUDICIAL  
 6—*Supreme Court of Appeals*  
 Acct. No. 110

1	Salaries of Judges.....	\$ 50,000.00	\$ 50,000.00
2	Other Personal Services, includ-		
3	ing salaries of clerks, assist-		
4	ants and stenographers.....	39,950.00	39,950.00
5	Other personal services avail-		

6	able for 1936-37 .....	2,500.00	
7	Current Expenses .....	10,000.00	10,000.00
8	Total .....	\$ 102,450.00	\$ 99,950.00

## 7—Circuit Courts

## Acct. No. 111

1	Salaries of the Judges of the		
2	Circuit Courts .....	\$ 157,000.00	\$ 157,000.00
3	Current Expenses.....	19,000.00	19,000.00
4	Total .....	\$ 176,000.00	\$ 176,000.00

## 8—Compensation of Special Judges

## Acct. No. 113

1	Total .....	\$ 2,500.00	\$ 2,500.00
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## 9—State Law Library

## Acct. No. 114

1	Personal Services, including		
2	salaries of Librarian and as-		
3	stant .....	\$ 4,800.00	\$ 4,800.00
4	Current Expenses .....	2,000.00	2,000.00
5	Equipment .....	5,000.00	5,000.00
6	Total .....	\$ 11,800.00	\$ 11,800.00

## 10—Criminal Charges

## Acct. No. 119

1	Total .....	\$ 125,000.00	\$ 125,000.00
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## EXECUTIVE

## 120—Governor's Office

## Acct. No. 120

1	Salary of Governor.....	\$ 8,000.00	\$ 8,000.00
2	Personal Services, including		
3	salaries of secretaries, stenog-		
4	raphers and assistants.....	15,000.00	15,000.00
5	Civil Contingent and Current		
6	Expenses .....	20,000.00	20,000.00



7	To be expended upon the order		
8	of the Governor, no part of		
9	which, however, is to be used		
10	for clerk hire in any of the		
11	State offices or institutions		
12	other than the Governor's		
13	office. One hundred dollars		
14	annual dues to the Governor's		
15	Conference shall be included		
16	in this item.		
17	Emergency Fund .....	110,000.00	110,000.00
18	To be expended upon the order		
19	of the Governor, of which		
20	\$25,000.00 may be expended		
21	each year for such research		
22	and technical service as the		
23	Governor may require.		
24	Any unexpended balance re-		
25	maining in the Emergency		
26	Fund at the close of the fiscal		
27	year 1937-38 is hereby reap-		
28	propriated for expenditure		
29	during the fiscal year 1938-39.		
30	Custodial .....	13,500.00	13,500.00
31	To be used for Current General		
32	Expenses including official		
33	functions, and any additional		
34	household expenses thereby		
35	incurred.		
36	For general repair and refur-		
37	nishing Executive Mansion ...	10,000.00	
38	Any unexpended balance re-		
39	maining at the close of the		
40	fiscal year 1937-38 is hereby		
41	reappropriated for expendi-		
42	ture during the fiscal year		
43	1938-39.		
44	Total .....	\$ 176,500.00	\$ 166,500.00

122—*Pardon Attorney*

## Acct. No. 122

1	Personal Services, including sal-			
2	aries of the Pardon Attorney			
3	and stenographer .....	\$ 5,400.00	\$	5,400.00
4	Current Expenses .....	600.00		600.00
5	Total .....	\$ 6,000.00	\$	6,000.00

## FISCAL

150—*Auditor's Office*

## Acct. No. 150

1	Salary of State Auditor.....	\$ 5,000.00	\$	5,000.00
2	Other Personal Services .....	55,390.00		55,390.00
3	Current Expenses.....	8,425.00		8,425.00
4	Equipment .....	2,700.00		2,935.00
5	Total .....	\$ 71,515.00	\$	71,750.00

151—*Auditor's Office—Land Department*

## Acct. No. 720

## TO BE PAID FROM THE GENERAL SCHOOL FUND:

1	Personal Services .....	\$ 56,600.00	\$	30,260.00
2	Current Expenses .....	3,000.00		1,960.00
3	Equipment .....	1,000.00		200.00
4	Total .....	\$ 60,600.00	\$	32,420.00

5 In addition to the total appro-  
6 priation, for the Auditor's  
7 Office, Land Department,  
8 there is appropriated a sum  
9 sufficient to pay the costs of  
10 publication required by sec-  
11 tion eight, article three, chap-  
12 ter thirty-seven of the code  
13 of West Virginia, one thou-  
14 sand nine hundred thirty-one,  
15 as amended.

16—*Treasurer's Office*

Acct. No. 160

1	Salary of State Treasurer.....	\$ 5,000.00	\$ 5,000.00
2	Other Personal Services .....	28,000.00	28,000.00
3	Current Expenses .....	5,635.00	7,127.00
4	Repairs and Alterations.....	4,000.00	
5	Equipment .....	2,796.00	2,891.00
6	To Audit Treasurer's Office.....	2,500.00	
7	Total .....	\$ 47,931.00	\$ 43,018.00

17—*Sinking Fund Commission*

Acct. No. 170

1	Personal Services .....	\$ 9,300.00	\$ 9,300.00
2	Current Expenses .....	500.00	500.00
3	Total .....	\$ 9,800.00	\$ 9,800.00

4 In addition to the foregoing ap-  
5 propriation there is hereby  
6 appropriated \$37,500.00 for  
7 each of the fiscal years, one  
8 thousand nine hundred thirty-  
9 eight and one thousand nine  
10 hundred thirty-nine, which  
11 sum shall be invested by the  
12 State Sinking Fund Com-  
13 mission. Any portion of these  
14 sums to be disbursed upon the  
15 order of the Governor to pay  
16 damages to state property  
17 arising from fire. No part of  
18 this fund remaining unex-  
19 pended shall revert to the  
20 general fund. The said sum  
21 or sums shall remain in said  
22 insurance fund subject to the  
23 further direction of the Legis-  
24 lature.

180—*Tax Commissioner—General Administration*

## Acct. No. 180

1	Salary of Tax Commissioner.....	\$ 5,000.00	\$ 5,000.00
2	Other Personal Services .....	28,000.00	28,000.00
3	Current Expenses .....	31,000.00	31,000.00
4	Equipment .....	500.00	500.00
5	Total .....	\$ 64,500.00	\$ 64,500.00

181—*Tax Commissioner—Revenue Department*

## Acct. No. 181

1	Personal Services .....	\$ 150,000.00	\$ 150,000.00
2	Current Expenses .....	56,000.00	56,000.00
3	Equipment .....	1,500.00	1,500.00
4	For the purpose of enforcing		
5	the act regulating the sale of		
6	beer .....	71,200.00	71,200.00
7	Total .....	\$ 278,700.00	\$ 278,700.00

182—*Tax Commissioner—Accounting Department*

## Acct. No. 182

1	Personal Services .....	\$ 29,000.00	\$ 29,000.00
2	Current Expenses .....	3,500.00	3,500.00
3	Equipment .....	500.00	500.00
4	Total .....	\$ 33,000.00	\$ 33,000.00

183—*Tax Commissioner—Gasoline Department*

## Acct. No. 671

## TO BE PAID FROM THE STATE ROAD FUND

1	Personal Services .....	\$ 9,000.00	\$ 9,000.00
2	Current Expenses .....	4,100.00	4,100.00
3	Equipment .....	500.00	500.00
4	Total .....	\$ 13,600.00	\$ 13,600.00

19—*West Virginia Board of Control*

## Acct. No. 190

1	Salaries of the three Members of		
2	the Board of Control .....	\$ 15,000.00	\$ 15,000.00
3	Other Personal Services .....	20,500.00	20,500.00

4	Current Expenses .....	7,000.00	7,000.00
5	Equipment .....	3,000.00	900.00
6	Total .....	\$ 45,500.00	\$ 43,400.00

*21—Director of the Budget*  
Acct. No. 210

1	Personal services, including sal-		
2	ary of Director of the Budget \$	25,020.00	\$ 25,020.00
3	Current Expenses .....	2,500.00	4,300.00
4	Equipment .....	600.00	600.00
5	Total .....	\$ 28,120.00	\$ 29,920.00

LEGAL

*26—Attorney General*  
Acct. No. 240

1	Salary of the Attorney General \$	5,000.00	\$ 5,000.00
2	Other Personal Services .....	35,000.00	35,000.00
3	Current Expenses .....	4,500.00	4,500.00
4	Equipment .....	750.00	750.00
5	Contingent .....	4,000.00	4,000.00
6	Total .....	\$ 49,250.00	\$ 49,250.00

RECORDING

*29—Secretary of State*  
Acct. No. 250

1	Salary of Secretary of State .....	\$ 5,000.00	\$ 5,000.00
2	Other Personal Services .....	14,647.00	14,647.00
3	Current Expenses .....	3,000.00	3,200.00
4	Equipment .....	279.00	279.00
5	Total .....	\$ 22,926.00	\$ 23,126.00

*31—Capitol Building and Grounds*  
Acct. No. 270

1	Salary of Superintendent .....	\$ 2,400.00	\$ 2,400.00
2	Other Personal Services .....	65,376.00	65,376.00
3	Current Expenses .....	29,350.00	29,350.00
4	Repairs and Alterations .....	24,000.00	5,000.00

5	Equipment .....	570.00	500.00
6	For construction of permanent		
7	sidewalks and extension of		
8	Virginia Street through cap-		
9	itol grounds to be expended		
10	upon the order of the board		
11	of public works .....	\$ 50,000.00	
12	Any amount not expended dur-		
13	ing the fiscal year 1937-38		
14	shall be available for ex-		
15	penditures during the fiscal		
16	years, 1938-39.		
<hr/>			
17	Total .....	\$ 171,696.00	\$ 102,626.00

## 32—Central Mailing Office

## Acct. No. 280

1	Personal Services .....	\$ 8,240.00	\$ 8,240.00
2	Current Expenses .....	76,245.00	76,245.00
3	Equipment .....	290.00	200.00
<hr/>			
4	Total .....	\$ 84,775.00	\$ 84,685.00

## 33—Purchasing Department

## Acct. No. 290

1	Salary of Director of Pur-		
2	chases .....	\$ 5,000.00	\$ 5,000.00
3	Other Personal Services .....	33,000.00	33,000.00
4	Current Expenses .....	7,620.00	7,620.00
5	Equipment .....	1,000.00	1,000.00
<hr/>			
6	Total .....	\$ 46,620.00	\$ 46,620.00
7	The Revolving Fund appro-		
8	propriated by an Act of the		
9	Legislature, Regular Session,		
10	1935, for printing, binding		
11	and stationery is hereby re-		
12	appropriated for the fiscal		
13	years 1937-38 and 1938-39.		

## EDUCATIONAL

360—*State Board of Education*

Acct. No. 700

## TO BE PAID FROM THE GENERAL SCHOOL FUND:

1	Salaries of Members of the State			
2	Board of Education.....	\$	4,800.00	\$ 4,800.00
3	Other Personal Services.....		5,400.00	5,400.00
4	Current Expenses .....		3,015.00	5,115.00
5	Equipment .....		250.00	250.00
6	Aid to Out of State Negro Stu-			
7	dents .....		8,000.00	8,000.00
8	Total .....	\$	21,465.00	\$ 23,565.00

361—*State Board of Education—Vocational Division*

Acct. No. 701

## TO BE PAID FROM THE GENERAL SCHOOL FUND:

1	Personal Services .....	\$	38,389.00	\$ 38,889.00
2	Current Expenses .....		11,436.00	11,836.00
3	Equipment .....		175.00	100.00
4	Total .....	\$	50,000.00	\$ 50,825.00

362—*State Board of Education—Rehabilitation Division*

Acct. No. 702

## TO BE PAID FROM THE GENERAL SCHOOL FUND:

1	Personal Services .....	\$	5,850.00	\$ 5,850.00
2	Current Expenses .....		20,885.00	20,885.00
3	Total .....	\$	26,735.00	\$ 26,735.00

370—*Department of Education*

Acct. No. 710

## TO BE PAID FROM THE GENERAL SCHOOL FUND:

1	Salary of Superintendent of			
2	Free Schools.....	\$	5,000.00	\$ 5,000.00
3	Other Personal Services .....		55,260.00	55,260.00
4	Current Expenses .....		44,150.00	44,150.00
5	Equipment .....		1,190.00	1,190.00

6	Salaries of County Superin-		
7	tendents .....	65,000.00	65,000.00
8	Total .....	\$ 170,600.00	\$ 170,600.00

371—*Department of Education*

Acct. No. 6407

- 1 To supplement the General  
2 School Fund, to be trans-  
3 ferred on requisition of the  
4 Governor .....\$13,250,000.00 \$13,250,000.00
- 4a Out of the above appropriation  
5 the sum of \$12,100,000.00 each  
6 fiscal year shall be paid in pri-  
7 mary aid to the school dis-  
8 tricts of the state in the man-  
9 ner provided by law; this dis-  
10 tribution shall include the pay-  
11 ment of eight months of basic  
12 salaries for teachers, as pro-  
13 vided by law; the remainder  
14 shall be distributed among  
15 the school districts in the  
16 same manner as provided by  
17 law for the payment of pri-  
18 mary aid but may be expend-  
19 ed by the school boards of  
20 the several districts for cur-  
21 rent general school expenses.
- 22 The balance of this appropria-  
23 tion and the balance remain-  
24 ing in the general school fund  
25 after the payment of all ap-  
26 propriations made therefrom  
27 by this act, shall be distrib-  
28 uted as supplemental or sec-  
29 ondary aid to school districts  
30 in the manner provided by  
31 law: *Provided*, That all such  
32 allocations for supplemental



- 33 or secondary aid to school  
 34 districts shall, before payment  
 35 thereof, be approved by the  
 36 Board of Public Works.

39—*West Virginia University*  
 Acct. No. 300

1	Personal Services, including		
2	salary of President.....	\$ 788,100.00	\$ 788,100.00
3	Current Expenses .....	120,600.00	120,600.00
4	Repairs and Alterations.....	21,830.00	21,830.00
5	Equipment .....	71,375.00	71,375.00
6	For full payment of all out-		
7	standing open accounts of the		
8	Athletic Department of West		
9	Virginia University, to be ex-		
10	pended as the Board of Con-		
11	trol may direct .....	75,000.00	55,000.00
12	Total .....	\$ 1,076,905.00	\$ 1,056,905.00
13	From Collections .....	250,000.00	250,000.00

390—*West Virginia University Mining & Industrial Extension*  
 Acct. No. 301

1	Personal Services .....	\$ 26,300.00	\$ 26,300.00
2	Current Expenses .....	8,700.00	8,700.00
3	Repairs and Alterations.....	170.00	170.00
4	Equipment .....	150.00	150.00
5	Total .....	\$ 35,320.00	\$ 35,320.00

391—*West Virginia University Agricultural, Horticultural*  
*& Home Economics Extension*  
 Acct. No. 302

1	Personal Services .....	\$ 44,525.00	\$ 44,525.00
2	Current Expenses .....	4,910.00	4,910.00
3	Repairs and Alterations.....	450.00	450.00
4	Equipment .....	760.00	760.00
5	Total .....	\$ 50,645.00	\$ 50,645.00

392—*West Virginia University—Jackson's Mill—4-H Camp*  
Acct. No. 303

1	Personal Services .....	\$ 11,575.00	\$ 11,575.00
2	Current Expenses .....	7,560.00	7,560.00
3	Repairs and Alterations.....	3,950.00	3,950.00
4	Equipment .....	2,915.00	2,915.00
5	Total .....	\$ 26,000.00	\$ 26,000.00

393—*West Virginia University—Cooperation with Oglebay  
Institute*  
Acct. No. 304

1	Personal Services .....	\$ 2,300.00	\$ 2,300.00
2	Current Expenses .....	430.00	430.00
3	Total .....	\$ 2,730.00	\$ 2,730.00

394—*West Virginia University Extension Division*  
Acct. No. 305

1	To pay salaries and traveling		
2	expenses of County Agricul-		
3	tural agents,		
4	Total .....	\$ 60,000.00	\$ 60,000.00

395—*West Virginia University Agricultural Experiment Station*  
Acct. No. 310

1	Personal Services .....	\$ 33,300.00	\$ 33,300.00
2	Current Expenses .....	6,080.00	6,080.00
3	Repairs and Alterations .....	1,600.00	1,600.00
4	Equipment .....	1,130.00	1,130.00
5	Total .....	\$ 42,110.00	\$ 42,110.00

396—*West Virginia University Experiment Farm—Kearneysville*  
Acct. No. 311

1	Current Expenses .....	\$ 860.00	\$ 860.00
2	Equipment .....	335.00	335.00
3	Total .....	\$ 1,195.00	\$ 1,195.00

397—*West Virginia University Reymann Memorial Farm*

## Acct. No. 312

1	Current Expenses .....	\$ 860.00	\$ 860.00
2	Equipment .....	335.00	335.00
3	Total .....	\$ 1,195.00	\$ 1,195.00

398—*West Virginia University—Inwood Apple Packing Plant*

## Acct. No. 313

1	For the maintenance and opera-		
2	tion of Inwood Apple Packing		
3	Plant.		
4	Total .....	\$ 3,900.00	\$ 3,900.00

399—*West Virginia University—Forestry*

## Acct. No. 314

1	<i>College of Agriculture</i>	1937-38	1938-39
2	Personal Services .....	\$ 5,000.00	\$ 9,200.00
3	Equipment .....	7,400.00	1,300.00
4	<i>Extension Division</i>		
5	Personal Services .....	2,600.00	4,500.00
6	Total .....	\$ 15,000.00	\$ 15,000.00

400—*Potomac State School of West Virginia University*

## Acct. No. 315

1	Personal Services, including sal-		
2	ary of President .....	\$ 47,778.00	\$ 47,778.00
3	Current Expenses .....	10,821.00	10,821.00
4	Repairs and Alterations .....	2,462.00	2,462.00
5	Equipment .....	1,439.00	1,439.00
6	Total .....	\$ 62,500.00	\$ 62,500.00
7	From Collections .....	10,000.00	10,000.00

401—*Marshall College*

## Acct. No. 320

1	Personal Services, including sal-		
2	ary of President .....	\$ 273,000.00	\$ 273,000.00
3	Current Expenses .....	35,000.00	30,000.00
4	Repairs and Alterations .....	10,000.00	10,000.00
5	Equipment .....	20,000.00	12,000.00
6	Buildings (To complete Teach-		

7	ers Training School).....	49,000.00		
8	Buildings (To pay Fairfield			
9	Stadium Corporation) .....	7,000.00		5,000.00
<hr/>				
10	Total .....	\$ 394,000.00	\$	330,000.00
11	<i>From Collections</i> .....	<i>120,000.00</i>		<i>120,000.00</i>

402—Fairmont State Teachers College  
Acct. No. 321

1	Personal Services, including			
2	salary of President.....	\$ 140,000.00	\$	140,000.00
3	Current Expenses .....	10,000.00		10,000.00
4	Repairs and Alterations.....	4,000.00		4,000.00
5	Equipment .....	4,000.00		4,000.00
<hr/>				
6	Total .....	\$ 158,000.00	\$	158,000.00
7	<i>From Collections</i> .....	<i>50,000.00</i>		<i>50,000.00</i>

403—Glennville State Teachers College  
Acct. No. 322

1	Personal Services, including sal-			
2	ary of President.....	\$ 71,000.00	\$	71,000.00
3	Current Expenses .....	11,000.00		11,000.00
4	Repairs and Alterations.....	3,000.00		3,000.00
5	Equipment .....	3,000.00		3,000.00
<hr/>				
6	Total .....	\$ 88,000.00	\$	88,000.00
7	<i>From Collections</i> .....	<i>29,000.00</i>		<i>29,000.00</i>

404—West Liberty State Teachers College  
Acct. No. 323

1	Personal Services, including sal-			
2	ary of President .....	\$ 58,000.00	\$	58,000.00
3	Current Expenses .....	9,000.00		9,000.00
4	Repairs and Alterations.....	4,950.00		2,750.00
5	Equipment .....	3,000.00		3,000.00
6	Buildings (To complete third			
7	floor of Library building).....	17,500.00		
<hr/>				
8	Total .....	\$ 92,450.00	\$	72,750.00
9	<i>From Collections</i> .....	<i>20,000.00</i>		<i>20,000.00</i>

405—*Shepherd State Teachers College*

## Acct. No. 324

1	Personal Services, including sal-			
2	ary of President .....	\$ 57,100.00	\$	57,100.00
3	Current Expenses .....	10,000.00		10,000.00
4	Repairs and Alterations .....	2,800.00		2,800.00
5	Equipment .....	3,000.00		3,000.00
6	Total .....	\$ 72,900.00	\$	72,900.00
7	<i>From Collections</i> .....	20,000.00		20,000.00

406—*Concord State Teachers College*

## Acct. No. 325

1	Personal Services, including sal-			
2	ary of President .....	\$ 94,600.00	\$	94,600.00
3	Current Expenses .....	14,000.00		14,000.00
4	Repairs and Alterations .....	2,000.00		2,000.00
5	Equipment .....	6,000.00		6,000.00
6	To pay the Mercer Motor			
7	Sales—Athens, West Virginia,			
8	covering work and supplies			
9	furnished Concord State			
10	Teachers College, during the			
11	administration of Dr. Diehl...	543.43		
12	Total .....	\$ 117,143.43	\$	116,600.00
13	<i>From Collections</i> .....	42,000.00		42,000.00

407—*New River State College*

## Acct. No. 327

1	Personal Services, including sal-			
2	ary of President .....	\$ 76,000.00	\$	76,000.00
3	Current Expenses .....	11,000.00		11,000.00
4	Repairs and Alterations .....	6,000.00		3,000.00
5	Equipment .....	13,000.00		13,000.00
6	Total .....	\$ 106,000.00	\$	103,000.00
7	<i>From Collections</i> .....	20,000.00		20,000.00

408—*West Virginia State College*

## Acct. No. 328

1	Personal Services, including sal-			
2	ary of President .....	\$ 137,000.00	\$	137,000.00

3	Current Expenses .....	38,000.00	38,000.00
4	Repairs and Alterations .....	13,000.00	13,000.00
5	Equipment .....	10,000.00	10,000.00
6	Extension Service .....	12,000.00	15,000.00
7	Buildings (To remodel Glass-		
8	cock Hall) .....	20,000.00	
		<hr/>	<hr/>
9	Total .....	\$ 230,000.00	\$ 213,000.00
10	From Collections .....	43,000.00	43,000.00

## 409—Bluefield State Teachers College

## Acct. No. 329

1	Personal Services, including sal-		
2	ary of President .....	\$ 53,500.00	\$ 53,500.00
3	Current Expenses .....	10,000.00	10,000.00
4	Repairs and Alterations .....	7,000.00	5,000.00
5	Equipment .....	11,500.00	3,500.00
		<hr/>	<hr/>
6	Total .....	\$ 82,000.00	\$ 72,000.00
7	From Collections .....	12,000.00	12,000.00

## 410—Storer College

## Acct. No. 330

1	Total .....	\$ 12,000.00	\$ 12,000.00
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## 420—West Virginia Schools for the Deaf &amp; Blind

## Acct. No. 333

1	Personal Services, including sal-		
2	ary of Superintendent .....	\$ 102,065.00	\$ 102,065.00
3	Current Expenses .....	55,000.00	55,000.00
4	Repairs and Alterations .....	7,500.00	7,500.00
5	Equipment .....	20,000.00	12,000.00
6	To build and equip dormitory,		
7	laundry and cannery build-		
8	ing; contingent upon the Fed-		
9	eral Government granting		
10	45% of the total cost .....	143,000.00	
		<hr/>	<hr/>
11	Total .....	\$ 327,565.00	\$ 176,565.00

## 421—West Virginia Schools for the Colored Deaf &amp; Blind

## Acct. No. 334

1	Personal Services, including sal-		
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2	ary of Superintendent .....	\$ 15,100.00	\$ 15,100.00
3	Current Expenses .....	11,000.00	11,000.00
4	Repairs and Alterations.....	1,750.00	1,750.00
5	Equipment .....	2,000.00	2,000.00
6	Total .....	\$ 29,850.00	\$ 29,850.00

43—*A-H Camp for Colored Boys and Girls*  
Acct. No. 335

1	Equipment, buildings and lands.	\$ 20,000.00	\$ 20,000.00
2	(This appropriation is subject		
3	to the establishment of this		
4	Camp by Legislature.)		

44—*Archives & History*  
Acct. No. 340

1	Salary of State Archivist and		
2	Historian .....	\$ 2,700.00	\$ 2,700.00
3	Other Personal Services.....	7,500.00	7,500.00
4	Current Expenses .....	2,365.00	2,165.00
5	Equipment .....	3,650.00	1,500.00
6	Total .....	\$ 16,215.00	\$ 13,865.00

CHARITIES AND CORRECTIONS

460—*West Virginia Industrial School for Boys*  
Acct. No. 370

1	Personal Services, including sal-		
2	ary of Superintendent .....	\$ 45,690.00	\$ 45,690.00
3	Current Expenses .....	46,656.00	46,656.00
4	Repairs and Alterations .....	5,000.00	5,000.00
5	Equipment .....	4,400.00	4,400.00
6	Total .....	\$ 101,746.00	\$ 101,746.00
7	From Collections .....	17,500.00	17,500.00
8	Out of the appropriation for		
9	Personal Services, the follow-		
10	ing shall be paid in monthly		
11	installments:		
12	To pay Lelia Arnett, widow of		
13	U. G. Arnett, killed by an in-		

14	mate while on duty.....	600.00	600.00
15	To pay George A. Barnard, em-		
16	ployee, permanently disabled		
17	by an inmate while on duty..	600.00	600.00

461—*West Virginia Industrial School for Colored Boys*

Acct. No. 371

1	Personal Services, including sal-		
2	ary of Superintendent .....	\$ 9,290.00	\$ 9,290.00
3	Current Expenses .....	14,310.00	14,310.00
4	Repairs and Alterations.....	1,700.00	1,700.00
5	Equipment .....	700.00	700.00
6	Total .....	\$ 26,000.00	\$ 26,000.00
7	From Collections .....	4,500.00	4,500.00

462—*West Virginia Industrial Home for Girls*

Acct. No. 372

1	Personal Services, including		
2	salary of Superintendent.....	\$ 23,500.00	\$ 23,500.00
3	Current Expenses .....	30,500.00	30,500.00
4	Repairs and Alterations.....	3,000.00	3,000.00
5	Equipment .....	2,000.00	2,000.00
6	Total .....	\$ 59,000.00	\$ 59,000.00
7	From Collections .....	10,500.00	10,500.00

463—*West Virginia Industrial Home for Colored Girls*

Acct. No. 373

1	Personal Services, including		
2	salary of Superintendent.....	\$ 5,027.00	\$ 5,027.00
3	Current Expenses .....	6,990.00	6,990.00
4	Repairs and Alterations.....	400.00	200.00
5	Equipment .....	200.00	200.00
6	Total .....	\$ 12,617.00	\$ 12,417.00
7	From Collections .....	1,500.00	1,500.00

47—*West Virginia Penitentiary*

Acct. No. 375

1	Personal Services, including		
2	salary of Warden.....	\$ 156,760.00	\$ 156,760.00



3	Current Expenses .....	192,700.00	192,700.00
4	Repairs and Alterations .....	82,500.00	6,000.00
5	Equipment .....	25,000.00	4,800.00
6	Build New Wall.....	15,480.00	14,520.00
7	To relieve the existing congested		
8	condition .....	250,000.00	
9	Total .....	\$ 722,440.00	\$ 374,780.00
10	Any unexpended balance re-		
11	maining in this fund at the		
12	close of the fiscal year 1937-38		
13	is hereby reappropriated for		
14	expenditure during the fiscal		
15	year 1938-39.		
16	Out of the appropriation for		
17	personal services to pay Ray		
18	Estep, permanently injured		
19	while employed in the Peni-		
20	tentiary coal mine.....	240.00	240.00
21	To refit Ray Estep with artifi-		
22	cial limbs .....	450.00	
23	Any unexpended balance re-		
24	maining in the Repairs and		
25	Alterations and Equipment		
26	accounts at the close of the		
27	fiscal year 1937-38 is hereby		
28	reappropriated for expendi-		
29	ture during the fiscal year		
30	1938-39.		

48—*Florence Crittenden Home*

Acct. No. 377

1	To be paid under the rules and		
2	regulations of the West Vir-		
3	ginia Board of Control.		
4	Total .....	\$ 4,000.00	\$ 4,000.00

49—*West Virginia Children's Home*

Acct. No. 380

1	Personal Services, including		
2	salary of Superintendent.....	\$ 10,220.00	\$ 10,220.00

3	Current Expenses .....	14,545.00		14,225.00
4	Repairs and Alterations.....	1,680.00		1,000.00
5	Equipment .....	1,555.00		1,555.00
		<hr/>		
6	Total .....	\$ 28,000.00	\$	27,000.00
7	<i>From Collections</i> .....	4,000.00		4,000.00

491—*West Virginia Colored Children's Home*

Acct. No. 381

1	Personal Services, including			
2	salary of Superintendent.....	\$ 5,280.00	\$	5,280.00
3	Current Expenses .....	8,410.00		8,520.00
4	Repairs and Alterations.....	2,810.00		1,600.00
5	Equipment .....	1,500.00		1,600.00
		<hr/>		
6	Total .....	\$ 18,000.00	\$	17,000.00
7	<i>From Collections</i> .....	2,700.00		2,700.00

492—*West Virginia Home for Aged and Infirm  
Colored Men and Women*

Acct. No. 382

1	Personal Services, including			
2	salary of Superintendent.....	\$ 5,940.00	\$	5,940.00
3	Current Expenses .....	13,110.00		13,110.00
4	Repairs and Alterations.....	600.00		600.00
5	Equipment .....	350.00		250.00
		<hr/>		
6	Total .....	\$ 20,000.00	\$	19,900.00
7	<i>From Collections</i> .....	11,500.00		11,500.00

493—*West Virginia Training School*

Acct. No. 383

1	Personal Services, including			
2	salary of Superintendent.....	\$ 14,140.00	\$	14,140.00
3	Current Expenses.....	16,650.00		16,650.00
4	Repairs and Alterations.....	3,710.00		3,710.00
5	Equipment .....	1,500.00		1,500.00
		<hr/>		
6	Total .....	\$ 36,000.00	\$	36,000.00
7	<i>From Collections</i> .....	4,500.00		4,500.00

*Colored Day Nursery and Child Shelter*

Acct. No. 384

1	This appropriation to be ex-		
2	pende under the rules and		
3	regulations of the West Vir-		
4	ginia Board of Control.....	\$ 2,000.00	\$ 2,000.00

*Davis Child Shelter*

Acct. No. 385

1	This appropriation to be ex-		
2	pende under the rules and		
3	regulations of the West Vir-		
4	ginia Board of Control.....	\$ 20,000.00	

*West Virginia Foundation for Crippled Children*

Acct. No. 386

1	This appropriation to be ex-		
2	pende under the rules and		
3	regulations of the West Vir-		
4	ginia Board of Control.....	\$ 15,000.00	\$ 10,000.00
5	This appropriation is to be used		
6	to build and equip building		
7	and pool contingent upon		
8	grant in aid of Federal Gov-		
9	ernment.		

## HEALTH AND WELFARE

520—*State Health Department and Public Health Council*

Acct. No. 400

1	Salary of Commissioner.....	\$ 4,000.00	\$ 4,000.00
2	Other Personal Services .....	110,420.00	110,420.00
3	Current Expenses .....	39,030.00	39,030.00
4	Equipment .....	1,950.00	1,950.00
5	Total .....	\$ 155,400.00	\$ 155,400.00
6	From Collections .....	10,000.00	10,000.00

521—*State Water Commission*

Acct. No. 401

1	Total .....	\$ 4,000.00	\$ 4,000.00
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522—*State Committee of Barbers and Beauticians*

1	Personal Services, including			
2	salary of Director.....	\$	12,100.00	\$ 12,100.00
3	Current Expenses .....		11,000.00	11,000.00
4	Total .....	\$	23,100.00	\$ 23,100.00
5	<i>From Collections</i> .....		23,100.00	23,100.00

530—*State Department of Public Assistance*

Acct. No. 6410

1	Public Assistance Grants and			
2	the cost of administration			
3	thereof: (Federal Program			
4	for Old-age Assistance, Aid			
5	to the Blind, and Aid to De-			
6	pendent Children) .....	\$	3,150,000.00	\$ 3,150,000.00
7	General Relief Grants and Other			
8	Provisions of the Public Wel-			
9	fare Law of 1936, the Cost of			
10	Administration thereof and			
11	the maintenance of Camp			
12	Fairechance .....		3,600,000.00	3,600,000.00
13	Total .....	\$	6,750,000.00	\$ 6,750,000.00

14 The Board of Public Works may,  
 15 upon the request of the Di-  
 16 rector of the State Depart-  
 17 ment of Public Assistance,  
 18 concurred in by the State Ad-  
 19 visory Board, transfer any  
 20 part of either of the funds  
 21 hereby appropriated to the  
 22 other of these funds.

530-A—*Department of Public Assistance*

Acct. No. 6410-A

1	In compliance with Chapter 48,			
2	Acts of the Legislature of			
3	1935, there is hereby appro-			
4	riated for children of world			
5	war veterans .....	\$	1,800.00	\$ 1,800.00

531—*Bureau of Negro Welfare and Statistics*

## Acct. No. 403

1	Salary of Director.....	\$ 3,000.00	\$ 3,000.00
2	Other Personal Services.....	3,500.00	3,500.00
3	Current Expenses .....	1,701.00	1,826.00
4	Equipment .....	300.00	100.00
5	Total .....	\$ 8,501.00	\$ 8,426.00

540—*Weston State Hospital*

## Acct. No. 420

1	Personal Services, including		
2	salary of Superintendent.....	\$ 120,500.00	\$ 120,500.00
3	Current Expenses .....	140,075.00	140,075.00
4	Repairs and Alterations.....	16,000.00	12,000.00
5	Equipment .....	8,500.00	4,500.00
6	Equipment (New Boiler).....	14,000.00	
7	Land (To obtain coal for Hos-		
8	pital use) .....	20,000.00	
9	Total .....	\$ 319,075.00	\$ 277,075.00
10	From Collections .....	16,000.00	16,000.00
11	Out of the total amount appro-		
12	priated for Repairs and Al-		
13	terations, not more than Three		
14	Thousand (\$3,000.00) Dollars		
15	may be expended for pollu-		
16	tion control, and no payment		
17	shall be made on said project		
18	until it is completed.		

541—*Spencer State Hospital*

## Acct. No. 421

1	Personal Services, including		
2	salary of Superintendent.....	\$ 60,000.00	\$ 60,000.00
3	Current Expenses .....	80,000.00	80,000.00
4	Repairs and Alterations .....	10,000.00	10,000.00
5	Equipment .....	5,000.00	5,000.00
6	To build new road.....	2,000.00	
7	Total .....	\$ 157,000.00	\$ 155,000.00
8	From Collections .....	22,000.00	22,000.00

542—*Huntington State Hospital*  
Acct. No. 422

1	Personal Services, including sal-			
2	ary of Superintendent .....	\$ 59,800.00	\$	59,800.00
3	Current Expenses .....	93,000.00		93,000.00
4	Repairs and Alterations .....	8,000.00		8,000.00
5	Equipment .....	8,000.00		4,000.00
6	Total .....	\$ 168,800.00	\$	164,800.00
7	<i>From Collections</i> .....	57,000.00		57,000.00

543—*Lakin State Hospital*  
Acct. No. 423

1	Personal Services, including sal-			
2	ary of Superintendent .....	\$ 28,020.00	\$	28,020.00
3	Current Expenses .....	38,892.00		38,892.00
4	Repairs and alterations .....	4,000.00		4,000.00
5	Equipment .....	4,000.00		3,000.00
6	Total .....	\$ 74,912.00	\$	73,912.00
7	<i>From Collections</i> .....	8,700.00		8,700.00

544—*McKendree Emergency Hospital*  
Acct. No. 424

1	Personal Services, including sal-			
2	ary of Superintendent .....	\$ 19,190.00	\$	19,190.00
3	Current Expenses .....	21,660.00		21,660.00
4	Repairs and Alterations .....	5,900.00		5,900.00
5	Equipment .....	3,250.00		3,250.00
6	Total .....	\$ 50,000.00	\$	50,000.00
7	<i>From Collections</i> .....	25,000.00		25,000.00

545—*Fairmont Emergency Hospital*  
Acct. No. 425

1	Personal Services, including sal-			
2	ary of Superintendent .....	\$ 17,726.00	\$	17,726.00
3	Current Expenses .....	24,475.00		24,475.00
4	Repairs and Alterations .....	2,000.00		2,000.00

5	Equipment .....	4,000.00	4,000.00
6	Buildings (New Colored Ward).....		8,000.00
7	Total .....	\$ 48,201.00	\$ 56,201.00
8	<i>From Collections</i> .....	18,000.00	18,000.00

546—*Welch Emergency Hospital*  
Acct. No. 426

1	Personal Services, including sal-		
2	ary of Superintendent .....	\$ 23,230.00	\$ 23,230.00
3	Current Expenses .....	21,095.00	21,095.00
4	Repairs and Alterations .....	3,175.00	3,175.00
5	Equipment .....	2,500.00	2,500.00
6	Total .....	\$ 50,000.00	\$ 50,000.00
7	<i>From Collections</i> .....	24,000.00	24,000.00

548—*Hopemont Sanitarium*  
Acct. No. 430

1	Personal Services, including sal-		
2	ary of Superintendent .....	\$ 134,832.00	\$ 134,832.00
3	Current Expenses .....	168,000.00	168,000.00
4	Repairs and Alterations .....	10,000.00	10,000.00
5	Equipment .....	8,000.00	8,000.00
6	Buildings (to pay bond issue on		
7	PWA Project No. 1079-R)....	7,800.00	7,800.00
8	Buildings (Barn) .....	5,000.00	.....
9	Total .....	\$ 333,632.00	\$ 328,632.00
10	<i>From Collections</i> .....	145,000.00	145,000.00

549—*Pinecrest Sanitarium*  
Acct. No. 431

1	Personal Services, including sal-		
2	ary of Superintendent .....	\$ 57,180.00	\$ 57,180.00
3	Current Expenses .....	58,550.00	58,550.00
4	Repairs and Alterations .....	4,450.00	5,450.00
5	Equipment .....	9,650.00	6,200.00
6	To build and equip a Hospital		
7	building contingent upon the		

8	Federal government granting		
9	45% of the total cost .....	220,000.00	.....
10	Total .....	\$ 349,830.00	\$ 127,380.00
11	<i>From Collections</i> .....	50,000.00	50,000.00

550—*Denmar Sanitarium*

Acct. No. 432

1	Personal Services, including sal-		
2	ary of Superintendent .....	\$ 19,868.00	\$ 19,868.00
3	Current Expenses .....	20,811.00	21,286.00
4	Repairs and Alterations .....	2,000.00	1,300.00
5	Equipment .....	3,125.00	2,650.00
6	Buildings (Barn) .....	2,000.00	2,000.00
7	To build and equip a colored		
8	tuberculosis sanitarium, con-		
9	tingent upon the Federal gov-		
10	ernment granting 45% of the		
11	total cost .....	\$ 146,850.00	.....
12	Total .....	\$ 194,654.00	\$ 47,104.00
13	<i>From Collections</i> .....	16,000.00	16,000.00

551—*Tuberculosis Field Clinics*

Acct. No. 434

1	Total .....	\$ 10,000.00	\$ 10,000.00
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552—*Treatment of Tuberculosis*

Acct. No. 435

1	For the treatment of indigent		
2	persons in private tuberculosis		
3	sanitariums.		
4	Total .....	\$ 28,000.00	\$ 28,000.00
5	In the event that Williams		
6	Mountain Sanitarium is not		
7	erected and operated so as to		
8	participate in this appropria-		
9	tion, this appropriation is to		
10	be \$23,500.00 for each year of		
11	the biennium.		



553—*Berkeley Springs Sanitarium*

Acct. No. 436

1	Personal Services, including sal-			
2	ary of Superintendent.....	\$	4,910.00	\$ 4,910.00
3	Current Expenses .....		3,000.00	3,000.00
4	Repairs and Alterations .....		1,000.00	1,000.00
5	Equipment .....		500.00	500.00
6	Total .....	\$	9,410.00	\$ 9,410.00
7	From Collections .....		5,000.00	5,000.00

*Morris Memorial Hospital*

Acct. No. 437

1	This appropriation to be ex-			
2	pended under the rules and			
3	regulations of the West Vir-			
4	ginia Board of Control .....	\$	30,000.00	\$ 34,000.00
5	This appropriation is made con-			
6	tingent upon the grant of the			
7	Federal Government in aid of			
8	the project.			

## BUSINESS AND INDUSTRIAL RELATIONS

57—*Bureau of Labor and Department of Weights & Measures*

Acct. No. 450

1	Salary of Commissioner .....	\$	3,000.00	\$ 3,000.00
2	Other Personal Services .....		25,720.00	26,080.00
3	Current Expenses .....		14,935.00	14,985.00
4	Equipment .....		730.00	550.00
5	Total .....	\$	44,385.00	\$ 44,615.00

58—*State Unemployment Compensation Commission—**Reemployment Division*

Acct. No. 6412

1	Total .....	\$	45,000.00	\$ 45,000.00
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59—*Department of Mines*

Acct. No. 460

1	Salary of Chief.....	\$	5,000.00	\$ 5,000.00
2	Other Personal Services .....		156,250.00	156,250.00

3	Current Expenses .....	70,950.00	70,950.00
4	Repairs and Alterations .....	3,500.00	3,500.00
5	Equipment .....	10,000.00	10,000.00
6	Total .....	\$ 245,700.00	\$ 245,700.00

600—*Public Service Commission*  
Acct. No. 470

1	Salaries of three Members of the		
2	Public Service Commission.		
3	Total .....	\$ 15,000.00	\$ 15,000.00

*Commission on Interstate Cooperation*  
Acct. No. 4719

1	For membership in the Inter-		
2	state Commission of the Ohio		
3	Basin .....	\$ 500.00	\$ 500.00

601—*Public Service Commission*  
Acct. No. 6617

1	The total amount of this appro-		
2	priation shall be paid from		
3	the Special Revenue Fund out		
4	of Collections for special li-		
5	cence fees from public serv-		
6	ice Corporations, as provided		
7	by law.		
8	Personal Services .....	\$ 176,000.00	\$ 176,000.00
9	Current Expenses .....	50,000.00	50,000.00
10	Equipment .....	4,000.00	4,000.00
11	Total .....	\$ 230,000.00	\$ 230,000.00

12 Of the above appropriation, not  
13 more than \$800.00 may be ex-  
14 pended annually for the main-  
15 tenance of the office of the  
16 General Solicitor of the Na-  
17 tional Association of Railroad  
18 and Utilities Commissioners,  
19 and for representation in mat-

20      ters before the Interstate Com-  
 21      merce Commission and other  
 22      Federal Departments, at  
 23      Washington, D. C., and to co-  
 24      operate with the Federal Gov-  
 25      ernment in stream flow meas-  
 26      urement, \$4000.00 for the fis-  
 27      cal year 1937-38 and \$4000.00  
 28      for the fiscal year 1938-39.  
 29    All special license fees or other  
 30      receipts collected for or by the  
 31      Public Service Commission  
 32      pursuant to and in the exer-  
 33      cise of regulatory authority  
 34      over motor vehicle carriers, to  
 35      be paid into the special fund  
 36      designated "Public Service  
 37      Commission M o t o r Carrier  
 38      Fund," when such regulation  
 39      is authorized by law, are here-  
 40      by appropriated for the pur-  
 41      pose of paying the expenses of  
 42      the Commission, salaries of the  
 43      commissioners and the sala-  
 44      ries, compensation, costs and  
 45      expenses of its employees in  
 46      administering such law, and  
 47      for the expenditures by the  
 48      Public Service Commission  
 49      for the administration of such  
 50      regulation, as authorized and  
 51      provided by law.

## 61—Department of Banking

Acct. No. 480

1	Salary of Commissioner.....	\$	5,000.00	\$	5,000.00
2	Other Personal Services .....		18,850.00		19,450.00
3	Current Expenses .....		22,950.00		22,950.00
4	Equipment .....		1,000.00		1,000.00
5	Total .....	\$	47,800.00	\$	48,400.00
6	From Collections .....		3,400.00		3,400.00

62—Auditor's Office—Securities Department  
Acct. No. 156

1	Personal Services .....	\$ 7,280.00	\$ 7,280.00
2	Current Expenses .....	2,180.00	2,180.00
3	Equipment .....	150.00	150.00
4	Total .....	\$ 9,610.00	\$ 9,610.00
5	From Collections .....	6,610.00	6,610.00

63—Compensation Commission  
Acct. No. 900

TO BE PAID FROM THE COMPENSATION FUND

1	Salary of Commissioner .....	\$ 5,000.00	\$ 5,000.00
2	Other Personal Services .....	203,560.00	217,540.00
3	Current Expenses .....	75,950.00	82,150.00
4	Repairs and Alterations .....	1,500.00	1,500.00
5	Equipment .....	9,900.00	11,400.00
6	Total .....	\$ 295,910.00	\$ 317,590.00
7	There is hereby authorized to be		
8	paid out of the appropriation		
9	for Current Expenses for the		
10	fiscal year 1937-38, the amount		
11	of the premiums on \$500,000.00		
12	of bonds given by the State		
13	Treasurer and bond custodian		
14	for the protection of the Com-		
15	pensation Fund.		

63a—Workmen's Compensation Commission: Silicosis  
Acct. No. 901

TO BE PAID FROM THE WORKMEN'S COMPENSATION SILICOSIS FUND

1	Total .....	\$ 40,000.00	\$ 41,820.00
2	To administer the Workmen's		
3	Compensation silicosis fund as		
4	provided in House Bill No.		
5	331, regular session 1935, and		
6	to pay premium on bond of		
7	the state treasurer as cus-		
8	todian of the fund.		

64—*West Virginia Liquor Control Commission*

Acct. No. 6676

THE TOTAL AMOUNT OF THIS APPROPRIATION SHALL BE PAID FROM THE  
SPECIAL REVENUE FUND OUT OF LIQUOR REVENUES

1	Salaries of three Members .....	\$	18,000.00	\$	18,000.00
2	Other Personal Services.....		300,000.00		300,000.00
3	Current Expenses .....		60,000.00		60,000.00
4	Total .....	\$	378,000.00	\$	378,000.00

5 The above appropriation does  
6 not include the salaries of  
7 store personnel, store oper-  
8 ating expenses or equipment,  
9 or the purchase of liquor.  
10 There is hereby appropriated  
11 from liquor revenues, in ad-  
12 dition to the above appropri-  
13 ation, the necessary amounts  
14 to pay salaries of store per-  
15 sonnel, store operating ex-  
16 penses, purchase, and trans-  
17 portation of equipment and  
18 liquors: *Provided, however,*  
19 That the schedule of salaries  
20 of store personnel as of Janu-  
21 ary 1, 1937, shall be filed with  
22 the Board of Public Works as  
23 a basis for such appropria-  
24 tions as are made for salaries,  
25 and no increase in any salary  
26 above the schedule in effect  
27 January 1, 1937, shall be made  
28 without the approval of the  
29 Board of Public Works.

65—*Racing Commission*

Acct. No. 6082

1	Total .....	\$	12,000.00	\$	12,000.00
2	From Collections .....		12,000.00		12,000.00

## HIGHWAYS

670—*State Road Commission—General Administration and  
Engineering*  
Acct. No. 670

## TO BE PAID FROM THE STATE ROAD FUND

1	Salary of Commissioner .....	\$ 6,000.00	\$ 6,000.00
2	Other Personal Services .....	419,000.00	429,000.00
3	Current Expenses .....	45,000.00	50,000.00
4	Repairs and Alterations .....	20,000.00	
5	Equipment .....	12,000.00	5,000.00
6	Materials and Supplies .....	115,000.00	125,000.00
7	Highway Planning .....	20,000.00	
8	Total .....	\$ 637,000.00	\$ 615,000.00

9 In addition to the foregoing ap-  
10 propriations and any other ap-  
11 propriations or claims, as  
12 authorized by this act to be  
13 paid out of state road fund,  
14 the balance or residue of the  
15 annual receipts of the state  
16 road fund are hereby appro-  
17 priated for the payment of in-  
18 terest on and principal of out-  
19 standing road bonds, for main-  
20 tenance and construction and  
21 reconstruction of state pri-  
22 mary roads, in accordance  
23 with the provisions of article  
24 three, chapter seventeen of  
25 the code of one thousand nine  
26 hundred and thirty-one, as  
27 amended.

672—*State Road Commission*  
Acct. No. 6406

## TO BE PAID FROM THE GENERAL REVENUE FUND

1 To supplement the State Road  
2 Fund for maintenance, con-  
3 struction and reconstruction

4	of Secondary Roads, to be		
5	transferred to the Road Fund		
6	upon the requisition of the		
7	Governor.		
8	Total .....	\$ 2,200,000.00	\$ 2,200,000.00
9	This sum to be in addition to		
10	the revenue made available by		
11	the provisions of Senate Bill		
12	No. 241, an act of the Legis-		
13	lature, regular session, one		
14	thousand nine hundred thirty-		
15	seven.		

## AGRICULTURE

## 70—Department of Agriculture

## Acct. No. 510

1	Salary of Commissioner .....	\$ 5,000.00	\$ 5,000.00
2	Other Personal Services .....	71,580.00	71,580.00
3	Current Expenses .....	53,400.00	53,400.00
4	Equipment .....	2,800.00	2,800.00
5	For the Eradication and preven-		
6	tion of live stock diseases to		
7	be expended in cooperation		
8	with the Federal government	32,400.00	32,400.00
9	Total .....	\$ 165,180.00	\$ 165,180.00
10	From Collections .....	45,000.00	45,000.00

## 71—Agricultural Fairs and Association Awards

## Acct. No. 515

1	Incorporated County and Dis-		
2	trict Fairs .....	\$ 5,000.00	\$ 5,000.00
3	Regional 4-H Fairs .....	1,800.00	1,800.00
4	State Fair .....	2,500.00	2,500.00
5	Agricultural and Industrial Ex-		
6	hibits .....	3,000.00	3,000.00
7	Total .....	\$ 12,300.00	\$ 12,300.00

CONSERVATION AND DEVELOPMENT

730—*West Virginia Geological Survey*

Acct. No. 520

1	Salary of State Geologist.....	\$ 4,000.00	\$ 4,000.00
2	Other Personal Services .....	23,520.00	23,520.00
3	Current Expenses .....	12,600.00	12,000.00
4	Equipment .....	3,212.00	1,350.00
5	Total .....	\$ 43,332.00	\$ 40,870.00
6	From Collections .....	1,000.00	1,000.00

731—*Conservation Commission—General Administration*

DIVISION OF GAME, FISH, AND FORESTRY

Acct. No. 6612

1	The total amount of this appro-		
2	priation shall be paid from		
3	the Special Revenue fees col-		
4	lected by the Conservation		
5	Commission. This appropria-		
6	tion is for Administration		
7	purposes only and shall not be		
8	construed as a limit upon the		
9	expenditure from the Special		
10	Revenue Collections of said		
11	department, except for ad-		
12	ministration.		
13	Salary of Commissioner.....	\$ 4,000.00	\$ 4,000.00
14	Other Personal Services.....	27,900.00	27,900.00
15	Current Expenses .....	22,600.00	22,600.00
16	Equipment .....	750.00	750.00
17	Total .....	\$ 55,250.00	\$ 55,250.00

732—*Conservation Commission—Division of State Parks*

Acct. No. 522

1	Personal Services .....	\$ 25,800.00	\$ 29,400.00
2	Current Expenses .....	22,500.00	26,550.00
3	Repairs and Alterations.....	7,500.00	2,500.00
4	Equipment .....	29,200.00	11,550.00



5	Buildings .....	22,500.00	15,000.00
6	Lands .....	12,500.00	.....
7	Total .....	\$ 120,000.00	\$ 85,000.00
8	Rents and fees collected by the		
9	Conservation Commission, for		
10	the use of cabins and other		
11	facilities on State Parks shall		
12	be deposited, by said Depart-		
13	ment, with the State Treas-		
14	urer in the General Revenue		
15	Fund, to the credit of the Di-		
16	vision of Parks of the Con-		
17	servation Commission and		
18	may be expended upon the		
19	order of the Board of Pub-		
20	lic Works. The Conservation		
21	Commission may, upon the		
22	order of the Board of Public		
23	Works, allocate a part of the		
24	above appropriation for ex-		
25	penditure by the Division of		
26	Game, Fish and Forestry.		

*Conservation Commission—Division of Game, Fish and Forestry*  
Acct. No. 521

1	For Superintendence, Mainte-		
2	nance and operating of State		
3	Forests .....	\$ 25,000.00	\$ 25,000.00

*733—Clarke-McNary*

Acct. No. 522

1	Total .....	\$ 50,000.00	\$ 50,000.00
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*740—Droop Mountain Battlefield Monument*

Acct. No. 5609

1	Total .....	\$ 100.00	\$ 100.00
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*741—Point Pleasant Battle Monument Commission*

Acct. No. 5619

1	Total .....	\$ 1,000.00	\$ 1,000.00
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*742—Rumseyan Society*

Acct. No. 5629

1	Total .....	\$ 300.00	\$ 100.00
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*743—Morgan Morgan Memorial*

Acct. No. 5639

1	Total .....	\$	25.00	\$	25.00
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*744—Grafton G. A. R. Post*

Acct. No. 5649

1	Total .....	\$	500.00	\$	500.00
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*Commission on Markers on Monument—Carrick's Ford  
Battlefield*

Acct. No. 5658

1	To defray necessary expenses				
2	incurred in carrying out the				
3	provisions of Senate Concur-				
4	rent Resolution No. 3, adopted				
5	January 30, 1935, there is				
6	hereby appropriated for the				
7	fiscal year 1937-38 .....	\$	3,500.00		
8	The above appropriation to be				
9	used and expended in the				
10	manner provided by said reso-				
11	lution.				

*Sons of Confederate Veterans*

Acct. No. 5657

1	To aid in the erection and com-				
2	pletion of a Confederate Me-				
3	morial to be located in Jeffer-				
4	son County, West Virginia ...	\$	750.00		

*Pierpont Monument*

Acct. No. 5669

1	To erect a monument and to				
2	mark graves of Francis H.				
3	Pierpont and wife, at Fair-				
4	mont, West Virginia, in ac-				
5	cordance with Senate Bill No.				
6	25, for the fiscal year 1937-				
7	38 .....	\$	1,500.00		

*Septimius Hall Monument*

Acct. No. 5659

1	To provide for a suitable monu-				
2	ment to be erected at New				

3	Martinsville at the grave and		
4	in honor of Septimius Hall....\$	500.00	

## PROTECTION

770—*Department of Public Safety*

## Acct. No. 570

1	Salary of Superintendent.....\$	4,000.00	\$ 4,000.00
2	Other Personal Services.....	286,000.00	286,000.00
3	Current Expenses .....	248,000.00	248,000.00
4	Repairs and Alterations.....	7,000.00	7,000.00
5	Equipment .....	5,000.00	5,000.00
6	Total .....	\$ 550,000.00	\$ 550,000.00

770-A—*Department of Public Safety*

## Acct. No. 570-A

1	To establish, operate and main-		
2	tain a radio unit for the De-		
3	partment of Public Safety....\$	125,000.00	\$ 125,000.00
4	Total .....	\$ 125,000.00	\$ 125,000.00
5	Out of this appropriation, not		
6	more than \$10,000 may be		
7	expended for a survey to lo-		
8	cate the positions of the radio		
9	units. If deemed necessary,		
10	and only with the approval		
11	of the Governor, land may be		
12	purchased and buildings		
13	erected for the housing of		
14	equipment and men.		

771—*Department of Public Safety*

## Acct. No. 6720

## TO BE PAID FROM THE STATE ROAD FUND

1	Enforcement of Traffic Viola-		
2	tions.		
3	Total .....	\$ 30,000.00	\$ 30,000.00

772—*Adjutant General: State Militia*

## Acct. No. 580

1	Salary of Adjutant General....\$	3,200.00	\$ 3,200.00
2	Other Personal Services.....	43,098.00	43,098.00
3	Of which appropriation		

4	\$2,000.00 each year shall be		
5	used for organizing and		
6	maintaining a colored unit in		
7	the state militia, when, and if		
8	a Negro unit is authorized by		
9	the War Department.		
10	Current Expenses .....	58,501.00	58,501.00
11	Of which appropriation		
12	\$7,000.00 each year shall be		
13	used for maintaining a col-		
14	ored unit of the state militia		
15	as authorized by law, when,		
16	and if a Negro unit is author-		
17	ized by the War Department.		
18	Repairs and Alterations.....	2,000.00	2,000.00
19	Equipment .....	4,000.00	4,000.00
20	Contingent .....	7,020.00	7,020.00
21	Total.....	\$ 117,819.00	\$ 117,819.00
22	If the Federal government dis-		
23	continues grants for the pay-		
24	ment of Supply Allowances		
25	and caretaker wages, the con-		
26	tingent appropriated shall be		
27	available. It shall be avail-		
28	able for no other purpose.		

## 773—Auditor's Office—Fire Marshal

Acct. No. 6605

1	The total amount of this ap-		
2	propriation shall be paid from		
3	the Special Revenue collec-		
4	tions of special tax of $\frac{1}{2}$ of		
5	one per cent of Fire insur-		
6	ance companies premiums as		
7	provided by the Code of West		
8	Virginia 1931.		
9	Personal Services .....	\$ 18,620.00	\$ 18,620.00
10	Current Expenses .....	7,100.00	7,100.00

11	Equipment .....	1,000.00		1,000.00
12	Total .....	\$ 26,720.00	\$	26,720.00
<i>780—State Board of Law Examiners</i>				
Acct. No. 6005				
1	Total .....	\$ 1,200.00	\$	1,200.00
<i>781—State Board of Examiners of Accounts</i>				
Acct. No. 6007				
1	Total .....	\$ 1,000.00	\$	1,000.00
2	<i>From Collections</i> .....	1,000.00		1,000.00
<i>782—State Athletic Commission</i>				
Acct. No. 6017				
1	Total .....	\$ 3,500.00	\$	2,500.00
2	<i>From Collections</i> .....	3,500.00		2,500.00
<i>783—State Board of Examiners of Registered Nurses</i>				
Acct. No. 6044				
1	Total .....	\$ 3,700.00	\$	3,700.00
2	<i>From Collections</i> .....	3,700.00		3,700.00
<i>784—State Board of Dental Examiners</i>				
Acct. No. 6045				
1	Total .....	\$ 1,000.00	\$	1,000.00
2	<i>From Collections</i> .....	1,000.00		1,000.00
<i>785—State Board of Pharmacy</i>				
Acct. No. 6046				
1	Total .....	\$ 5,000.00	\$	5,000.00
2	<i>From Collections</i> .....	5,000.00		5,000.00
<i>786—State Board of Osteopathy</i>				
Acct. No. 6047				
1	Total .....	\$ 500.00	\$	500.00
2	<i>From Collections</i> .....	500.00		500.00
<i>787—State Board of Optometry</i>				
Acct. No. 6048				
1	Total .....	\$ 1,500.00	\$	1,500.00
2	<i>From Collections</i> .....	1,500.00		1,500.00

788—*State Board of Embalmers and Funeral Directors*  
Acct. No. 6049

1	Total .....	\$	5,000.00	\$	5,000.00
2	<i>From Collections</i> .....		5,000.00		5,000.00

789—*State Board of Registration for Professional Engineers*  
Acct. No. 6068

1	Total .....	\$	3,500.00	\$	3,500.00
2	<i>From Collections</i> .....		3,500.00		3,500.00

790—*State Board of Examiners for Architects*  
Acct. No. 6069

1	Total .....	\$	2,000.00	\$	2,000.00
2	<i>From Collections</i> .....		2,000.00		2,000.00

791—*State Board of Examiners for Veterinarians*  
Acct. No. 6076

1	Total .....	\$	500.00	\$	500.00
2	<i>From Collections</i> .....		500.00		500.00

*Bureau of Aeronautics*  
Acct. No. 6086

1	Total .....	\$	15,000.00	\$	15,000.00
2	For the purchase of material				
3	and equipment, betterment				
4	and maintenance of existing				
5	landing fields and air-way fa-				
6	cilities in the state, to be ex-				
7	pended as provided by law.				

MISCELLANEOUS

*Tax Commissioner—Revenue Department*  
Acct. No. 181

1	For the purpose of enforcing				
2	the act regulating the sale of				
3	beer, this appropriation to be				
4	available for expenditure dur-				
5	ing the remainder of the fis-				
6	cal year 1936-37 .....	\$	18,052.50		

540—*Weston State Hospital*  
Acct. No. 420

1	To reimburse and supplement		
2	1936-37 Personal Service and		
3	Current Expense Funds to		
4	apply toward cost of restora-		
5	tion of wing of Weston State		
6	Hospital destroyed by fire. W.		
7	P. A. Project No. 421-609.		
8	Personal Services .....	\$	13,891.00
9	Current Expenses .....		5,239.00
10	Total .....	\$	19,130.00

*Department of Education*  
Acct. No. 6407

1	To supplement the General		
2	School Fund for the fiscal		
3	year 1936-37 .....	\$	1,278,950.00

*Marshall College*  
Acct. No. 320

1	For repair and remodeling of		
2	buildings and repair and re-		
3	placement of equipment dam-		
4	aged or destroyed by flood ...	\$	130,000.00
5	This appropriation shall be		
6	available for expenditure dur-		
7	ing the remainder of the fis-		
8	cal year 1936-37; any unex-		
9	pended balance remaining in		
10	this account at the end of the		
11	fiscal year 1936-37 shall be		
12	available for expenditure dur-		
13	ing the fiscal year 1937-38.		

*Point Pleasant Battle Monument Commission*  
Acct. No. 5619

1	To supplement the appropriation		
2	for the fiscal year 1936-37, to		

3	repair the roof and flood dam-	
4	ages to the Mansion, Grounds	
5	and Equipment .....	\$ 1,500.00
6	Any unexpended balance re-	
7	maining in the account at the	
8	close of the fiscal year 1936-	
9	37 shall be available for ex-	
10	penditure during the fiscal	
11	year 1937-38.	

*Department of Mines*

Acct. No. 460

1	To supplement appropriations	
2	for the fiscal year 1936-37.	
3	Personal Services .....	\$ 5,970.00
4	Current Expenses .....	19,300.00
		<hr/>
5	Total .....	\$ 25,270.00

*Capitol Building and Grounds*

Acct. No. 270

1	To supplement the Personal	
2	Services Appropriation for	
3	the fiscal year 1936-37 .....	\$ 7,300.00

*Compensation for Special Judges*

Acct. No. 113

1	To supplement the appropria-	
2	tion for the fiscal year 1936-37	
3	for services rendered during	
4	the fiscal year 1935-36.....	\$ 2,500.00

*Archives and History*

Acct. No. 340

1	To supplement the Personal	
2	Services appropriation for the	
3	fiscal year 1936-37 .....	\$ 555.00

*Berkeley Springs Sanitarium*

Acct. No. 436

1	To supplement the 1936-37 ap-	
2	propriation to purchase a new	
3	boiler and repairing plant.....	\$ 2,300.00



*Commission for Uniform State Laws*

Acct. No. 245

1 Current Expenses .....\$ 600.00 \$ 600.00

*State Participation in the Meeting of the National  
Editorial Association*

Acct. No. 471

1 Total ..... \$ 10,000.00

2 To be expended upon the requi-  
3 sition of the Commissioner of  
4 Agriculture with and by the  
5 approval of the Governor, un-  
6 less the Legislature create a  
7 Commission for this purpose.

*Participation in the New York World Fair*

Acct. No. 472

1 This appropriation to be avail-  
2 able for the fiscal year ending  
3 June 30, 1938 and to be con-  
4 tinued until the closing of the  
5 Fair.

6 Total ..... \$ 35,000.00

7 To be expended upon the requi-  
8 sition of the Commissioner of  
9 Agriculture with the approval  
10 of the Governor, unless the  
11 Legislature create a Commis-  
12 sion for this purpose.

*West Virginia Colored Children's Home*

Acct. No. 3816

1 To supplement the Current Ex-  
2 pense Appropriation for the  
3 fiscal year 1936-37 to pay bills  
4 incurred during the fiscal year  
5 1934-35 as follows:

6	Huntington Forge & Machine		
7	Shop .....	\$	229.87
8	Jack Farrar .....		46.41
<hr/>			
9	Total .....	\$	276.28

2     *Sec. 2. Claims Against the State.* Appropriation for claims  
3     against the State are for the remainder of the fiscal year end-  
ing June 30, 1937 and to remain in effect until claims are paid.

*Refunding erroneous payments made to the State for  
Inheritance, Transfer and Estate Tax  
Acct. No. 6222*

1	J. C. Morrison, Jr., Administrator		
2	of Estate of John C. Morrison	\$	199.46
3	George E. Isaac, Executor Es-		
4	tate of W. D. Isaac .....		49.59
5	Grace G. Wells, Executrix,		
6	Estate of W. E. Wells Jr. ....		1,120.48
7	Wheeling Bank & Trust Com-		
8	pany, Executor, Estate of		
9	Sarah Simpson .....		417.75
10	Union National Bank of Clarks-		
11	burg, Executor Estate of		
12	James M. White.....		332.52
13	Paul M. Pack, Administrator,		
14	Estate of John C. Pack.....		1,324.54
15	Charleston National Bank, Ex-		
16	ecutor, Estate of Dave Baer....		1,154.03
17	Donald L. Cork and Kanawha		
18	Banking & Trust Company,		
19	Administrators, Estate of		
20	Jacob F. Cork.....		3,740.65
<hr/>			
21	Total.....	\$	8,339.02

*Refunding erroneous payments made to the State for  
Gross Sales Taxes  
Acct. No. 6222*

1	G. D. Skinner.....	\$	9.63
2	Wm. M. Ogden .....		61.47

3	Spring Creek Lumber Company	4,363.00
4	Boone County Coal Sales Cor-	
5	poration .....	96.76
6	Summit Lumber Company.....	79.71
7	Luten Bridge Company.....	7.50
8	G. H. Foy.....	75.42
9	L. O. Shoe Departments, Inc.....	136.68
10	Carl Massey.....	34.72
11	J. A. Rose.....	31.86
12	Charleston Dental Laboratory....	39.14
13	James G. Matheny.....	12.38
14	Municipal Mutual Insurance	
15	Co. ....	74.90
16	J. I. Flanagan.....	27.41
17	New Martinsville Sand & Gravel	
18	Co. ....	266.03
19	Victor Holt.....	29.60
20	Empire Insurance Agency.....	65.21
21	Kanawha Crude Oil Company....	14.67
22	Kanawha Crude Oil Company....	32.94
23	State-Planters Bank & Trust Co.	132.55
24	Fairfax Investment Co.....	153.10
25	Madison Investment Company..	450.28
26	B. L. Holland. ....	70.23
27	Press Reed .....	346.27
28	Wheeling Metal & Manufactur-	
29	ing Co.....	151.92
30	Pure Oil Company.....	603.88
31	West Virginia Pulpstone Corp..	1,508.32
32	R. C. Wallman.....	24.39
33	T. H. Pollock.....	184.34
34	Charleston Broadcasting Corp..	945.23
35	W.S.A.Z., Inc. ....	1,213.36
36	Zarnits Brothers Grocery Com-	
37	pany .....	489.42
38	Total .....	\$ 11,732.32
39	To pay claims against the State Road Commission resulting	
40	from personal injury or property damages, this amount ap-	
41	propriated for remainder of fiscal year ending June 30,	

- 42 1937 and to remain in effect until claims are paid, to be  
43 paid as follows:

## TO BE PAID FROM THE STATE ROAD FUND

Acct. No. 6730

1	William White.....	\$	600.00
2	John McClung.....		1,456.75
3	Jacob F. Bennett.....		1,416.02
4	L. L. Lloyd.....		1,532.70
5	E. K. Bowman.....		14.00
6	Grover C. Corder.....		6.00
7	Alvin Bishoff.....		9.00
8	William Billby.....		7.00
9	Roscoe Dilley.....		7.00
10	Stanley Lambert.....		9.00
11	Willis O. Luzier.....		9.00
12	Clyde Gum.....		7.00
13	Renzie Watring.....		2.00
14	Charles E. Stokes.....		14.00
15	Arthur Roy.....		12.50
16	Sellie Brown.....		69.50
17	T. F. Armentrout.....		8.50
18	C. J. Boggs.....		72.66
19	John N. Butler.....		52.00
20	Clarence Bostic.....		10.00
21	Colin Campbell.....		2.50
22	Guy Clark.....		200.00
23	C. C. Campbell.....		2.50
24	Boyd Campbell.....		2.50
25	Dean Dunn.....		23.00
26	Bill Estep.....		2.00
27	Less Forren.....		45.00
28	Lowell A. Huffman.....		19.50
29	Curtis Hayes.....		27.70
30	Walter Huddleston.....		20.00
31	Reece Hostetter.....		4.00
32	Frank Jarvis.....		6.50
33	B. C. Kyle.....		32.40
34	B. C. Kyle.....		4.50
35	Ralph L. Landers.....		17.50
36	Robert Lipps.....		4.50

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37	W. G. Morton.....	30.00
38	W. G. Morton.....	10.50
39	Dock O'Dell.....	85.50
40	Dock O'Dell.....	14.50
41	Hoten Shockey.....	20.50
42	Hoten Shockey.....	4.00
43	Elmer Sams.....	13.00
44	Ross Sims.....	112.34
45	Michael Zimmiski.....	597.51
46	S. W. Kessler.....	19.80
47	Opie Winebrenner.....	16.00
48	Charley Wygal.....	53.40
49	Granville Montgomery.....	16.07
50	Frank Brown.....	190.60
51	Dennis Kelley.....	1,565.50
52	Robert Caincross.....	212.90
53	Dean Dunn.....	69.85
54	Dave Wright.....	4.50
55	D. E. Wilson.....	2.00
56	George DeWitt.....	20.00
57	George DeWitt.....	25.00
58	Lee Ash.....	2.00
59	Jess C. Barker.....	45.20
60	Barney Brown.....	125.00
61	William Burgess.....	2.50
62	William Carr.....	4.50
63	Carl Dudley.....	9.00
64	Tracy J. Fortney.....	7.00
65	Orlie Fay.....	3.00
66	Orlie Fay.....	46.00
67	W. B. Grimm.....	50.00
68	Ronald James.....	5.00
69	I. K. James.....	6.00
70	Frank Iconis.....	23.00
71	Charles Jones.....	12.50
72	Russell Lemmon.....	6.50
73	Alva Messenger.....	35.00
74	C. L. McElroy.....	4.00
75	Ralph Moates.....	6.00
76	A. J. Oliverto.....	169.43

77	G. W. Ramsey.....	6.00
78	Charles G. Rhodes.....	343.95
79	Raymond Rosier.....	8.50
80	John Strother.....	16.00
81	Kenneth Stewart.....	6.50
82	Alty Teets.....	18.00
83	John Watson.....	12.50
84	John Bellotte.....	10.00
85	Everette Loudermilk.....	9.00
86	L. L. McClung.....	16.00
87	Frank McCue.....	4.50
88	Ira Lusher.....	6.50
89	Curtis Hayes.....	4.50
90	George H. Smith.....	20.00
91	Millard Morris.....	43.00
92	M. C. Crotty.....	6.00
93	George Holdren.....	8.50
94	N. B. Barberis.....	5.00
95	Robert Tucker.....	6.50
96	Mrs. Geo. Skelton.....	1,200.62
97	Vance Ellis.....	12.00
98	Abe Taylor.....	17.80
99	Allen Davis.....	14.50
100	J. C. Gore.....	3.00
101	Joe High.....	12.60
102	Henry L. Harvey.....	39.00
103	H. L. Carnell.....	75.00
104	Wm. J. Collins.....	13.00
105	Roscoe Meadows.....	362.37
106	Fred Davis.....	364.10
107	Luther Hill.....	21.00
108	Palmer Rice.....	12.60
109	George Clemson, Jr.....	26.80
110	Walter Lowe.....	14.80
111	Ira Holliday.....	317.50
112	E. T. Lawyer.....	208.60
113	Glendon Robinette.....	142.50
114	D. J. Kitzmiller.....	127.00
115	Walter B. Hanlin.....	8.50
116	Otis Brandfield.....	10.00

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117	M. F. Reel.....	6.50
118	Nelson Deck.....	10.50
119	James Niceley.....	4.50
120	Charles E. George.....	12.50
121	Wash Dillow.....	10.00
122	Harold R. Barnhart.....	9.00
123	Herman Knowlton.....	226.58
124	Burson E. Davis.....	68.98
125	James Fearon.....	11.00
126	Charles G. Lutes.....	4.00
127	Lester Richards.....	22.00
128	George Cecile.....	304.18
129	Floyd Glasure.....	33.26
130	Fred Conner.....	22.00
131	Charles Gregory.....	8.00
132	Charles F. Gregory.....	14.00
133	Judson Haun.....	8.00
134	Paul E. Nicholls.....	13.00
135	John Pinizok.....	35.00
136	Joseph Starface.....	2.00
137	Earl Beazle.....	11.00
138	Ross Fisher.....	10.50
139	Samuel Harr.....	4.00
140	Dewey Loy.....	4.00
141	Oscar Penn.....	63.00
142	Mansel Stevens.....	35.30
143	George W. Taylor.....	8.00
144	Elmer R. Vossen.....	3.00
145	Alex Moore.....	36.00
146	James Carra.....	98.69
147	S. R. Perdue.....	37.00
148	Emmett L. McComas.....	137.10
149	E. M. Adkins.....	308.92
150	Lucian B. Osborne.....	22.50
151	Ronald Hall.....	2.00
152	B. H. Thompson.....	3.00
153	Rean Bias.....	3.00
154	Robert Lambert.....	17.00
155	Rex Smoot.....	32.50
156	Marvin Anderson.....	24.00
157	O. J. Allen.....	3.00

158	Lloyd Bickle.....	29.00
159	Rolla Burk.....	118.53
160	Matthew Gissy.....	56.50
161	William Guinn.....	137.86
162	Boyd Hall.....	12.00
163	Brooks Hammer.....	3.00
164	Benson B. Hardman.....	64.00
165	High Lombard.....	12.00
166	Forrest Matthews.....	1,320.00
167	Mark Reeder.....	17.40
168	Roy Turner.....	5.00
169	Burton Taylor.....	51.60
170	Don Westfall.....	3.00
171	Donald Wince.....	20.53
172	Troy Wilson.....	34.63
173	V. T. Warner.....	4.00
174	Andrew Camp.....	36.00
175	Roy Egnor.....	1,456.99
176	George Grew.....	4.37
177	I. Luther Winland.....	17.00
178	Ralph J. McFadden.....	2.00
179	W. L. Carter.....	127.02
180	H. W. Harrison.....	90.00
181	Hoyt Boggess.....	6.00
182	George Landfried.....	43.80
183	Lynn Wiant.....	2,054.00
184	Guy Wilson.....	2.50
185	Clyde Barker.....	4.50
186	Orris Cooper.....	25.00
187	David Dickey.....	25.00
188	Guy Dotson.....	39.50
189	Ira B. Foster.....	18.00
190	Austin Nodesitt.....	20.00
191	Edgar Morris.....	8.50
192	J. H. Owens.....	15.00
193	Frank Roberts.....	25.00
194	J. B. Pickens.....	4.00
195	Lee Childress.....	83.50
196	C. E. Hughes.....	161.60
197	Ezra Graley.....	184.00
198	Roy Carter.....	16.50



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199	A. B. Cavender .....	2.50
200	James Jolly .....	15.00
201	H. J. Koegal .....	10.00
202	Park Cadle .....	6.00
203	Arguile Stamples .....	9.00
204	John M. Graves .....	2.50
205	Alton Cavender .....	12.50
206	John W. Burgess .....	12.50
207	R. L. Dameron .....	3.00
208	A. B. Cavender .....	4.50
209	W. H. Dearien .....	35.00
210	J. R. Jordan .....	10.00
211	C. T. McClaugherty .....	2.50
212	Frank Dotson .....	471.00
213	O. Earl Barker .....	62.50
214	Ben Neeley .....	26.00
215	Dale Wehrle .....	40.00
216	Tom Trader .....	11.00
217	Samuel Hill .....	10.00
218	S. A. Buckner .....	3.00
219	B. F. Surface .....	6.50
220	George Thomas .....	239.90
221	Harry Manning .....	8.00
222	Phy N. Posey .....	140.90
223	John Bellotte .....	359.50
224	Dr. Wirt B. Wilson .....	6.50
225	Russell S. Wolfe .....	139.50
226	B. F. Blackwell .....	44.00
227	G. S. Constable .....	25.00
228	Hollie T. Stewart .....	104.40
229	Dr. R. C. Bates .....	10.05
230	Leslie Locke .....	50.00
231	Roy Robinson .....	28.00
232	Earl Blake .....	14.00
233	Sarver's Incorporated .....	30.00
234	W. H. Hough .....	6.63
235	Dell Copeland .....	7.20
236	W. B. Litton .....	29.20
237	Joseph Marasola .....	62.64
238	Dave Dordon .....	35.40
239	Lester Richards .....	22.00

240	Earl Ankron .....	24.00
241	Earl W. Smith .....	28.56
242	I. L. Winland .....	11.00
243	W. E. Moore .....	24.00
244	E. L. Parrish .....	25.00
245	Clarence C. Wehling .....	9.18
246	C. O. Mayor .....	11.07
247	Joe Reynolds .....	25.00
248	Anchor Motor Freight, Inc. ....	423.60
249	Paul S. Horner Company .....	7,019.77
250	L. R. and J. A. Roberts .....	4,500.00
251	Charlie Sargent.....	723.42
252	Braxton Gainer .....	2.00
253	R. C. and Bertha Puckett.....	192.82
254	J. F. Snopps.....	15.30
255	T. A. Booth.....	26.21
256	Robert Cuppett .....	133.75
257	Mrs. Creed Collins.....	18.01
258	Roy R. Allison.....	5.00
259	Ronald Hayslip.....	19.00
260	Warren Wamsley .....	75.00
261	E. A. Roth.....	301.15
262	Thomas Craft .....	24.00
263	Chester Fling .....	80.50
264	Phillipi Oil Company.....	65.70
265	L. S. Coberly Prison Labor.....	8.00
266	K. E. Clark Prison Labor.....	168.54
267	Cecil Parsons Prison Labor.....	206.50
268	Forest Riddle Prison Labor.....	899.01
269	Paul J. Russell Prison Labor....	12.50
270	F. E. Teter Prison Labor.....	32.00
271	John T. Ward Prison Labor.....	63.30
272	Charles Warner Prison Labor....	126.59
273	L. J. Westfall Prison Labor.....	96.49
274	Frank E. Wright Prison Labor	194.77
275	C. D. Clevenger Prison Labor	173.78
276	O. E. Jones.....	45.90
277	W. L. Smith.....	12.24
278	Mrs. Jane Dawson.....	25.00
279	Charles Carter.....	1,455.10

280	Edward Click.....	14.00
281	James Jolly.....	28.50
282	F. J. Craig.....	5.00
283	Jess Reedy.....	32.18
284	Carter Clark.....	510.00
285	Mrs. Henry Thomas.....	587.00
286	E. W. Frye.....	72.88
287	Mrs. Effie Savage.....	1,370.00
288	Murphy Motor Co.....	73.00
289	C. Ross Kent.....	49.59
290	John D. Bellotte.....	153.36
291	Theodore Kalakos.....	23.00
292	Harold Barnhart.....	16.00
293	Emmett Freshwater.....	36.20
294	Herman Knowlton.....	146.67
295	Floyd Glasure.....	91.54
296	Adam Miller.....	99.07
297	Charles Lantz.....	114.80
298	E. R. McKinley.....	45.50
299	Lloyd Davis.....	27.68
300	Quince Dillon.....	181.00
301	Frank Purdy.....	70.50
302	Otis Hitt.....	121.66
303	Wiley Milburn.....	25.20
304	Mrs. E. F. Curtain.....	46.67
305	Hunter T. McGray.....	7.50
306	J. W. Green.....	12.00
307	R. T. Armstrong, guardian for	
308	Louise Armstrong.....	843.70
309	Polino Constr. Co.....	12,313.83
310	Dr. O. W. Ladwig.....	11.99
311	Ray Swisher.....	244.00
312	Mike Vlosich.....	105.50
313	Anthony A. Hack.....	507.40
314	Railway Express.....	37.18
315	Kenna Fox.....	552.50
316	Glenn S. Callaghan.....	75.25
317	F. T. Heldreth.....	9.00
318	Total.....	\$ 59,056.84

2       Sec. 3. *Appropriation for Bonded Obligations.* There is  
3 hereby appropriated out of the general fund an amount suffi-  
4 cient to meet the principal and interest requirements of the  
5 bonded obligations of the state other than road bonds.

2       Sec. 4. *Special Revenue Appropriations.* There is hereby  
3 appropriated for expenditure during the fiscal years one thou-  
4 sand nine hundred thirty-eight and one thousand nine hun-  
5 dred thirty-nine: Appropriations made by general law from  
6 special revenue which is not paid into the state fund as gen-  
7 eral revenue under the provisions of section two, article two,  
8 chapter twelve of the code of West Virginia, one thousand  
9 nine hundred thirty-one.

2       Sec. 5. *Appropriations Revived and Extended.* A part of an  
3 appropriation to a spending unit that remains unexpended at  
4 the end of the fiscal year one thousand nine hundred thirty-  
5 eight may, by order of the board of public works, be revived  
6 and expended to meet unforeseen contingencies arising during  
7 the fiscal year one thousand nine hundred thirty-nine.

2       Sec. 6. *Specific Statutory Appropriations.* Whenever the  
3 specific payment of a definite sum of money is required by  
4 general law such sum shall be paid from the proper item  
5 appropriated by this act.

2       Sec. 7. *Specific Funds and Collection Accounts.* A fund or  
3 collections account, which by law is dedicated to a specific use,  
4 is hereby appropriated in sufficient amount to meet all lawful  
5 demands upon the fund or collection account, and shall be  
6 expended according to the provisions of article three, chapter  
7 twelve of the code of one thousand nine hundred thirty-one.

2       Sec. 8. *Appropriations for Refunding Erroneous Payments.*  
3 Money that has been erroneously paid into the state treasury  
4 is hereby appropriated out of the fund into which it was paid  
5 for refund to the proper person.

6       When the officer authorized by law to collect money for the  
7 state finds that a sum has been erroneously paid he shall issue  
8 his requisition upon the auditor for the refunding of the  
9 proper amount. The auditor shall issue his warrant to the  
10 treasurer and the treasurer shall pay the warrant out of the  
11 fund into which the amount was originally paid.

2       Sec. 9. *Contingent Fund.* A contingent fund may be ex-  
3       pended as appropriated, with the approval of the board of  
4       public works, when the expenditure will improve the govern-  
5       mental service and care for unexpended contingencies. A part  
6       of a contingent fund that remains unexpended at the end of  
7       the fiscal year shall automatically become available for ex-  
8       penditure during the second fiscal year.

9       The expenditure of the governor's civil contingent fund,  
10      and the legislative contingent funds shall not be conditioned  
11      upon the approval of the board of public works.

12      Sec. 10. *Sinking Fund Deficiencies.* There is hereby appro-  
13      priated to the board of public works a sufficient amount to  
14      meet a deficiency that may arise in the fund of the state sink-  
15      ing fund commission because of the failure of a local taxing  
16      district to remit funds necessary for the payment of interest  
17      and sinking fund requirements. The board of public works is  
18      authorized to transfer from time to time such amounts to the  
19      state sinking fund commission as may be necessary for this  
20      purpose.

21      The state sinking fund commission shall reimburse the  
22      board of public works from the first remittances collected  
23      from the local taxing district for which the board of public  
24      works advanced funds, with interest at the rate carried by  
25      the bonds for which the advance was made.

26      Sec. 11. *Appropriations from Forfeitures and License Fees.*  
27      There is hereby appropriated from all forfeitures and license  
28      fees collected by the state tax commissioner, all necessary sal-  
29      aries, expenses, commissions, and attorneys' fees authorized  
30      by law for the collection of such forfeitures and license fees.  
31      All such salaries, expenses, commissions, and attorneys' fees  
32      authorized by law shall be paid by the tax commissioner  
33      through the state treasury out of gross collections. Any part  
34      of such forfeitures that may be due the state or any county,  
35      district, or municipality shall be distributed through the  
36      state treasury by the tax commissioner in the manner pro-  
37      vided by law.

38      Sec. 12. *Appropriations for Local Government.* There is  
39      hereby appropriated for payment to counties, districts, and

- 3 municipal corporations such amounts as will be necessary to  
 4 pay taxes due county, district, and municipal corporations  
 5 and have been paid into the treasury:  
 6 1. For the redemption of lands;  
 7 2. By public service corporations.

Sec. 13. *Printing Cost.* The cost of printing, binding, and  
 2 stationery for each spending unit shall be paid from the cur-  
 3 rent expense appropriation for the spending unit.

Sec. 14. *Total Appropriations.* Where only a total sum is  
 2 appropriated to a spending unit that total sum shall include  
 3 personal services, current expenses, and capital outlay.

Sec. 15. *General School Fund.* The balance of the proceeds  
 2 of the general school fund remaining after the payment of the  
 3 appropriations made by this act is appropriated for expendi-  
 4 ture in accordance with section six, article nine, chapter  
 5 eighteen of the code of West Virginia, one thousand nine  
 6 hundred thirty-one, as amended.

### Title 3. Administration.

#### Section

1. Appropriations conditional.
2. Board of public works to control and supervise fiscal methods of spending units.
3. Constitutional reports.
4. Determination of expenditure.
5. Reduction of appropriations.
6. Equal and pro rata reductions.
7. Reduction of separate funds and accounts.
8. Selective reductions.
9. Director of the budget.
10. Board of control.
11. Personnel classification.
12. Accrual accounting.
13. Year expenditure plan.
14. Approval of plans.
15. Quarterly plan.
16. Limitation on expenditure.
17. Requisition for appropriation; exception.
18. Specific appropriation.
19. Lump-sum appropriations.
20. Transfer of property.
21. Method of expenditure control.
22. Surplus in collections.
23. Transfer between items.
- 23-a. Expenditure of building appropriations when federal funds are not available.

24. Duties of spending units.
25. Annual inventory.
26. Suspension of certain acts.
27. Constitutionality of act.

Section 1. *Appropriations Conditional.* The expenditure  
2 of the appropriations made by this act, except those appro-  
3 priations made to the legislative and judicial branches of the  
4 state government, are conditioned upon the compliance by the  
5 spending unit with the requirements of this act and the regu-  
6 lations and orders made under it.

Sec. 2. *Board of Public Works.* The board of public works  
2 shall control and supervise the fiscal methods of spending  
3 units of the state so as to insure the expenditure of funds  
4 appropriated by this act in accordance with a sound state  
5 fiscal policy and a planned program of expenditure for the  
6 spending unit. The provisions of this act shall not be con-  
7 strued to delegate to the board a control over the policies  
8 and activities of agencies and institutions that it does not  
9 already possess.

Sec. 3. *Constitutional Reports.* The board shall establish a  
2 unit or division of statistics. It shall be the duty of this  
3 division to prepare the annual statement of assets of the state  
4 as required by the Budget Amendment to the constitution,  
5 a statement of the income of the state, the portion allocable  
6 to revenue under the existing tax statutes, and the general  
7 economic effect of the tax structure upon the social and in-  
8 dustrial development of the state. From time to time the  
9 division shall make reports setting forth the results of its  
10 researches and its recommendations for the orderly develop-  
11 ment of the revenue and expenditure policy of the state. The  
12 reports shall be made to the board of public works.

Sec. 4. *Determination of Expenditure.* The board shall ex-  
2 amine and survey the progress of the collection of the revenue  
3 of the state and determine each quarter of the fiscal year the  
4 proportion which the amount actually collected bears to the  
5 collections estimated for that period. For this purpose the  
6 board shall have the authority to require all necessary esti-  
7 mates and reports from any office, department, or other  
8 agency of state government.

2       Sec. 5. *Reduction of Appropriations.* The board may re-  
3       duce appropriations according to any of the plans which are  
4       set forth in sections six, seven and eight, of this act.

2       Sec. 6. *Equal and Pro Rata Reductions.* If the board de-  
3       termines that the amounts, or parts thereof, appropriated  
4       from the general revenue cannot be expended without creat-  
5       ing an overdraft or a deficit in the general fund, it may re-  
6       duce equally and pro rata all appropriations out of general  
7       revenue in such a degree as may be necessary to prevent an  
8       overdraft or a deficit in the general fund.

2       Sec. 7. *Reduction of Separate Funds and Accounts.* The  
3       board, in the manner prescribed in section six, may reduce  
4       appropriations from:

- 5       1. Funds supported by designated taxes or fees;
- 6       2. Fees or other collections set aside for the support of  
7       designated activities or service.

8       Each fund and each fee or collection account shall be  
9       treated separately, but appropriations from the same fund  
10      or account shall be treated equally and reduced pro rata.

2       Sec. 8. *Selective Reductions.* If the board determines that  
3       the reductions provided for in sections six and seven of this  
4       title will dangerously impair the existence of the essential  
5       services of government, it may reduce the amount to be ex-  
6       pended from separate appropriations in accordance with the  
7       following method:

- 8       1. The board shall first classify appropriations as follows:
  - 9       Class One: For agencies collecting revenue and administer-  
10      ing the fiscal operations of government, including the offices  
11      and departments of the tax commissioner, auditor, treasurer,  
12      and sinking fund commission.
  - 13      Class Two: For agencies vested with the supervision, con-  
14      trol, and direction of executive policy and law enforcement,  
15      including the governor's office, the attorney general's office,  
16      and the department of public safety.
  - 17      Class Three: For state institutions, educational, charitable,  
18      and corrective.
  - 19      Class Four: For other departments and services of the  
20      state government.
  - 21      Class Five: For transfers from the general fund.



21 2. The board shall first reduce the appropriations from  
 22 class five and then if necessary reduce the appropriations for  
 23 the other classes in descending numerical order as follows:  
 24 Class Four, Class Three, Class Two, Class One. All reductions  
 25 shall be in multiples of five per cent, but a fixed relationship  
 26 shall be maintained between the classes which shall be meas-  
 27 ured by a difference of five per cent in the rate of reduction.  
 28 The maximum reduction shall not exceed twenty-five per cent  
 29 in Class Five and in the other classes it shall be proportional  
 30 according to the following table:

31 Classes	Five	Four	Three	Two	One
32 Per cent of	( 5%				
33 reductions	(10%	5%			
34 from total	(15%	10%	5%		
35 appropria-	(20%	15%	10%	5%	
36 tions	(25%	20%	15%	10%	5%

Sec. 9. *Director of Budget.* The governor, as chairman of  
 2 the board of public works, shall appoint a director of the  
 3 budget who shall administer the budget under the direction  
 4 of the board of public works. The director of the budget  
 5 shall hold office at the will and pleasure of the chairman of  
 6 the board and shall receive a salary to be fixed by the chair-  
 7 man of the board, but not to exceed six thousand dollars a  
 8 year.

Sec. 10. *Board of Control.* In the control and supervision  
 2 of the fiscal methods of the institutions named in sections  
 3 three and four, article one, chapter twenty-five of the code of  
 4 West Virginia, one thousand nine hundred thirty-one, the  
 5 board of control shall perform such duties as the director of  
 6 the budget may require.

Sec. 11. *Personnel Classification.* With the exception of  
 2 those institutions under the control of the state board of edu-  
 3 cation, the board of governors of West Virginia University,  
 4 and the board of control, the director of the budget shall  
 5 classify the offices and employments in the state government  
 6 and its agencies, into a personnel classification which reflects  
 7 the differences in training, experience, ability, and responsi-  
 8 bility required for different types or kinds of service or em-

9 ployment, and shall establish uniform salary and wage scales  
10 within each class.

11 The board shall require the state board of education, the  
12 board of governors of West Virginia University, and the  
13 board of control to prepare and apply personnel classifica-  
14 tions to the institutions under their control.

Sec. 12. *Accrual Accounting.* The board of public works  
2 shall install a system of accrual accounting for the purpose  
3 of recording for each spending unit the collection of all in-  
4 come, the amounts available for expenditure and obligations,  
5 encumbrances and disbursements. The board shall prescribe  
6 uniform records, accounts, and forms to be used by spending  
7 units so far as may be necessary for the efficient administra-  
8 tion of the budget.

9 The system of accrual accounting and of uniform record  
10 shall be used by each spending unit, the auditor's office, the  
11 treasurer's office, and the office of the budget director.

Sec. 13. *Year Expenditure Plan.* Prior to the beginning of  
2 each fiscal year, the executive officers of a spending unit  
3 shall submit to the board of public works a detailed plan  
4 of expenditure for the ensuing fiscal year. The plan shall  
5 be submitted in such form and at such time as the board  
6 may require.

7 The plan shall show:

- 8 1. A proposed monthly rate of expenditure for amounts  
9 appropriated for personal services.
- 10 2. A proposed quarterly rate of expenditure of amounts  
11 appropriated for current expense.
- 12 3. A proposed yearly plan for expenditure of amounts  
13 appropriated for capital outlay.

Sec. 14. *Approval of Plans.* The board shall examine the  
2 plan of expenditure for each spending unit, and if it finds  
3 that the plan conforms to the requirements of this act and  
4 is in accordance with sound fiscal methods it shall approve  
5 the plan. A plan approved by the board shall control and  
6 govern the expenditures of the spending unit, unless the  
7 board finds it necessary to reduce expenditures from a fund  
8 in order to avoid a deficit in that fund, or the board con-  
9 sents to an alteration of the plan, at the request of the

10 executive officer of the spending unit, to increase the efficiency  
11 of the service.

Sec. 15. *Quarterly Plan.* At least thirty days prior to the  
2 beginning of each quarter of the fiscal year the executive  
3 officer of a spending unit shall submit to the board of public  
4 works a request for an allotment of public funds sufficient  
5 to operate his unit during the ensuing quarter in accordance  
6 with the approved plan of expenditure.

7 The board shall examine the request and if the board  
8 approves the request and finds that the collection of revenue  
9 warrants the expenditure it shall order the allotment to be  
10 credited to the account of the spending unit.

Sec. 16. *Limitation on Expenditure.* The expenditures of a  
2 spending unit during a quarter of the fiscal year shall not  
3 exceed the amount of the allotment made by the board of  
4 public works, except upon the approval of the board of public  
5 works, but any amounts remaining unexpended at the close  
6 of the quarter shall be available for reallocation and expendi-  
7 ture during any succeeding quarter of the same fiscal year.

Sec. 17. *Requisition for Appropriation.* A requisition for  
2 the expenditure of an appropriation made by this act shall  
3 be presented to the auditor only through the director of the  
4 budget: *Provided,* That the expenditure of legislative appro-  
5 priations nor the payment of legislative expenses shall not be  
6 subject to the approval of the director of the budget, and  
7 requisitions for the payment of legislative expenses shall be  
8 presented by the Clerk of the Senate and the Clerk of the  
9 House of Delegates direct to the Auditor.

Sec. 18. *Specific Appropriation.* Money appropriated for a  
2 specific purpose shall not be used for any other purpose. The  
3 director shall not forward to the auditor any requisition until  
4 he is satisfied that:

5 1. It is to be expended for a purpose authorized by the  
6 statute and for which an appropriation exists in the budget  
7 bill;

8 2. There is an amount available to the credit of the spend-  
9 ing unit to meet the requisition for the particular item of  
10 expenditure;

11 3. The money will be used for the purposes for which the  
12 appropriation was made.

Sec. 19. *Lump-sum Appropriations.* When a lump sum is  
2 appropriated for the use of a particular spending unit, no  
3 appropriation shall be available and no requisition shall be  
4 honored (except for temporary services and expenses) until:

5 1. A schedule of positions and salaries has been submitted  
6 and approved;

7 2. A general plan of expenditure has been approved by  
8 the director, according to the provisions of this title.

Sec. 20. *Transfer of Property.* Except where a transfer of  
2 personal property from one spending unit to another is other-  
3 wise specifically provided for by statute, the board of public  
4 works may authorize the transfer of any personal property  
5 from a spending unit where it is not needed to another spend-  
6 ing unit where there is a need. The determination of the  
7 lack of need and the existence of need shall be the sole re-  
8 sponsibility of the board of public works.

Sec. 21. *Method of Expenditure Control.* The director of the  
2 budget may keep a record of receipts, accruals, and anticipated  
3 income from which appropriations are expended and an ex-  
4 penditure and incumbrance account so that he can determine  
5 at any time whether a disbursement can be made without an  
6 overdraft in the account of a particular spending unit. In  
7 case he discovers that such disbursement would be in excess  
8 of the amount appropriated by the legislature he shall refuse  
9 to transmit the requisition to the auditor and shall return  
10 it to the spending unit with a memorandum setting forth  
11 the reasons for his refusal.

12 In case there is an ample credit to the account of the  
13 spending unit, but the actual moneys of the state are in-  
14 sufficient to meet the amount of the requisition, the budget  
15 director shall forward the requisition to the auditor only if  
16 he believes that there is a reasonable probability that the  
17 funds will be available.

Sec. 22. *Surplus in Collections.* If the amount actually col-  
2 lected by a spending unit exceeds the amount which it is  
3 authorized to expend from collections, the excess of collections  
4 shall be set aside in a special surplus fund for the spending

5 unit. Expenditures from this fund shall be made only in  
6 accordance with the following procedure:

7 The executive officer of the spending unit shall submit to  
8 the board of public works:

9 1. A plan of expenditure showing the purposes for which  
10 the surplus fund is to be expended, and

11 2. A justification statement showing the reasons why the  
12 expenditure is necessary and desirable.

13 If the board is satisfied that the expenditure is required  
14 to defray the additional costs of the service or activity of  
15 the spending unit, the demand for which is reflected by the  
16 surplus of collections and that the expenditure is in accord-  
17 ance with sound fiscal methods, the board may authorize the  
18 use of the surplus fund during the current or next fiscal  
19 year.

20 An expenditure from a surplus fund without the approval  
21 of the board of public works shall be an unlawful use of  
22 public funds.

Sec. 23. *Transfer Between Items.* The board of public works  
2 may, at the request of the executive officer of a spending  
3 unit, transfer amounts between items of the total appro-  
4 priation for the spending unit in order to protect or in-  
5 crease the efficiency of the service: *Provided, however,* That  
6 no transfer shall be made from other items to the item "per-  
7 sonal service."

Sec. 23-a. *Expenditure of Building Appropriations When  
2 Federal Funds Are Not Available.* In reference to Account  
3 No. 333, West Virginia Schools for the Deaf and Blind, lines  
4 6 to 10, Account No. 431, Pinecrest Sanitarium, lines 6 to 9,  
5 Account No. 432, Denmar Sanitarium, lines 7 to 11, and  
6 Acct. No. 386—West Virginia Foundation for Crippled  
7 Children, lines 5 to 9: In the event federal funds for match-  
8 ing are not available, the board of public works may re-  
9 arrange said items and select from the buildings contemplated  
10 those most needed, and use any or all of said building appro-  
11 priations therefor.

Sec. 24. *Duties of Spending Units.* A spending unit shall:

2 1. Keep and maintain records and accounts in the manner  
3 and on forms prescribed by the board.

- 4 2. Transmit reports and estimates at such times as the  
5 board shall direct.
- 6 3. Maintain such personnel classifications and uniform  
7 salary scales as the board shall approve.
- 8 4. Keep its records and accounts open during business  
9 hours for inspection by the budget officer or his representa-  
10 tives.

Sec. 25. *Annual Inventory.* The director may require each  
2 spending unit to file with his office on or before the fifteenth  
3 of July of each year a certified inventory of all real and  
4 personal property and all supplies and equipment in its  
5 possession at the close of the preceding fiscal year.

Sec. 26. *Suspension of Certain Acts.* A provision of another  
2 act, or of the code of West Virginia, one thousand nine  
3 hundred thirty-one, as amended, which is in conflict with the  
4 provisions of this act is hereby suspended during the oper-  
5 ation of this act.

Sec. 27. *Constitutionality.* If any part of this act is declared  
2 unconstitutional by a court of competent jurisdiction its de-  
3 cision shall not affect any portion of this act which remains,  
4 but the remaining portions shall be in full force and effect  
5 as if the portion declared unconstitutional had never been a  
6 part of the act.

## CHAPTER 2

(Senate Bill No. 25—By Mr. Smith)

AN ACT to appropriate money from the state treasury to restore  
the graves of Francis H. Pierpont and Julia A. Pierpont, and  
to provide for the erection of suitable markers thereon, at  
Fairmont, Marion County, West Virginia.

[Passed February 19, 1937; in effect from passage. Approved by the Governor.]

### Section

1. Appropriation for marking and restoring graves of Francis H. Pierpont and Julia A. Pierpont.
2. How appropriation to be expended.

WHEREAS, During the stirring days in the formative period of  
the state of West Virginia, Francis H. Pierpont was the governor

of the restored government of Virginia, and by his untiring and patriotic services greatly assisted in the formation of the state of West Virginia and its admittance to the union; and

WHEREAS, During all those troublesome days he was sustained and supported by the advice and assistance of his wife, Julia A. Pierpont, who later originated the idea of a national memorial day to the memory of deceased patriots of the Civil War; and

WHEREAS, The bodies of these two distinguished and patriotic citizens of our state rest in unmarked graves in the cemetery at Fairmont, Marion County, West Virginia, which graves are difficult to locate, although a matter of much public interest on the part of the citizenry of this and other states; and

WHEREAS, William Haymond Chapter, Daughters of the American Revolution, Fairmont, West Virginia, has begun a movement for the restoration and marking of these graves, in which movement it is felt the state should have a part; therefore

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Appropriation for Marking and Restoring*  
2 *Graves of Francis H. Pierpont and Julia A. Pierpont.* It  
3 appearing from a statement of revenues and appropriations  
4 for the fiscal year one thousand nine hundred thirty-six—one  
5 thousand nine hundred thirty-seven, that there remains in  
6 the treasury, state fund general revenue, unexpended and  
7 unappropriated moneys in excess of the amount hereby ap-  
8 propriated, there is hereby appropriated from the state fund  
9 general revenue the sum of fifteen hundred dollars for the  
10 purpose of restoring the graves of Francis H. Pierpont, gov-  
11 ernor of the restored government of Virginia, and his wife,  
12 Julia A. Pierpont, at Fairmont, West Virginia.

Sec. 2. *How Appropriation to be Expended.* The above  
2 appropriation shall be expended by and under the direction  
3 of the board of control, in conjunction with William Hay-  
4 mond Chapter, Daughters of the American Revolution, Fair-  
5 mont, West Virginia.

## CHAPTER 3

(Senate Bill No. 169—By Mr. Moler)

AN ACT relating to expenditure of money for memorial for Confederate veterans of Shepherdstown and vicinity.

[Passed March 13, 1937; in effect ninety days from passage. Approved by the Governor.]

### Section

1. Appropriation for confederate memorial at Shepherdstown; how expended.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Appropriation for Confederate Memorial at Shepherdstown; How Expended.* The board of control is hereby authorized and shall expend from the state fund general revenue the sum of seven hundred fifty dollars for the purpose of aiding the Henry Kyd Douglas Camp of Sons of the Confederate Veterans to erect a memorial to the Confederate veterans of Shepherdstown and vicinity. Said sum, or any part thereof, shall be expended with the advice and counsel of the said Henry Kyd Douglas Camp Sons of Confederate Veterans.



## CHAPTER 4

(Senate Bill No. 56—By Mr. Galbraith)

AN ACT to amend and reenact sections one and two, chapter one hundred thirteen, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, relating to loans and investments under the national housing act.

[Passed March 4, 1937; in effect from passage. Approved by the Governor.]

### Section

1. Loans on property eligible for federal housing insurance.
2. Investment in, and use as collateral of notes and bonds secured by federal housing administrator.

*Be it enacted by the Legislature of West Virginia:*

That sections one and two, chapter one hundred thirteen, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, be amended and reenacted to read as follows:

### Section 1. *Loans on Property Eligible for Federal Housing*

- 2 *Insurance.* Banks, savings banks, trust companies, building
- 3 and loan associations, industrial loan companies and insurance
- 4 companies are authorized:
- 5 (a) To make such loans and advances of credit and pur-
- 6 chases of obligations representing loans and advances of
- 7 credit as are eligible for insurance by the federal housing
- 8 administrator for the purpose of financing alterations, re-
- 9 pairs and improvements upon real property made subsequent
- 10 to June twenty-seven, one thousand nine hundred thirty-four,
- 11 and to obtain such insurance.
- 12 (b) To make such loans secured by real property or
- 13 leasehold as the federal housing administrator insures or
- 14 makes a commitment to insure for the purpose of financing
- 15 the construction or purchase of dwellings and similar resi-

16 dential property and the refinancing of mortgages, and to  
17 obtain such insurance.

Sec. 2. *Investments in, and Use as Collateral of Notes and*  
2 *Bonds Secured by Federal Housing Administrator.* (a) It  
3 shall be lawful for executors, administrators, guardians,  
4 trustees, banks, savings banks, trust companies, building and  
5 loan associations, industrial loan companies, insurance com-  
6 panies, fraternal benefit societies, the state of West Virginia  
7 and any city, county, political subdivision, agency or instru-  
8 mentality thereof, to invest their funds and the moneys in  
9 their custody or possession eligible for investment in notes or  
10 bonds secured by mortgages insured by the federal housing  
11 administrator, and in debentures issued by the federal hous-  
12 ing administrator, and in securities of national mortgage  
13 associations.

14 (b) Wherever, by statute of this state, collateral is re-  
15 quired as security for the deposit of public or other funds;  
16 or deposits are required to be made with any public official  
17 or department; or an investment of capital or surplus, or  
18 a reserve or other fund, is required to be maintained consist-  
19 ing of designated securities, such notes and bonds insured by  
20 the federal housing administrator and debentures issued by  
21 the federal housing administrator and obligations of national  
22 mortgage associations shall be eligible for such purposes.

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## CHAPTER 5

(House Bill No. 35—By Mr. Fite, by request)

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AN ACT to amend and reenact section eighteen, article eight, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter six, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, and as last amended and reenacted by chapter fourteen, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, relating to limitations on loans

by banking institutions and to the valuation of securities purchased by them.

[Passed March 4, 1937; in effect from passage. Approved by the Governor.]

Section

18. Limitation on loans; authorization of loans to officers and employees of banks and banking department; valuation of securities.

*Be it enacted by the Legislature of West Virginia:*

Section 18. *Limitation on Loans; Authorization of Loans to Officers and Employees of Banks and Banking Department; Valuation of Securities.* The total liabilities to any banking institution of any person, firm or corporation, for money borrowed by note, bond, certificate of indebtedness or other device, including in the liabilities of the firm the liabilities of the several members thereof, including in the liabilities of any corporation an investment by such banking institution in the stock of such corporation, shall at no time exceed ten per cent of the unimpaired capital stock, including debentures and surplus fund of such banking institution: *Provided, however,* That such liabilities to a banking institution in excess of the maximum herein provided, outstanding at the date this act takes effect, but not exceeding twenty per cent of the unimpaired capital stock, including debentures and surplus funds of such banking institution, may be renewed, refunded, or extended for periods expiring not later than December thirty-one, one thousand nine hundred thirty-eight, if the board of directors of such banking institution shall have satisfied themselves that such extension, renewal, or refunding is in the best interests of the bank, and that the said debtor has made reasonable effort to reduce his obligation, these findings to be evidenced by resolution of the board of directors spread upon the minute book of the bank; after which time such limit shall be reduced so that it will not exceed ten per cent of such unimpaired capital stock, debentures and surplus fund of such banking institution. But the discount of commercial or business paper actually owned by the person, firm or corporation negotiating the

30 same shall not be considered as money borrowed within  
31 the limitation of this section; and the obligations of  
32 any person, firm or corporation, in the form of notes or  
33 drafts secured by shipping documents, warehouse receipts  
34 or other such documents transferring or securing titles cover-  
35 ing readily marketable, nonperishable staples when such  
36 property is fully covered by insurance, if it is customary  
36a to insure such staples, shall be considered money borrowed  
36b within the meaning of this section, but shall be subject to  
37 the exception that with respect thereto the limitation of ten  
38 per cent of the unimpaired capital stock, including deben-  
39 tures and surplus fund, to which reference has hereinbe-  
40 fore been made, may be increased to twenty-five per cent  
41 when the market value of such staples securing such obli-  
42 gations is not at any time less than one hundred fifteen  
43 per cent of the face amount of such obligations, and may  
44 be increased up to fifty per cent of such unimpaired  
45 capital stock, including debentures and surplus fund, with  
46 a corresponding increase in market value of such staples  
47 securing such obligation up to not less than one hundred  
48 forty per cent of the face amount of such additional obli-  
49 gation, but this exception shall not apply to obligations of  
50 any one person, firm or corporation arising from the same  
51 transaction or secured upon the identical staples for more  
52 than ten months. This section shall not apply to the obli-  
53 gations of the United States or general obligations of any  
54 state or of political subdivisions thereof, bonds or obligations  
55 issued under the authority of the West Virginia bridge com-  
56 mission or the state road commission, commonly known as  
57 bridge revenue bonds, or obligations issued under authority  
58 of the federal farm loan act, as amended, or issued by the  
59 Federal Home Loan Bank, or the Home Owners' Loan Cor-  
60 poration. Neither shall this section apply to the obligations  
61 of a corporation owning the building in which the banking  
62 institution is located, when such banking institution has an  
63 unimpaired capital and surplus of not less than one million  
64 dollars, or when approved in writing by the commissioner of  
65 banking. Nothing herein shall be construed to forbid the  
66 sale upon credit of a bank building owned by a banking in-  
67 stitution at the time this act takes effect.

68 Indebtedness to a banking institution in excess of the  
69 maximum prescribed in this section, outstanding at the date  
70 this act takes effect, shall not be renewed, refunded or other-  
71 wise extended for a period longer than the limitation pro-  
72 vided by this section. If such indebtedness has not been col-  
73 lected on or before May first, one thousand nine hundred  
74 thirty-nine, and if said institution is not then diligently and  
75 to the satisfaction of the commissioner of banking of the state  
76 of West Virginia proceeding to collect the same, the said  
77 commissioner of banking may require the said banking in-  
78 stitution to charge said indebtedness to profit and loss, or  
79 he may make such other requirements of such institution  
80 with respect to such indebtedness as he shall deem just under  
81 the circumstances, and any officer of the bank who shall re-  
82 fuse to comply with such order or direction of said commis-  
83 sioner of banking shall be guilty of a misdemeanor and shall  
84 be punishable under the provisions of section thirty-nine of  
85 this article.

86 No officer, director, clerk or other employee of any banking  
87 institution or the commissioner of banking or any employee  
88 of the department of banking shall borrow, directly or in-  
89 directly, from the banking institution with which he is  
90 connected, or is subject to his examination, any sum of money  
91 without the written approval of a majority of the board of  
92 directors or discount committee thereof filed in its office,  
93 or embodied in a resolution adopted by a majority vote of  
94 such board, exclusive of the director to whom the loan is made.  
95 If an officer, clerk or other employee of any bank shall own  
96 or control a majority of the stock of any other corporation, a  
97 loan to such corporation shall, for the purpose of this section,  
98 constitute a loan to such officer, clerk or other employee.

99 Securities purchased by a banking institution shall be  
100 entered upon the books of the bank at actual cost, but may  
101 be carried thereafter at market value. For the purpose of  
102 calculating the undivided profits applicable to the payment  
103 of dividends, securities shall not be estimated at a valuation  
104 exceeding their present cost as determined by amortization;  
105 that is, by deducting from the cost of a security purchased  
106 at a premium, and charging to profit and loss a sum sufficient  
107 to bring it to par at maturity.

## CHAPTER 6

(House Bill No. 58—By Mr. Speaker, Mr. Thomas)

AN ACT to amend section five, article six, chapter seven, of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter four, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, and to amend section five, article one, chapter twelve of said code, as amended by chapter fourteen, acts of the Legislature, regular session, one thousand nine hundred thirty-three, relating to the payment of interest on deposits in state and county depositories.

[Passed February 4, 1937; in effect ninety days from passage. Approved by the Governor.]

### Article

6. County Depositories.  
1. State Depositories.

*Be it enacted by the Legislature of West Virginia:*

That section five, article six, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter four, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, and that section five, article one, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter fourteen, acts of the Legislature, regular session, one thousand nine hundred thirty-three, be amended to read as follows:

### Article 6. County Depositories.

#### Section

5. Interest on deposits.

Section 5. *Interest on Deposits.* A county court may require  
2 that such depositories shall pay interest on public money de-  
3 posited therein at a rate or rates determined upon by the  
4 county court which shall be uniform as to active and as to in-  
5 active accounts, and not to exceed three per cent per annum.  
6 But a county court may determine, and arrange accordingly  
7 by agreement with all such depositories in the county, that no  
8 interest shall be charged on such money deposited.

9 If interest is to be charged, it shall be computed on daily  
10 net balances and shall be placed to the credit of the county  
11 treasurer on the first business day of every calendar month  
12 and at any time, when the account may be closed. When inter-  
13 est is credited to the treasurer, the depository shall, in writ-  
14 ing, report to the clerk of the county court and the treasurer,  
15 each separately, the amount thereof, before noon of the next  
16 business day. All of such interest shall be credited to the  
17 general county fund by the clerk of the county court and the  
18 treasurer.

19 In ascertaining the average daily net balances, due allow-  
20 ance shall be made to the depository for any time during  
21 which any part of the deposits were not actually available  
22 to the depository, and there shall be deducted from the gross  
23 daily balances so much thereof as is required by law to be  
24 carried as reserve by such depositories.

#### Article 1. State Depositories.

##### Section

##### 5. Interest on deposits.

2 Section 5. *Interest on Deposits.* The board of public works  
3 may require that all such banks pay interest on state deposits  
4 at a rate or rates determined upon by the board which shall be  
5 uniform as to active and as to inactive accounts. But the board  
6 may determine, and arrange accordingly by agreement with all  
7 such banks, that no interest shall be charged on such deposits.

8 If interest is to be charged, the board shall adjust the rate  
9 semi-annually, and in fixing the rate shall give consideration  
10 to the prevailing rates paid on bank balances in the reserve  
11 and central reserve cities. Interest, if charged, shall be paid  
12 every three months on the first day of July, October, Janu-  
13 ary, and April, and shall be computed upon the average  
14 daily net balances. In the ascertainment of such balances,  
15 due allowance shall be made to the depository for any time  
16 during which any part of the deposits was not actually avail-  
17 able to the depository, and there shall be deducted from the  
18 gross daily balances so much thereof as is required by law to  
be carried as reserve by such depository.

## CHAPTER 7

(House Bill No. 59—By Mr. Speaker, Mr. Thomas)

AN ACT to provide for the submission to the voters of the state of an amendment to section six, article eleven of the constitution of the state of West Virginia, to be known as the "Banking Institutions Amendment".

[Passed February 16, 1937; in effect ninety days from passage. Approved by the Governor.]

### Section

1. Submitting an amendment to section six, article eleven of the constitution.
2. Amendment to be known as "banking institutions amendment."
3. Form of ballot; election.
4. Certificates of election commissioners; canvass of vote; certifying result.
5. Proclamation of result of election by governor.
6. Publication of proposed amendment by governor.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Submitting an Amendment to Section Six, Article Eleven of the Constitution.* 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, amending section six, article eleven of said constitution, by substituting a new section six of said article eleven in lieu of section six of said article as it now exists, 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-eight, which proposed amendment is as follows:

### *Proposed Amendment*

#### **Article 11. Corporations.**

Section 6. *Banks.* The Legislature may provide by general law for the creation, organization, and regulation of banking institutions.

Sec. 2. *Amendment to be Known as "Banking Institutions Amendment."* For convenience in referring to said proposed



3 amendment and in the preparation of the form of the ballot  
 4 hereinafter provided for, said proposed amendment is here-  
 5 by designated as follows: To be known as the "banking  
 6 institutions amendment."

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

8 Ballot on constitutional "banking institutions amendment,"  
 9 amending section six, article eleven.

10  For ratification of "banking institutions amend-  
 11 ment."

12  Against ratification of "banking institutions amend-  
 13 ment."

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

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

7 "We, the undersigned who acted as commissioners (or can-  
 8 vassers, as the case may be), of the election held at precinct  
 9 number....., in the district of.....,  
 10 in the county of....., on the.....day of

11 November, one thousand nine hundred thirty-eight, upon the  
 12 question of the ratification or rejection of the proposed con-  
 13 stitutional amendment to section six, article eleven, do hereby  
 14 certify that the result of said election is as follows :

15 Amending section six of article eleven :

16 For ratification of "banking institutions amendment"  
 17 votes.....

18 Against ratification of "banking institutions amendment"  
 19 votes.....

20 Given under our hands this.....day of November, one  
 21 thousand nine hundred thirty-eight."

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

31 The said certificates, together with the ballots cast on the  
 32 question of said proposed amendment, shall be laid before  
 33 the commissioners of the county court at the courthouse at  
 34 the same time the ballots, poll books and the certificates of the  
 35 election for the members of the Legislature are laid before  
 36 them ; and as soon as the result of said election in the county  
 37 upon the question of such ratification or rejection is ascer-  
 38 tained, two certificates of such result shall be made out and  
 39 signed by said commissioners, as a board of canvassers, in the  
 40 following form or to the following effect :

41 "We, the board of canvassers of the county of .....,  
 42 having carefully and impartially examined the returns of  
 43 the election held in said county, in each district thereof, on  
 44 the ..... day of November, one thousand nine hundred  
 45 thirty-eight, do certify that the result of the election in said  
 46 county, on the question of the ratification or rejection of the  
 47 proposed constitutional amendment to section six, article  
 48 eleven, is as follows :

49 For ratification of "banking institutions amendment"  
 50 ..... votes.

51 Against ratification of "banking institutions amendment"  
52 ..... votes.

53 Given under our hands this ..... day of .....,  
54 one thousand nine hundred thirty-eight."

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

*Sec. 5. Proclamation of Result of Election by Governor.*

2 On the twenty-fifth day after the election is held, or as soon  
3 thereafter as practicable, the said certificates shall be laid  
4 before the Governor, whose duty it shall be to ascertain  
5 therefrom the result of said election in the state, and declare  
6 the same by proclamation published in one or more news-  
7 papers printed at the seat of government. If a majority of  
8 the votes cast at said election upon said question be for the  
9 ratification of the said amendment, the proposed amendment  
10 so ratified shall be of force and effect from and after the time  
11 of such ratification as part of the constitution of the state.

*Sec. 6. Publication of Proposed Amendment by Governor.*

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

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## CHAPTER 8

(House Bill No. 72—By Mr. White)

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AN ACT to amend article eight, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapters five and seven, acts of the Legislature,

first extraordinary session, one thousand nine hundred thirty-three, by adding a new section to said article to be designated as section forty-five, relating to banking institutions incorporated under the laws of the state of West Virginia whose business is solely conducted outside the limits of this state.

[Passed February 4, 1937; in effect from passage. Approved by the Governor.]

## **Article 8. Business Operations and Supervision of Banking Institutions.**

### **Section**

45. Banking institutions incorporated in, but doing business entirely without state.

*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, as amended by chapters five and seven, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, be amended by adding a new section to said article to be designated section forty-five, to read as follows:

Section 45. *Banking Institutions Incorporated in, But*  
2 *Doing Business Entirely Without State.* Any banking in-  
3 stitutions, incorporated under the laws of this state, all of  
4 whose business is conducted entirely outside of the state  
5 of West Virginia, shall not be subject to supervision by  
6 the department of banking or the commissioner of banking,  
7 and shall not be required to make any reports to it or him,  
8 or to publish such reports, and no consent or authority of  
9 the commissioner shall be necessary or required as to any  
10 of the acts and practices of said non-resident banks in and  
11 about the conduct of their business outside of the state of  
12 West Virginia, and the commissioner of banking shall not  
13 be responsible for any acts or practices of said non-resident  
14 banks. The officers and directors of such non-resident  
15 banking institutions may all be non-residents of the state  
16 of West Virginia, and such non-resident banking institutions  
17 may conduct the banking business at such place or places  
18 outside of the state of West Virginia as they may be

19 permitted under the laws of the jurisdiction in which such  
20 place or places are situated. The restrictions in the banking  
21 laws of this state contained as to establishment and main-  
22 tenance of branch banks shall not be applicable to said non-  
23 resident banks, but no non-resident bank shall operate or  
24 maintain any branch bank in this state. The provisions, re-  
25 quirements, restrictions and limitations in the banking laws  
26 contained relative to the capital stock, either authorized or  
27 issued, and to the increase thereof, to the acquisition and  
28 holding of real estate, to the oath and qualifications of direc-  
29 tors, to loans and the property, real or personal, upon the  
30 security of which loans may be made, to the borrowing of  
31 money by banking institutions and the hypothecation of  
32 securities or other property for the same, to reserves, and to  
33 dividends and all other restrictions and limitations of the  
34 banking laws of this state, shall not apply to said non-resident  
35 banks: *Provided, however,* That nothing in this act shall be  
36 construed as relieving said non-resident banks from compli-  
37 ance with the laws of the jurisdiction in which they may con-  
38 duct business: *Provided, further,* That this section shall not  
39 apply to any banking institution, any part of whose actual  
40 business is conducted within the state of West Virginia.  
41 *And provided further,* That nothing in this section contained  
42 shall be interpreted as rendering any laws now in force or  
43 hereafter enacted inapplicable to banking institutions doing  
44 any actual business in the state of West Virginia, and such  
45 future legislation, unless it specifically or by necessary im-  
46 plication appear to the contrary, shall be construed as ap-  
47 plicable only to banking institutions having a place of busi-  
48 ness in the state of West Virginia.

## CHAPTER 9

(House Bill No. 239—By Mr. White)

AN ACT to amend and reenact section eleven, article eight, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to reports of banking institutions and the publication of such reports.

[Passed February 25, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Article 8. Business Operations and Supervision of Banking Institutions.

#### Section

11. Reports of banking institutions; publication.

*Be it enacted by the Legislature of West Virginia:*

That section eleven, article eight, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to reports of banking institutions and the publication of such reports, be amended and reenacted to read as follows:

#### Section 11. *Reports of Banking Institutions; Publication.*

2 Every banking institution organized and authorized to  
3 transact business under this chapter shall make at least four  
4 reports each year to the commissioner of banking. Such  
5 reports shall be called for as nearly as conveniently may  
6 be on the dates on which the comptroller of the currency  
7 shall call for reports by national banking associations, and  
8 be of such form and contain such details as shall be pre-  
9 scribed by the commissioner of banking; which reports shall  
10 be verified by the oath of the president or active vice  
11 president and cashier, and attested by the signature of at  
12 least three directors of the banking institution. Each re-  
13 port shall show in detail, under appropriate heads, the re-  
14 sources and liabilities of the banking institution at the close  
15 of the business on the date specified by the banking commis-  
16 sioner, and shall be transmitted to the office of the depart-

17 ment of banking and supervision within five days from the  
18 receipt of the request for the same.

19 Such report, in the same form in which it is made to the  
20 commissioner of banking, shall be published in a newspaper  
21 printed in the place where the banking institution is located  
22 first or nearest thereto; or if no newspaper is printed in such  
23 location, it shall be published in a newspaper printed in the  
24 same county and of general circulation in the community  
25 where the banking institution is located.

26 In lieu of such report and publication, the commissioner  
27 of banking shall have discretion to accept from a banking  
28 institution which is a member of the federal reserve system  
29 a report, and the publication thereof required of such bank-  
30 ing institution by the federal reserve board, or by its agency:  
31 *Provided*, That such report shall show in detail, under ap-  
32 propriate heads, the resources and liabilities of the banking  
33 institution at the close of business on the day specified by the  
34 federal reserve board, or by its agency, and shall contain  
35 such further details as may be deemed necessary or desirable  
36 by the commissioner of banking.

37 Any report and the publication thereof shall be at the ex-  
38 pense of the banking institution, and it shall furnish to the  
39 commissioner of banking such proof of the publication as  
40 may be required by him.

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## CHAPTER 10

(House Bill No. 400—By Mr. Speaker, Mr. Thomas)

AN ACT to amend article eight, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section designated section thirty-two-b, providing that in the administration by receivers of the assets of insolvent banking institutions having deposits of moneys belonging to the state of West Virginia, no greater rate of interest shall be paid on such deposits than that paid for the same period or periods on the same class or classes of deposits by solvent banking institutions operating in the usual course of business.

[Passed March 12, 1937; in effect from passage. Became a law without the approval of the Governor.]

## Article 8. Business Operations and Supervision of Banking Institutions.

### Section

32-b. Rate of interest on state deposits in insolvent banks.

*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 thereto a new section to be designated thirty-two-b, to read as follows:

Section 32-b. *Rate of Interest on State Deposits in Insolvent Banks.* In the administration of the assets of insolvent banking institutions by receivers appointed pursuant to this article, having deposits of money belonging to the state of West Virginia, no greater rate of interest, notwithstanding the provisions of the contracts relative to interest between such insolvent banking institutions and the state of West Virginia, shall be paid on such deposits than that paid for the same period or periods on the same class or classes of such deposits by solvent banking institutions operating in the usual course of business.

3

## CHAPTER 11

(House Bill No. 439—By Mr. White)

AN ACT to repeal section two-f, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter eighty-six, acts of the Legislature, regular session, one thousand nine hundred thirty-five, relating to tax on business of banking.

[Passed March 13, 1937; in effect April 1, 1937. Approved by the Governor.]

## Article 13. Business and Occupation Tax.

### Section

1. Repeal of tax on business of banking.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Repeal of Tax on Business of Banking.* That



2 section two-f, article thirteen, chapter eleven of the code of  
3 West Virginia, one thousand nine hundred thirty-one, as  
4 enacted by chapter eighty-six, acts of the Legislature, regular  
5 session, one thousand nine hundred thirty-five, be and the  
6 same is hereby repealed.

## CHAPTER 12

(Senate Bill No. 153—By Mr. Howard)

AN ACT to amend chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by repealing sections ninety-one to one hundred three, inclusive, of article twelve, and by adding article fifteen, all relating to nonintoxicating beer.

[Passed March 13, 1937; in effect April 15, 1937. Approved by the Governor.]

### Article 15. Nonintoxicating Beer.

#### Section

1. How act cited.
2. Definitions.
3. State license required.
4. Amount of license tax.
5. Bond of brewer, distributor and retail dealer.
6. Barrel tax.
7. Collection of unpaid license tax.
8. Records of brewer or distributor; collection of unpaid tax and penalty.
9. Restrictions on nonresident brewers and distributors.
10. License in one capacity only; no connection between different licensees; when brewer may act as distributor.
11. License not transferable; change of location.
12. Form of application for license; fee and bond; refusal of license.
13. Unlawful acts of licensees.
14. Powers of tax commissioner.
15. Revocation of license; hearing; appeal.
16. Reissuance of license after revocation.
17. Municipal license tax.
18. Administration vested in tax commissioner.
19. Revenue collected paid to state treasurer; administration expense.
20. Expiration date of existing licenses.
21. Sections repealed.
22. Provisions of article severable.

*Be it enacted by the Legislature of West Virginia:*

That chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by repealing

sections ninety-one to one hundred three, inclusive, of article twelve, and by adding article fifteen to read as follows :

Section 1. *How Act Cited.* This act may be cited as "The  
2 nonintoxicating beer act."

Sec. 2. *Definitions.* For the purpose of this article :

2 "Nonintoxicating beer" shall mean all cereal malt bever-  
3 ages or products of the brewing industry commonly referred  
4 to as beer, lager beer, ale, and all other mixtures and prepara-  
5 tions produced by the brewing industry, and containing not  
6 more than five per centum of alcohol by weight, which are  
7 hereby declared to be nonintoxicating, and the word "liquor"  
8 as used in chapter sixty of the code of West Virginia shall  
9 not be construed to include or embrace any cereal malt  
10 beverage or product of the brewing industry, or any mixture  
11 or preparation of like nature containing not more than five  
12 per centum of alcohol by weight.

13 "Person" shall mean and include an individual, firm, part-  
14 nership, association or corporation.

15 "Retailer" shall mean any person selling, serving, deliver-  
16 ing or otherwise dispensing nonintoxicating beer at his estab-  
17 lished and licensed place of business.

18 "Distributor" shall mean any person, whose chief place  
19 of business is within the state of West Virginia, jobbing or  
20 distributing nonintoxicating beer to retailers at wholesale.

21 "Brewer" shall mean any person, firm, association, part-  
22 nership or corporation manufacturing, bottling or otherwise  
23 producing nonintoxicating beer for sale at wholesale.

24 "Original container" shall mean the container used by  
25 the brewer at the place of manufacturing, bottling, or other-  
26 wise producing nonintoxicating beer for sale at wholesale.

Sec. 3. *State License Required.* No person shall manufac-  
2. ture, sell, possess for sale, transport or distribute nonintoxi-  
3 cating beer except in accordance with the provisions of this  
4 act, and after first obtaining a state license therefor, as here-  
5 inafter provided.

Sec. 4. *Amount of License Tax.* There is hereby levied and  
2 imposed an annual license tax upon all dealers in and of  
3 nonintoxicating beer as defined by this act, which license

4 period shall begin on the first day of July of each year and  
5 end on the thirtieth day of June of the following year, and  
6 if granted for a less period the same shall be computed  
7 quarterly in proportion to the remainder of the fiscal year, as  
8 follows:

9 (a) In the case of a retail dealer the license fee shall  
10 be one hundred dollars for each place of business; except  
11 such license fee for social, fraternal or public clubs, not oper-  
12 ating for profit, and having been in continuous operation  
13 for two years or more immediately preceding the date of  
14 application, shall be fifty dollars; and except that railroads  
15 operating in this state may dispense nonintoxicating beer  
16 upon payment of an annual license tax of ten dollars for  
17 each dining, club or buffet car in which the same is dis-  
18 pensed.

19 (b) In the case of a distributor the license fee shall be  
20 two hundred fifty dollars for each place of business.

21 (c) In the case of a brewer, with its principal place of  
22 business located in this state, the license fee shall be five  
23 hundred dollars for each place of manufacture.

Sec. 5. *Bond of Brewer, Distributor and Retail Dealer.* In  
2 addition to furnishing the information required by this act,  
3 each brewer or distributor applying for a license under this  
4 act shall furnish, as prerequisite to a license, a bond in some  
5 solvent surety company, to be approved by the tax commis-  
6 sioner of the state of West Virginia, payable to the state of  
7 West Virginia, conditioned for the payment of any and all  
8 additional taxes accruing during the period of such license,  
9 and conditioned further for the faithful observance of the  
10 laws of the state of West Virginia with respect to the sale,  
11 transportation, storage and distribution of nonintoxicating  
12 beer; which said bond shall be forfeited to the state upon the  
13 revocation of the license of any such brewer or distributor.  
14 The amount of such bond, in the case of a brewer, shall be not  
15 less than five thousand dollars nor more than ten thousand  
16 dollars, and in the case of a distributor, not less than two  
17 thousand dollars nor more than five thousand dollars for  
18 each place of business licensed and conducted within the  
19 state. the amount of such bond, between the minimum and

20 maximum amounts, to be determined in the discretion of the  
21 tax commissioner.

22 Each and every retail dealer, in addition to furnishing the  
23 information required by this act, shall furnish, as prerequi-  
24 site to obtaining a license, a bond in some solvent surety  
25 company, to be approved by the tax commissioner, payable  
26 to the state of West Virginia, in an amount not less than  
27 two hundred dollars, nor more than five hundred dollars,  
28 within the discretion of the tax commissioner. All such  
29 bonds shall be conditioned for the faithful observance of  
30 the laws of the state of West Virginia with respect to the  
31 distribution, sale and dispensing of nonintoxicating beer,  
32 and shall be forfeited to the state upon the revocation of  
33 the license of any such retail dealer.

Sec. 6. *Barrel Tax.* There is hereby levied and imposed, in  
2 addition to the license taxes hereinabove provided for, a tax  
3 of one dollar and thirty-seven and one-half cents on each bar-  
4 rel of thirty-one gallons and in like ratio on each part barrel  
5 of nonintoxicating beer manufactured in this state for sale  
6 within this state, whether contained or sold in barrels, bottles  
7 or other containers, and a like tax is hereby levied and im-  
8 posed upon all nonintoxicating beer manufactured outside of  
9 this state and brought into this state for sale within this state;  
10 but no nonintoxicating beer manufactured, sold or distributed  
11 in this state shall be subject to more than one barrel tax. The  
12 brewer manufacturing or producing nonintoxicating beer  
13 within this state for sale within this state shall pay the  
14 barrel tax on such nonintoxicating beer, and the distributor  
15 who is the original consignee of nonintoxicating beer manu-  
16 factured or produced outside of this state, or who brings  
17 such nonintoxicating beer into this state, shall pay the  
18 barrel tax on such nonintoxicating beer manufactured or  
19 produced outside of this state.

20 On or before the tenth day of each calendar month during  
21 the license period, every brewer or distributor shall make  
22 a report in writing, under oath, to the tax commissioner,  
23 in such form as may be required by the tax commissioner,  
24 showing the number of barrels of nonintoxicating beer manu-  
25 factured or distributed by such person for the preceding  
26 calendar month, or part thereof, during which such person

27 was engaged in business, and at the same time shall pay  
28 the tax thereon levied by this act. Within thirty days after  
29 the end of any license tax year each brewer or distributor  
30 shall make a report in writing, under oath, to the tax com-  
31 missioner, in such form as may be required by the tax com-  
32 missioner, showing the number of barrels of nonintoxicating  
33 beer manufactured or distributed for the preceding tax year  
34 or part thereof by such person.

Sec. 7. *Collection of Unpaid License Tax.* If any person,  
2 whose report to the tax commissioner as provided for in the  
3 next preceding section shows him to be liable for any unpaid  
4 license taxes, shall fail to pay the same to the tax commis-  
5 sioner as provided herein, the tax commissioner shall be au-  
6 thorized to distrain immediately therefor, or collect the  
7 amount thereof in any appropriate legal proceeding instituted  
8 in the circuit court of Kanawha county, West Virginia, and  
9 in addition the state shall have a lien on all the property of  
10 such person for the full amount of the unpaid tax as ascer-  
11 tained by the tax commissioner; and in addition the tax  
12 commissioner may revoke the license of any such person fail-  
13 ing to pay any such tax.

Sec. 8. *Records of Brewer or Distributor; Collection of  
2 Unpaid Tax and Penalty.* Every brewer or distributor shall  
3 maintain, keep and preserve for a period of two years such  
4 record or records of nonintoxicating beer manufactured, sold  
5 or distributed in this state, together with such invoices, rec-  
6 ords, receipts, bills of lading and other pertinent papers as  
7 may be required by the tax commissioner, and the tax com-  
8 missioner shall have authority to inspect, by himself or  
9 through his duly designated agent, the books, accounts,  
10 records and memoranda of any person licensed under the  
11 provisions of this act, and to examine, under oath, any officer,  
12 agent or employee of any brewer or distributor. The tax  
13 commissioner may require the production, within this state  
14 at such time and place as he may designate, of any books,  
15 accounts, papers or records kept within or without the state,  
16 or verified copies in lieu thereof, in order that an examination  
17 thereof may be made by the tax commissioner or his duly  
18 designated agents. If, as the result of such examination, it

19 shall be found that any nonintoxicating beer subject to the  
20 payment of a license tax, has been manufactured, brewed,  
21 sold or distributed by any person, upon which the tax has  
22 not been paid, the tax commissioner shall make an assess-  
23 ment of the amount of the tax so found to be due, and in  
24 addition thereto and as a part thereof shall assess a penalty  
25 of fifty per cent of the amount of such tax and shall notify  
26 such person of the additional amount due. If the same re-  
27 mains unpaid for a period of thirty days the tax commis-  
28 sioner shall have authority to revoke any license held at  
29 the time by the licensee and in addition thereto to collect  
30 the amount found to be due by an appropriate legal pro-  
31 ceeding in the circuit court of Kanawha county, West Vir-  
32 ginia, unless an appeal is taken from the action of the tax  
33 commissioner as hereinafter provided.

34 Within thirty days after the receipt of notice of any  
35 additional amount claimed to be due from any person as  
36 shown by an examination by the tax commissioner, the  
37 licensee shall have the right of appeal from his findings to  
38 the circuit court of Kanawha county, West Virginia, and  
39 such appeal shall be heard by the said circuit court de novo.  
40 Whether the finding of the tax commissioner is affirmed or  
41 reversed the circuit court shall enter an order accordingly  
42 and either party shall then have the right of appeal to the  
43 supreme court of appeals of the state.

Sec. 9. *Restrictions on Nonresident Brewers and Distribu-*  
2 *tors.* No brewer whose chief place of business is outside the  
3 state of West Virginia shall offer for sale or sell nonintoxi-  
4 cating beer in the state of West Virginia, or offer such beer  
5 for shipment into this state, except to a distributor who is  
6 duly licensed under this act, and no such brewer shall con-  
7 sign, ship or deliver any nonintoxicating beer to any person  
8 within the state of West Virginia, or sell and deliver such  
9 beer outside the state of West Virginia to be transported into  
10 the state of West Virginia, except to a duly licensed dis-  
11 tributor for delivery at the place of business of such dis-  
12 tributor as set forth in his license. No such brewer shall have  
13 any interest in the business of any distributor or retailer, nor  
14 be connected directly or indirectly with any distributor or

15 retailer. Every such brewer shall mail to the tax commis-  
16 sioner at Charleston, West Virginia, on or before the tenth  
17 day of each calendar month, a sworn statement showing all  
18 such sales and shipments of nonintoxicating beer made by  
19 such brewer during the preceding calendar month. If any  
20 such brewer shall violate any of the provisions of this act, he  
21 shall not be permitted to sell, ship or deliver any nonintoxi-  
22 cating beer to any distributor, or otherwise engage in the  
23 nonintoxicating beer business, for a period of one year from  
24 the date the notice shall be mailed to such brewer by the  
25 tax commissioner of the fact that such brewer has violated  
26 the provisions of this act. During such period of one year  
27 it shall be unlawful for any distributor, or for any other  
28 person within the jurisdiction of the state of West Virginia,  
29 to buy or receive from such brewer any nonintoxicating beer  
30 or have any dealings with such brewer with respect thereto.  
31 A distributor, who has not qualified with residence require-  
32 ments of this act or whose chief place of business is outside  
33 the state of West Virginia shall not sell, ship, transport  
34 convey or deliver, or cause to be sold, shipped, transported,  
35 conveyed or delivered, directly or indirectly, any nonintoxi-  
36 cating beer to any distributor within the state of West Vir-  
37 ginia. If any such distributor shall violate any of the pro-  
38 visions of this act, he shall be punished in like manner as  
39 provided for any non-resident brewer who shall violate any  
40 provisions of this section.

Sec. 10. *License in One Capacity Only; No Connection-*  
2 *Between Different Licensees; When Brewer May Act as Dis-*  
3 *tributor.* No person shall be licensed in more than one  
4 capacity under the terms of this act, and there shall be no  
5 connection whatsoever between any retailer or distributor  
6 or brewer, and no person shall be interested directly or  
7 indirectly through the ownership of corporate stock, member-  
8 ship in a partnership, or in any other way in the business  
9 of a retailer, if such person is at the same time interested  
10 in the business of a brewer or distributor; but a brewer  
11 whose place of business is located within the state of West  
12 Virginia may act as distributor of his own product from  
13 the place of manufacture, or bottling but must have dis-

14 tributor's license for distribution from a place other than  
15 the place of manufacture, and a brewer or distributor may  
16 sell to a consumer, for personal use and not for resale,  
17 draught beer in quantities of one-eighth, one-fourth and one-  
18 half barrels in the original container: *Provided, however,*  
19 That nothing herein contained shall prevent a brewer who  
20 bottles beer manufactured by another from obtaining a  
21 license as, and engaging in the business of, a distributor,  
22 but on all beer bottled by a brewer other than the manu-  
23 facturer of the beer the label on each bottle shall plainly  
24 indicate the name of the brewer by whom the said beer was  
25 manufactured.

Sec. 11. *License Not Transferable; Change of Location.* No  
2 license issued under the provisions of this act shall be trans-  
3 ferred to another person, nor shall the location of the  
4 premises to which the license relates be changed without the  
5 written consent of the tax commissioner, which consent may  
6 be refused, in his discretion.

Sec. 12. *Form of Application for License; Fee and Bond;*  
2 *Refusal of License.* A license may be issued by the tax com-  
3 missioner to any person who submits an application therefor,  
4 accompanied by license fee and bond, stating under oath:

5 (a) The name and residence of the applicant, how long he  
6 has resided there, that he has been a resident of the state for  
7 a period of two years next preceding the date of his applica-  
8 tion, that he is twenty-one years of age, and, if a firm, associa-  
9 tion, partnership or corporation, the residence of the members  
10 or officers for a period of two years next preceding the date of  
11 such application: *Provided,* That if any person, firm, partner-  
12 ship, association or corporation applies for a license as a dis-  
13 tributor, such person, or in the case of a firm, partnership,  
14 association or corporation, the members or officers thereof,  
15 shall state under oath that he or they have been bona fide  
16 residents of the state for four years next preceding the date  
17 of such application.

18 (b) The place of birth of applicant and, if a naturalized  
19 citizen, when and where naturalized; and, if a corporation,  
20 organized or authorized to do business under the laws of  
21 the state, when and where incorporated, with the names and



22 address of each officer; and, if a firm or partnership, the  
23 place of birth or place when and where naturalized of each  
24 member of the firm or partnership, each of whom must  
25 qualify and sign the application;

26 (c) The particular place for which the license is desired  
27 and a detailed description thereof;

28 (d) The name of the owner of the building and, if the  
29 owner is not the applicant, that such applicant is the actual  
30 and bona fide lessee of the premises;

31 (e) That the place or building in which it is proposed to  
32 do business conforms to all laws of health and fire regu-  
33 lations applicable thereto, and is a safe and proper place or  
34 building;

35 (f) That the applicant has never been convicted of a  
36 felony, or a violation of the liquor laws either federal or state;

37 (g) That the applicant is the only person in any manner  
38 pecuniarily interested in the business so asked to be licensed  
39 and that no other person shall be in any manner pecuniarily  
40 interested therein during the continuance of the license;

41 (h) That the applicant has not during one year next  
42 immediately preceding the date of said application had a  
43 nonintoxicating beer license revoked, nor during the same  
44 period been convicted of any criminal offense.

45 The foregoing provisions and requirements are mandatory  
46 prerequisites for the issuance of a license, and in the event  
47 any applicant fails to qualify under the same, license shall  
48 be refused. In addition to the information furnished in  
49 any application, the tax commissioner may make such addi-  
50 tional and independent investigation of each applicant, and  
51 of the place to be occupied, as deemed necessary or advis-  
52 able; and for this reason each and all applications, with  
53 license fee and bond, must be filed thirty days prior to  
54 the beginning of any fiscal year, and if application is for  
55 an unexpired portion of any fiscal year, issuance of license  
56 may be withheld for such reasonable time as necessary for  
57 investigation.

58 The tax commissioner may refuse a license to any appli-  
59 cant under the provisions of this act if he shall be of the  
60 opinion:

61 (a) That the applicant is not a suitable person to be

62 licensed ; or

63 (b) That the place to be occupied by the applicant is not  
64 a suitable place ; or

65 (c) That the license should not be issued, for reason of  
66 conduct declared to be unlawful by this act.

Sec. 13. *Unlawful Acts of Licensees.* It shall be unlawful :

2 (a) For any licensee, his, its or their servants, agents  
3 or employees to sell, give or dispense, or any individual  
4 to drink or consume, in or on any licensed premises or  
5 in any rooms directly connected therewith, nonintoxicating  
6 beer between the hours of midnight and seven o'clock the  
7 following morning.

8 (b) For any licensee to sell, furnish or give any non-  
9 intoxicating beer to any person visibly or noticeably intoxi-  
10 cated, or to any insane person, or to any habitual drunkard,  
11 or to any person under the age of eighteen years.

12 (c) For any distributor to sell or offer to sell, or any  
13 retailer to purchase or receive, any nonintoxicating beer  
14 except for cash ; and no right of action shall exist to  
15 collect any claims for credit extended contrary to the pro-  
16 visions of this clause. Nothing herein contained shall pro-  
17 hibit the licensee from crediting to a purchaser the actual  
18 price charged for packages or containers returned by the  
19 original purchaser as a credit on any sale, or from refund-  
20 ing to any purchaser the amount paid or deposited for  
21 such containers when title is retained by the vendor.

22 (d) For any brewer or distributor or his, its or their  
23 agents, to transport or deliver nonintoxicating beer to any  
24 retail licensee on Sunday.

25 (e) For any brewer or distributor to give, furnish, rent  
26 or sell any equipment, fixtures, signs or supplies directly or  
27 indirectly or through a subsidiary or affiliate to any licensee  
28 engaged in selling products of the brewing industry at  
29 retail, or to offer any prize, premium, gift or other similar  
30 inducement, except advertising matter of nominal value, to  
31 either trade or consumer buyers.

32 (f) For any licensee to transport, sell, deliver or pur-  
33 chase any nonintoxicating beer or product of the brewing  
34 industry upon which there shall appear a label or other  
35 informative data which in any manner refers to the alcoholic

36 content of such beer or product of the brewing industry,  
37 or upon the label of which there appears the word or  
38 words "strong," "full strength," "extra strength," "pre-  
39 war strength," "high test" or other similar expressions  
40 bearing upon the alcoholic content of such product of the  
41 brewing industry, or which refers in any manner to the  
42 original alcoholic strength, extract or balling proof from  
43 which such beverage was produced.

44 (g) For any licensee to permit in his premises any  
45 lewd, immoral or improper entertainment, conduct or prac-  
46 tises.

47 (h) For any licensee to possess a federal license, tax  
48 receipt or other permit, entitling, authorizing or allowing  
49 such licensee to sell liquor or alcoholic drinks.

50 (i) For any licensee to obstruct the view of the interior  
51 of his premises by enclosure, lattice, drapes or any means  
52 which would prevent plain view of the patrons occupying  
53 such premises. The interior of all licensed premises shall  
54 be adequately lighted at all times.

55 (j) For any licensee to manufacture, import, sell, trade,  
56 barter, possess, or acquiesce in the sale, possession or con-  
57 sumption of any alcoholic liquors on the premises covered  
58 by such license or on premises directly or indirectly used  
59 in connection therewith.

60 (k) To print, paint or place upon the door, window, or  
61 in any other public place in or about the premises, the  
62 word "saloon" or word of similar character or nature,  
63 or for the word "saloon" or similar words to be used in  
64 any advertisement by the licensee.

65 (l) For any retail licensee to sell or dispense non-  
66 intoxicating beer purchased or acquired from any source  
67 other than a licensed distributor or brewer under the laws  
68 of this state.

69 (m) For any licensee to permit loud, boisterous or dis-  
70 orderly conduct of any kind upon his premises or to permit  
71 the use of loud musical instruments if either or any of the  
72 same may disturb the peace and quietude of the community  
73 wherein such business is located.

74 (n) For any person whose license has been revoked, as  
75 in this act provided, to obtain employment with any retailer

76 within the period of one year from the date of such revoca-  
77 tion, or for any retailer to employ knowingly any such person  
78 within such time.

79 (o) For any distributor to sell, possess for sale, trans-  
80 port or distribute nonintoxicating beer except in the original  
81 container.

82 Any person who violates any provision of this act or who  
83 makes any false statement concerning any material fact in  
84 submitting application for license or for a renewal of a  
85 license or in any hearing concerning the revocation thereof,  
86 or who commits any of the acts herein declared to be un-  
87 lawful, shall be guilty of a misdemeanor, and shall be  
88 punished for each offense by a fine of not less than twenty-  
89 five dollars nor more than five hundred dollars, or imprisoned  
90 in the county jail for not less than thirty days or more  
91 than six months, or by both fine and imprisonment in the  
92 discretion of the court. Justices of the peace shall have  
93 concurrent jurisdiction with the circuit court, and any other  
94 courts having criminal jurisdiction in their county, for the  
95 trial of all misdemeanors arising under this act.

Sec. 14. *Powers of Tax Commissioner.* To effectively carry  
2 out the provisions of this article the tax commissioner shall  
3 have the power and authority to adopt, promulgate, repeal,  
4 rescind and amend, in any manner required, rules, regula-  
5 tions, standards, requirements and orders, including the fol-  
6 lowing:

7 (a) Prescribing records and accounts, pertaining to the  
8 manufacture, distribution and sale of nonintoxicating beer,  
9 to be kept by the licensee;

10 (b) Requiring the reporting of such information by  
11 licensees as may be necessary for the effective administration  
12 of this article;

13 (c) Regulating the branding and labeling of packages,  
14 bottles or other containers in which nonintoxicating beer may  
15 be sold;

16 (d) Prohibiting shipment into the state and sale within  
17 the state of low grade or under-standard nonintoxicating beer;

18 (e) Referring to licenses and the issuance and revocation  
19 of the same;

20 (f) Requiring licensees to keep their places of business  
21 where nonintoxicating beer is sold at retail and the equip-  
22 ment used in connection therewith clean and in a sanitary  
23 condition.

Sec. 15. *Revocation of License; Hearing; Appeal.* The tax  
2 commissioner may revoke the license of any licensee:

3 (a) For any of the reasons and upon any grounds de-  
4 clared to be unlawful by section thirteen of this act.

5 (b) For any reason or ground upon which a license might  
6 have been refused in the first instance had the facts at the  
7 time of the issuance of such license been known to the tax  
8 commissioner.

9 (c) For the violation of any rule, regulation or order  
10 promulgated by the tax commissioner under authority of this  
11 article.

12 No such revocation shall be made unless and until a  
13 hearing shall be held after ten days notice to the licensee  
14 of the time and place of such hearing, which notice shall  
15 contain a statement or specification of the charges, grounds  
16 or reasons for such proposed or contemplated action, and  
17 which shall be served upon the licensee as other notices,  
18 or by registered mail to the address for which license was  
19 issued; at which time and place, so designated in the notice,  
20 the licensee shall have the right to appear and produce evi-  
21 dence in his behalf, and to be represented by counsel.

22 If, at the request of the licensee or on his motion, the  
23 hearing shall be continued and shall not take place on the  
24 day fixed for the tax commissioner in the notice above  
25 provided for, then such licensee's license shall be suspended  
26 until the hearing and decision of the tax commissioner,  
27 and in the event of revocation of such license, upon  
28 hearing before the tax commissioner, the licensee shall  
29 not be permitted to sell beer unless and until an appeal  
30 has been perfected as provided by this act. Any person con-  
31 tinuing to sell beer after his license has been suspended or  
32 revoked, as hereinbefore provided, shall be guilty of a mis-  
33 demeanor and shall be punished as provided in section thir-  
34 teen of this act.

35 The action of the tax commissioner in revoking a license

36 shall be subject to review, upon certiorari by the circuit court  
37 of Kanawha county, West Virginia, when such licensee may  
38 be aggrieved by such revocation. The granting of such re-  
39 view, upon certiorari, shall be in the sound discretion of the  
40 judge of the circuit court of Kanawha county, and petition  
41 for such review must be filed with said circuit court within a  
42 period of thirty days from and after the date of revocation  
43 by the tax commissioner; and any licensee obtaining an order  
44 of review shall be required to pay the costs and fees incident  
45 to transcribing, certifying and transmitting the records per-  
46 taining to such matter to the circuit court. An application  
47 to the supreme court of appeals of West Virginia for a writ  
48 of error from and supersedeas to any final order of the circuit  
49 court in any such matter shall be made within thirty days  
50 from and after the entry of such final order.

51 All such hearings, upon notice to show cause why license  
52 should not be revoked, before the tax commissioner, shall be  
53 held in the offices of the tax commissioner in the capitol build-  
54 ing, Charleston, Kanawha county, West Virginia, unless  
55 otherwise provided in such notice, or agreed upon between  
56 the licensee and the tax commissioner; and when such hear-  
57 ing is held elsewhere than in the tax commissioner's office the  
58 licensee may be required to make deposit of the estimated  
59 costs of such hearing.

Sec. 16. *Reissuance of License After Revocation.* No license  
2 shall be issued to any person who has formerly held a  
3 license, under the provisions of this act or of chapter six of  
4 the acts of the Legislature of West Virginia, one thousand  
5 nine hundred thirty-five, which has been revoked by the tax  
6 commissioner, within a period of one year from the date of  
7 such revocation; nor shall any license be issued hereunder to  
8 any person who was an officer or stockholder of a corporation  
9 whose license was revoked as aforesaid, nor to any person  
10 who was a member of a partnership or association whose  
11 license was revoked as aforesaid, nor to the wife or husband  
12 or employee of any person whose license was revoked as  
13 aforesaid, within said period of one year from the date of  
14 revocation; nor shall any license be issued to any corporation  
15 having a stockholder or director who has had a license re-

16 voked as aforesaid, within said period of one year from the  
17 date of the revocation of such person's license.

2       Sec. 17. *Municipal License Tax.* Any municipal corpora-  
3 tion in this state shall have authority to levy a license tax  
4 under the provisions of this act upon any retailer, distributor  
5 or brewer of nonintoxicating beer whose place of business is  
6 situated within such municipality, but the amount of the  
7 license tax levied by such municipal corporation shall in no  
8 event exceed the amount fixed herein to be levied by the state:  
9 *Provided, however,* That but one municipal tax is to be so  
10 imposed and that only by the municipality in which the place  
11 of business, or warehouse, is located. Cities and incorporated  
12 towns are hereby empowered to enact ordinances for the en-  
13 forcement of this act in conformity with the provisions of  
the same.

2       Sec. 18. *Administration Vested in Tax Commissioner.* The  
3 administration of this act is vested in and shall be exercised  
4 by the tax commissioner of West Virginia, to whom is hereby  
5 given all necessary power and authority in the premises; the  
6 tax commissioner may designate an assistant who may per-  
7 form any of the duties of the tax commissioner authorized by  
8 this act.

9       In addition to the service of the assistant hereinabove pro-  
10 vided for, the tax commissioner shall appoint an adequate  
11 number of competent persons to serve as agents of the tax  
12 commissioner for the purpose of keeping all necessary ac-  
13 counts and records required under the provisions of this  
14 article; investigating the books, accounts, records and other  
15 papers of retailers, distributors and brewers; investigating  
16 applicants for license and the places of business of retailers,  
17 distributors and brewers; procuring evidence with respect to  
18 violations of the provisions of this act, and particularly for  
19 use at hearings held by the tax commissioner for the purpose  
20 of revoking licenses hereunder; and such agents shall per-  
21 form such other duties as the tax commissioner may direct.  
22 The compensation of such assistant, employees and agents  
shall be fixed by the tax commissioner.

2       Sec. 19. *Revenue Collected Paid to State Treasurer; Ad-  
ministration Expense.* Taxes imposed and collected under the

3 provisions of this article shall be paid to the state treasurer  
4 in the manner provided by law, and credited to the state  
5 fund, general revenue. The expenses of administration and  
6 enforcement shall be paid out of the taxes collected under  
7 this article, but shall not exceed fifteen per cent of the amount  
8 so collected.

2 *Sec. 20. Expiration Date of Existing Licenses.* A license  
3 now in effect authorizing the manufacture, distribution or  
4 sale of nonintoxicating beer shall remain in effect until June  
5 thirtieth, one thousand nine hundred thirty-seven, unless  
6 sooner revoked in accordance with the provisions of this  
7 article.

2 *Sec. 21. Sections Repealed.* Sections ninety-one, to one  
3 hundred three, inclusive, article twelve, chapter eleven of the  
4 code of West Virginia, one thousand nine hundred thirty-one,  
5 as amended, are hereby repealed.

2 *Sec. 22. Provisions of Article Severable.* The provisions  
3 of this article shall be construed to be severable, and if any  
4 are held unconstitutional or otherwise invalid such invalidity  
5 shall not affect the operation of the remaining portions.



## CHAPTER 13

(Senate Bill No. 213—By Mr. Wiseman)

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AN ACT to amend and reenact sections four and six, article four, and section four, article six, all of chapter four, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, as amended by chapter five, acts of the Legislature, regular session, one thousand nine hundred thirty-five, relating to the sale and transportation of alcoholic liquors.

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[Passed March 13, 1937; in effect from passage. Became a law without the approval of the Governor.]

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### Article

4. Licenses.
6. Miscellaneous Provisions.

*Be it enacted by the Legislature of West Virginia:*

That sections four and six, article four, and section four article six, all of chapter four, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, as amended by chapter five, acts of the Legislature, regular session, one thousand nine hundred thirty-five, be amended and reenacted to read as follows:

### Article 4. Licenses.

#### Section

4. Purchase and resale of alcoholic liquors and ethyl alcohol by wholesale druggists.
6. Purchase and resale of alcoholic liquors and ethyl alcohol by retail druggists.

Section 4. *Purchase and Resale of Alcoholic Liquors and Ethyl Alcohol by Wholesale Druggists.* The commission may grant to wholesale druggists license to purchase alcoholic liquors at wholesale from or through the commission for the purpose of resale within the state. Such wholesale druggists shall have the right to purchase ethyl alcohol, for non-beverage purposes, at wholesale, and for resale to pharmacists, or druggists or drug stores employing a duly licensed pharmacist,

9 having a regular place of business, or to other persons licensed  
 10 to purchase ethyl alcohol from the commission, from distillers,  
 11 manufacturers, jobbers or other wholesale druggists, whether  
 12 within or without the state, and whether the seller has a per-  
 13 mit or license from the commission to sell same, and ship and  
 14 transport or cause same to be shipped and transported to their  
 15 places of business, upon filing with the commission at the time  
 16 of or prior to such purchase a copy of the purchase order for  
 17 same, together with a statement in writing showing approxi-  
 18 mately when, and in what manner the ethyl alcohol so pur-  
 19 chased will be shipped or transported to their places of busi-  
 20 ness.

Sec. 6. *Purchase and Resale of Alcoholic Liquors and Ethyl*  
 2 *Alcohol by Retail Druggists.* The commission may issue li-  
 3 censes to retail druggists to sell, upon prescription, and for  
 4 the purposes provided for in this chapter, alcoholic liquors  
 5 purchased from the commission. Any pharmacist, or retail  
 6 druggist or drug store employing a duly licensed pharmacist,  
 7 having a regular place of business, may, upon filing with the  
 8 commission, at the time of or prior to any purchase, a copy  
 9 of the purchase order together with a written statement show-  
 10 ing approximately when and in what manner any ethyl alco-  
 11 hol purchased will be shipped or transported, purchase from  
 12 distillers, manufacturers, jobbers or wholesalers, whether with-  
 13 in or without the state, and whether the seller has a permit  
 14 or license to sell the same, ethyl alcohol for use in compound-  
 15 ing or manufacturing any of the medical or other prepar-  
 16 ations mentioned in section four of article six of this act, and  
 17 ship and transport or cause same to be shipped and transport-  
 18 ed to his place of business.

#### Article 6. Miscellaneous Provisions.

##### Section

##### 4. Permitted use by druggists.

Section 4. *Permitted Use by Druggists.* The provisions of  
 2 this chapter shall not prevent a person from manufacturing,  
 3 selling, delivering or shipping:

4 Any medicine containing sufficient medication to prevent  
 5 its use as a beverage;

6 Any medicinal preparation manufactured in accordance

7 with formulas prescribed by the United States pharma-  
8 cepeia, and national formulary, patent and proprietary  
9 preparations. and other bona fide medical and technical  
10 preparations, which are manufactured and sold to be used  
11 exclusively as medicine and not as beverages, and the sale  
12 of which does not now require the payment of a United  
13 States liquor dealer's tax;

14 Toilet, medicinal and antiseptic preparations not intended  
15 for internal human use nor for beverage purposes;

16 Any food products known as flavoring extracts manu-  
17 factured and sold for cooking and culinary purposes only  
18 and not for beverage purposes;

19 Nor shall such provisions prevent pharmacists, retail  
20 druggists or drug stores employing a duly licensed pharma-  
21 cist, from purchasing or causing to be shipped to their place  
22 of business ethyl alcohol for use in compounding or manu-  
23 facturing any of the medical or other preparations enumer-  
24 ated in this section, as provided in section six, article four  
25 of this act.

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## CHAPTER 14

(House Bill No. 247—By Mr. Van Sickler)

AN ACT to amend and reenact section twelve, article three, and sections nine, twelve, thirteen, twenty and twenty-one, article six, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, and to repeal section fourteen of said article and chapter, as enacted by chapters four and five, acts of the Legislature, regular session, one thousand nine hundred thirty-five, relating to the state control of alcoholic liquors.

[Passed March 13, 1937; in effect from passage. Approved by the Governor.]

### Article

3. Sales by Commission.

6. Miscellaneous Provisions.

*Be it enacted by the Legislature of West Virginia:*

That section twelve, article three, and sections nine, twelve, thirteen, twenty and twenty-one, article six, chapter sixty of the

code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapters four and five, acts of the Legislature, regular session, one thousand nine hundred thirty-five, be amended and reenacted, and section fourteen of said article and chapter be repealed, to read as follows:

### Article 3. Sales by Commission.

#### Section

12. Days and hours state stores and agencies may open.

Section 12. *Days and Hours State Stores and Agencies May Open.* The commission shall fix the days on which state stores shall be open and the hours of opening and closing, and the hours during which agencies may sell alcoholic liquors. Stores shall not be open nor shall agencies sell alcoholic liquors on:

- 7 1. Sundays.
- 8 2. Any general election day.

### Article 6. Miscellaneous Provisions.

#### Section

9. Intoxication or drinking in public places; illegal possession; penalty.
12. Transportation of alcoholic liquors into or through state; permits; penalties.
13. Restrictions on importing into and transporting liquors in state.
14. Repealed.
20. Contraband vehicles; forfeiture and disposition.
21. Court procedure as to contraband and forfeited articles.

Sec. 9. *Intoxication or Drinking in Public Places; Illegal Possession; Penalties.* A person shall not:

- 3 (1) Appear in a public place in an intoxicated con-
- 4 dition;
- 5 (2) Drink alcoholic liquor in a public place;
- 6 (3) Drink alcoholic liquor in a motor vehicle on any high-
- 7 way, street, alley or in a public garage;
- 8 (4) Tender a drink of alcoholic liquor to another per-
- 9 son in a public place;
- 10 (5) Possess alcoholic liquor in the amount in excess of
- 11 one gallon, in containers not bearing stamps or seals of the
- 12 commission, without having first obtained written authority
- 13 from the said commission therefor;
- 14 (6) Possess any alcoholic liquor which was manufactured
- 15 or acquired in violation of the provisions of this chapter.

16 Any person who violates subsections one, two, three or four  
17 of this section shall be guilty of a misdemeanor and upon  
18 conviction shall be fined not less than five nor more than one  
19 hundred dollars, or confined in jail not more than sixty days,  
20 or both such fine and imprisonment. Any person who vio-  
21 lates subsection five or six of this section shall be guilty of  
22 a misdemeanor, and upon conviction shall be fined not less  
23 than one hundred dollars nor more than five hundred dol-  
24 lars, or confined in jail not less than sixty days nor more than  
25 twelve months, or both such fine and imprisonment, and upon  
26 conviction of a second or subsequent offense he shall be guilty  
27 of a felony and shall be confined in the penitentiary of this  
28 state for a period of not less than one year nor more than  
29 three years.

2 *Sec. 12. Transportation of Alcoholic Liquors Into or*  
3 *Through State; Permits; Penalties.* The commission may adopt  
4 such regulations governing the transportation of alcoholic  
5 liquors, lawfully acquired, into or through the state in quanti-  
6 ties in excess of one gallon as it may deem necessary to confine  
7 such transportation to legitimate purposes and may issue  
8 transportation permits in accordance with such regulations,  
9 and collect a fee therefor fixed by the commission.

10 A person who, without authorization under this chapter,  
11 transports alcoholic liquors in quantities in excess of one  
12 gallon or in any amount for the purpose of sale or in any  
13 amount manufactured or acquired contrary to the provisions  
14 of this chapter, shall be guilty of a misdemeanor, and upon  
15 conviction shall be fined not less than one hundred nor more  
16 than five hundred dollars, or confined in jail not to exceed  
17 one year, or both such fine and imprisonment for the first  
18 offense. Upon conviction of a second or subsequent offense,  
19 he shall be guilty of a felony and confined in the penitentiary  
20 of this state for a period of not less than one nor more than  
three years.

2 *Sec. 13. Restrictions on Importing Into, and Transporting*  
3 *Liquors in State.* Except as permitted by section six of this  
4 article, a person shall not import into, or transport in this  
5 state, any alcoholic liquors, unless it is:

- 5 (1) Consigned to the commission;
- 6 (2) Transported or shipped upon the direction of the com-

7 mission directly to persons licensed to receive alcoholic liquors  
8 at wholesale;

9 (3) Transported or shipped into or through the state to  
10 persons outside the state upon transportation permits issued  
11 by the commission.

Sec. 14. *Section Repealed.* Section fourteen is hereby re-  
2 pealed.

Sec. 20. *Contraband Vehicles; Forfeiture and Disposition.*  
2 A conveyance of any kind, either on land, water, or in the  
3 air, used for transportation of alcoholic liquors in violation  
4 of section twelve of this article, shall be deemed contraband  
5 and shall be forfeited to the state and proceeded against in  
6 the manner provided for confiscation by section twenty-one  
7 of this article.

8 Any such conveyance forfeited to the state under the  
9 provisions of this section shall be turned over to the commis-  
10 sion, which may retain the same for public use in the ad-  
11 ministration and enforcement of this chapter. If it has no  
12 need for the conveyance, it may order its destruction or  
13 sale unless the department of public safety requests it, in  
14 which case the commission shall turn it over to the said de-  
15 partment.

16 The net proceeds of sales made under this section shall be  
17 paid into the state treasury in the manner prescribed for re-  
18 ceipts from state stores and agencies.

Sec. 21. *Court Procedure as to Contraband and Forfeited*  
2 *Articles.* Proceedings for confiscation of articles, convey-  
3 ances or vehicles declared contraband and forfeited to the  
4 state under section twenty shall be had in the circuit or in-  
5 ferior court having criminal jurisdiction, either in vacation  
6 or term time, in the county where such articles, conveyances  
7 or vehicles were seized, and the procedure shall be as fol-  
8 lows:

9 (1) When such articles, conveyances or vehicles have been  
10 seized under or without a warrant provided for in section  
11 eighteen of this act, by an officer charged with the enforce-  
12 ment of this chapter, the officer shall take possession of such  
13 article, conveyance or vehicle and deliver the same and the  
14 alcoholic liquors so seized to the sheriff of the county in which

15 such seizure was made, taking his receipt therefor in dupli-  
16 cate.

17 (2) The officer making such seizure shall forthwith re-  
18 port in writing of such seizure to the prosecuting attorney of  
19 the county in which such seizure was made and to the com-  
20 mission.

21 (3) Within not less than ten days nor more than sixty  
22 days after receiving notice of any such seizure, the prose-  
23 cuting attorney for the county shall file, in the name of the  
24 state, a petition against the seized property, in the clerk's of-  
25 fice of the circuit court of the county, returnable to the cir-  
26 cuit court or inferior court having criminal jurisdiction, which  
27 petition shall be filed by the clerk without fee and may be  
28 heard by said court or judge thereof in vacation.

29 (4) Such petition shall allege the seizure, and set forth  
30 in general terms, the grounds of forfeiture of the seized prop-  
31 erty, and shall pray that the same be forfeited to the state  
32 and the proceeds disposed of according to law, and that all  
33 persons concerned or interested may appear and show cause  
34 why said property should not be forfeited to the state.

35 (5) The owner of and all persons in any manner then  
36 indebted or liable for the purchase price of said property,  
37 and any person having a lien thereon, if they be known to the  
38 prosecuting attorney, shall be made parties defendant there-  
39 to, and shall be served with the notice issued by the clerk  
40 of such court, hereinafter provided for, in the manner pro-  
41 vided by law for serving a notice, at least ten days before  
42 the day therein specified for the hearing on said petition, if  
43 they be residents of this state, and, if they be unknown or  
44 nonresidents, or cannot with reasonable diligence be found in  
45 this state, they shall be deemed sufficiently served by publi-  
46 cation of said notice once a week for two successive weeks in  
47 some newspaper published in said county, or, if none be pub-  
48 lished therein, then in some newspaper having a general cir-  
49 culation therein.

50 (6) Any person claiming to be the owner of such seized  
51 property, or to hold a lien thereon or have an interest there-  
52 in, may appear at any time before final judgment of the trial  
53 court, and be made a party defendant to the petition so filed,  
54 which appearance shall be by answer, under oath, in which

55 shall be clearly set forth the nature of such defendant's claim  
56 or interest.

57 (7) If the court or judge thereof in vacation shall find  
58 that illegally acquired alcoholic liquors or alcoholic liquors  
59 being illegally transported in amounts in excess of one gal-  
60 lon, were not found in such conveyance or vehicle at the time  
61 of the seizure thereof, the judgment of the court shall be to  
62 entirely relieve said property from forfeiture, and no costs  
63 shall be taxed against such claimant.

64 (8) If the court or judge thereof in vacation trying the  
65 issue, shall find or if it be admitted that said conveyance or  
66 vehicle at the time of the seizure, contained illegally acquired  
67 liquor or that alcoholic liquors were being illegally trans-  
68 ported therein, nevertheless:

69 (a) If it shall appear to the satisfaction of the court that  
70 such claimant is the bona fide owner and was such owner at  
71 the time of such seizure and that he was ignorant of such  
72 illegal use thereof and the illegal use was without his con-  
73 nivance or consent, expressed or implied, the court shall re-  
74 lieve said conveyance or vehicle from forfeiture and restore  
75 it to such claimant, and no cost shall be taxed against such  
76 claimant,

77 (b) If it shall appear to the satisfaction of the court that  
78 such claimant is the holder of a bona fide lien against the  
79 property and was the holder of such lien at the time of such  
80 seizure and that he was ignorant of such illegal use thereof,  
81 or the use so made of such conveyance or vehicle was without  
82 his connivance or consent, expressed or implied, and that the  
83 claimant has perfected his lien, the court shall,

84 (1) If the lien so established is equal to or more than the  
85 value of the conveyance or vehicle, such conveyance or vehicle  
86 shall be delivered to the lienor upon the payment of storage  
87 and cost,

88 (2) If the lien is less than the value of the conveyance or  
89 vehicle, the lienor may have said conveyance or vehicle de-  
90 livered to him upon payment of the difference in amount as  
91 determined in such proceedings; but should the lienor not  
92 demand delivery as aforesaid, an order shall be made for the  
93 sale of said property by the sheriff of the county, in the man-  
94 ner prescribed by law for sale of personal property under



95 execution, out of the proceeds of which sale shall be paid,  
96 first, the storage, if any, second, the cost, third, the lien, and  
97 the residue, if any, shall be paid to the commission.

98 (9) If, however, no valid lien or claim is established  
99 against the seized property upon the trial of the petition,  
100 or, if it shall be determined that the owner thereof was him-  
101 self using the same at the time of the seizure or that such  
102 illegal use was with his knowledge or consent, express or  
103 implied, the said property shall be completely forfeited to the  
104 state and turned over to the commission in accordance with  
105 the provisions of this chapter.

106 (10) In every case, the alcoholic liquors so seized shall be  
107 deemed contraband and forfeited to the state as heretofore  
108 provided.

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## CHAPTER 15

(House Bill No. 38—By Mr. Van Sickler)

AN ACT to amend and reenact section two, chapter forty-two, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, fixing the times of holding the circuit courts in the eleventh judicial circuit.

[Passed February 4, 1937; in effect from passage. Approved by the Governor.]

### Section

2. Terms of court in eleventh judicial circuit.

*Be it enacted by the Legislature of West Virginia:*

That section two, chapter forty-two, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, be amended and reenacted to read as follows:

#### Section 2. *Terms of Court in Eleventh Judicial Circuit.*

2 The times for holding court within said eleventh judicial  
3 circuit shall be as follows:

4 For the county of Pocahontas: Second Tuesday in March,  
5 first Tuesday in June, and the first Tuesday in October of  
6 each year.

7 For the county of Greenbrier: Third Tuesday in April,  
8 fourth Tuesday in July, and the fourth Tuesday in Novem-  
9 ber of each year.

10 For the county of Monroe: First Tuesday in April, second  
11 Tuesday in July, and the second Tuesday in November of  
12 each year.

13 For the county of Summers: Second Tuesday in January,  
14 second Tuesday in May, and the second Tuesday in Sep-  
15 tember of each year.

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## CHAPTER 16

(House Bill No. 349—By Mr. Stephens)

AN ACT to authorize the judge of the thirteenth judicial circuit of West Virginia to appoint a law clerk for said court, fixing his qualifications and salary and to require the county court of Kanawha County to provide the manner of payment of such salary.

[Passed March 12, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Section

1. Law clerk for thirteenth judicial circuit; qualification; salary.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Law Clerk for Thirteenth Judicial Circuit; Qualification; Salary.* On or before July one, one thousand nine hundred thirty-seven, the judge of the circuit court of Kanawha County, West Virginia, may appoint a law clerk who shall be a person duly licensed to practice law in this state, and who shall discharge such secretarial duties as may be assigned him by the judge; said clerk, while acting as such, shall not engage in the practice of law but shall devote his entire time to the duties of his office and may be removed and his successor appointed, at any time by the judge. Said clerk shall receive a salary of not in excess of three thousand

12 six hundred dollars per year, payable monthly, and the  
13 county court of Kanawha County shall annually, at its levy  
14 session, provide for the payment out of general county funds,  
15 of such sum in supplement of the amount provided by law  
16 and made available for such service from the state funds,  
17 as will provide from both sources the amount of the salary  
18 so fixed.

## CHAPTER 17

(House Bill No. 124—By Mr. Morton)

AN ACT to amend and reenact section one-n, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to the time of terms of the circuit court for the counties of Braxton, Clay, Gilmer and Webster.

[Passed February 12, 1937; in effect from passage. Approved by the Governor.]

### Section

1-n. Terms of court in fourteenth circuit.

*Be it enacted by the Legislature of West Virginia:*

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

Section 1-n. *Terms of Court in Fourteenth Circuit.* For  
2 the county of Braxton, on the second Monday in March, July  
3 and November.  
4 For the county of Clay, on the first Monday in February,  
5 June and October.  
6 For the county of Gilmer, on the third Monday in Feb-  
7 ruary, June and October.  
8 For the county of Webster, on the second Monday in Janu-  
9 ary, May and September.

## CHAPTER 18

(Senate Bill No. 100—By Mr. Barnhart, by request)

AN ACT to provide for the collection of delinquent corporation license taxes.

[Passed March 2, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Section

1. Charter rights and franchises restored by payment of delinquent license tax.
2. Certificate of reinstatement.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Charter Rights and Franchises Restored by Payment of Delinquent License Tax.* Any corporation, delinquent in the payment of its annual license (charter) tax, and which has been dissolved or its charter rights forfeited in any suit or proceeding brought under the provisions of section seventy-seven, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, may be reinstated and restored to all of its charter rights and franchises by payment to the auditor of the license taxes so levied and assessed, together with all license taxes which would have been levied and assessed against such corporation had there been no such dissolution or forfeiture, without interest, penalties and costs, if the same shall be paid on or before June thirtieth, one thousand nine hundred thirty-seven.

Sec. 2. *Certificate of Reinstatement.* The auditor shall receive payment of all delinquent license (charter) taxes on corporations, and shall account for and deposit the same in the state treasury. Upon payment of such taxes as aforesaid the auditor shall execute and deliver to the corporation paying the same a certificate of reinstatement, which certificate shall have the effect of reinstating and restoring such corporation to all of its charter rights, franchises and privileges.

## CHAPTER 19

(Senate Com. Sub. for Senate Bill No. 116—Originating in the  
Committee on Banks and Corporations)

AN ACT to amend chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, by amending and re-enacting section sixty-three, article one thereof, and by adding two new sections to article one thereof to be known as section sixty-three-a and section sixty-three-b, relating to consolidation and merger of corporations.

[Passed March 12, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Article 1. Provisions Relating to Corporations Generally.

#### Section

63. Consolidation or merger; proceedings for.  
63-a. Consolidation or merger with foreign corporation.  
63-b. Title to real estate in state in merger or consolidation.

*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, and that said article one of said chapter thirty-one be amended by the addition of two new sections to be known as section sixty-three-a, and section sixty-three-b, all to read as follows:

- Section 63. *Consolidation or Merger; Proceedings for.* Any  
2 two or more corporations organized under the provisions of  
3 this chapter, or existing under the laws of this state, for the  
4 purpose of carrying on any kind of business, may consolidate  
5 or merge into a single corporation which may be any one of  
6 such constituent corporations or a new corporation to be  
7 formed by means of such consolidation or merger as shall be  
8 specified in the agreement hereinafter required. The directors,  
9 or a majority of them, of such corporations as desire to con-  
10 solidate or merge, may enter into an agreement signed by them  
11 and under the corporate seals of the respective corporations,  
12 prescribing the terms and conditions of consolidation or mer-

13 ger, the mode of carrying the same into effect, and stating such  
14 other facts required or permitted by the provisions of this ar-  
15 ticle to be set out in an agreement of incorporation, as can be  
16 stated in the case of a consolidation or merger, stated in such  
17 altered form as the circumstances of the case require, as well  
18 as the manner of converting the shares of each of the con-  
19 stituent corporations into shares of the consolidated or merged  
20 corporation, with such other details and provisions as are  
21 deemed necessary.

22 Such agreement shall be submitted to the stockholders of  
23 each constituent corporation, at a meeting thereof, called sep-  
24 arately for the purpose of taking the same into consideration ;  
25 of the time, place and object of which meeting due notice shall  
26 be given by publication at least once a week for four succes-  
27 sive weeks in one or more newspapers published in the county  
28 wherein each such corporation either has its principal office  
29 or conducts its business, and a copy of such notice shall be  
30 mailed to the last known postoffice address of each stock-  
31 holder of each such corporation, at least twenty days prior to  
32 the date of such meeting: *Provided, however,* That in the  
33 consolidation or merger of banking institutions as defined in  
34 this chapter, in the case of emergency, and upon the order of  
35 the commissioner of banking, the meeting may be held upon at  
36 least twelve hours' notice sent by mail or telegraph to the last  
37 known postoffice address of each stockholder, and without  
38 publication.

39 At any such stockholders' meeting of any corporation said  
40 agreement shall be considered and a vote by ballot, in person  
41 or by proxy, taken for the adoption or rejection of the same,  
42 each share entitling the holder thereof to one vote; and if the  
43 votes of stockholders of each such corporation representing  
44 two-thirds of the total number of shares of its capital stock  
45 then issued and outstanding shall be for the adoption of such  
46 agreement, then that fact shall be certified on such agreement  
47 by the secretary of each such corporation, under the seal  
48 thereof; and the agreement so adopted and certified shall be  
49 signed by the president and secretary of each of such corpora-  
50 tions under the corporate seals thereof and acknowledged by  
51 the president of each of such corporations before any officer  
52 authorized by the laws of this state to take acknowledgments

53 of deeds to be the respective act, deed and agreement of each  
54 of such corporations, and the agreement so certified and ac-  
55 knowledged shall be filed in the office of the secretary of state,  
56 and shall thence be taken and deemed to be the agreement and  
57 act of consolidation or merger of the said corporations; and a  
58 copy of such agreement and act of consolidation or merger,  
59 duly certified by the secretary of state under the seal of his  
60 office, shall also be recorded in the offices of the clerks of the  
61 county courts of the counties of this state in which the respec-  
62 tive corporations so consolidating or merging shall have their  
63 original certificates of incorporation recorded, if any, or if  
64 any of the corporations shall have been specially created by a  
65 public act of the legislature, then such agreement shall be  
66 recorded in the county where such corporation shall have had  
67 its principal place of business, if any, and such record, or a  
68 certified copy thereof, shall be evidence of the agreement and  
69 act of consolidation or merger of such corporations, and of the  
70 observance and performance of all acts and conditions neces-  
71 sary to have been observed and performed precedent to such  
72 consolidation or merger.

73 When an agreement shall have been signed, acknowledged,  
74 filed and recorded as herein required, for all purposes of  
75 the laws of this state, the separate existence of all the con-  
76 stituent corporations, parties to said agreement, or of all  
77 such constituent corporations except the one into which the  
78 other or others of such constituent corporations have been  
79 merged, or consolidated, as the case may be, shall cease  
80 and the constituent corporations shall become a new corpora-  
81 tion, or be merged into one of such corporations, as the case  
82 may be, in accordance with the provisions of said agreement,  
83 possessing all the rights, privileges, powers, franchises and  
84 trust and fiduciary duties, powers and obligations, as well of  
85 a public as of a private nature, and being subject to all the  
86 restrictions, disabilities and duties of each of such corpora-  
87 tions so consolidated or merged, and all and singular the  
88 rights, privileges, powers, franchises, and trust and fiduciary  
89 rights, powers, duties and obligations, of each of said corpora-  
90 tions; and all property, real, personal and mixed, and all  
91 debts due to any of said constituent corporations on whatever  
92 account, as well for stock subscriptions as all other things in

93 action or belonging to each of such corporations shall be  
94 vested in the corporation resulting from or surviving such  
95 consolidation or merger; and all property, rights, privileges,  
96 powers, and franchises, and all and every other interest shall  
97 be thereafter as effectually the property of the resulting or sur-  
98 viving corporation as they were of the several and respective  
99 constituent corporations; and the title to any real estate,  
100 whether vested by deed or otherwise, under the laws of this  
101 state, vested in any of such constituent corporations, shall not  
102 revert or be in any way impaired by reason of this chapter:  
103 *Provided, however.* That all rights of creditors and all liens  
104 upon any property of any of said constituent corporations  
105 shall be preserved unimpaired, and all debts, liabilities and  
106 duties of the respective constituent corporations shall thence-  
107 forth attach to said resulting or surviving corporation, and  
108 may be enforced against it to the same extent as if said debts,  
109 liabilities and duties had been incurred or contracted by it.

2       Sec. 63-a. *Consolidation or Merger With Foreign Corpora-*  
3 *tion.* Any corporation authorized by section sixty-three of  
4 this article to merge or consolidate with another corporation  
5 may merge or consolidate in the manner therein provided  
6 with a corporation or corporations organized and existing  
7 under the laws of this state, of another state or states, or of  
8 the United States, and authorized to merge or consolidate  
9 with such corporation so authorized by said section to merge  
10 or consolidate. In the agreement of merger or consolidation  
11 the laws of any state under which one of the constituent cor-  
12 porations was organized may be selected as the laws which  
13 shall govern the merged or consolidated corporation.

14       Wherever the laws of another state than West Virginia  
15 are selected as the laws which shall govern the merged or  
16 consolidated corporation, such surviving corporation shall  
17 comply with the provisions of section seventy-nine, article  
18 one, of chapter thirty-one of the code of West Virginia, one  
19 thousand nine hundred thirty-one, before it holds property  
20 or transacts business in this state, and shall comply with the  
21 laws of this state with respect to foreign corporations holding  
property or transacting business in this state.

2       Sec. 63-b. *Title to Real Estate in State in Merger or Con-*  
3 *solidation.* In any merger or consolidation of corporations



3 under the laws of the state of West Virginia, any constituent  
4 corporation thereof owning or holding real estate in West  
5 Virginia shall further evidence the title thereto in the sur-  
6 viving corporation by executing and acknowledging for record  
7 a confirmatory deed or deeds to the respective parcels of  
8 real estate, which deed or deeds shall be recorded in the office  
9 of the clerks of the county courts of the respective counties  
10 in which such real estate is situate; and such deed or deeds  
11 shall recite as the consideration therefor the said merger or  
12 consolidation and shall be deemed confirmatory of the title of  
13 such real estate in the surviving merged or consolidated cor-  
14 poration.

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## CHAPTER 20

(Senate Bill No. 127—By Mr. Paull, by request)

AN ACT to amend and reenact section twelve, article six, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by section twelve, chapter one hundred nine, acts of the Legislature, regular session, one thousand nine hundred thirty-five, relating to appeals from the valuation of public service corporation property.

[Passed March 12, 1937; in effect ninety days from passage. Approved by the Governor.]

### Article 6. Assessment of Public Service Corporation.

#### Section

12. Appeal from valuation by board.

*Be it enacted by the Legislature of West Virginia:*

That section twelve, article six, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by section twelve, chapter one hundred nine, acts of the Legislature, regular session, one thousand nine hundred thirty-five, be amended and reenacted to read as follows:

Section 12. *Appeal From Valuation by Board.* Any owner  
2 or operator claiming to be aggrieved by any such decision may,

3 within the time aforesaid, apply by petition in writing, duly  
4 verified, to the circuit court of the county in which the prop-  
5 erty so assessed is situated, or if such property be situated in  
6 more than one county then in the county in which the largest  
7 assessment of such owner or operator was made in the next pre-  
8 ceding year, for an appeal from the assessment and valuation  
9 so made of all such property and jurisdiction is hereby  
10 conferred upon and declared to exist in the court to which  
11 such application is made, to grant, docket and hear such  
12 appeal; and such appeal, as to all of the property so assessed,  
13 as well as that situated in the county of the court so applied  
14 to, as that situated in the several other counties, shall forth-  
15 with be allowed by such court so applied to, and be heard  
16 by such court as to all of such property as soon as possible  
17 after the appeal is docketed; but notice in writing of such  
18 petition shall be given to the prosecuting attorney of each  
19 of the counties in which such property so assessed is situated,  
20 to the secretary of the board of public works and to the  
21 state tax commissioner, by mailing a copy of the petition  
22 for an appeal filed with the circuit court, which said petition  
23 shall recite the fact that copies of such petition have been  
24 sent by registered mail; and notice in writing of the hear-  
25 ing upon such petition shall be given to the prosecuting  
26 attorney of each of the counties in which such property  
27 so assessed is situated, and to the state tax commissioner,  
28 at least fifteen days beforehand. Likewise, the state tax  
29 commissioner may, by giving notice in writing at least  
30 fifteen days beforehand to the petitioner, bring on such  
31 appeal for hearing. Upon such hearing the court shall hear  
32 all such legal evidence as shall be offered on behalf of the  
33 state or any county, district or municipal corporation in-  
34 terested, or on behalf of the appealing owner or operator.  
35 If the court be satisfied that the value so fixed by the board  
36 of public works is correct, it shall confirm the same, but  
37 if be satisfied that the value so fixed by said board is  
38 either too high or too low, the court shall correct the valua-  
39 tion so made and shall ascertain and fix the true and actual  
40 value of such property according to the facts proved, and  
41 shall certify such value to the auditor and to the secretary

42 of the board of public works. The state or the owner or  
43 operator may appeal to the supreme court of appeals if  
44 the assessed value of the property be fifty thousand dollars,  
45 or more.

## CHAPTER 21

(Senate Bill No. 244—By Mr. Paull, by request)

AN ACT to amend and reenact section twenty-three, article six, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to collection of taxes against public service corporations and persons engaged in a public service business.

[Passed March 12, 1937; in effect ninety days from passage. Approved by the Governor.]

### Article 6. Assessment of Public Service Corporation.

#### Section

23. Lien of taxes; notice of; collection by suit.

*Be it enacted by the Legislature of West Virginia:*

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

#### Section 23. *Lien of Taxes; Notice of; Collection by Suit.*

2 The amount of taxes and levies assessed under this article  
3 shall constitute a debt due the state or county, district or mu-  
4 nicipal corporation entitled thereto, and shall be a lien on all  
5 of the property and assets of the taxpayer within the state.  
6 The lien shall attach as of the date fixed by law for the com-  
7 mencement of the assessment year, and shall be prior to all  
8 other liens and charges. The auditor shall, between the first  
9 and fifteenth day of July of each year, prepare a list of the  
10 taxpayers delinquent in the payment of such taxes and levies,  
11 setting forth their respective addresses and the amount of  
12 state, county, district and municipal taxes due from each,  
13 which said list shall be certified by the auditor to the board of

14 public works and filed in the office of the secretary of state.  
15 The secretary of state shall preserve the list in his office, and  
16 a certificate from him that any taxpayer mentioned in such  
17 list is delinquent in the amount of taxes assessed under this ar-  
18 ticle shall be prima facie evidence thereof. Within ten days af-  
19 ter the filing of such list, the secretary of state shall give writ-  
20 ten notice of such delinquency by registered mail to each of  
21 such delinquent taxpayers at his, or its, last known post office  
22 address; and upon the failure of any such delinquent taxpay-  
23 er to pay said taxes within thirty days from the mailing of  
24 such notice, it shall be the duty of the attorney general to en-  
25 force the collection of such taxes and levies, and for that pur-  
26 pose he may distrain upon any personal property of such delin-  
27 quent taxpayer, or a sufficient amount thereof to satisfy  
28 said taxes, including accrued interest, penalties and costs.

29 The attorney general may also enforce the lien created  
30 by this section on the real estate of such delinquent taxpayer  
31 by instituting a suit, or suits, in equity in the circuit court  
32 of Kanawha county, in the name of the state, in which such  
33 delinquent taxpayers shall be made defendants. In the bill  
34 filed in any such suit it shall be sufficient to allege that the  
35 defendant or defendants have failed to pay the taxes here-  
36 under and that each of them justly owes the amount of  
37 property taxes, levies and penalties stated therein, which  
38 amount shall be computed up to the first day of the month  
39 in which the bill was filed. No such defendant shall plead  
40 that the secretary of state failed to give notice as prescribed  
41 by this section. If, upon the hearing of such suit, it shall  
42 appear to the court that any defendant has failed to pay such  
43 taxes and accrued penalties, the court shall enter a decree  
44 against such defendant for the amount due, and if the decree  
45 be not paid within ten days after made, the court shall enter  
46 a decree directing a sale of the real estate subject to said lien,  
47 or so much thereof as may be necessary to satisfy said taxes,  
48 including interest, penalties and costs. When two or more  
49 taxpayers are included in one suit, the court shall apportion  
50 the cost thereof among them as it may deem just.

## CHAPTER 22

(Senate Bill No. 250—By Mr. Paull, by request)

AN ACT to amend and reenact section sixty-nine, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to the voting of a director of a corporation upon a matter in which he is interested otherwise than as a stockholder.

[Passed March 8, 1937; in effect ninety days from passage. Approved by the Governor.]

### Article 1. Provisions Relating to Corporations Generally.

#### Section

69. Procedure when director interested otherwise than as stockholder.

*Be it enacted by the Legislature of West Virginia:*

That section sixty-nine, 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 69. *Procedure When Director Interested Otherwise Than as Stockholder.* No member of a board of directors shall vote on a question in which he is interested otherwise than as a stockholder, except the election of a president or other officer or employee, or be present at the board while the same is being considered; but if his retirement from the board in such case reduce the number present below a quorum, the question may nevertheless be decided by those who remain. On any question the names of those voting each way shall be entered on the record of their proceedings, if any member at the time requires it.

## CHAPTER 23

(House Bill No. 94—By Mr. Eye)

AN ACT to amend and reenact section five, article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as the same was last amended and reenacted

by chapter forty-three, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, relating to duties of county courts for services other than services in court.

[Passed March 13, 1937; in effect April 1, 1937. Became a law without the approval of the Governor.]

## Article 1. County Courts Generally.

### Section

5. Duties and salaries of county commissioners.

*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, as the same was last amended and reenacted by chapter forty-three, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

#### Section 5. *Duties and Salaries of County Commissioners.*

2 It shall be the duty of the county commissioners of each  
3 county to visit each quarter and inspect institutions within  
4 their county for housing and caring for the poor, to inspect  
5 the jails, and to investigate the conditions of the poor within  
6 their county not housed within such institutions; to visit de-  
7 tention homes for children within their counties, if any, and  
8 to visit and inspect bridges and bridge approaches under their  
9 control, and for reviewing and equalizing the assessments  
10 made by the assessor, and for duties of the county commis-  
11 sioners in cooperating with the county public assistance coun-  
12 cil, and for supervising and general management of the fiscal  
13 affairs and business of each county.

14 There shall be allowed and paid out of the county treasury,  
15 as other salaries are paid, to each county commissioner of  
16 each county, (except as otherwise provided by law for the  
17 county of Ohio), for services performed for such county con-  
18 cerning the visiting of the poor, and inspection of places of  
19 housing and caring for the poor, inspection of jails, bridges  
20 and bridge approaches, and for visiting detention homes for  
21 children, and for reviewing and equalizing the assessments  
22 made by the assessor, and for duties of the county commis-  
23 sioners in cooperating with the county public assistance coun-

24 cil, and for supervising and general management of the fiscal  
25 affairs and business of each county, within their counties, and  
26 other county business by such commissioners in addition to  
27 compensation for services in court, the following sums of  
28 money, to-wit: The county of Barbour fifteen dollars per  
29 month, the county of Berkeley thirty dollars per month, the  
30 county of Boone thirty-five dollars per month, the county of  
31 Braxton forty dollars per month, the county of Brooke thirty-  
32 five dollars per month, the county of Cabell two hundred  
33 dollars per month, the county of Calhoun twenty-five dollars  
34 per month, the county of Clay thirty-five dollars per month,  
35 the county of Doddridge twenty-five dollars per month, the  
36 county of Fayette one hundred fifty dollars per month, the  
37 county of Gilmer twenty-five dollars per month, the county of  
38 Grant twenty dollars per month, the county of Greenbrier fifty  
39 dollars per month, the county of Hampshire twenty-five dollars  
40 per month, the county of Hancock thirty-five dollars per  
41 month, the county of Hardy twenty-five dollars per month,  
42 the county of Harrison two hundred dollars per month, the  
43 county of Jackson twenty-five dollars per month, the county  
44 of Jefferson thirty-five dollars per month, the county of  
45 Kanawha two hundred fifty dollars per month, the county of  
46 Lewis fifty dollars per month, the county of Lincoln fifty  
47 dollars per month, the county of Logan one hundred fifty  
48 dollars per month, the county of Marion two hundred dollars  
49 per month, the county of Marshall seventy-five dollars per  
50 month, the county of Mason twenty-five dollars per month,  
51 the county of McDowell two hundred dollars per month, the  
52 county of Mercer one hundred twenty-five dollars per month,  
53 the county of Mineral fifty dollars per month, the county of  
54 Mingo one hundred dollars per month, the county of Morgan  
55 twenty-five dollars per month, the county of Monroe twenty-  
56 five dollars per month, the county of Monongalia one hun-  
57 dred fifty dollars per month, the county of Nicholas twenty-  
58 five dollars per month, the county of Pendleton twenty-five  
59 dollars per month, the county of Pleasants twenty-five dol-  
60 lars per month, the county of Pocahontas twenty-five dollars  
61 per month, the county of Preston, the president of the county  
62 court forty dollars, and other members of the court twenty-  
63 five dollars per month, the county of Putnam forty-five dol-  
64 lars per month, the county of Raleigh one hundred twenty-

65 five dollars per month, the county of Randolph forty dollars  
 66 per month, the county of Ritchie twenty-five dollars per  
 67 month, the county of Roane twenty-five dollars per month,  
 68 the county of Summers thirty-five dollars per month, the  
 69 county of Taylor thirty-five dollars per month, the county of  
 70 Tucker fifteen dollars per month, the county of Tyler forty  
 71 dollars per month, the county of Upshur fifteen dollars per  
 72 month, the county of Wayne seventy-five dollars per month,  
 73 the county of Webster fifteen dollars per month, the county  
 74 of Wetzel fifty dollars per month, the county of Wirt twenty-  
 75 five dollars per month, the county of Wood one hundred fifty  
 76 dollars per month, and the county of Wyoming thirty-five  
 77 dollars per month.

## CHAPTER 24

(House Bill No. 97—By Mr. Stephens)

AN ACT to amend article three, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, by adding a new section thereto to be designated as section four, relating to the leasing of lands owned by county courts for gas, oil and other minerals.

[Passed March 10, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Article 3. County Property.

#### Section

4. Leasing of county lands for oil, gas or minerals.

*Be it enacted by the Legislature of West Virginia:*

That article three, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding a new section thereto, to be designated section four, to read as follows:

Section 4. *Leasing of County Lands for Oil, Gas or Minerals.*  
 2 *als.* The county court of any county may lease for oil or gas or  
 3 other minerals, any lands owned in fee by it, the rentals, roy-  
 4 alties or proceeds of any such lease to be placed to the credit  
 5 of the general county fund of the county.



## CHAPTER 25

(House Bill No. 115—By Mr. Hussion)

AN ACT to amend and reenact chapter forty-four, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, to authorize the county court of any county to acquire and hold lands and buildings, and to convey real estate, and to enter into a contract, or a lease, or both, with the United States government, or any federal agency authorized to make or enter into such contract, or lease, or any bank or financial institution authorized by law to make loans, or any individual or persons, for the erection, construction, equipment, leasing and renting of any courthouse, hospital, other public building or jail, with an option to purchase same and to provide for the payment of a yearly rental for such by said court, or to authorize any such court to construct, equip, maintain and operate a courthouse, hospital, other public building or jail in and for said county, and to borrow funds from the public works administration, or other federal governmental agency authorized to make loans, or any bank or financial institution authorized by law to make loans, or any individual or persons, for the purpose of constructing and equipping said building, or buildings, together with the right to purchase additional real estate and to issue bonds in payment of the same, and to pledge a sufficient amount of revenue, within the constitutional limitation and within the limitations as provided by general law and this act, to pay the principal amount of said bonds and interest thereon, within a period not to exceed thirty years, and to pledge such real estate and property as security for the payment of such bonds and interest.

[Passed March 12, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Section

1. County courts authorized to acquire real estate and contract for construction, etc., and rental of courthouse, jail or other public building.
2. Annual levy for rentals.
3. Bonds for cost of real estate and public buildings.

4. Enforcement of lien of bond holders.
5. Form and payment of bonds; use of proceeds of bonds.
6. Limitation on character of debt incurred.
7. Powers conferred are additional.
8. Act to be liberally construed.
9. Limitation on amount of debt; increase of levies.
10. Provisions of act severable.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *County Courts Authorized to Acquire Real Estate and Contract for Construction, Etc., and Rental of Courthouse, Jail or Other Public Building.* The county court of any county is hereby authorized and empowered to acquire real estate and to convey real estate and to enter into a contract, or lease, or both, with the United States government, or any federal agency authorized to make or enter into such contract, or lease, or with any bank or financial institution, or with any individual or persons for the erection, construction, equipment, leasing and renting of a courthouse, hospital, other public buildings, or jail, with an option to purchase same and to provide for the payment of a yearly rental for such by said court; and to contract with the United States government, or any federal agency authorized to make or enter into such contract, or any bank or financial institution, or any individual or persons, to the end that said government, or any of its agencies, or agents thereunto duly authorized, or bank or financial institution or individual or persons, may for and on behalf of any county court, build, erect, construct, equip or furnish upon said property any such building, or buildings, including a hospital; and to contract with said government, or any federal agency, or bank, or financial institution, or individual, or persons, for the lease, or rental, of said building, or buildings, with the privilege and authority of renewing said lease from year to year, for any period of years, not exceeding thirty, with the right to purchase said building, or buildings, and real estate on which the same is, or are, situated, and to apply toward the purchase price thereof any and all rentals paid to said government, or agency, or bank, or financial institution, or individual, or persons, under the provisions of this act; and the said county court shall pay to the United States government, or any federal agency, or bank, or financial institution, or individual, or persons, said yearly rental, or rentals, for the use and occu-

35 pancy of said building, or buildings, if and when the same  
36 are constructed, which said yearly rental, or rentals, in the  
37 aggregate, shall not exceed the total amount, and the inter-  
38 est thereon expended by said government, or agency or bank  
39 or financial institution, or individual, or persons, on said pro-  
40 ject, or projects, and the said yearly rentals shall be paid out  
41 of levies laid within the constitutional debt limitations; and  
42 to do any and all other things lawfully required by said  
43 United States government, or any federal agency, or bank, or  
44 financial institution, or individual, or persons, which are  
45 necessary and proper to effectuate the purpose of this act.

Sec. 2. *Annual Levy for Rentals.* The said court shall  
2 levy and collect annually an amount sufficient to pay said  
3 rental, or rentals, for that particular year for the purposes  
4 aforesaid in the manner and form as provided by law.

Sec. 3. *Bonds for Cost of Real Estate and Public Buildings.*  
2 Any county court is likewise authorized and empowered to  
3 acquire real estate for, construct, equip, furnish and maintain  
4 a courthouse, hospital or other public buildings or jail and  
5 to borrow funds from the United States government, the  
6 public works administration, or other governmental agency  
7 authorized to make loans, or any bank, or financial institution  
8 authorized by law to make loans, or any individual, or per-  
9 sons for the purpose of building, constructing, furnishing and  
10 equipping said courthouse, hospital, other buildings or jail,  
11 and for the purpose of acquiring real estate therefor, and  
12 shall have the right to acquire by purchase, condemnation,  
13 gift or otherwise, real estate on which to build the same, with-  
14 in the discretion of the court. Such county court is author-  
15 ized and empowered to issue bonds for the purpose of paying  
16 the cost of such real estate, building, furnishing and equip-  
17 ment and to pledge a sufficient amount of revenue within the  
18 constitutional limitations and within the limitations as pro-  
19 vided by general law, to pay the principal of said bonds and  
20 the interest thereon, within a period not to exceed thirty  
21 years. Such court is further authorized and empowered to  
22 do and perform any and all acts and make all contracts neces-  
23 sary to effectuate the general purpose of this act, including  
24 the acquisition, by original grant, gift, condemnation, or other

25 lawful means of real estate, and of all necessary permits,  
26 easements and other rights in real estate, and title to and  
27 possession thereof, or to make such purchase and acquisition  
28 with the money borrowed, as provided in this act.

29 Such county court shall have authority, and is empowered,  
30 to make such contracts, agreements and covenants between it  
31 and the United States government, or the public works ad-  
32 ministration, or other governmental agency, or bank, or finan-  
33 cial institution, or individual, or persons for the loan of such  
34 funds to said county court, and securing payment thereof  
35 as they may be able to effectuate, subject only to this limita-  
36 tion, that the bonds issued, or given as security thereof, shall  
37 be payable out of the levies now provided for by general law  
38 and by this act; to be levied by said county court in and for  
39 said county; to acquire needed real estate, to construct, equip,  
40 furnish and maintain such courthouse, hospital, other public  
41 buildings or jail, and to make and enter into such contracts,  
42 and to do and perform such acts as may be necessary for the  
43 construction, equipment, operation and maintenance of the  
44 same, subject to such burdens, restrictions and encumbrances  
45 as it may be necessary to incur and bear, in securing such  
46 bonds and such real estate construction, equipment and main-  
47 tenance.

48 Bonds issued hereunder shall be exempt from taxation by  
49 the state of West Virginia, or any county therein, or any  
50 district or municipality thereof.

Sec. 4. *Enforcement of Lien of Bond Holders.* There  
2 shall be and there is hereby created a statutory mortgage  
3 lien upon the said real estate, buildings and property so  
4 acquired, constructed or built from the proceeds of bonds  
5 authorized to be issued under this act, which shall exist  
6 in favor of the holder of said bonds, and each of them,  
7 and to and in favor of the holder of the interest coupons  
8 attached to said bonds, and such courthouse, hospital, other  
9 public buildings, or jail, and the real estate so acquired  
10 and used for and in connection therewith, shall remain sub-  
11 ject to such statutory mortgage lien until payment in full  
12 of the principal and interest of said bonds. Any holder of  
13 bonds issued under the provisions of this act, or the holder  
14 of any coupons representing interest accrued thereon, may,

15 either at law or in equity, enforce the statutory mortgage  
16 lien hereby created and conferred, and may, by proper suit,  
17 compel the performance of the duties of the officials of the  
18 said court set forth in this act. If there be default in the  
19 payment of the principal of or interest upon any of said  
20 bonds, any court having jurisdiction in any proper action  
21 may appoint a receiver to administer said property on behalf  
22 of the said court with power to charge and collect rents or  
23 income sufficient to provide for the payment of said bonds  
24 and interest thereon, and for the payment of the operating  
25 expenses, and to apply the income, rents or other revenue in  
26 conformity with this act and the order providing for the is-  
27 suance of said bonds.

Sec. 5. *Form and Payment of Bonds; Use of Proceeds*  
2 of Bonds. Any county court issuing bonds under the  
3 provisions of this act shall thereafter, so long as any such  
4 bonds remain outstanding, operate and maintain said  
5 courthouse, hospital, other public buildings, or jail, to pro-  
6 vide revenues sufficient to pay all operating costs, pro-  
7 vide a sinking fund for, and to retire the bonds and  
8 pay the interest thereon as the same may become due.  
9 The amounts, as and when so set apart by said county  
10 court, shall be remitted to the state sinking fund commission  
11 at least thirty days previous to the time interest or principal  
12 payments become due, to be retained and paid out by said  
13 commission consistent with the provisions of this act and with  
14 the order pursuant to which such bonds have been issued. The  
15 state sinking fund commission is hereby authorized to act as  
16 fiscal agent for the administration of such sinking fund un-  
17 der any order passed pursuant to the provisions of this act,  
18 and shall invest all sinking funds, as provided by general law.  
19 Bonds issued under the provisions of this act are hereby de-  
20 clared to be and to have all the qualities of negotiable instru-  
21 ments. Such bonds shall bear interest at not more than six  
22 per cent per annum, payable semi-annually, and shall ma-  
23 ture at any time fixed by the county court, in not more than  
24 thirty years from their date, and may be made redeemable  
25 at the option of the county court at such price and under  
26 such terms and conditions as said court may fix, by its order,  
27 prior to the issuance of such bonds. Bonds issued hereunder

28 shall be payable at the office of the state treasurer, or some  
29 bank in the city of New York.

30 In case any of the officers whose signatures appear on the  
31 bonds or coupons shall cease to be such officers before the de-  
32 livery of such bonds, such signatures shall, nevertheless, be  
33 valid and sufficient for all purposes the same as if they had  
34 remained in office until such delivery. The county court shall  
35 by order entered prior to the issuance of said bonds, fix the  
36 denominations, times and places of payment of such bonds,  
37 the principal and interest of which shall be payable in lawful  
38 money of the United States of America. The proceeds of  
39 such bonds shall be used solely for the payment of the cost of  
40 land, buildings, furniture and equipment thereon, and shall  
41 be checked out by the county court under such restrictions  
42 as are contained in the order providing for the issuance of  
43 said bonds. If the proceeds of bonds issued for any court-  
44 house, hospital, other public buildings, or jail, shall exceed  
45 the cost thereof, the surplus shall be paid into the fund here-  
46 in provided for the payment of principal and interest upon  
47 such bonds. Such fund may be used for the purchase or re-  
48 demption of any of the outstanding bonds payable from such  
49 fund at the market price, but at not exceeding the price at  
50 which any of such bonds shall in the same year be redeemable,  
51 as fixed by the court in its said order, and all bonds redeemed  
52 or purchased shall forthwith be cancelled, and shall not again  
53 be issued.

53a Prior to the preparation of definitive bonds, the county  
54 court may, under like restrictions, issue temporary bonds, or  
55 interim certificates, with or without coupons, exchangeable  
56 for definitive bonds upon the issuance of the latter. Such  
57 bonds may be issued without any other proceedings or the  
58 happening of any other conditions or things than those pro-  
59 ceedings, conditions and things which are specified and re-  
60 quired by this act.

Sec. 6 *Limitation on Character of Debt Incurred.* Nothing  
2 in this act contained shall be so construed or interpreted as to  
3 authorize or permit any county court to incur a debt for and  
4 on behalf of said court of any kind or nature contrary to the  
5 provisions of the constitution of the state in relation to debt.

2       Sec. 7. *Powers Conferred are Additional.* This act shall  
3 be deemed to provide an additional and alternative method  
4 for the doing of the things authorized hereby, and shall be  
5 regarded as supplementary and additional to powers con-  
ferred by other laws.

2       Sec. 8. *Act to be Liberally Construed.* This act, being  
3 necessary for the health, welfare and public requirements of  
4 the public of the several counties, it shall be liberally con-  
5 strued to effectuate the purpose thereof.

2       Sec. 9. *Limitation on Amount of Debt; Increase of Levies;*  
3 Notwithstanding the provisions of general law, any county  
4 court authorized by this act to issue bonds, may become in-  
5 debted for the purposes in this act authorized, to an amount,  
6 including all other indebtedness, up to but not exceeding five  
7 per cent of the value of the taxable property in such county  
8 as shown by the last assessment thereof for state and county  
9 purposes next prior to the authorization of such bonds, sub-  
10 ject to the levy limitations as provided in the constitution.  
11 For the purpose of effectuating the provisions and purposes  
12 of this act and for the purpose of obtaining revenue to pay  
13 said bonds and their interest, or for the purpose of redeem-  
14 ing said bonds in whole or in part, such court may and is  
15 authorized to increase the levies on each class of property  
16 not to exceed fifty per cent of the rates authorized by section  
17 ten, article eight, chapter sixty-seven, acts of the Legis-  
18 lature, second extraordinary session, one thousand nine  
19 hundred thirty-three, not to exceed three years, and may sub-  
20 mit to the voters of the county the question of authorizing  
21 such increase, not to exceed three years, at the same time  
22 and as a part of the scheme to issue said bonds and provide  
23 for the payment thereof. Such increase of levies shall not  
24 continue for more than three years without submission to  
25 the voters, but the question of future levy increases for  
26 such purposes may be again submitted to the voters.

26       Upon the question of issuance of such bonds, providing for  
27 the payment thereof, the increase of said levies, at least sixty  
28 per cent of the votes cast shall be in favor thereof, as pro-  
29 vided by general law.

2       Sec. 10. *Provisions of Act Severable.* The provisions of  
3 this act are separable and not matters of mutual essential in-

3 ducement, and it is the intention to confer the whole or any  
4 part of the powers herein provided for, and if any of the sec-  
5 tions or provisions, or parts thereof, are for any reason illegal,  
6 it is the intention that the remaining sections and provisions,  
7 or parts thereof, shall remain in full force and effect.

## CHAPTER 26

(Com. Sub. for House Bill No. 434—Originating in the  
House Committee on the Judiciary)

AN ACT to amend article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to tax levies, by adding thereto a new section, to be designated section ten-a, providing that when all or any part of the levy rates apportioned to and authorized to be laid by county courts for debt purposes are not required for such purposes, the same may be used for general county current expense purposes.

[Passed March 12, 1937; in effect ninety days from passage. Approved by the  
Governor.]

### Article 8. Levies.

#### Section

10-a. County debt levies used for current expenses.

*Be it enacted by the Legislature of West Virginia:*

That article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be amended by adding thereto a new section, to be designated section ten-a, to read as follows:

Section 10-a. *County Debt Levies Used for Current Ex-*  
2 *penses.* When all or any part of the levy rates apportioned  
3 to county courts by section six of this article for debt pur-  
4 poses, and authorized to be laid for such purposes by section  
5 ten of this article, are not required therefor in a county, the  
6 county court of such county, with the consent in writing of



7 the tax commissioner, may then utilize, to such extent as may  
8 be necessary, the whole or balance, as the case may be, of  
9 such debt levy rates for general county current expense pur-  
10 poses.

## CHAPTER 27

(Senate Bill No. 59—By Mr. Allen)

AN ACT to regulate the sale of agricultural lime.

[Passed March 8, 1937; in effect ninety days from passage. Approved by the Governor.]

### Section

1. Definition of agricultural lime.
2. Statement on bag, etc., of agricultural lime offered for sale.
3. Certificate of registration.
4. Refusal to accept statement or to register; cancellation of registration.
5. Only one registration required.
6. Cards to purchasers showing registration statement.
7. Analysis of sample.
8. Powers of commissioner of agriculture.
9. Reports of violations to prosecuting attorneys.
10. Penalties for violations of act.
11. Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Definition of Agricultural Lime.* The term  
2 "agricultural lime" as used in this act, or in any rule or  
3 regulation authorized hereunder, unless the context other-  
4 wise requires or a different meaning is specifically prescribed,  
5 shall mean any neutralizing substance containing calcium and  
6 magnesium in form, condition and quantity suitable for  
7 neutralizing soil acidity, excepting only the products of kilns,  
8 crushers and marl beds when sold at the bed, crusher or kiln  
9 without brand name or trade mark and delivered in bulk  
10 to users in the community in which said kiln, crusher or marl  
11 bed is located, who are presumed to know the quality of the  
12 product, and air-slacked lime waste, gas-house lime and  
13 tanners lime when sold as such.

Sec. 2. *Statement of Bag, Etc., of Agricultural Lime Of-*  
2 *fered for Sale.* Every bag, barrel, package or bulk shipment

3 of agricultural lime sold, offered or exposed for sale in this  
4 state shall have branded thereon or conspicuously attached  
5 thereto a statement showing: The name, brand or trade mark  
6 of the agricultural lime; the net weight of the package; the  
7 name and address of the manufacturer, producer or person re-  
8 sponsible for placing the goods on the market; the guaranteed  
9 analysis of the agricultural lime. The analysis shall set forth  
10 the minimum total neutralizing power, expressed as per cent  
11 calcium carbonate equivalent, and the minimum percentages  
12 of calcium oxide and magnesium oxide. In the case of all  
13 ground forms of agricultural lime the analysis shall certify  
14 the minimum percentages that will pass the twenty, sixty, and  
15 one hundred mesh sieves.

Sec. 3. *Certificate of Registration.* Every manufacturer,  
2 company or person who shall sell, offer or expose for sale, or  
3 distribute, in this state, any agricultural lime, shall, before the  
4 same is sold, offered or exposed for sale, obtain from the com-  
5 missioner of agriculture a certificate of registration for each  
6 brand of agricultural lime to be sold, offered or exposed for  
7 sale. The commissioner of agriculture shall have full power,  
8 and is hereby authorized and required, to cancel and withdraw  
9 any certificate upon satisfactory evidence that any rules and  
10 regulations covering the sale of agricultural lime have been  
11 violated by the holder of the same. The commissioner shall not  
12 issue any certificate of registration except upon the filing with  
13 the commissioner of agriculture of a certified copy of the  
14 statement specified in section two of this article for each  
15 brand of agricultural lime, accompanied by a written state-  
16 ment of the tonnage of all brands sold during the past  
17 calendar year, and accompanied by a fee of fifteen dollars  
18 for each brand registered by manufacturers, companies or  
19 persons, which moneys shall become a part of the general  
20 revenue of the state, and shall be appropriated to carry  
21 out the provisions of this act. All certificates so issued  
22 shall become null and void on December thirty-first, next  
23 succeeding date of issuance thereof.

Sec. 4. *Refusal to Accept Statement or to Register; Can-  
2 cellation of Registration.* The commissioner of agriculture  
3 shall have the power to refuse to accept any certified state-

4 ment for any agricultural lime under a brand or trade name,  
5 or any information or statement accompanying same, which is  
6 misleading or deceptive or tends to mislead or deceive as to its  
7 quality or the constituents or materials of which it is composed.  
8 Any registration of any agricultural lime may be cancelled by  
9 the commissioner whenever it is shown that any statement upon  
10 which said registration was made or upon which the agricul-  
11 tural lime is sold is false or misleading. He shall also have the  
12 power to refuse to register more than one agricultural lime un-  
13 der the same name or brand when offered by the same manu-  
14 facturer, jobber, importer, firm, association, corporation or  
15 person. Should any agricultural lime be registered in this  
16 state and it is afterward discovered that such registration is in  
17 violation of any of the provisions of this article, the commis-  
18 sioner shall have the power to cancel such registration. The  
19 commissioner shall have the power to refuse to allow any  
20 manufacturer, importer, jobber, firm, association, corporation  
21 or person to lower the guaranteed analysis of any brand of his  
22 or their agricultural lime during the term for which registered,  
23 unless satisfactory reasons are presented for making such  
24 change.

2 *Sec. 5. Only One Registration Required.* Whenever a manu-  
3 facturer, importer, jobber, firm, association, corporation or  
4 person manufacturing or selling a brand of agricultural lime  
5 shall have filed the statement required by section three and  
6 the same has been registered by the commissioner, no other  
7 agent, importer, jobber, firm, association, corporation or per-  
8 son shall be required to file for registry such statement for  
such brand.

2 *Sec. 6. Cards to Purchasers Showing Registration State-*  
3 *ment.* Whenever any agricultural lime as defined in section  
4 one is offered or exposed for sale in bulk or otherwise stored,  
5 the manufacturer, importer, jobber, firm, association, corpora-  
6 tion or person keeping the same for sale shall keep on hand  
7 cards upon which shall be printed the statement required by  
8 the provisions of section two, and when such agricultural lime  
9 is sold at retail in bulk or in packages belonging to the pur-  
10 chaser, the manufacturer, jobber, firm, association, corporation  
or person shall furnish the purchaser, upon request, with a

11 card or cards upon which appears the statement required by  
12 the provisions of section two.

Sec. 7. *Analysis of Sample.* The commissioner of agricul-  
2 ture in person or by deputy, shall take samples of any agricul-  
3 tural lime on sale in this state, and shall cause such samples to  
4 be analyzed according to the methods of the association of of-  
5 ficial agricultural chemists, official at the time, and publish the  
6 results of analysis from time to time. Any purchaser of agri-  
7 cultural lime within the state may take a sample of the same,  
8 in accordance with such rules and regulations as the com-  
9 missioner of agriculture may establish, and forward the  
10 same for analysis, and if the commissioner has reason to be-  
11 lieve that the agricultural lime from which the sample is  
12 taken is not as guaranteed in the statement attached to such  
13 agricultural lime, he shall cause the sample to be analyzed  
14 free of charge and certify the result of the analysis to the  
15 person forwarding such sample.

Sec. 8. *Powers of Commissioner of Agriculture.* The en-  
2 forcement of the provisions of this article shall be vested in  
3 the state department of agriculture, and the commissioner of  
4 agriculture is authorized to make and enforce such rules and  
5 regulations as may be necessary to carry out the intent and  
6 purpose of this article. The commissioner is authorized in  
7 person or by deputy, to enter, during business hours, any  
8 store room or other place where agricultural lime is sold, of-  
9 fered or exposed for sale, for the purpose of taking samples  
10 therefrom for analysis.

Sec. 9. *Reports of Violations to Prosecuting Attorneys.* The  
2 commissioner of agriculture shall promptly report to the  
3 prosecuting attorney of the county in which the offense was  
4 committed any violations of this article and all failures to  
5 comply therewith.

Sec. 10. *Penalties for Violation of Act.* Any person who  
2 shall sell, offer or expose for sale any agricultural lime with-  
3 out first having secured certificate of registration as provided  
4 by section three of this act, or without having branded on or  
5 attached to the bag, barrel, package, or bulk shipment of such  
6 agricultural lime the statement required by section two of this  
7 article, or who shall receive or remove any agricultural lime

8 without its having been registered or branded as provided by  
9 this article, shall be guilty of a misdemeanor, and upon conviction  
10 thereof, shall be fined not less than twenty nor more  
11 than one hundred dollars for the first offense, and not less  
12 than fifty nor more than five hundred dollars for each subsequent  
13 offense.

Sec. 11. *Inconsistent Acts Repealed.* All acts or parts of  
2 acts inconsistent with this act are hereby repealed.

## CHAPTER 28

(Sub. for Senate Bill No. 78—By Mr. Snyder, by request)

AN ACT to amend and reenact sections three and four, article eleven, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to cream and butter.

[Passed March 12, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Article 11. Milk and Milk Products.

#### Section

3. Standards.

4. Enforcement of article; penalties for violations.

*Be it enacted by the Legislature of West Virginia:*

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

Section 3. *Standards.* It shall be unlawful for any person  
2 to manufacture, offer or expose for sale or exchange, or have in  
3 his possession with intent to sell, offer or expose for sale or  
4 exchange, any milk or milk products that do not conform to  
5 rules and regulations promulgated by the public health  
6 council and to the following standards or definitions;  
7 (a) Milk is the whole, fresh, clean, lacteal secretion ob-  
8 tained by the complete milking of one or more healthy cows,  
9 properly fed and kept, excluding that obtained within fifteen

10 days before and five days after calving, or such longer period  
11 as may be necessary to render the milk practically colostrum-  
12 free, and shall contain not less than three per cent of milk  
13 fat and not less than eight and one-half per cent of solids  
14 not fat, and eleven and one-half per cent total solids;

15 (b) Pasteurized milk is milk that has been subjected to  
16 a temperature not lower than one hundred and forty-five  
17 degrees fahrenheit for not less than thirty minutes. Unless  
18 it is bottled hot, it is promptly cooled to fifty degrees fahren-  
19 heit, or lower;

20 (c) Skimmed milk is milk from which a part or all of  
21 the cream has been removed, and contains not less than  
22 nine per cent of milk solids;

23 (d) Buttermilk is the product that remains when fat is  
24 removed from milk or cream, sweet or sour, in the process  
25 of churning. It contains not less than eight per cent of milk  
26 solids not fat;

27 (e) Condensed milk, evaporated milk, concentrated milk,  
28 is the product resulting from the evaporation of a consider-  
29 able portion of the water from the whole, fresh, clean, lacteal  
30 secretion obtained by the complete milking of one or more  
31 healthy cows, properly fed and kept, excluding that obtained  
32 within fifteen days before and five days after calving, and  
33 contains, all tolerances being allowed for, not less than  
34 twenty-five and five-tenths per cent of total solids and not  
35 less than seven and eight-tenths per cent of milk fat;

36 (f) Sweetened condensed milk, sweetened evaporated milk,  
37 sweetened concentrated milk, is the product resulting from  
38 the evaporation of a considerable portion of the water from  
39 the whole, fresh, clean, lacteal secretion obtained by the com-  
40 plete milking of one or more healthy cows, properly fed and  
41 kept, excluding that obtained within fifteen days before and  
42 five days after calving, to which sugar (sucrose) has been  
43 added. It contains, all tolerances being allowed for, not less  
44 than twenty-eight per cent of total milk solids and not less than  
45 seven and eight-tenths per cent of milk fat;

46 (g) Condensed skimmed milk, evaporated skimmed milk,  
47 concentrated skimmed milk, is the product resulting from the  
48 evaporation of a considerable portion of the water from

49 skimmed milk, and contains, all tolerances being allowed for,  
50 not less than twenty per cent of milk solids;

51 (h) Sweetened condensed skimmed milk, sweetened evapo-  
52 rated skimmed milk, sweetened concentrated skimmed milk, is  
53 the product resulting from the evaporation of a considerable  
54 portion of the water from skimmed milk to which sugar  
55 (sucrose) has been added. It contains, all tolerances being  
56 allowed for, not less than twenty-eight per cent of milk solids;

57 (i) Dried milk is the product resulting from the removal  
58 of water from milk, and contains, all tolerances being allowed  
59 for, not less than twenty-six per cent of milk fat, and not  
60 more than five per cent of moisture;

61 (j) Dried skimmed milk is the product resulting from the re-  
62 moval of water from skimmed milk, and contains, all tolerances  
63 being allowed for, not more than five per cent of moisture;

64 (k) Sweet cream is that portion of milk, rich in  
65 milk fat, which rises to the surface of milk on standing or is  
66 separated from it by centrifugal force. It is fresh, clean.  
67 It shall contain not less than eighteen per cent of milk fat.  
68 Whipping cream is cream which shall contain not less than  
69 thirty per cent of milk fat. Cream for butter making  
70 shall be clean and contain no foreign matter and shall  
71 be free from filth, putrefaction, mold and/or decompo-  
72 sition.

73 (l) Butter is the clean, non-rancid product made by  
74 gathering in any manner the fat of fresh or ripened  
75 milk or cream into a mass, which also contains a small  
76 portion of the other milk constituents, with or with-  
77 out salt, and contains not less than eighty per cent of  
78 milk fat. The addition of vegetable butter coloring is per-  
79 mitted;

80 (m) Cheese is the sound solid, and ripened product made  
81 from milk or cream by coagulating the casein thereof with  
82 rennett or lactic acid, with or without the addition of ripen-  
83 ing ferments and seasoning and contains, in the water-free  
84 substance, not less than fifty per cent of milk fat. The addi-  
85 tion of harmless coloring matter is permitted;

86 (n) Ice cream is a frozen substance made from pure,  
87 wholesome milk products sweetened with sugar and may con-  
88 tain not to exceed one-half of one per cent of gelatin, vege-

89 table gum or other wholesome stabilizer. When wholesome  
90 and harmless flavoring extracts are used, ice cream shall con-  
91 tain not less than eight per cent of milk fats and ten per  
92 cent of milk solids not fats. When eggs, fruits, nuts, chocolate  
93 or cake are used, such reduction in the percentage of milk fat  
94 and milk solids not fat shall be allowed as may be caused by  
95 the addition of such ingredients.

Sec. 4. *Enforcement of Article; Penalties for Violation.* The  
2 enforcement of this article shall be vested in the state depart-  
3 ment of agriculture. The commissioner of agriculture shall  
4 have authority to make and enforce such rules and regulations  
5 as are necessary to carry out the provisions of this act and may  
6 accept on behalf of the state of West Virginia the laws, rules,  
7 regulations, and standards of the United States department  
8 of agriculture. Any person who shall violate any of the pro-  
9 visions of this article shall be guilty of a misdemeanor, and  
10 upon conviction thereof, shall be fined not less than twenty-  
11 five nor more than fifty dollars for the first offense, and not  
12 less than fifty nor more than two hundred dollars for each sub-  
13 sequent offense.

## CHAPTER 29

(Senate Bill No. 231—By Mr. Allen)

AN ACT to amend and reenact sections four, five and six, article seven, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to state aid for fairs.

[Passed March 8, 1937; in effect ninety days from passage. Approved by the Governor.]

### Article 7. State Aid for Fairs.

#### Section

4. When fairs entitled to state aid.
5. Fair premium list.
6. Annual fair report.

*Be it enacted by the Legislature of West Virginia:*

That sections four, five and six, article seven, chapter nineteen



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

Section 4. *When Fairs Entitled to State Aid.* Agricultural associations shall have the benefit of this article only after they shall have held annual exhibitions of the character designated by this article for three consecutive years next prior to the year such association applies for such benefits, but incorporated agricultural associations purchasing or leasing the grounds and buildings of an association entitled to the benefits of this article shall also be entitled to such benefits.

Other agricultural and industrial associations not entitled to aid under the provisions of this article may receive aid from the state of West Virginia, if funds are available, when in the judgment of the commissioner of agriculture such exhibitions are in the interest of the agricultural and industrial development of the state.

The commissioner of agriculture is hereby empowered and authorized to assist in the promotion and operation of an annual state fair and Four-H regional fairs, and, when funds are available, to expend the same for their support.

Sec. 5. *Fair Premium List.* Any agricultural association claiming the benefits of this article shall, each year, file with the state department of agriculture a copy of its annual premium list, not later than one month before the opening of its exhibition, and the commissioner of agriculture shall have the right to inspect and supervise all exhibits of such exhibition. The commissioner of agriculture is hereby empowered to make and enforce rules and regulations for the purpose of carrying out the provisions of this act.

Sec. 6. *Annual Fair Report.* On or before the fifteenth day of November in each year an association applying for the benefits of this article shall file with the commissioner of agriculture a statement, sworn to by its president and attested by its secretary, with its corporate seal attached, setting forth the name of the corporation, the time and place of the exhibition, and the amount of premiums actually paid, giving the names and addresses of the persons to whom such premiums were paid, and in what class, kind, and department.

## CHAPTER 30

(Senate Bill No. 326—By Mr. Haines)

AN ACT to amend and reenact sections one, four and seven, chapter one, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, and section one, chapter three of said acts, relating to deeds of trust for agricultural loans.

[Passed March 12, 1937; in effect from passage. Became a law without the approval of the Governor.]

### CHAPTER

1. Deeds of Trust for Agricultural Loans.

3. Deeds of Trust by Cooperative Associations.

*Be it enacted by the Legislature of West Virginia:*

That sections one, four and seven, chapter one, and section one, chapter three, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, be amended and reenacted to read as follows:

### Chapter 1. DEEDS OF TRUST FOR AGRICULTURAL LOANS.

#### Section

1. Lien of deed of trust to secure agricultural loans.
4. May include replacements or increases; provisions not invalidating.
7. Fees for docketing and releasing.

Section 1. *Lien of Deed of Trust to Secure Agricultural Loans.* Any person may enter into an agreement with and borrow funds from, a production credit association organized under the farm credit act of one thousand nine hundred thirty-three, a regional agricultural credit corporation, the reconstruction finance corporation, or the government of the United States or any department, agency, instrumentality or officer thereof, a federal intermediate credit bank, or any institution which has made arrangements to discount there-with, or to procure funds therefrom on the security of, the obligations of the borrower, and any cooperative association or corporation composed of agricultural producers and/or

13 purchasers may enter into an agreement with, and borrow  
14 from, any bank for cooperatives organized under said farm  
15 credit act of one thousand nine hundred thirty-three and/or  
16 from any federal intermediate credit bank, and/or from the  
17 government of the United States or any department, agency,  
18 instrumentality or officer thereof, and the repayment of any  
19 funds so borrowed, and/or of any then existing indebtedness  
20 to any such institution may be secured by chattel deed of  
21 trust upon personal property of any kind, character or de-  
22 scription owned at the time of the execution of the chattel  
23 deed of trust, or property of the same class as is covered by  
24 the chattel deed of trust or mortgage if acquired by the  
25 grantor subsequent to the execution of the chattel deed of  
26 trust, and prior to its extinguishment, or upon any crop or  
27 crops, annual or perennial including fruit crops, grown or  
28 growing, either already planted or to be planted and/or  
29 maturing within one year from the execution of such chattel  
30 deed of trust. Such chattel deed of trust shall be a lien upon  
31 the property therein described from the time of the docketing  
32 of such chattel deed of trust as provided for herein, which  
33 lien shall be good and valid against, and superior to all rights  
34 of subsequent creditors, purchasers, mortgagees, and other  
35 lienors and encumbrancers, and any of them. For the pur-  
36 pose of this article, all such property shall be deemed to be  
37 personal property and encumberable and mortgageable as  
38 such.

Sec. 4. *May Include Replacements or Increases; Provisions*  
2 *Not Invalidating.* Such chattel deed of trust may include  
3 replacements or exchanges of any of the encumbered property  
4 therein described and all increase of animals and livestock  
5 of all kinds. No chattel deed of trust of livestock and/or  
6 hay, grain or other foodstuffs shall be invalid in any par-  
7 ticular because provision is contained therein, or the bene-  
8 ficiary consents, (a) that the grantor may use and consume  
9 food, forage and fodder crops in preserving and preparing  
10 for market the livestock covered thereby; or (b) that the  
11 grantor may sell a portion of the property to meet farming  
12 or harvesting expenses; or (c) that the grantor may use or  
13 sell a portion of the property to meet subsistence or emer-

14 gency needs of himself and his family ; or (d) that the grantor  
15 may use or sell a portion of the property to preserve the  
16 remainder from deterioration or spoilage.

Sec. 7. *Fees for Docketing and Releasing.* The county  
2 court clerks are entitled to receive a fee of fifty cents for the  
3 docketing and entering of chattel deed of trust filed and  
4 docketed under and pursuant to this chapter, and a fee of  
5 twenty-five cents for each assignment and each release filed  
6 and indexed pursuant to this article: *Provided*, That the fee  
7 of twenty-five cents for release shall be paid by the grantor  
8 of the chattel deed of trust released.

### Chapter 3. DEEDS OF TRUST BY COOPERATIVE ASSOCIATIONS.

#### Section

1. To whom deeds of trust may be given; property covered by.

Section 1. *To Whom Deeds of Trust May be Given; Prop-*  
2 *erty Covered by.* Any cooperative association or corporation,  
3 organized under the laws of this state, or under the laws  
4 of the United States, or qualified to do business in this state,  
5 and qualified as a cooperative association under the laws  
6 of this state and/or under the laws of the United States,  
7 may give as security for any loan or loans obtained from  
8 any bank for cooperatives, organized under the act of con-  
9 gress known as the "Farm Credit Act" of one thousand  
10 nine hundred thirty-three, or for any loan or loans obtained  
11 from any federal intermediate credit bank, organized under  
12 an act of congress known as the "Agricultural Credits Act"  
13 of one thousand nine hundred twenty-three, or for any loan  
14 or loans obtained from the government of the United States  
15 or any department, agency, instrumentality or officer thereof,  
16 a chattel mortgage or deed of trust covering stocks of goods  
17 or inventories, or other things in bulk, but changing in  
18 specifics, in which case the lien of such mortgage or deed  
19 of trust shall be lost as to all articles disposed of by the  
20 mortgagor prior to the extinguishment of such mortgage, but  
21 shall attach to any articles purchased to supply their places.

## CHAPTER 31

(House Bill No. 10—By Mr. Brotherton)

AN ACT to amend article seven, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto the following sections, prohibiting the selling, shipping, consigning, offering for sale, or having in possession with intent to sell, as fresh, any meat, poultry, game, fish, or shell fish, which contains any substance or article possessing a preservative or coloring character or action; making the same a misdemeanor; and prescribing the penalties and punishment for violations, and the means and methods of procedure for the enforcement thereof.

[Passed March 2, 1937; in effect ninety days from passage. Became a law without the approval of the Governor.]

### Article 7. Pure Food and Drugs.

#### Section

7. Selling, etc., of meats containing preservatives; penalties.
8. Artificial coloring of meats and meat products.
9. Enforcement of act.
10. Adulterated articles to be forfeited and destroyed.
11. Conflicting acts repealed; pending actions.

*Be it enacted by the Legislature of West Virginia:*

That article seven, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto the following sections:

- Section 7. *Selling, etc., of Meats Containing Preservatives;*
- 2 *Penalties.* If any person shall sell, ship, consign, offer for
  - 3 sale, expose for sale, or have in possession with intent to sell,
  - 4 as fresh, any meat, poultry, game, or shell fish which contains
  - 5 any substance, article or ingredient possessing a preservative
  - 6 character or action, or which contains any coal-tar dye, or
  - 7 any other substance or ingredient possessing a coloring
  - 8 character or action, he shall be deemed guilty of a misde-
  - 9 meanor, and upon conviction thereof shall be fined not more
  - 10 than one hundred dollars and all costs, or shall be imprisoned

11 in the county jail not less than sixty days nor more than  
12 ninety days, or both, at the discretion of the court. Upon a  
13 second conviction he shall be fined not less than two hundred  
14 dollars nor more than four hundred dollars, or be imprisoned  
15 not less than sixty days nor more than four months, or both,  
16 at the discretion of the court: *Provided*, That nothing in  
17 this section shall be construed to prohibit the use of ice  
18 as a preservative, or the use of refrigeration.

Sec. 8. *Artificial Coloring of Meat and Meat Products.* All  
2 meats, meat products and meat food products, when manu-  
3 factured, sold or exposed for sale, for human consumption  
4 in this state, shall not be artificially colored with any dye,  
5 chemical or other substance, except natural wood smoke,  
6 sugar, salt, pepper, saltpeter and borax.

Sec. 9. *Enforcement of Act.* The state department of  
2 health shall be charged with the enforcement of all the pro-  
3 visions of this act and all penalties which may be recovered  
4 shall be paid to the treasurer of the state of West Virginia  
5 general fund.

Sec. 10. *Adulterated Articles to be Forfeited and Destroyed.*  
2 All articles adulterated in violation of the provisions of this  
3 act shall be forfeited by the owner and destroyed by the  
4 state department of health.

Sec. 11. *Conflicting Acts Repealed; Pending Actions.* All  
2 acts or parts of acts inconsistent with this act, or any part  
3 thereof, are hereby repealed, but the repeal of said inconsis-  
4 tent acts shall in no way interfere with or prevent the prose-  
5 cution to final termination of any action or prosecution now  
6 pending, or which may hereafter be commenced for any vio-  
7 lation of said act which has already been committed.

## CHAPTER 32

(House Bill No. 13—By Mr. Brotherton)

AN ACT to regulate the sale of fresh eggs; prohibit the sale of inedible eggs; require that cold storage, preserved and incubated eggs be marked; making and filing invoices required by wholesaler and retailer, and prescribing penalties for violation of this act.

[Passed March 8, 1937; in effect ninety days from passage. Became a law without the approval of the Governor.]

### Section

1. Standards for sale of eggs.
2. Standards of interior quality of eggs.
3. Tolerance in grading.
4. Quality to be determined by candling.
5. When eggs unfit for human food.
6. Sale of preserved or cold storage eggs.
7. Invoice of sale to show grade.
8. Enforcement of act.
9. Examinations in enforcement.
10. Offenses and penalties.
11. Provisions severable.
12. Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Standards for Sale of Eggs.* No person shall  
2 sell, offer for sale, or advertise for sale shell eggs as fresh eggs,  
3 or under any words or description of similar import such as  
4 "new laid eggs," "hennery eggs," "day-old eggs," "good  
5 eggs," "select eggs," "strictly fresh eggs", et cetera, or any  
6 eggs which are not fresh eggs as determined by the standards  
7 of quality for fresh eggs hereinafter set forth and by the regu-  
8 lations of the West Virginia department of agriculture per-  
9 taining thereto for fancy grade eggs and grade "A" eggs,  
10 with such tolerances as are hereinafter allowed for these grades.  
11 Eggs sold, offered, exposed or advertised for sale as West  
12 Virginia fancy grade eggs or as West Virginia grade "A"  
13 eggs shall in fact be such eggs as have been produced within  
14 the state of West Virginia, and shall meet the same standards  
15 of quality as required for fancy grade eggs and grade "A"  
16 eggs, respectively.

17 All eggs not meeting the above requirements but still fit  
18 for human food shall be declared and sold simply as eggs.

Sec. 2. *Standards of Interior Quality of Eggs.* These stan-  
2 dards of interior quality in the case of fancy grade eggs re-  
3 quire that the air cell must not exceed one-eighth inch in  
4 depth, localized regular; the yolk may be not more than dimly  
5 visible; free from any visible germ development and/or  
6 other defects; the white must be firm and clear. In the case  
7 of grade "A" eggs the air cell must not exceed two-eighths  
8 of an inch in depth, localized regular; the yolk may be vis-  
9 ible; the white must be firm and clear; the germ must show  
10 no visible development.

Sec. 3. *Tolerance in Grading.* A tolerance of ten per  
2 cent net is allowed in each of these grades which must be  
3 in the grade next lower, which, in respect to fancy grade  
4 is grade "A" and in the grade "A" is as prescribed in  
5 the United States Department of Agriculture, grade for  
6 "U. S. Standard." In retail lots, at least ten eggs in each  
7 dozen shall conform to the requirements set forth for the  
8 respective grade, as indicated on the package, and not more  
9 than two eggs in any dozen may be in the quality next lower  
10 than the grade indicated on the package, in accordance with  
11 the grades for eggs promulgated by the West Virginia De-  
12 partment of Agriculture, the same being based on the stan-  
13 dards for inferior quality as prescribed by the United States  
14 Department of Agriculture.

Sec. 4. *Quality to be Determined by Candling.* In all cases  
2 the final determination as to the meeting of these grade re-  
3 quirements shall be made by candling, inasmuch as this is  
4 the only known method of determining quality at the present  
5 time.

Sec. 5. *When Eggs Unfit for Food.* For the purpose of this  
2 act an egg shall be deemed unfit for human food if it be  
3 addled or moldy; if it contains a black rot, a white rot, or a  
4 blood ring; if it has an adherent yolk, or a bloody or green  
5 white, or if it be incubated beyond the blood-ring stage, or  
6 if it consists in whole or in part of a filthy, decomposed or  
7 putrid substance, and it shall be unlawful for any person to



8 sell, offer or expose for sale eggs for human consumption  
9 which are unfit for human food.

Sec. 6. *Sale of Preserved or Cold Storage Eggs.* No person  
2 shall sell or offer for sale any shell eggs which have been  
3 preserved by any artificial process, or which have been kept  
4 in storage for more than fifteen days in any place where the  
5 temperature is reduced by means of artificial refrigeration,  
6 or which have been incubated for twenty-four hours or more,  
7 without affixing on two sides of the crate or receptacle con-  
8 taining such eggs, in black Roman letters on a light-colored  
9 ground, not less than one inch high and one-half inch wide,  
10 the words "cold storage eggs," "preserved eggs," or "in-  
11 cubated eggs," as the case may be. The package or re-  
12 ceptacle in which such eggs are displayed for sale, shall bear  
13 a sign having on it the words "cold storage eggs," "preserved  
14 eggs," or "incubated eggs," as the case may be. Such sign  
15 shall be printed in Roman letters not less than one-half inch  
16 high and one-fourth inch wide and in a color that contrasts  
17 with a light-colored ground. The containers used for deliv-  
18 ering such eggs shall have printed thereon, on two sides, the  
19 words "cold storage eggs," "preserved eggs," or "incubated  
20 eggs," as the case may be. Containers known as "three by  
21 four eggs" cartons shall have the designating words printed  
22 in color contrasting with the light ground of the container,  
23 in Roman letters not less than one-half inch high and three-  
24 eighths of an inch wide. The containers known as "two by  
25 six eggs" cartons or bags shall have the designating words  
26 printed in color contrasting with the light ground of the  
27 container, in Roman letters not less than one-half inch high  
28 and one-fourth inch wide. Wholesalers shall declare on their  
29 invoices whether the eggs sold are "cold storage eggs," "pre-  
30 served eggs," or "incubated eggs." No eggs shall be brought  
31 into this state that have been held in cold storage or pre-  
32 served by any process or incubated, unless the package con-  
33 taining such eggs shall be marked or labeled in accordance  
34 with the provisions of this section. All markings required  
35 by this section shall be done in a manner approved by the  
36 commissioner of agriculture.

Sec. 7. *Invoice of Sale to Show Grade of Eggs.* Every per-  
2 son, other than the producer, in selling eggs to a retailer,

3 shall furnish to such retailer an invoice showing the grade,  
4 quality, or classification of such eggs according to the stan-  
5 dards prescribed in this act. A copy of such invoice shall  
6 be kept on file by the person selling and the retailer at their  
7 respective places of business for a period of thirty days, and  
8 shall be available and open for inspection at all reasonable  
9 times by accredited inspectors or representatives of the com-  
10 missioner of agriculture.

Sec. 8. *Enforcement of Act.* The commissioner of agri-  
2 culture is charged with the enforcement of the provisions  
3 of this act and of the regulations thereunder, and for this  
4 purpose is authorized to designate standards relative to ex-  
5 terior quality and egg size or weight and to make and  
6 promulgate such rules and regulations as may be deemed  
7 necessary by him in carrying out the provisions of this act.

Sec. 9. *Examinations in Enforcement.* In carrying out the  
2 provisions of this act, the commissioner of agriculture, his em-  
3 ployees or agents, are authorized to enter, on any business  
4 day, during the usual business hours, any store, market, or  
5 other building or place where eggs are sold or offered for  
6 sale, and to make such examination as is necessary to de-  
7 termine the classification and quality of eggs sold, offered for  
8 sale or advertised as defined in this act.

Sec. 10. *Offenses and Penalties.* Any person who violates  
2 any provision of this act, or the regulations made under this  
3 act for carrying out its provisions, or who fails or refuses to  
4 comply with, or who answers or reports falsely in response  
5 to any requirements of this act, or who wilfully interferes  
6 with the commissioner of agriculture, his employees or agents,  
7 in the carrying out of his duties prescribed in this act, shall  
8 be guilty of a misdemeanor, and upon conviction thereof,  
9 shall for the first offense be fined ten dollars, and in the dis-  
10 cretion of the court, confined in the county jail not more  
11 than ten days, and for the second or any subsequent offense  
12 shall be fined not less than twenty-five dollars nor more than  
13 fifty dollars, and in the discretion of the court confined in  
14 the county jail not less than ten days nor more than thirty.  
15 Each day on which this act is violated shall constitute a  
16 separate violation.

Sec. 11. *Provisions Severable.* If any clause, sentence, paragraph or part of this act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid such judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its operation to the clause, sentence, paragraph or any part thereof directly involved in the controversy in which said judgment has been rendered.

Sec. 12. *Inconsistent Acts Repealed.* All previous acts and parts of acts inconsistent with this act are hereby repealed.

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## CHAPTER 33

(Senate Bill No. 168—By Mr. Smith, by request)

AN ACT to amend article nine, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto section three-a, relating to financial statements by county boards of education.

[Passed March 13, 1937; in effect ninety days from passage. Became a law without the approval of the Governor.]

### Article 9. School Finances.

#### Section

3-a. Publication of financial statement by county board of education.

*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 a new section to be numbered section three-a to read as follows:

Section 3-a. *Publication of Financial Statement by County Board of Education.* The county board of education of every county, within four weeks after the beginning of each fiscal year, shall prepare and cause to be published, one time, on a form to be prescribed by the state tax commissioner and the state superintendent of free schools, in two newspapers of opposite politics, if there be such within the county, or if none

8 be published therein, (or if no such paper will publish the  
 9 same for the price fixed by law therefor), the same shall be  
 10 posted at each place of voting in the county, a statement of  
 11 the receipts and expenditures of said board during the pre-  
 12 vious fiscal year, showing the total receipts and the general  
 13 sources from which received, the name of each person receiv-  
 14 ing money from any fund, together with the total amount re-  
 15 ceived during the fiscal year and the purpose for which paid,  
 16 arranging same under appropriate heads, the cost of publish-  
 17 ing such statement to be paid by the board from the mainten-  
 18 ance fund of said board. Such statement shall also show a  
 19 specific statement of all debts of the board, the purpose for  
 20 which each debt was contracted, its due date, and to what  
 21 date the interest thereon has been paid.

22 Before the levy term of every such board, a copy of the  
 23 published statement herein required shall be filed by the board  
 24 with the state tax commissioner and with the state superin-  
 25 tendent of free schools.

## CHAPTER 34

(House Bill No. 66—By Mr. Oldham)

AN ACT to amend and reenact sections one, two, three and ten,  
 article four, chapter eighteen of the code of West Virginia,  
 one thousand nine hundred thirty-one, as amended by chap-  
 ter eight, acts of the Legislature, first extraordinary session,  
 one thousand nine hundred thirty-three, relating to election,  
 qualifications, removal and duties of county superintendents.

[Passed March 13, 1937; in effect ninety days from passage. Became a law without  
 the approval of the Governor.]

### Article 4. County Superintendent of Schools.

#### Section

1. Election; term.
2. Qualifications; health certificate.
3. Removal.
10. Duties.

*Be it enacted by the Legislature of West Virginia:*

That sections one, two, three and ten, article four, chapter  
 eighteen of the code of West Virginia, one thousand nine hundred

thirty-one, as amended by chapter eight, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows :

Section 1. *Election; Term.* The county superintendent shall be elected by the county board of education for a term of not more than four years. The superintendent shall be elected on the first Monday in July and take office immediately thereafter. The president of the board of education, immediately upon the election of the superintendent, shall certify the election to the state superintendent. The superintendent in office at the time of the passage of this act shall continue in office until the expiration of his present term.

Sec. 2. *Qualifications and Health Certificate.* The superintendent, at the time of his election, shall have a bachelor's degree, including at least twelve hours' credit in school administration and supervision, and at least five years' experience in public school teaching and/or supervision, within the state of West Virginia.

The superintendent shall file with the president of the board, before entering upon the discharge of his duties, a health certificate from a reputable physician, on a form prescribed by the state superintendent of schools, certifying that he is physically fit for the duties of his office and that he has no infectious or contagious diseases.

Sec. 3. *Removal.* The board may remove the superintendent from office for immorality, incompetency, insubordination, intemperence or wilful neglect of duty; but the charges shall be stated in writing and the superintendent shall be given an opportunity to be heard by the board upon not less than ten days' notice: *Provided, however,* That a superintendent so suspended, shall not forfeit his salary for the period of suspension.

Sec. 10. *Duties.* The county superintendent shall :

(1) Act as the chief executive officer of the board, and execute under the direction of the state board all its educational policies.

(2) Receive applications of teachers and submit them to the board of education together with his recommendations.

7 (3) Assign, transfer, suspend, promote or dismiss teach-  
8 ers and all other school employees of the district, subject  
9 only to the approval of the board.

10 (4) Organize and attend district institutes; organize and  
11 direct reading circles and boys' and girls' clubs.

12 (5) Close temporarily a school when conditions are detri-  
13 mental to the health, safety or welfare of the pupils.

14 (6) Certify all expenditures and monthly payrolls of  
15 teachers and employees.

16 (7) Be the secretary of the board and attend all meetings  
17 of the board or its committees, except when his tenure, sal-  
18 ary or administration is under consideration.

19 (8) Administer oaths and examine under oath witnesses  
20 in any proceedings pertaining to the schools of the district,  
21 and have the testimony reduced to writing.

22 (9) Exercise all other authority granted by this chapter  
23 or required by the board or state board.

24 (10) Act in case of emergency as the best interests of the  
25 schools demand.

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## CHAPTER 35

(House Bill No. 12—By Messrs. Matthews and Taylor, of Fayette)

AN ACT to amend article four, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section designated section six-a, imposing filing fees on candidates in primary elections and providing for the disposition of moneys collected from such fees.

[Passed March 1, 1937; in effect ninety days from passage. Became a law without the approval of the Governor.]

### Article 4. Nomination of Candidates.

#### Section

6-a. Filing fees; disposition of.

*Be it enacted by the Legislature of West Virginia:*

That article four, chapter three of the code of West Virginia,

one thousand nine hundred thirty-one, be and the same is hereby amended by adding thereto a new section designated section six-a, as follows :

Section 6-a. *Filing Fees; Disposition of.* Every person, who becomes a candidate for nomination for office in any primary election, shall, at the time of filing the certificate of announcement as required in section six of this article, pay a filing fee as follows :

(a) A candidate for United States senator, for member of the United States house of representatives, for Governor and for all other state elective offices shall pay a fee equivalent to one per cent of the annual salary of the office for which the candidate announces.

(b) A candidate for member of the house of delegates shall pay a fee of ten dollars, and a candidate for state senator shall pay a fee of twenty dollars.

(c) A candidate for sheriff, prosecuting attorney, circuit clerk, county clerk, assessor, member of the county court and member of the county board of education shall pay a fee equivalent to one per cent of the annual salary of the office for which the candidate announces: *Provided, however,* That the fee in no case shall be less than five dollars. A candidate for any other county office shall pay a fee of five dollars.

(d) A candidate for justice of the peace in districts having a population of five thousand or less, shall pay a fee of ten dollars; in districts having a population of more than five thousand and not more than twenty-five thousand, fifteen dollars, and in districts having more than twenty-five thousand population, each candidate shall pay a fee of twenty-five dollars.

(e) A candidate for constable in districts having a population of five thousand or less, shall pay a fee of five dollars; in districts having a population of more than five thousand and not more than twenty-five thousand, ten dollars, and in all other districts fifteen dollars.

(f) Delegates and alternate delegates to the national convention of any political party shall pay the following filing fees:

38 A candidate for delegate-at-large shall pay a fee of twenty  
39 dollars; a candidate for alternate delegate-at-large shall pay  
40 a fee of ten dollars; a candidate for delegate from a con-  
41 gressional district shall pay a fee of ten dollars; and a  
42 candidate for alternate delegate from a congressional dis-  
43 trict shall pay a fee of five dollars.

44 (g) Candidates for members of political executive com-  
45 mittees and other political committees shall pay the follow-  
46 ing filing fees:

47 A candidate for member of a state executive committee of  
48 any political party shall pay a fee of ten dollars; a candi-  
49 date for member of a county executive committee of any  
50 political party shall pay a fee of one dollar; and a candi-  
51 date for member of a congressional, senatorial or judicial  
52 committee of any political party shall pay a fee of one  
53 dollar.

54 Candidates filing for an office to be filled by the voters of  
55 one county shall pay the filing fee to the clerk of the circuit  
56 court, and candidates filing for an office to be filled by the  
57 voters of more than one county shall pay the filing fee to  
58 the secretary of state at the time of filing their certificates  
59 of announcement, and no certificate of announcement shall  
60 be received until the filing fee is paid.

61 All moneys received by the circuit clerk from such fees  
62 shall be credited to the general county fund. Moneys re-  
63 ceived by the secretary of state from fees paid by candi-  
64 dates for offices to be filled by all the voters of the state  
65 shall be deposited in a special fund for that purpose and  
66 shall be apportioned and paid by him to the several counties  
67 on the basis of population, and that received from candidates  
68 from a district or judicial circuit of more than one county  
69 shall be apportioned to the counties comprising the district or  
70 judicial circuit in like manner. When such moneys are re-  
71 ceived by sheriffs, it shall be credited to the general county  
72 fund.

73 If any sentence, clause or phrase of this act shall for any  
74 reason be held unconstitutional, the validity of the remain-  
75 ing sentences, clauses or phrases shall not be affected thereby.

76 All acts or parts of acts inconsistent or in conflict with  
77 the provisions of this act are hereby repealed.



## CHAPTER 36

(House Bill No. 49—By Mr. Long)

AN ACT to amend article seven, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section to be designated section twenty-a, relating to offenses by corporations at elections, and prescribing penalties therefor.

[Passed March 12, 1937; in effect ninety days from passage. Became a law without the approval of the Governor.]

### Article 7. Offenses and Penalties.

#### Section

20-a. Employer unlawfully influencing political action of employee.

*Be it enacted by the Legislature of West Virginia:*

That article seven, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new section to be designated section twenty-a, said section to read as follows:

Section 20-a. *Employer Unlawfully Influencing Political*  
2 *Action of Employee.* Any employer or agent of any em-  
3 ployer or corporation, who prints or authorizes to be printed  
4 upon any pay envelope or who distributes directly or indirect-  
5 ly, or gives directly to any employee any statement intended  
6 or calculated to influence the political action of his employees  
7 for any candidate for public office, or posts or exhibits in the  
8 establishment, any posters, placards, or handbills, or delivers  
9 verbally any message to any such employees, containing any  
10 threat, notice or information that if any such candidate is  
11 elected or defeated, work in the establishment will cease, in  
12 whole or in part, or other threats expressed or implied, in-  
13 tended to influence the political opinions or votes of his em-  
14 ployees, shall be guilty of corrupt practices, and upon con-  
15 viction shall be fined not less than one thousand dollars nor  
16 more than twenty thousand dollars or be imprisoned in jail  
17 not more than one year, or both.

## CHAPTER 37

(Senate Bill No. 14—By Mr. Moler)

AN ACT to amend and reenact section five, article six, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended by section five, article six, chapter five, acts of the Legislature, regular session, one thousand nine hundred thirty-three, relating to unlawful devices and methods of fishing.

[Passed March 10, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Article 6. Fish and Frogs.

#### Section

#### 5. Unlawful devices and methods of fishing.

*Be it enacted by the Legislature of West Virginia:*

That section five, article six, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended by section five, article six, chapter five, acts of the Legislature, regular session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 5. *Unlawful Devices and Methods of Fishing.* It shall be unlawful for any person to kill, catch or attempt to kill or catch, any fish in this state, at any time, by means of seines, nets, or traps, or devices of like nature, unless written consent shall have been given by the commission for the use of such seines as hereinafter provided; or by draining water out of any pool, pond or stream, with the intent to take or injure the fish therein, or by the use of dynamite, or any like explosive or other explosive mixture, or any poisonous drug or substance; or by the use of electricity or lime; or by the use of a gun, rifle, pistol or any other like weapon; or by any other means whatsoever, except by rod, line and hook or hooks with natural or artificial lures: *Provided*, That any person may employ a seine not more than six feet in length for the purpose of securing minnows other than salmon, bass,

16 shad, pike, perch and trout for use in angling. It shall be  
17 unlawful for any person, firm or corporation to sell any  
18 seine more than six feet in length without immediately re-  
19 porting same to the commission, giving the name and address  
20 of the purchaser: *Provided further*, That any person may  
21 catch or attempt to catch other than game fish by means  
22 or use of a dip net or may engage in the practice of dipping  
23 for other than game fish in all of the streams in Jefferson  
24 and Berkeley counties directly tributary to the Potomac  
25 river, with a dip net having a mesh of not less than one and  
26 one-quarter inches by one and one-quarter inches: *Provided*  
27 *further*, That the commission may at any time catch fish  
28 with nets, seines, or otherwise for the purpose of propaga-  
29 tion and protection of the fish of this state. It shall be un-  
30 lawful for any person at any time to kill or catch any  
31 game fish by gigging, snaring, spearing, gaffing or grappling,  
32 but the commission may, upon application by petition signed  
33 by two hundred citizens of any county showing the reason  
34 or necessity therefor, permit gigging of non-game fish in  
35 any stream or part of such stream in said county, provided  
36 said petitioners are holders of fishing license, except that no  
37 person shall gig during April, May and June.



## CHAPTER 38

(House Bill No. 326—By Mr. Calvert)

AN ACT to amend and reenact section three, article three; to repeal sections two, three and four, article seven, and to enact sections two to two-g, inclusive, three to three-c, inclusive, and four to four-b, inclusive, article seven, all of chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to hunting and fishing licenses.

[Passed March 11, 1937; in effect January 1, 1938. Became a law without the approval of the Governor.]

### Article

3. General Provisions Respecting Game, Birds, Fish and Frogs.
7. Hunting and Fishing Licenses.

*Be it enacted by the Legislature of West Virginia:*

That sections two, three and four, article seven, chapter twenty

of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed and that section three, article three of said chapter be amended and reenacted, and sections two to two-g, inclusive, three to three-c, inclusive, and four to four-b, inclusive, be added to article seven, all of chapter twenty of the code, to read as follows:

**Article 3. General Provisions Respecting Game, Birds, Fish and Frogs.**

**Section**

3. When unlawful for alien to hunt or fish or possess firearms.

Section 3. *When Unlawful for Alien to Hunt or Fish or Possess Firearms.* No person, not a citizen of the United States of America, shall at any time hunt, pursue, kill, or catch any wild animals or wild birds or wild fowl in this state, or have in his possession firearms of any kind, or fish for, capture, catch or kill any fish, frogs or turtles in this state, except when licensed as provided by section two-f, article seven, of this chapter.

**Article 7. Hunting and Fishing Licenses.**

**Section**

2. Licenses conditioned on payment of fees; age exemption.  
 2-a. Class A; resident state-wide hunting and fishing license.  
 2-b. Class B; nonresident state-wide hunting and fishing license.  
 2-c. Class C; nonresident state-wide fishing license.  
 2-d. Class D; tourist one-day fishing license.  
 2-e. Class E; Ohio River hunting and fishing license.  
 2-f. Class F; alien state-wide hunting and fishing license.  
 2-g. Class G; courtesy state-wide hunting and fishing license.  
 3. Application for; to whom made.  
 3-a. Application for in person or by mail; swearing to.  
 3-b. Form of application.  
 3-c. Issuance of license and badge.  
 4. Supplies furnished county clerks.  
 4-a. Carrying and display of license and badge.  
 4-b. Use of license fees.

Section 2. *Licenses Conditioned on Payment of Fees; Age Exemption.* Licenses to hunt and fish shall be of the kinds and classes and shall be conditioned upon the payment of the fees, set forth in sections two-a through two-g of this article. A resident of the state sixty years of age or over shall not be required to obtain a license to fish with hook and line in the waters of the state.

2       Sec. 2-a. *Class A; Resident State-wide Hunting and*  
3 *Fishing License.* A class A license shall be a state-wide hunt-  
4 ing and fishing license and shall entitle the licensee to hunt  
5 and fish in all counties of the state. It shall be issued only to  
6 a citizen of the United States who is a resident of this state.  
7 The fee shall be two dollars.

2       Sec. 2-b. *Class B; Non-resident State-wide Hunting and*  
3 *Fishing License.* A class B license shall be a non-resident  
4 hunting and fishing license and shall entitle the licensee to  
5 hunt and fish in all counties of this state. It shall be issued  
6 only to a citizen of the United States who is a non-resident  
7 of this state. The fee shall be fifteen dollars.

2       Sec. 2-c. *Class C; Non-resident State-wide Fishing License.*  
3 A class C license shall be a non-resident fishing license and  
4 shall entitle the licensee to fish in all counties of this state.  
5 It shall be issued only to a citizen of the United States who is  
6 a non-resident of this state. The fee shall be five dollars.

2       Sec. 2-d. *Class D; Tourist One Day Fishing License.* A  
3 class D license shall be a tourist fishing license, and shall  
4 entitle the licensee to fish in all counties of this state for a  
5 period not to exceed one day. The license shall state in hours  
6 the exact time at which the license expires, and shall be re-  
7 turned by the licensee to the office of issue within forty-eight  
8 hours after expiration. It shall be issued only to a citizen of  
9 the United States who is a non-resident of this state. The fee  
shall be one dollar.

2       Sec. 2-e. *Class E; Ohio River Hunting and Fishing License.*  
3 A class E license shall be an Ohio River hunting and fishing  
4 license and shall entitle the licensee to hunt and fish in the  
5 Ohio River only. It shall be issued only to a citizen of the  
6 United States who is a resident of Ohio. The fee shall be one  
7 dollar.

2       Sec. 2-f. *Class F; Alien State-wide Hunting and Fishing*  
3 *License.* A class F license shall be an alien hunting and fish-  
4 ing license and shall entitle the licensee to hunt and fish in all  
5 counties of this state. It shall be issued only to an alien  
6 who is not a resident of the United States, and to whom a

6 permit has been issued in accordance with section three of  
7 this article. The fee shall be fifteen dollars.

Sec. 2-g. *Class G; Courtesy State-wide Hunting and Fish-*  
2 *ing License.* A class G license shall be a courtesy hunting and  
3 fishing license and shall entitle the licensee to hunt and fish in  
4 all counties of this state. It shall be issued by the director  
5 upon application made to him and without fee to:

6 1. Members and agents of the United States biological  
7 survey and bureau of fisheries.

8 2. Members of state commissions of other states extending  
9 similar courtesies.

10 3. Diplomatic and consular representatives of foreign  
11 countries.

12 4. Persons engaged in scientific research.

13 Not more than fifty courtesy licenses shall be issued in one  
14 year.

Sec. 3. *Application For; To Whom Made.* A person eligible  
2 for a license under section two-a to two-f, inclusive, of this  
3 article shall make application as follows:

4 1. A resident of this state shall make application to the  
5 clerk of the county court in which he resides.

6 2. A non-resident of this state may make application to  
7 the clerk of the county court of any county in this state.

8 3. A citizen of Ohio applying for a class E license shall  
9 make application to the clerk of the county court of a county  
10 bordering upon the state of Ohio.

11 4. An alien, making application for a class F license, shall  
12 first apply to the director for the issuance of a permit to  
13 obtain a class F license. The director shall issue the permit  
14 if he is satisfied that the applicant is legally entitled to a  
15 class F license and has bona fide intentions to exercise the  
16 license in accordance with the provisions of this chapter.  
17 After issuance of the permit an alien may apply to the clerk  
18 of the county court of any county in the state for the issu-  
19 ance of a class F license in the same manner as a non-resident  
20 of this state. A permit shall remain in force until revoked.

Sec. 3-a. *Application for in Person or by Mail; Swearing*  
2 *to.* Application may be made in person or by mail. The

3 applicant shall pay the license fee at the time of making  
4 application. If application is made by mail the applicant  
5 shall include postage for the return of the license.

6 The applicant shall make out and sign the application un-  
7 der oath. The application shall be sworn to in the presence  
8 of a person authorized to take affidavits. In the case of a  
9 non-resident, the application may be sworn to before a person  
10 authorized to take affidavits in the state of the applicant's  
11 residence, and such person shall affix his seal to the appli-  
12 cation.

Sec. 3-b. *Form of Application.* Applications shall be in the  
2 form and shall contain the information prescribed by the  
3 director. The application shall state at least the following:

- 4 1. The class of license for which application is made.
- 5 2. The name, age, occupation or profession of the appli-  
6 cant.
- 7 3. The residence and citizenship of the applicant.
- 8 4. The weight, height, color of hair, and eyes, and the  
9 complexion of the applicant.

Sec. 3-c. *Issuance of License and Badge.* The clerk of the  
2 county court to whom application is made shall issue the  
3 license if, to the best of his knowledge and information,

- 4 1. The applicant is legally entitled to obtain the license.
- 5 2. The proper license is applied for.
- 6 3. The application form contains the required information  
7 and the information is accurate.
- 8 4. The fee has been paid.

9 A license shall be signed by the clerk of the county court,  
10 shall bear the seal of the county court of the county where  
11 issued, and shall bear a serial number. With the license the  
12 clerk shall deliver the badge provided for by section four of  
13 this article.

14 The clerk shall keep an accurate record, in the form pre-  
15 scribed by the director, of all licenses issued and of all moneys  
16 collected as license fees.

Sec. 4. *Supplies Furnished County Clerks.* The director  
2 shall prepare and furnish to the clerks of the county courts  
3 of the state:

- 4 1. Application form for each class of license authorized  
5 by this article.
- 6 2. Licenses to be issued to applicants.
- 7 3. Badges to be issued with licenses, without additional  
8 fee. The badge shall show the class of license.

*Sec. 4-a. Carrying and Displaying of License and Badge.*

- 2 A licensee shall, while exercising the privilege of the license,  
3 have his license and the badge upon his person at all times.  
4 The licensee shall display the badge upon his outer garment  
5 so as to be plainly visible.

*Sec. 4-b. Use of License Fees.* At least forty per cent of

- 2 the moneys derived from the sale of hunting and fishing  
3 licenses shall be used for the protection and propagation of  
4 game and fish.

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## CHAPTER 39

(Senate Bill No. 101—By Mr. Randolph)

AN ACT to amend and reenact chapter fifteen, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-six, relating to the West Virginia commission on interstate cooperation.

[Passed March 12, 1937; in effect ninety days from passage. Approved by the Governor.]

**Section**

1. Senate committee on interstate cooperation.
2. House committee on interstate cooperation.
3. Governor's committee on interstate cooperation.
4. West Virginia commission on interstate cooperation.
5. Terms of senate and house committees.
6. Function of commission.
7. Commission may establish delegations and committees.
8. Names of committees and commission.
9. Provisions of act severable.

*Be it enacted by the Legislature of West Virginia:*

That chapter fifteen, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-six, be amended and reenacted to read as follows:



Section 1. *Senate Committee on Interstate Cooperation.*

2 There is hereby established a standing committee of the senate  
3 of this state, to be officially known as the "senate committee  
4 on interstate cooperation," and to consist of five senators. The  
5 members and the chairman of this committee shall be desig-  
6 nated in the same manner as is customary in the case of the  
7 members and chairman of other standing committees of the  
8 senate. In addition to the regular members, the president of  
9 the senate shall be ex officio an honorary non-voting member  
10 of this committee.

Sec. 2. *House Committee on Interstate Cooperation.* There

2 is hereby established a similar standing committee of the house  
3 of delegates of this state, to be officially known as the "house  
4 committee on interstate cooperation," to consist of five mem-  
5 bers of the house of delegates. The members and the chair-  
6 man of this committee shall be designated in the same manner  
7 as is customary in the case of the members and chairman of  
8 other standing committees of the house of delegates. In ad-  
9 dition to the regular members, the speaker of the house of  
10 delegates shall be ex officio an honorary non-voting member  
11 of this committee.

Sec. 3. *Governor's Committee on Interstate Cooperation.*

2 There is hereby established a committee of administrative of-  
3 ficials and employees of this state to be officially known as the  
4 "governor's committee on interstate cooperation," and to  
5 consist of five members. Its members shall be: the budget di-  
6 rector or the corresponding official of this state, ex officio; the  
7 attorney general, ex officio; and three other administrative of-  
8 ficials or employees to be designated by the governor. If there  
9 is uncertainty as to the identity of any of the ex officio mem-  
10 bers of this committee, the governor shall determine the ques-  
11 tion and his determination and designation shall be conclu-  
12 sive. The governor shall appoint one of the five of this com-  
13 mittee as its chairman, in addition to the regular members,  
14 the governor shall be ex officio an honorary non-voting mem-  
15 ber of this committee.

Sec. 4. *West Virginia Commission on Interstate Cooper-  
2 ation.* There is hereby established the West Virginia com-

3 mission on interstate cooperation. This commission shall be  
4 composed of fifteen regular members, namely:

5 The five members of the senate committee on interstate co-  
6 operation;

7 The five members of the house committee on interstate co-  
8 operation; and

9 The five members of the governor's committee on inter-  
10 state cooperation.

11 The governor, the president of the senate and the speaker  
12 of the house of delegates shall be ex officio honorary non-  
13 voting members of this commission. The chairman of the  
14 governor's committee on interstate cooperation shall be ex  
15 officio chairman of this commission.

Sec. 5. *Terms of Senate and House Committees.* The said  
2 standing committee of the senate and the said standing com-  
3 mittee of the house of delegates shall function during the  
4 regular sessions of the legislature and also during the interim  
5 periods between such sessions; their members shall serve until  
6 their successors are designated; and they shall respectively  
7 constitute for this state the senate council and house council  
8 of the American legislators' association. The incumbency of  
9 each administrative member of this commission shall extend  
10 until the first day of February next following his appoint-  
11 ment, and thereafter until his successor is appointed.

Sec. 6. *Function of Commission.* It shall be the function  
2 of this commission:

3 (1) To carry forward the participation of this state as a  
4 member of the council of state governments.

5 (2) To encourage and assist the legislative, executive, ad-  
6 ministrative and judicial officials and employees of this state  
7 to develop and maintain friendly contact by correspondence,  
8 by conference, and otherwise, with officials and employees of  
9 the other states of the federal government, and of local units  
10 of government.

11 (3) To endeavor to advance cooperation between this state  
12 and other units of government whenever it seems advisable to  
13 do so by formulating proposals for, and by facilitating:

14 (a) The adoption of compacts,

15 (b) The enactment of uniform or reciprocal statutes,

16 (c) The adoption of uniform or reciprocal administrative

17 rules and regulations,

18 (d) The informal cooperation of governmental offices with  
19 one another,

20 (e) The personal cooperation of governmental officials and  
21 employees with one another, individually,

22 (f) The institution and consummation of a federal long-  
23 range program of flood control, meeting the requirements  
24 of the federal flood control acts of one thousand nine hundred  
25 thirty-six or other acts of congress relative thereto,

26 (g) The interchange and clearance of research and in-  
27 formation, and

28 (h) Any other suitable process.

29 (4) In short, to do all such acts as will, in the opinion  
30 of this commission, enable this state to do its part, or more  
31 than its part, in forming a more perfect union among the  
32 various governments in the United States and in developing  
33 the council of state governments for that purpose.

Sec. 7. *Commission May Establish Delegations and Com-*  
2 *mittees.* The commission shall establish such delegations  
3 and committees as it deems advisable, in order that they may  
4 confer and formulate proposals concerning effective means to  
5 secure intergovernmental harmony, and may perform other  
6 functions for the commission in obedience to its decisions. Sub-  
7 ject to the approval of the commission, the member or mem-  
8 bers of each such delegation or committee shall be appointed  
9 by the chairman of the commission. State officials or em-  
10 ployees who are not members of the commission on interstate  
11 cooperation may be appointed as members of any such dele-  
12 gation or committee, but private citizens holding no govern-  
13 mental position in this state shall not be eligible. The commis-  
14 sion may provide such other rules as it considers appropriate  
15 concerning the membership and the functioning of any such  
16 delegation or committee. The commission may provide for  
17 advisory boards for itself and for its various delegations and  
18 committees, and may authorize private citizens to serve on  
19 such boards.

Sec. 8. *Names of Committees and Commission.* The com-  
2 mittees and the commission established by this act shall be  
3 informally known, respectively, as the "senate cooperation

4 committee," the "house cooperation committee," the "gov-  
5 ernor's cooperation committee" and the "West Virginia co-  
6 operation commission."

Sec. 9. *Provisions of Act Severable.* If any clause or other  
2 portion of this act is held to be invalid, that decision shall  
3 not affect the validity of the remaining portions of this act.  
4 The legislature hereby declares that all such remaining por-  
5 tions of this act are severable, and that it would have enacted  
6 such remaining portions if the invalid portions had not been  
7 included in this act.

## CHAPTER 40

(Senate Bill No. 102—By Mr. Randolph)

AN ACT to make uniform the law on fresh pursuit and authoriz-  
ing this state to cooperate with other states therein.

[Passed March 13, 1937; in effect ninety days from passage. Approved by the  
Governor.]

### Section

1. Arrest within state by nonresident peace officer.
2. Procedure upon arrest.
3. Construction of section one.
4. "State" includes District of Columbia.
5. "Fresh pursuit" defined.
6. Secretary of state to certify act.
7. Provisions severable.
8. How act cited.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Arrests Within State by Nonresident Peace Of-*  
2 *ficer.* Any member of a duly organized state, county or mu-  
3 nicipal peace unit of another state of the United States who  
4 enters this state in fresh pursuit, and continues within this  
5 state in such fresh pursuit, of a person in order to arrest him  
6 on the ground that he is believed to have committed a felony  
7 in such other state, shall have the same authority to arrest and  
8 hold such person in custody, as has any member of any duly  
9 organized state, county or municipal peace unit of this state

10 to arrest and hold in custody a person on the ground that he  
11 is believed to have committed a felony in this state.

Sec. 2. *Procedure Upon Arrest.* If an arrest is made in  
2 this state by an officer of another state in accordance with the  
3 provisions of section one of this act he shall without unneces-  
4 sary delay take the person arrested before a magistrate of the  
5 county in which the arrest was made, who shall conduct a  
6 hearing for the purpose of determining the lawfulness of the  
7 arrest. If the magistrate determines that the arrest was lawful  
8 he shall commit the person arrested to await for a reasonable  
9 time the issuance of an extradition warrant by the governor of  
10 this state. If the magistrate determines that the arrest was  
11 unlawful he shall discharge the person arrested.

Sec. 3. *Construction of Section One.* Section one of this  
2 act shall not be construed so as to make unlawful any arrest  
3 in this state which would otherwise be lawful.

Sec. 4. *"State" Includes District of Columbia.* For the  
2 purpose of this act the word "state" shall include the District  
3 of Columbia.

Sec. 5. *"Fresh Pursuit" Defined.* The term "fresh pur-  
2 suit" as used in this act shall include fresh pursuit as defined  
3 by the common law, and also the pursuit of a person who has  
4 committed a felony or who is reasonably suspected of having  
5 committed a felony. It shall also include the pursuit of a person  
6 suspected of having committed a supposed felony, though no  
7 felony has actually been committed, if there is reasonable  
8 ground for believing that a felony has been committed.  
9 Fresh pursuit as used herein shall not necessarily imply  
10 instant pursuit, but pursuit without unreasonable delay.

Sec. 6. *Secretary of State to Certify Act.* It shall be the  
2 duty of the secretary of state (or other officer) to certify a  
3 copy of this act to the executive department of each of the  
4 states of the United States.

Sec. 7. *Provisions Severable.* If any part of this act is for  
2 any reason declared void, it is declared to be the intent of  
3 this act that such invalidity shall not affect the validity of  
4 the remaining portions of this act.

Sec. 8. *How Act Cited.* This act may be cited as the "uni-  
2 form act on fresh pursuit."

## CHAPTER 41

(Senate Bill No. 103—By Mr. Randolph)

AN ACT to amend and reenact chapter thirty-six, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, relating to securing the attendance of witnesses from this or other states in criminal proceedings.

[Passed March 12, 1937, in effect ninety days from passage. Approved by the Governor.]

### Section

1. Definitions.
2. Summoning witness in this state to testify in another state.
3. Summoning witness in another state to testify in this state.
4. Exemption from arrest or service of process.
5. Construction of act.
6. How act cited.
7. Inconsistent acts repealed.
8. Provisions severable.

*Be it enacted by the Legislature of West Virginia:*

That chapter thirty-six, acts of the Legislature, regular session, one thousand nine hundred thirty-five, be amended and reenacted to read as follows:

Section 1. *Definitions.* "Witness" as used in this act shall include a person whose testimony is desired in any proceeding or investigation by a grand jury or in a criminal action, prosecution or proceeding.

The word "state" shall include any territory of the United States, and the District of Columbia.

The word "summons" shall include a subpoena, order or other notice requiring the appearance of a witness.

Sec. 2. *Summoning Witness in This State to Testify in Another State.* If a judge of a court of record in any state which by its laws has made provision for commanding persons within that state to attend and testify in this state certifies under the seal of such court that there is a criminal prosecution pending in such court, or that a grand jury investigation has commenced or is about to commence, that a person being within this state is a material witness in such prose-

9 cution, or grand jury investigation, and that his presence  
10 will be required for a specified number of days, upon presen-  
11 tation of such certificate to any judge of a court of record in  
12 the county in which such person is, such judge shall fix a  
13 time and place for a hearing, and shall make an order direct-  
14 ing the witness to appear at a time and place certain for the  
15 hearing.

16 If at a hearing the judge determines that the witness is  
17 material and necessary, that it will not cause undue hardship  
18 to the witness to be compelled to attend and testify in the  
19 prosecution or a grand jury investigation in the other state,  
20 and that the laws of the state in which the prosecution is  
21 pending, or grand jury investigation has commenced or is  
22 about to commence [and of any other state through which  
23 the witness may be required to pass by ordinary course of  
24 travel], will give to him protection from arrest and the  
25 service of civil and criminal process, he shall issue a sum-  
26 mons, with a copy of the certificate attached, directing the  
27 witness to attend and testify in the court where the prosecu-  
28 tion is pending, or where a grand jury investigation has com-  
29 menced or is about to commence at a time and place specified  
30 in the summons. In any such hearing the certificate shall be  
31 prima facie evidence of all the facts stated therein.

32 If said certificate recommends that the witness be taken  
33 into immediate custody and delivered to any officer of the  
34 requesting state to assure his attendance in the requesting  
35 state, such judge may, in lieu of notification of the hearing,  
36 direct that such witness be forthwith brought before him  
37 for said hearing; and the judge at the hearing being satisfied  
38 of the desirability of such custody and delivery, for which  
39 determination the certificate shall be prima facie proof of  
40 such desirability may, in lieu of issuing subpoena or summons,  
41 order that said witness be forthwith taken into custody and  
42 delivered to an officer of the requesting state.

43 If the witness, who is summoned as above provided, after  
44 being paid or tendered by some properly authorized person  
45 the sum of ten cents a mile for each mile by the ordinary  
46 traveled route to and from the court where the prosecution  
47 is pending and five dollars for each day, that he is required

48 to travel and attend as a witness, fails without good cause  
49 to attend and testify as directed in the summons, he shall  
50 be punished in the manner provided for the punishment  
51 of any witness who disobeys a summons issued from a court  
52 of record in this state.

Sec. 3. *Summoning Witness in Another State to Testify*  
2 *in This State.* If a person in any state, which by its laws has  
3 made provisions for commanding persons within its borders  
4 to attend and testify in criminal prosecutions, or grand jury  
5 investigations commenced or about to commence, in this state,  
6 is a material witness in a prosecution pending in a court of  
7 record in this state, or in a grand jury investigation which  
8 has commenced or is about to commence, a judge of such  
9 court may issue a certificate under the seal of the court stating  
10 the facts and specifying the number of days the witness will  
11 be required. Said certificate may include a recommendation  
12 that the witness be taken into immediate custody and de-  
13 livered to an officer of this state to assure his attendance in  
14 this state. This certificate shall be presented to a judge of a  
15 court of record in the county in which the witness is found.

16 If the witness is summoned to attend and testify in this  
17 state he shall be tendered the sum of ten cents a mile for  
18 each mile by the ordinary travel route to and from the court  
19 where the prosecution is pending, and five dollars for each  
20 day that he is required to travel and attend as a witness.  
21 A witness who has appeared in accordance with the pro-  
22 visions of the summons shall not be required to remain within  
23 this state a longer period of time than the period mentioned  
24 in the certificate, unless otherwise ordered by the court. If  
25 such witness, after coming into this state, fails without good  
26 cause to attend and testify as directed in the summons, he  
27 shall be punished in the manner provided for in the punish-  
28 ment of any witness who disobeys a summons issued from a  
29 court of record in this state.

Sec. 4. *Exemption from Arrest or Service of Process.* If  
2 a person comes into this state in obedience to a summons  
3 directing him to attend and testify in this state he shall not  
4 while in this state pursuant to such summons be subject to  
5 arrest or the service of process, civil or criminal, in connec-



6 tion with matters which arose before his entrance into this  
7 state under the summons.

8 If a person passes through this state while going to another  
9 state in obedience to a summons to attend and testify in that  
10 state or while returning therefrom, he shall not while so  
11 passing through this state be subject to arrest or the service  
12 of process, civil or criminal, in connection with matters which  
13 arose before his entrance into this state under the summons.

Sec. 5. *Construction of Act.* This act shall be so inter-  
2 preted and construed as to effectuate its general purpose to  
3 make uniform the law of the states which enact it.

Sec. 6. *How Act Cited.* This act may be cited as "Uniform  
2 Act to Secure the Attendance of Witnesses from without a  
3 State in Criminal Proceedings."

Sec. 7. *Inconsistent Acts Repealed.* All acts or parts of  
2 acts inconsistent with this act are hereby repealed.

Sec. 8. *Provisions Severable.* If any provision of this act  
2 or the application thereof to any person or circumstances is  
3 held invalid, such invalidity shall not affect other provisions  
4 or applications of the act which can be given effect without  
5 the invalid provision or application, and to this end the  
6 provisions of this act are declared to be severable.

## CHAPTER 42

(Senate Com. Sub. for Senate Bill No. 104—Originating in the  
Senate Committee on the Judiciary)

AN ACT to amend and reenact sections seven, eight, nine, ten,  
eleven, twelve and thirteen, article one, chapter five of the  
code of West Virginia, one thousand nine hundred thirty-one,  
relating to uniform procedure on interstate extradition.

[Passed March 12, 1937; in effect ninety days from passage. Approved by the  
Governor.]

### Article 1. The Governor.

#### Section

7. Extradition of person charged with crime in another state.
8. Warrant of governor.

9. Hearing after arrest; arrest of fugitive from another state.
10. Return of fugitive from this state.
11. Precedence of criminal proceedings; waiver of extradition.
12. How costs paid; complainant responsible for.
13. Construction of section; how cited.

*Be it enacted by the Legislature of West Virginia:*

That sections seven, eight, nine, ten, eleven, twelve and thirteen, article one, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 7. *Extradition of Person Charged With Crime in Another State.* (a) Where appearing in this article, the term "governor" includes any person performing the functions of governor by authority of the law of this state. The term "executive authority" includes the governor, and any person performing the functions of governor in a state other than this state. The term "state," referring to a state other than this state, includes any other state or territory, organized or unorganized, of the United States of America.

(b) Subject to the provisions of this article, the provisions of the constitution of the United States controlling, and any and all acts of congress enacted in pursuance thereof, it is the duty of the governor of this state to have arrested and delivered up to the executive authority of any other state of the United States any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this state: *Provided*, That the demand or application of the executive authority of such other state is accompanied by an affidavit or sworn evidence that the demand or application is made in good faith for the punishment of crime, and not for the purpose of collecting a debt or pecuniary mulct, or of removing the alleged fugitive to a foreign jurisdiction with a view to serve him there with civil process.

(c) No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing alleging, except in cases arising under subdivision (g) of this section, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment

31 found, or by information supported by affidavit, in the  
32 state having jurisdiction of the crime, or by a copy of an  
33 affidavit made before a magistrate or justice there, together  
34 with a copy of any warrant which was issued thereupon;  
35 or by a copy of a judgment of conviction or a sentence  
36 imposed in execution thereof, together with a statement by  
37 the executive authority of the demanding state that the per-  
38 son claimed has escaped from confinement or has broken  
39 the terms of his bail, probation or parole. The indictment,  
40 information, or affidavit made before the magistrate or justice  
41 must substantially charge the person demanded with having  
42 committed a crime under the law of that state; and the  
43 copy of indictment, information, affidavit, judgment of con-  
44 viction or sentence must be authenticated by the executive  
45 authority making the demand.

46 (d) When a demand shall be made upon the governor  
47 of this state by the executive authority of another state  
48 for the surrender of a person so charged with crime, the  
49 governor may call upon the attorney general, any prosecut-  
50 ing officer, or the department of public safety, in this state  
51 to investigate or assist in investigating the demand, and to  
52 report to him the situation and circumstances of the person  
53 so demanded, and whether he ought to be surrendered.

54 (e) When it is desired to have returned to this state a  
55 person charged in this state with crime, and such person  
56 is imprisoned or is held under criminal proceedings then  
57 pending against him in another state, the governor of this  
58 state may agree with the executive authority of such other  
59 state for the extradition of such person before the con-  
60 clusion of such proceedings or his term of sentence in such  
61 other state, upon condition that such person be returned  
62 to such other state at the expense of this state as soon as  
63 the prosecution in this state is terminated.

64 (f) The governor of this state may also surrender on  
65 demand of the executive authority of any other state any  
66 person in this state who is charged in the manner provided  
67 in subdivision (b) of section ten of this article, with having  
68 violated the laws of the state whose executive authority is  
69 making the demand, even though such person left the de-  
70 manding state voluntarily.

71 (g) The governor of this state may also surrender, on  
72 demand of the executive authority of any other state, any  
73 person in this state charged in such other state in the manner  
74 provided in subdivision (c) of this section, with committing  
75 an act in this state, or in a third state, intentionally result-  
76 ing in a crime in the state whose executive authority is making  
77 the demand, and the provisions of this article not otherwise  
78 inconsistent, shall apply to such cases, even though the ac-  
79 cused was not in that state at the time of the commission  
80 of the crime, and has not fled therefrom.

Sec. 8. *Warrant of Governor.* (a) If the governor decides  
2 that the demand should be complied with, he shall sign a war-  
3 rant of arrest which shall be sealed by the secretary of state  
4 with the great seal of this state, and be directed by the gover-  
5 nor to any peace officer or other person whom he may think  
6 fit to entrust with the execution thereof. The warrant  
7 must substantially recite the facts necessary to the validity of  
8 its issuance.

9 (b) Such warrant shall authorize the peace officer or  
10 other person to whom directed to arrest the accused at any  
11 time and any place where he may be found within the  
12 state and to command the aid of all peace officers or other  
13 persons in the execution of the warrant, and to deliver the  
14 accused, subject to the provision of this article to the duly  
15 authorized agent of the demanding state.

16 (c) The governor may recall the warrant of arrest or  
17 may issue another warrant whenever he deems proper.

18 (d) Every such peace officer or other person empowered  
19 to make the arrest, shall have the same authority, in arrest-  
20 the accused, to command assistance therein, as peace officers  
21 have by law in the execution of any criminal process directed  
22 to them, with like penalties against those who refuse their  
23 assistance.

Sec. 9. *Hearing After Arrest; Arrest of Fugitive From An-*  
2 *other State.* (a) No person arrested upon such warrant shall  
3 be delivered over to the agent whom the executive authority  
4 demanding him shall have appointed to receive him unless he  
5 shall first be taken forthwith before a judge of a court of rec-  
6 ord in this state, who shall inform him of the demand made for  
7 his surrender and of the crime with which he is charged, and

8 that he has the right to demand and procure legal counsel and  
9 if the prisoner or his counsel shall state that he or they desire  
10 to test the legality of his arrest, the judge of such court of rec-  
11 ord shall fix a reasonable time to be allowed him within which  
12 to apply for a writ of habeas corpus. When such writ is applied  
13 for, notice thereof, and of the time and place of hearing there-  
14 on, shall be given to the prosecuting attorney of the county in  
15 which the arrest is made and in which the accused is in cus-  
16 tody, and to the said agent of the demanding state.

17 (b) Any officer who shall deliver to the agent for extra-  
18 dition of the demanding state a person in his custody under  
19 the governor's warrant, in wilful disobedience to subdivision  
20 (a) of this section, shall be guilty of a misdemeanor, and  
21 on conviction shall be fined not more than one thousand  
22 dollars or be imprisoned not more than six months, or both.

23 (c) The officer or persons executing the governor's war-  
24 rant of arrest, or the agent of the demanding state to whom  
25 the prisoner may have been delivered, may, when necessary,  
26 confine the prisoner in the jail of any county or city through  
27 which he may pass; and the keeper of such jail shall receive  
28 and safely keep the prisoner until the officer or person  
29 having charge of him is ready to proceed on his route,  
30 such officer or person being chargeable with the expense of  
31 keeping.

32 The officer or agent of a demanding state to whom a  
33 prisoner may have been delivered following extradition pro-  
34 ceedings in another state, or to whom a prisoner may have  
35 been delivered after waiving extradition in such other state,  
36 and who is passing through this state with such a prisoner  
37 for the purpose of immediately returning such prisoner to  
38 the demanding state may, when necessary, confine the  
39 prisoner in the jail of any county or city through which he  
40 may pass; and the keeper of such jail shall receive and  
41 safely keep the prisoner until the officer or agent having  
42 charge of him is ready to proceed on his route, such officer  
43 or agent, however, being chargeable with the expense of  
44 keeping: *Provided*, That such officer or agent shall pro-  
45 duce and show to the keeper of such jail satisfactory written  
46 evidence of the fact that he is actually transporting such  
47 prisoner to the demanding state after a requisition by the

48 executive authority of such demanding state. Such prisoner  
49 shall not be entitled to demand a new requisition while in  
50 this state.

51 (d) Whenever any person within this state shall be charged  
52 on the oath of any credible person before any judge or justice  
53 of this state with the commission of any crime in any other  
54 state and, except in cases arising under subdivision (g),  
55 section seven of this article, with having fled from justice,  
56 or with having been convicted of a crime in that state and  
57 having escaped from confinement, or having broken the terms  
58 of his bail, probation or parole, or whenever complaint shall  
59 have been made before any judge or justice in this state  
60 setting forth on the affidavit of any credible person in another  
61 state that a crime has been committed in such state and  
62 that the accused has been charged in such state with the  
63 commission of the crime, and, except in cases arising un-  
64 der subdivision (g), section seven of this article, has fled  
65 from justice, or with having been convicted of a crime in  
66 that state and having escaped from confinement, or having  
67 broken the terms of his bail, probation or parole, and is be-  
68 lieved to be in this state, the judge or justice shall issue a  
69 warrant directed to any peace officer commanding him to  
70 apprehend the person named therein, wherever he may be  
71 found in this state, and to bring him before the same or any  
72 other judge, justice, or court who or which may be avail-  
73 able in or convenient of access to the place where the  
74 arrest may be made, to answer the charge or complaint and  
75 affidavit, and a certified copy of the sworn charge or com-  
76 plaint and affidavit upon which the warrant is issued shall  
77 be attached to the warrant.

78 (e) The arrest of a person may be lawfully made also by  
79 any peace officer or a private person, without a warrant,  
80 upon reasonable information that the accused stands charged  
81 in the courts of a state with a crime punishable by death  
82 or by imprisonment for a term exceeding one year, but  
83 when so arrested the accused must be taken before a judge  
84 or justice with all practicable speed and complaint must  
85 be made against him under oath setting forth the ground  
86 for the arrest as in the preceding section; and thereafter his  
87 answer shall be heard as if he had been arrested on a war-  
88 rant.

89 (f) If from the examination before the judge or justice  
90 it appears that the person held is the person charged with  
91 having committed the crime alleged and, except in cases  
92 arising under subdivision (g), section seven of this article,  
93 that he has fled from justice, the judge or justice must,  
94 by a warrant reciting the accusation, commit him to the  
95 county jail for such a time not exceeding thirty days, and  
96 specified in the warrant, as will enable the arrest of the  
97 accused to be made under a warrant of the governor on  
98 a requisition of the executive authority of the state hav-  
99 ing jurisdiction of the offense, unless the accused give bail  
100 as provided in subdivision (g) of this section, or until he shall  
101 be legally discharged.

102 (g) Unless the offense with which the prisoner is charged  
103 is shown to be an offense punishable by death or life im-  
104 prisonment under the laws of the state in which it was  
105 committed, a judge or justice in this state may admit the  
106 person arrested to bail by bond, with sufficient sureties,  
107 and in such sum as he deems proper, conditioned for his  
108 appearance before him at a time specified in such bond,  
109 and for his surrender, to be arrested upon the warrant of the  
110 governor of this state.

111 (h) If the accused is not arrested under warrant of the  
112 governor by the expiration of the time specified in the war-  
113 rant or bond, a judge or justice may discharge him or may  
114 recommit him for a further period not to exceed sixty days.  
115 or a judge or justice may again take bail for his appear-  
116 ance and surrender as provided in subdivision (g) of this  
117 section, but within a period not to exceed sixty days after the  
118 date of such new bond.

119 (i) If the prisoner is admitted to bail, and fails to appear  
120 and surrender himself according to the conditions of his  
121 bond, the judge, or justice, by proper order, shall declare  
122 the bond forfeited and order his immediate arrest without  
123 warrant if he be within this state. Recovery may be had  
124 on such bond in the name of the state as in the case of  
125 other bonds given by the accused in criminal proceedings  
126 within this state.

127 (j) If a criminal prosecution has been instituted against  
128 such person under the laws of this state and is still pend-

129 ing, the governor, in his discretion, either may surrender  
130 him on demand of the executive authority of another state  
131 or hold him until he has been tried and discharged or con-  
132 victed and punished in this state: *Provided*, That any  
133 person under recognizance to appear as a witness in any  
134 criminal proceeding pending in this state may in the discre-  
135 tion of the governor be surrendered on demand of the  
136 executive authority of another state or be held until such  
137 criminal proceeding pending in this state has been de-  
138 termined: *Provided further*, That any person who was in  
139 custody upon any execution, or upon process in any suit,  
140 at the time of being apprehended for a crime charged to  
141 have been committed without the jurisdiction of this state,  
142 shall not be delivered up without the consent of the plain-  
143 tiff in such execution or suit, until the amount of such  
144 execution shall have been paid, or until such person shall  
145 be otherwise discharged from such execution or process.

146 (k) The guilt or innocence of the accused as to the crime  
147 of which he is charged may not be inquired into by the  
148 governor or in any proceeding after the demand for extra-  
149 dition accompanied by a charge of crime in legal form as  
150 provided in this article shall have been presented to the  
151 governor, except as it may be involved in identifying the  
152 person held as the person charged with the crime.

Sec. 10. *Return of Fugitive From This State.* (a) Whenever  
2 the governor of this state shall demand a person charged with  
3 crime or with escaping from confinement, or breaking the  
4 terms of his bail, probation, or parole in this state, from the  
5 executive authority of any other state, or from the chief jus-  
6 tice or an associate justice of the supreme court of the Dis-  
7 trict of Columbia authorized to receive such demand under  
8 the laws of the United States, he shall issue a warrant under  
9 the great seal of this state affixed thereon by the secretary of  
10 state, to some agent, commanding him to receive the person so  
11 charged if delivered to him and to convey him to the proper  
12 officer of the county in this state in which the offense was  
13 committed.

14 (b) When the return to this state of a person charged with  
15 crime in this state is required, the prosecuting attorney shall  
16 present to the governor his written application for a requisi-



17 tion for the return of the person charged, in which application  
18 shall be stated the name of the person so charged, the crime  
19 charged against him, the approximate time, place and circum-  
20 stances of its commission, the state in which he is believed to  
21 be, including the location of the accused therein, at the time  
22 the application is made, and certifying that, in the opinion of  
23 the said prosecuting attorney, the ends of justice require the  
24 arrest and return of the accused to this state for trial and that  
25 the proceeding is not instituted to enforce a private claim.

26 When the return to this state is required of a person who  
27 has been convicted of a crime in this state and has escaped  
28 from confinement or broken the terms of his bail, probation  
29 or parole, the prosecuting attorney of the county in which  
30 the offense was committed, the parole board, or the warden  
31 of the institution or sheriff of the county, from which escape  
32 was made, shall present to the governor a written applica-  
33 tion for a requisition for the return of such person, in which  
34 application shall be stated the name of the person, the  
35 crime of which he was convicted, the circumstances of his  
36 escape from confinement or of the breach of the terms of  
37 his bail, probation or parole, the state in which he is be-  
38 lieved to be, including the location of the person therein at  
39 the time application is made.

40 The application shall be verified by affidavit, shall be  
41 executed in duplicate and shall be accompanied by two  
42 certified copies of the indictment returned, or information  
43 and affidavit filed, or of the complaint made to the judge  
44 or justice, stating the offense with which the accused is  
45 charged, or of the judgment of conviction or of the sent-  
46 ence. The prosecuting attorney, parole board, warden or  
47 sheriff may also attach such further affidavits and other  
48 documents in duplicate as he shall deem proper to be submit-  
49 ted with such application. One copy of the application,  
50 with the action of the governor indicated by endorsement  
51 thereon, and one of the certified copies of the indictment,  
52 complaint, information, and affidavits, or of the judgment  
53 of conviction or of the sentence shall be filed in the office  
54 of the secretary of state, to remain of record in that office.  
55 The other copies of all papers shall be forwarded with the  
56 governor's requisition.

2       Sec. 11. *Precedence of Criminal Proceedings; Waiver of*  
3       *Extradition.* (a) A person brought into this state by, or after  
4       waiver of, extradition based on a criminal charge, shall not be  
5       subject to service of personal process in civil actions until he  
6       has been convicted in the criminal proceedings, or, if acquitted,  
7       until he has had reasonable opportunity to return to the  
8       state from which he was extradited.

9       (b) Any person arrested in this state charged with  
10      having committed any crime in another state or alleged to  
11      have escaped from confinement, or broken the terms of  
12      his bail, probation or parole may waive the issuance and  
13      service of the warrant provided for in subsections (a)  
14      and (d), section eight, of this article, and all other pro-  
15      cedure incidental to extradition proceedings, by execut-  
16      ing or subscribing in the presence of a judge of any  
17      court of record, within this state a writing which states  
18      that he consents to return to the demanding state: *Pro-*  
19      *vided,* That before such waiver shall be executed or sub-  
20      scribed by such person it shall be the duty of such judge  
21      to inform such person of his rights with respect to the  
22      issuance and service of a warrant of extradition and  
23      with respect to obtaining a writ of habeas corpus as  
24      provided for in subsection (a), section nine, of this ar-  
25      ticle.

26      If and when such consent has been duly executed it shall  
27      forthwith be forwarded to the office of the governor of  
28      this state and be filed by him in the office of the secretary of  
29      state. The judge shall direct the officer having such  
30      person in custody to deliver forthwith such person to the  
31      duly accredited agent or agents of the demanding state,  
32      and shall deliver or cause to be delivered to such agent  
33      or agents a copy of such consent: *Provided,* That nothing  
34      in this subdivision shall be deemed to limit the rights of  
35      the accused person to return voluntarily and without for-  
36      mality to the demanding state, nor shall this waiver pro-  
37      cedure be deemed to be an exclusive procedure or to limit  
38      the powers, rights, or duties of the officers of the demanding  
39      state or of this state.

40      (c) Nothing in this article contained shall be deemed  
    to constitute a waiver by this state of its right, power or

41 privilege to try such demanded person for crime committed  
42 within this state, or of its right, power or privilege to  
43 regain custody of such person by extradition proceedings or  
44 otherwise for the purpose of trial, sentence or punishment  
45 for any crime committed within this state, nor shall any  
46 proceedings had under this article which result in, or fail  
47 to result in, extradition, be deemed a waiver by this state of  
48 any of its rights, privileges or jurisdiction in any way  
49 whatsoever.

50 (d) After a person has been brought back to this state  
51 by, or after waiver of, extradition proceedings, he may be  
52 tried in this state for other crimes which he may be charged  
53 with having committed here as well as that specified in the  
54 requisition for his extradition.

Sec. 12. *How Costs Paid; Complainant Responsible For.*

2 When the punishment of the crime shall be the confinement  
3 of the criminal in the penitentiary, the governor may pay out  
4 of the civil contingent fund any reasonable expenses incurred.  
5 In all other cases such expenses shall be paid out of the county  
6 treasury of the county wherein the crime is alleged to have  
7 been committed.

8 The complainant in each case shall be answerable for all the  
9 actual costs and charges, and for the support in prison of any  
10 person so committed; and, if the charge for his support in  
11 prison shall not be paid when demanded, the jailer may dis-  
12 charge such person from prison.

Sec. 13. *Construction of Section; How Cited.* The provis-  
2 ions of sections seven to thirteen of this article shall be so in-  
3 terpreted and construed as to effectuate its general purposes  
4 to make uniform the law of those states which enact such  
5 provisions, and if any provision thereof, or the application  
6 thereof to any person or circumstances, is held invalid, such  
7 invalidity shall not affect other provisions or applications  
8 thereof which can be given effect without the invalid pro-  
9 vision or application, and to this end the provisions thereof  
10 are declared to be severable.

11 Sections seven to thirteen of this article may be cited as  
12 the "Uniform Criminal Extradition Act."

13 All acts and parts of acts inconsistent with the provisions  
14 of this act and not expressly repealed herein are hereby re-  
15 pealed.

## CHAPTER 43

(Senate Bill No. 105—By Mr. Randolph)

AN ACT providing that the state of West Virginia may enter into a compact with any state or states of the United States for mutual helpfulness in relation to persons convicted of crime or offenses who may be on probation or parole.

[Passed March 12, 1937; in effect ninety days from passage. Approved by the Governor.]

### Section

1. Compacts between states concerning probationers or parolees.
2. Provisions of act severable.
3. How act cited.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Compacts Between States Concerning Probationers or Parolees.* The governor of this state is hereby authorized and directed to execute a compact on behalf of the state of West Virginia with any state or states of the United States legally joining therein, in form substantially as follows:

A compact entered into by and among the contracting states, signatories hereto, with the consent of the congress of the United States of America, granted by an act entitled "An act granting the consent of congress to any two or more states to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and for other purposes."

The contracting states solemnly agree:

(1) That it shall be competent for the duly constituted judicial and administrative authorities of a state party to this compact, (herein called "sending state"), to permit any person convicted of an offense within such state and placed on probation or released on parole to reside in any other state party to this compact, (herein called "receiving state"), while on probation or parole, if

(a) Such person is in fact a resident of or has his family

21 residing within the receiving state and can obtain employ-  
22 ment there;

23 (b) Though not a resident of the receiving state and not  
24 having his family residing there, the receiving state con-  
25 sents to such person being sent there.

26 Before granting such permission, opportunity shall be  
27 granted to the receiving state to investigate the home and  
28 prospective employment of such person.

29 A resident of the receiving state, within the meaning  
30 of this section, is one who has been an actual inhabitant  
31 of such state continuously for more than one year prior to  
32 his coming to the sending state and has not resided within  
33 the sending state more than six continuous months im-  
34 mediately preceding the commission of the offense for which  
35 he has been convicted.

36 (2) That each receiving state will assume the duties of  
37 visitation of and supervision over probationers or parolees  
38 of any sending state and in the exercise of those duties will  
39 be governed by the same standards that prevail for its  
40 own probationers and parolees.

41 (3) That duly accredited officers of a sending state may  
42 at all times enter a receiving state and there apprehend and  
43 retake any person on probation or parole. For that  
44 purpose no formalities will be required other than estab-  
45 lishing the authority of the officer and the identity of the  
46 person to be retaken. All legal requirements to obtain  
47 extradition of fugitives from justice are hereby expressly  
48 waived on the part of states party hereto, as to such per-  
49 sons. The decision of the sending state to retake a person  
50 on probation or parole shall be conclusive upon and not  
51 reviewable within the receiving state: *Provided, however,*  
52 *That if at the time when a state seeks to retake a proba-*  
53 *tioner or parolee there should be pending against him within*  
54 *the receiving state any criminal charge, or he should be*  
55 *suspected of having committed within such state a criminal*  
56 *offense, he shall not be retaken without the consent of the*  
57 *receiving state until discharged from prosecution or from*  
58 *imprisonment for such offense.*

59 (4) That the duly accredited officers of the sending state  
60 will be permitted to transport prisoners being retaken  
61 through any and all states parties to this compact, without  
62 interference.

63 (5) That the governor of each state may designate an  
64 officer who, acting jointly with like officers of other con-  
65 tracting states, if and when appointed, shall promulgate  
66 such rules and regulations as may be deemed necessary to  
67 more effectively carry out the terms of this compact.

68 (6) That this compact shall become operative immediate-  
69 ly upon its execution by any state as between it and any  
70 other state or states so executing. When executed it shall  
71 have the full force and effect of law within such state, the  
72 form of execution to be in accordance with the laws of the  
73 executing state.

74 (7) That this compact shall continue in force and remain  
75 binding upon each executing state until renounced by it.  
76 The duties and obligations hereunder of a renouncing state  
77 shall continue as to parolees or probationers residing there-  
78 in at the time of withdrawal until retaken or finally dis-  
79 charged by the sending state. Renunciation of this com-  
80 pact shall be by the same authority which executed it, by  
81 sending six months' notice in writing of its intention to  
82 withdraw from the compact to the other states party hereto.

Sec. 2. *Provisions of Act Severable.* If any section, sen-  
2 tence, subdivision or clause of this act is for any reason held  
3 invalid or to be unconstitutional, such decision shall not affect  
4 the validity of the remaining portions of this act.

Sec. 3. *How Act Cited.* This act may be cited as the "uni-  
2 form act for out-of-state parolee supervision."

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## CHAPTER 44

(House Bill No. 99—By Mr. Erhard)

AN ACT to amend and reenact sections sixty-four and sixty-five, article two, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, relating to explosives,

preparation of explosives for shots, hauling explosives into the mine, and firing shots.

[Passed March 13, 1937; in effect ninety days from passage. Became a law without the approval of the Governor.]

## Article 2. Coal Mines.

### Section

- 64. Explosives; preparations for shots; hauling explosives into mine.
- 65. Firing shots.

*Be it enacted by the Legislature of West Virginia:*

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

Section 64. *Explosives; Preparation for Shots; Hauling Explosives Into Mine.* In no case shall more than one kind of explosive be used in the same drill hole, and every blasting hole shall be tamped, except as is necessary to accomplish cushion blasting, full from the explosive to the mouth, and no coal dust or inflammable material shall be used for tamping. Cushion blasting shall not be allowed in any case unless written permission is granted by the department of mines. Dynamite shall not be used in blasting coal. No fuses or squibs shall be used unless permission is granted by the department of mines, and in no case shall fuses be used of less length than the drill hole.

Where permissible explosives are used the detonators and explosives shall be kept separate; and no black powder, high explosives or detonators shall be hauled on any trip operated by electric haulage motors, unless inclosed in non-conducting boxes approved by the department of mines.

Trips hauling explosives shall not carry workmen other than those operating the trip, and explosives shall not be hauled into or out of the mine within five minutes preceding or following any trips in which men are handled; and when traveling with air current, the explosive trip shall precede; if against the air current, the main trip shall precede.

Sec. 65. *Firing Shots.* No shots shall be fired in any place known to liberate explosive gas until such place has been

3 properly examined by a competent person who is designated  
4 for that purpose, and no shots shall be fired in any place  
5 where gas is detected until such gas has been removed by  
6 means of ventilation. No person shall fire more than one  
7 shot at a time unless permitted by the department of mines,  
8 and after firing such shot or shots he shall not return to the  
9 working place until the smoke has been cleared away; and  
10 before starting to work he shall make a careful examination  
11 as to the condition of the roof, and do what is necessary to  
12 make the place safe before beginning to load coal.

## CHAPTER 45

(House Bill No. 100—By Mr. Erhard)

AN ACT to amend and reenact section seventy-five, article two, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, relating to the weighing of coal.

[Passed March 13, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Article 2. Coal Mines.

#### Section

75. Weighing coal before screening; payment for mining coal.

*Be it enacted by the Legislature of West Virginia:*

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

Section 75. *Weighing Coal Before Screening; Payment for*  
2 *Coal.* All coal so mined and paid for by weight shall be  
3 weighed before it is screened, and shall be paid for according  
4 to the weight so ascertained, at such price per ton as may be  
5 agreed on by such owner or operators and the miners who  
6 mined the same. And coal mined and paid for by measure  
7 shall be paid for according to the number of bushels marked



8 upon each car in which it is removed from the mine, and  
9 before it is screened, and the price paid for each bushel so  
10 ascertained shall be such as may be agreed upon as afore-  
11 said.

## CHAPTER 46

(Senate Bill No. 134—By Mr. Snyder)

AN ACT to amend and reenact section eleven, article eight, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, relating to traffic regulations and laws of the road.

[Passed March 13, 1937; in effect from passage. Approved by the Governor.]

### Article 8. Traffic Regulations and Laws of the Road.

#### Section

11. Passing street cars and school buses; penalty.

*Be it enacted by the Legislature of West Virginia:*

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

#### Section 11. *Passing Street Cars and School Buses; Penalty.*

2 An operator of a vehicle shall bring the same to a full stop not  
3 less than five feet from any street car or school bus which has  
4 stopped to receive or discharge passengers, and shall remain  
5 standing until such car or school bus has taken on or dis-  
6 charged such passenger: *Provided, however,* That the operator  
7 may pass such street car or school bus where a safety zone is  
8 established by the proper authorities: *Provided further,*  
9 That the operator, if he slows down and proceeds cautiously,  
10 may pass such street car or school bus at a distance of at  
11 least eight feet therefrom when outside the limits of an  
12 incorporated town or city. Any person driving or oper-  
13 ating a motor vehicle in violation of this section shall be  
14 guilty of a misdemeanor, and upon conviction thereof shall  
15 be fined not less than ten nor more than one hundred  
16 dollars, or imprisoned in the county jail not less than one  
17 week nor more than six months, or both, in the discretion of  
18 the court or justice trying the case.

## CHAPTER 47

(House Bill No. 189—By Messrs. Slaven and Skinner)

AN ACT to amend article three, chapter fifty-six of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto section thirty-one, to provide for the service of process on non-resident operators of motor vehicles in legal actions involving accidents or collisions on the streets or highways of West Virginia by appointing the auditor as attorney for the service of process upon such non-resident operators.

[Passed March 1, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Article 3. Writs, Process and Order of Publication.

#### Section

31. Actions by or against non-resident operators of motor vehicles involved in highway accidents.

*Be it enacted by the Legislature of West Virginia:*

That article three, chapter fifty-six of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new section to be designated section thirty-one, to read as follows:

Section 31. *Actions by or Against Nonresident Operators of Motor Vehicles Involved in Highway Accidents.* The operation by a non-resident, or by his duly authorized agent, of a motor vehicle upon a public street, road or highway of this state, shall be deemed equivalent to an appointment by such non-resident of the state auditor, or his successor in office, to be his true and lawful attorney upon whom may be served all lawful process in any action or proceeding against him, in any court of record in this state, including action or proceeding brought by non-resident plaintiff or plaintiffs, growing out of any accident or collision in which such non-resident may be involved while so operating or so permitting to be operated a motor vehicle on any such street, road or highway, and such operation shall be a signification of his agreement

15 that any such process against him, which is served in the  
16 manner hereinafter provided, shall be of the same legal  
17 force and validity as process duly served upon him in this  
18 state.

19 (a) At the time of filing praecipe and before process  
20 is issued thereon, the plaintiff, or some one for him, shall  
21 execute a bond in the sum of one hundred dollars before  
22 the clerk of the court, with surety to be approved by said  
23 clerk, conditioned that on failure of the plaintiff to prevail  
24 in the action that he will reimburse the defendant, or cause  
25 him to be reimbursed, the necessary expense incurred by  
26 him in and about the defense of the action in this state, and  
27 upon the issue of process the clerk will certify thereon  
28 that said bond has been given and approved. Service of  
29 such process shall be made by leaving the original and a  
30 copy thereof with the certificate aforesaid of the clerk  
31 thereon, and a fee of two dollars with said auditor, or in  
32 his office, and said service shall be sufficient upon said non-  
33 resident: *Provided*, That notice of such service and a copy  
34 of the process shall forthwith be sent by registered mail,  
35 return receipt requested, by said auditor to the defendant,  
36 and the defendant's return receipt signed by himself or  
37 his duly authorized agent or the registered mail so sent  
38 by said auditor is refused by the addressee and the reg-  
39 istered mail is returned to said auditor, or to his office,  
40 showing thereon the stamp of the post office department  
41 that delivery has been refused, is appended to the orig-  
42 inal process and filed therewith in the clerk's office of the  
43 court from which process issued. The court may order such  
44 continuances as may be reasonable to afford the defendant  
45 opportunity to defend the action.

46 (b) The fee of two dollars, remitted to the said auditor  
47 at the time of service, shall be taxed in the costs of the pro-  
48 ceeding and said auditor shall pay into the state treasury all  
49 funds so coming into his hands from such service. The aud-  
50 itor shall keep a record in his office of all such process and  
51 the day and hour of service thereof.

52 (c) The following words and phrases, when used in this  
53 article, shall, for the purpose of this article and unless a dif-

54 ferent intent on the part of the Legislature be apparent from  
55 the context, have the following meanings:

56 (1) "Duly authorized agent" shall mean and include  
57 among others a person who operates a motor vehicle in this  
58 state for a non-resident as defined in this section and act, in  
59 pursuit of business, pleasure, or otherwise, or who comes into  
60 this state and operates a motor vehicle therein for, or with  
61 the knowledge or acquiescence of, such non-resident; and shall  
62 include among others a member of the family of such non-  
63 resident or a person who, at the residence, place of business  
64 or post office of such non-resident, usually receives and re-  
65 ceipts for mail addressed to such non-resident.

66 (2) "Motor vehicle" shall mean and include any self-  
67 propelled vehicle, including motorcycle, tractor, and trailer,  
68 not operated exclusively upon stationary tracks.

69 (3) "Non-resident" shall mean any person who is not a  
70 resident of this state, and among others includes a non-resi-  
71 dent firm, partnership, corporation or voluntary association.

72 (4) "Non-resident plaintiff or plaintiffs" shall mean a  
73 non-resident of this state who institutes an action in a court  
74 in this state having jurisdiction against a non-resident of this  
75 state in pursuance of the provisions of this article.

76 (5) "Street," "road" or "highway" shall mean the en-  
77 tire width between property lines of every way or place of  
78 whatever nature when any part thereof is open to the use of  
79 the public, as a matter of right, for purposes of vehicular  
80 traffic.

81 (d) The provision for service of process herein is cumu-  
82 lative and nothing herein contained shall be construed as a  
83 bar to the plaintiff in any action from having process in such  
84 action served in any other mode and manner provided by law.

85 (e) This act shall not be retroactive and the provisions  
86 thereof shall not be available to a plaintiff in a cause of action  
87 arising or an accident occurring prior to the date this act  
88 takes effect.

## CHAPTER 48

(House Bill No. 222—By Mr. Hodson)

AN ACT to amend article nineteen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section to be designated section thirteen-a, relating to the driver or operator of a motor vehicle transporting explosives and providing penalties for violations.

[Passed March 12, 1937; in effect from passage. Approved by the Governor.]

### Article 19. General Criminal Provisions.

#### Section

13-a. Stops at railroad crossings by motor vehicles carrying explosives.

*Be it enacted by the Legislature of West Virginia:*

That article nineteen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new section to be designated section thirteen-a, to read as follows:

Section 13-a. *Stops at Railroad Crossings by Motor Vehicle Carrying Explosives.* No driver or operator of a motor vehicle upon the "public roads" as defined in section thirteen, article nineteen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, transporting gasoline, gunpowder, dynamite, nitro-glycerine and/or other explosives, shall approach any railroad crossing without first coming to a full stop at a distance of not less than ten feet from said crossing, and after restarting said motor vehicle he shall proceed at a restricted rate of speed until he shall have crossed said railroad tracks.

Anyone violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars nor more than fifty dollars, and shall be subject to revocation of his operator's license as provided in section twenty-eight, article six of this chapter.

## CHAPTER 49

(House Bill No. 396—By Mr. Van Sickler)

AN ACT to amend and reenact section one, article seven, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter sixty-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, relating to certificate of title for motor vehicles, and imposing a tax upon the certification of such titles.

[Passed March 12, 1937; in effect ninety days from passage. Approved by the Governor.]

### Article 7. Certificate of Title.

#### Section

1. Certificate of title; application; tax and fee.

*Be it enacted by the Legislature of West Virginia:*

That section one, article seven, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter sixty-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, be amended to read as follows:

Section 1. *Certificate of Title; Application; Tax and*  
2 *Fee.* Certificates of registration of any vehicle or registra-  
3 tion plates therefor, whether original issues or duplicates,  
4 shall not be issued or furnished by the state road commission  
5 or any other officer charged with such duty, unless the  
6 applicant therefor already has received, or shall at the  
7 same time make application for and be granted, an of-  
8 ficial certificate of title of such motor vehicle. Such ap-  
9 plication shall be upon a blank form to be furnished by  
10 the state road commission, and shall contain a full descrip-  
11 tion of the motor vehicle, which description shall contain the  
12 manufacturer's number, the motor number and any dis-  
13 tinguishing marks, together with a statement of the appli-  
14 cant's title and of any liens or encumbrances upon such mo-

15 tor vehicles, the names and addresses of the holders of such  
16 liens, and such other information as the state road commis-  
17 sion may require. The application shall be signed and sworn  
18 to by the applicant. A tax is hereby imposed upon the privi-  
19 lege of effecting the certification of title of each motor vehicle  
20 in the amount equal to two per cent of the value of said mo-  
21 tor vehicle at the time of such certification. If the motor  
22 vehicle is new, the actual purchase price or consideration to  
23 the purchaser thereof shall be the value of said vehicle; if  
24 the motor vehicle is a used or second-hand vehicle, the actual  
25 price or consideration paid therefor by the purchaser shall  
26 be deemed the value thereof for the purposes of this act:  
27 *Provided*, That so much of the purchase price or considera-  
28 tion as is represented by the exchange of other motor vehicles  
29 shall be deducted from the total actual price or consideration  
30 paid for said vehicle, whether the same be new or second-  
31 hand. No certificate of title for any motor vehicle shall be  
32 issued to any applicant unless such applicant shall have paid  
33 to the state road commissioner the tax imposed by this act;  
34 but the tax imposed by this act shall not apply to motor ve-  
35 hicles to be registered under sections seventeen and eighteen,  
36 article six of this chapter, which are used or to be used ex-  
37 clusively in interstate commerce. The total amount of reve-  
38 nue collected by reason of this tax shall be paid into the state  
39 road fund and expended by the state road commissioner in  
40 the maintenance and construction of the state's secondary  
41 roads. In addition to said tax there shall be a charge of one  
42 dollar for each original certificate of title so issued.

43 The state road commission, or other officer charged with  
44 such duty by the commission, if satisfied that the applicant  
45 is the owner of such vehicle, or otherwise entitled to have  
46 the same registered in his name, shall thereupon issue to the  
47 applicant an appropriate certificate of title over the signature  
48 of the official designated by the commission, authenticated  
49 by a seal to be procured and used for such purpose. Such  
50 certificates shall be numbered consecutively, beginning with  
51 number one, and shall contain such description and other  
52 evidence of identification of such motor vehicle as the state  
53 road commission may deem proper.

54 Such certificate shall be good for the life of the car, so long  
55 as the same is owned or held by the original holder of such

56 certificate, and need not be renewed annually, or at any other  
57 time, except as herein provided.

58 If, by will or direct inheritance, a person becomes the owner  
59 of a vehicle upon which the tax herein imposed has been paid,  
60 he shall not be required to pay such tax.

61 A person who has paid the tax imposed by this section  
62 shall not be required to pay the tax a second time for the  
63 same vehicle, but he shall be required to pay a charge of one  
64 dollar for the certificate of re-title of that vehicle.

## CHAPTER 50

(Com. Sub. for House Bill No. 424—Originating in the  
House Committee on the Judiciary)

AN ACT providing for the regulation of the transportation of passengers and property for hire and of private carriers of property by motor vehicles over the public highways in the state of West Virginia; defining the duties, and providing for compensation of the members of the public service commission of West Virginia in relation thereto, providing for the payment of fees by motor vehicles, and repealing acts and parts of acts inconsistent herewith; to be known as chapter twenty-four-a of the code of West Virginia, one thousand nine hundred thirty-one.

[Passed March 13, 1937; in effect ninety days from passage. Approved by the Governor.]

### Chapter 24-A. PUBLIC SERVICE COMMISSION—REGULATION OF MOTOR CARRIERS OF PASSENGERS AND PROPERTY FOR HIRE.

#### Article

1. Purposes, Definitions and Exemptions.
2. Common Carriers by Motor Vehicles.
3. Contract Carriers by Motor Vehicles.
4. Private Carriers of Property by Motor Vehicles.
5. Powers and Duties of Commission.



6. Duties and Privileges of Motor Carriers Subject to Regulation of the Commission.
7. Complaints, Damages and Violations.
8. Review of Commission's Action by Supreme Court of Appeals; Inconsistent Acts Repealed.

*Be it enacted by the Legislature of West Virginia:*

**Article 1. Purposes, Definitions and Exemptions.**

**Section**

1. Purposes.
2. Definitions.
3. Exemptions.

Section 1. *Purposes.* It is hereby declared to be the purpose and policy of the Legislature in enacting this law to confer upon the public service commission of West Virginia, in addition to all other powers conferred and duties imposed upon it by law, the power, authority, and duty to supervise and regulate the transportation of persons and property for hire and private carriers of property by motor vehicles upon or over the public highways of this state so as to: (a) protect the safety and welfare of the traveling and shipping public in their use of transportation agencies by motor vehicle; (b) preserve, foster, and regulate transportation and permit the coordination of transportation facilities; (c) provide the traveling and shipping public transportation agencies rendering stabilized service at just and reasonable rates. This act shall apply to persons and motor vehicles engaged in interstate commerce to the extent permitted by the constitution and laws of the United States.

Sec. 2. *Definitions.* When used in this act: (a) the term "motor vehicle" means, and includes, any automobile, truck, trailer, semi-trailer, tractor, motor bus, or any self-propelling motor-driven motor vehicle used upon any public highway in this state for the purpose of transporting persons or property; (b) the term "public highway" means any public street, alley, road, or highway or thoroughfare of any kind in this state used by the public; (c) the term "commission" means the public service commission of West Virginia; (d) the term "person" means and includes any individual, firm, copartnership, corporation, company, association, or joint stock association, and includes any trustee, receiver, assignee or personal representative thereof; (e) the term "common

14 carrier by motor vehicle” means any person who under-  
15 takes, whether directly or by lease or any other arrange-  
16 ment, to transport passengers or property, or any class or  
17 classes of property, for the general public over the highways  
18 of this state by motor vehicles for hire, whether over regular  
19 or irregular routes, including such motor vehicle operations of  
20 carriers by rail, water or air and of express or forwarding  
21 agencies; (f) the term “contract carrier by motor vehicle”  
22 means any person not included under paragraph (e) of this  
23 section, who under special and individual contracts or agree-  
24 ments, and whether directly or by a lease or any other ar-  
25 rangement, transports passengers or property over the high-  
26 ways in this state by motor vehicles for hire; (g) the term  
27 “motor carrier” includes both a common carrier by motor  
28 vehicle and a contract carrier by motor vehicle; (h) the  
29 term “private carrier of property by motor vehicle” means  
30 any person not included in the terms “common carrier by  
31 motor vehicle” and “contract carrier by motor vehicle”  
32 who transports over the highways in this state by motor  
33 vehicle property of which such person is the owner, lessee, or  
34 bailee, when such transport is for the purpose of sale, lease,  
35 rent, or bailment, or the furtherance of any commercial en-  
36 terprise; (i) the term “exempt carrier” means any person  
37 operating a motor vehicle exempt from the provisions of this  
38 act under section three hereof.

Sec. 3. *Exemptions.* The provisions of this act, except  
2 where specifically otherwise provided, shall not apply to:  
3 (a) taxicabs, or other motor vehicles performing a bona fide  
4 taxicab service, within the corporate limits of any municipi-  
5 pality, having a capacity of not more than six passengers  
6 and not operated on a regular route or between fixed termini;  
7 (b) motor vehicles operated exclusively in the transportation  
8 of the United States mail or in the transportation of news-  
9 papers; (c) motor vehicles owned and operated by the United  
10 States of America, the state of West Virginia, or any county,  
11 municipality, or county board of education, or by any de-  
12 partment thereof; (d) motor vehicles owned and operated  
13 by farmers in the transportation of their own farm, orchard,  
14 or dairy products from point of production to market, or in

15 the infrequent or seasonal transportation by one farmer for  
16 another in his immediate neighborhood of products of the  
17 farm, orchard, or dairy, or of supplies or commodities to be  
18 used on the farm, orchard, or dairy; (e) vehicles especially  
19 constructed for towing or wrecking and not otherwise used  
20 in transporting property or passengers for compensation.  
21 (f) This act shall not apply to any truck of two tons or less  
22 capacity, or where there are not more than three trucks  
23 owned by a person, company, or corporation.

## Article 2. Common Carriers by Motor Vehicle.

### Section

1. Subject to public utility and common carrier laws.
2. Provisions of act to govern.
3. Regulatory powers of commission.
4. Rates, fares and charges.
5. Certificate of convenience and necessity; hearing on application; transfer; revocation.

Section 1. *Subject to Public Utility and Common Carrier*  
2 *Laws.* All common carriers by motor vehicle are hereby de-  
3 clared to be affected with a public interest and subject to the  
4 laws of this state now in force or that hereafter may be enacted  
5 pertaining to public utilities and common carriers as far as  
6 applicable, and not in conflict herewith.

Sec. 2. *Provisions of Act to Govern.* No common carrier by  
2 motor vehicle shall operate any motor facility for transpor-  
3 tation of either persons or property for hire on any public  
4 highway in this state except in accordance with the provisions  
5 of this act and the transportation for more than one consignor,  
6 or to more than three consignees by any motor carrier shall  
7 be prima facie evidence that such motor carrier is operating  
8 as a common carrier.

Sec. 3. *Regulatory Powers of Commission.* The commission  
2 is vested with power and authority to supervise and regulate  
3 all common carriers by motor vehicle and to fix, alter, regu-  
4 late, and determine just, fair, reasonable, and sufficient rates,  
5 joint rates, charges and classifications; to regulate the facili-  
6 ties, accounts, service and safety of operations of each such  
7 carrier, to regulate operating and time schedules so as to meet  
8 the reasonable needs of any community, so as to provide ade-  
9 quate transportation service to the territory traversed by such  
10 carriers, and so as to prevent unnecessary multiplication of

11 service among common carriers by motor vehicle and between  
12 them and steam and electric railroads, to require the co-ordin-  
13 ation of the service facilities and schedules of competing com-  
14 mon carriers by motor vehicle or electric and steam railroads;  
15 to require the filing of annual and other reports, tariff,  
16 schedules, and other data by such common carriers, in all  
17 matters affecting the relation between such carriers and  
18 the public and between such carriers and other common car-  
19 riers. The commission shall have power and authority, by  
20 general order or otherwise, to prescribe rules and regulations  
21 in conformity with this act applicable to any and all such  
22 common carriers by motor vehicle and to do all things neces-  
23 sary to carry out and enforce the provisions of this act.

Sec. 4. *Rates, Fares and Charges.* All rates, fares and  
2 charges made by any common carrier by motor vehicle shall be  
3 just and reasonable, and shall not be unlawfully discrimin-  
4 atory, prejudicial nor preferential. No such carrier shall  
5 charge, demand, collect, or receive a greater or less or differ-  
6 ent remuneration for the transportation of passengers or prop-  
7 erty, or for any service in connection therewith, than the  
8 rates, fares, and charges which have been legally established  
9 and filed with the commission; nor shall any such carrier re-  
10 fund, remit, discount or rebate in any manner or by any de-  
11 vice any portion of the rates, fares, and charges required to be  
12 collected by the tariffs on file with or ordered by the commis-  
13 sion.

Sec. 5. *Certificate of Convenience and Necessity; Hearing  
2 on Application; Transfer; Revocation.* (a) It shall be unlaw-  
3 ful for any common carrier by motor vehicle to operate with-  
4 in this state without first having obtained from the commission  
5 a certificate of convenience and necessity. Upon the filing of  
6 an application for such certificate and after hearing thereon,  
7 if the commission finds from the evidence that the public con-  
8 venience and necessity require the proposed service or any  
9 part thereof it may issue the certificate as prayed for, or issue  
10 it for the partial exercise only of the privilege sought, and  
11 may attach to the exercise of the right granted by such certifi-  
12 cate such terms and conditions as in its judgment the public  
13 convenience and necessity may require. Before granting a

14 certificate to a common carrier by motor vehicle the commis-  
15 sion shall take into consideration existing transportation fa-  
16 cilities in the territory for which a certificate is sought, and in  
17 case it finds from the evidence that the service furnished by  
18 existing transportation facilities is reasonably efficient and  
19 adequate, the commission shall not grant such certificate.

20 (b) The commission shall prescribe such rules and regula-  
21 tions as it may deem proper for the enforcement of the pro-  
22 visions of this section, and in establishing that public con-  
23 venience and necessity do exist the burden of proof shall be  
24 upon the applicant. The commission may designate any of its  
25 employees to take evidence at the hearing of any application  
26 for a certificate and submit findings of fact as a part of a  
27 report or reports to be made to the commission.

28 (c) No certificate issued in accordance with the terms of  
29 this act shall be construed to be either a franchise or irre-  
30 vocable, or to confer any property right upon the holder  
31 thereof. No certificate issued under this act shall be assigned  
32 or otherwise transferred without the approval of the com-  
33 mission.

34 (d) The commission may at any time, for good cause, sus-  
35 pend and, upon not less than fifteen days' notice to the  
36 grantee of any certificate and an opportunity to be heard,  
37 revoke or amend any certificate.

### Article 3. Contract Carriers by Motor Vehicle.

#### Section

1. Regulation required.
2. Provisions of act to govern.
3. Permit; hearing on application; transfer; revocation.
4. Regulatory powers of commission.
5. Undue preference prohibited.
6. Rules and regulations; minimum rates.

Section 1. *Regulation Required.* It is hereby declared that  
2 the business of contract carriers by motor vehicle is affected  
3 with a public interest and that the safety and welfare of the  
4 public, the preservation and maintenance of the public high-  
5 ways, and the integrity of the regulation of common carriers  
6 require the regulation of contract carriers by motor vehicle to  
7 the extent herein provided.

Sec. 2. *Provisions of Act to Govern.* No contract carrier  
2 by motor vehicle shall operate any motor vehicle for the

3 transportation of either persons or property for hire on any  
4 public highway in this state except in accordance with the pro-  
5 visions of this act.

Sec. 3. *Permit; Hearing on Application; Transfer; Re-*  
2 *vocation.* (a) It shall be unlawful for any contract carrier by  
3 motor vehicle to operate within this state without first having  
4 obtained from the commission a permit. Upon the filing of an  
5 application for such permit, the commission shall fix a time  
6 and place for hearing thereon and after hearing may grant or  
7 deny the permit prayed for or grant it for the partial exercise  
8 only of the privilege sought, and may attach to the exercise  
9 of the privilege granted by such permit such terms and con-  
10 ditions as in its judgment are proper and will carry out the  
11 purposes of this act. No permit shall be granted unless the  
12 applicant has established to the satisfaction of the commission  
13 that the privilege sought will not endanger the safety of the  
14 public or unduly interfere with the use of the highways or  
15 impair unduly the condition or unduly increase the mainten-  
16 ance cost of such highways, directly, or indirectly, or impair  
17 the efficient public service of any authorized common carrier  
18 or common carriers adequately serving the same territory.

19 (b) The commission shall prescribe such rules and regu-  
20 lations as it may deem proper for the enforcement of the  
21 provisions of this section and may designate any of its em-  
22 ployees to take evidence at the hearing on any application for  
23 a permit and submit findings of fact as a part of a report or  
24 reports to be made to the commission.

25 (c) No permit issued in accordance with the terms of this  
26 act shall be construed to be either a franchise or irrevocable  
27 or to confer any property right upon the holder thereof. No  
28 permit issued under this act shall be assigned or otherwise  
29 transferred without the approval of the commission.

30 (d) The commission may at any time, for good cause, sus-  
31 pend and, upon not less than fifteen days' notice to the  
32 grantee of any permit and an opportunity to be heard, re-  
33 voke or amend any permit.

34 (e) Every contract carrier by motor vehicle who shall cease  
35 operation or abandon his rights under a permit issued shall

36 notify the commission within thirty days of such cessation or  
37 abandonment.

Sec. 4. *Regulatory Powers of Commission.* The commission  
2 is hereby vested with power and authority, and it shall be its  
3 duty, to supervise and regulate contract carriers by motor ve-  
4 hicle for the purpose of promoting safety of their operation as  
5 transportation agencies upon the highways; to regulate and  
6 supervise the accounts and method of keeping the same; to  
7 prescribe such rules and regulations as it may deem necessary  
8 to carry out the provisions of this act; and to supervise and  
9 regulate contract carriers by motor vehicle in all matters  
10 affecting the relationship between such carriers and the  
11 traveling and shipping public.

Sec. 5. *Undue Preference Prohibited.* Every contract car-  
2 rier by motor vehicle is hereby forbidden to give or cause any  
3 undue or unreasonable advantage or preference to those  
4 whom it serves as compared with the patrons of any common  
5 carrier by motor vehicle as that term is used in this act, or  
6 the patrons of any other common carrier, or to subject the  
7 patrons of any such common carriers to any undue or un-  
8 reasonable discrimination or disadvantage; or by unfair com-  
9 petition to destroy or impair the service or business of any  
10 common carrier by motor vehicle, or of any other common  
11 carrier, or the integrity of the state's regulation of any such  
12 service or business; and, to the end that the said commission  
13 may enforce these provisions, each such contract carrier by  
14 motor vehicle shall maintain on file with the commission a  
15 statement of its charges, and of such other matters as the  
16 commission may require.

Sec. 6. *Rules and Regulations; Minimum Rates.* The com-  
2 mission is hereby vested with power and authority, and it is  
3 hereby made its duty, to prescribe rules and regulations cov-  
4 ering the operations of contract carriers by motor vehicles in  
5 competition with common carriers of this state, and the com-  
6 mission shall prescribe minimum rates, fares, and charges to  
7 be collected by such contract carriers by motor vehicle, which  
8 shall not be less than the rates prescribed for common carriers  
9 by motor vehicles for substantially the same service.

**Article 4. Private Carriers of Property by Motor Vehicle.****Section**

1. Provisions of act to govern.
2. Regulatory powers of commission.
3. Permits required.
4. Permits; application; form and filing.
5. Permits; assignment, surrender or revocation.

Section 1. *Provisions of Act to Govern.* No private carrier  
2 of property by motor vehicle shall operate any motor vehicle  
3 for the transportation of property on any public highway in  
4 this state except in accordance with the provisions of this act.

Sec. 2. *Regulatory Powers of Commission.* The commission  
2 is hereby vested with power and authority, and it shall be its  
3 duty, to issue permits to private carriers of property by motor  
4 vehicle; to require the filing of annual and other reports and  
5 such additional data as may be required by the commission in  
6 carrying out the provisions of this act. The commission shall  
7 have power and authority, by general order or otherwise, to  
8 prescribe reasonable and necessary rules and regulations gov-  
9 erning all private carriers of property by motor vehicle, and  
10 to supervise and regulate such private carriers in all other  
11 matters affecting their relationship with the shipping and the  
12 general public.

Sec. 3. *Permits Required.* It shall be unlawful for any pri-  
2 vate carrier of property by motor vehicle to operate within  
3 this state without first having obtained from the commission a  
4 permit therefor. An application shall be made to the commis-  
5 sion in writing, stating the ownership of the equipment to be  
6 used, and such other information as the commission may re-  
7 quest. Upon receipt of such information, and on compliance  
8 with the provisions of this act and the commission's rules and  
9 regulations, the commission shall issue a permit to such  
10 applicant.

Sec. 4. *Permits; Application; Form and Filing.* The com-  
2 mission shall prescribe forms of application for such permits  
3 for the use of applicants and shall make regulations for the  
4 filing thereof.

Sec. 5. *Permits; Assignment, Surrender or Revocation.* No  
2 permit issued under the authority of this act shall be subject



3 to assignment or transfer. Subject to any right a holder of a  
4 permit may have to engage in interstate commerce, no permit  
5 issued in accordance with the terms of this act shall be con-  
6 strued to be irrevocable. Every private carrier of property  
7 by motor vehicle who shall cease operation or abandon his  
8 rights under a permit issued shall notify the commission with-  
9 in thirty days of such cessation or abandonment. The commis-  
10 sion may at any time, for good cause, suspend, and upon at  
11 least fifteen days' notice to the grantee of any permit, and an  
12 opportunity to be heard, revoke such permit.

### Article 5. Powers and Duties of the Commission.

#### Section

1. Powers of commission as to rates, schedules, etc.
2. Change of rates; suspending order; hearing.
3. Joint rates and service.
4. Merger or joint ownership.
5. Further regulatory powers of commission.

#### Section 1. *Powers of Commission as to Rates, Schedules, Etc.*

2 The commission shall have power to originate, establish,  
3 promulgate, change, investigate and enforce tariffs, rates, joint  
4 rates, classifications, and schedules for all motor carriers, and  
5 the practices, services and facilities of all motor carriers. And  
6 whenever the commission shall, after hearing, find any exist-  
7 ing rates, tariffs, joint rates, classifications, schedules, prac-  
8 tices, services, or facilities unjust, unreasonable, insufficient,  
9 or unjustly discriminatory or otherwise in violation of any of  
10 the provisions of this act, the commission shall, by order, fix  
11 and require reasonable rates, joint rates, tariffs, classifications,  
12 schedules, practices, services, or facilities to be followed or  
13 established in the future in lieu of those found to be unjust,  
14 unreasonable, insufficient, or unjustly discriminatory or other-  
15 wise in violation of any provisions of law.

#### Sec. 2. *Change of Rates; Suspending Order; Hearing.*

2 motor carrier subject to this act shall change, suspend, or  
3 annul any individual rate, joint rate, fare, charge, or classi-  
4 fication for the transportation of passengers or property ex-  
5 cept after thirty days' notice to the commission and the pub-  
6 lic, which notice shall plainly state the changes proposed to  
7 be made in the schedule then in force and the time when the  
8 changed rates or charges shall go into effect. The commission

9 may enter an order suspending the proposed rate and prohibit-  
10 ing such motor carrier from putting such proposed new rate in-  
11 to effect pending the hearing and final decision of the matter,  
12 in which case the proposed new rate shall stand suspended  
13 until it is determined by the commission whether or not the  
14 same is just or reasonable. The proposed changes shall be  
15 shown by printing new schedules, or shall be plainly indicated  
16 upon the schedules in force at the time, and kept open to  
17 public inspection: *Provided, however,* That the commis-  
18 sion may, in its discretion, and for good cause shown, allow  
19 changes upon less time than the notice herein specified, or may  
20 modify the requirements of this section in respect to publish-  
21 ing, posting and filing of tariffs, either by particular instruc-  
22 tions or by general order.

23 Whenever there shall be filed with the commission any  
24 schedule stating a change in the rates or charges, or joint  
25 rates or charges, or stating a new individual or joint rate  
26 or charge or joint classification or any new individual or joint  
27 regulation or practice affecting any rate or charge, the com-  
28 mission shall have authority, either upon complaint or upon  
29 its own initiative without complaint, to enter upon a hearing  
30 concerning the propriety of such rate, charge, classification,  
31 regulation or practice; and, if the commission so orders, it  
32 may proceed without answer or other form of pleading by the  
33 interested parties, but upon reasonable notice, and pending  
34 such hearing and the decision thereon the commission, upon  
35 filing with such schedule and delivering to the motor carrier  
36 affected thereby a statement in writing of its reasons for such  
37 suspension, may suspend the operation of such schedule and  
38 defer the use of such rate, charge, classification, regulation or  
39 practice, but not for a longer period than one hundred and  
40 twenty days beyond the time when such rate, charge, classi-  
41 fication, regulation or practice would otherwise go into effect;  
42 and after full hearing, whether completed before or after the  
43 rate, charge, classification, regulation, or practice goes into  
44 effect, the commission may make such order in reference to  
45 such rate, charge, classification, regulation or practice as  
46 would be proper in a proceeding initiated after the rate,  
47 charge, classification, regulation or practice had become effec-  
48 tive: *Provided,* That if any such hearing cannot be conducted

49 within the period of suspension, as above stated, the commis-  
50 sion may in its discretion extend the time of suspension for  
51 a further period, not exceeding six months. At any hearing  
52 involving a rate sought to be increased or involving the  
53 change of any fare, charge, classification, regulation or prac-  
54 tice, the burden of proof to show that the increased rate or  
55 proposed increased rate, or the proposed change of fare,  
56 charge, classification, regulation or practice, is just and reas-  
57 onable, shall be upon the motor carrier making application  
58 for such change. When in any case pending before the com-  
59 mission all evidence shall have been taken, and the hearing  
60 completed, the commission shall, within three months, render  
61 a decision in such case.

62 The commission shall prescribe such rules and regulations  
63 as to the giving of notice of a change in rates as are reason-  
64 able and are deemed proper in the public interest.

Sec. 3. *Joint Rates and Service.* The commission shall have  
2 power and authority to require a common carrier by motor  
3 vehicle, railroad, express, air, or water to establish reasonable  
4 through rates with other common carriers by motor vehicle,  
5 railroad, express, air, or water and to provide safe and ade-  
6 quate service, equipment, and facilities for the transportation  
7 of passengers and property; to establish and enforce just  
8 and reasonable individual and joint rates, charges, and  
9 classifications, and just and reasonable regulations and prac-  
10 tices relating thereto; and in case of such joint rates, fares,  
11 and charges to establish just and reasonable divisions thereof  
12 as between the carriers participating therein which shall not  
13 unduly prefer or prejudice any of such participating car-  
14 riers.

Sec. 4. *Merger or Joint Ownership.* (a) It shall be lawful,  
2 under the conditions specified below, but under no other con-  
3 ditions, for two or more motor carriers to consolidate or merge  
4 their property, or any part thereof, into one corporation for  
5 the ownership, management, and operation of the properties  
6 theretofore owned, managed, and operated separately; or for  
7 any such motor carrier or two or more such carriers jointly, to  
8 purchase, lease or contract to operate the properties, or any  
9 part thereof, of another such carrier; or for any such motor

10 carrier or two or more such carriers jointly, to acquire control  
11 of another such carrier through purchase of its stock; or for  
12 a person, not a motor carrier, to acquire control of two or  
13 more motor carriers through ownership of their stock; or for  
14 any person in control of one or more motor carriers to acquire  
15 control of another such carrier through ownership of its  
16 stock; or for a carrier by railroad, express, air, or water to  
17 consolidate or merge with, purchase, or acquire control of,  
18 any motor carrier, or lease or contract to operate its prop-  
19 erties or any part thereof.

20 (b) When a consolidation, merger, purchase, lease, operat-  
21 ing contract, or acquisition of control is proposed under this  
22 section the carrier, or carriers, or person, seeking authority  
23 therefor shall present an application to the commission and,  
24 after hearing, if the commission deems a hearing necessary,  
25 if the commission finds that the transaction proposed will be  
26 consistent with the public interest, it shall enter such order  
27 as it may deem proper and as the circumstances may require,  
28 attaching thereto such conditions as it may deem proper,  
29 consenting to the entering into or doing of the things herein-  
30 above provided without approving the terms and conditions  
31 thereof, and thereupon it shall be lawful to do the things  
32 provided for in such order.

33 (c) Every consolidation, merger, purchase, lease, operat-  
34 ing contract, or acquisition of control, or other transaction  
35 referred to in this section made otherwise than as hereinabove  
36 provided, shall be void.

Sec. 5. *Further Regulatory Powers of Commission.* The  
2 commission may:

3 (a) Prescribe rules of practice and procedure, the method  
4 and manner of holding hearings, and for taking evidence on  
5 all matters that may come before it and enter such orders as  
6 may be just and lawful. In the investigations, preparations,  
7 and hearings of cases, the commission shall not be bound by  
8 the technical rules of pleading and evidence but in that respect  
9 it may exercise such discretion as will facilitate its efforts to  
10 understand and learn all the facts bearing upon the right and  
11 justness of the matters before it.

12 (b) Appoint such employees as may be necessary to carry

13 out the provisions of this act and shall fix their respective  
14 salaries or compensation. Such employees shall hold office  
15 during the pleasure of the commission. The commission may  
16 designate such employees as it deems necessary to take evi-  
17 dence at any hearing held or acquired by the provisions of  
18 this act, which employees are hereby empowered to adminis-  
19 ter oaths in all parts of the state so far as the exercise of  
20 such power is properly incidental to the performance of their  
21 duties in connection with the provisions of this act.

22 (c) Prescribe a schedule of fees to accompany applications  
23 for certificates of convenience and necessity and permits and  
24 for the filing and recordation of other papers with the com-  
25 mission. The commission shall likewise prescribe a schedule  
26 of fees to be charged for the certification of all records and  
27 papers and sums to be paid witnesses and other costs neces-  
28 sary and incident to hearings before it or its employees and  
29 order the same paid by the unsuccessful party. Sums collected  
30 in this manner, except witness fees, shall be paid into the  
31 state treasury and be credited to the public service commission  
32 fund provided for in chapter twenty-four of the code of West  
33 Virginia as amended. The witness fees shall be paid to the  
34 persons who are entitled thereto. The sums to be paid in-  
35 to the public service commission motor carrier fund repre-  
36 senting the collections of any month shall be so paid on or be-  
37 fore the tenth of the following month.

38 (d) Establish a system of accounts to be kept by motor  
39 carriers or classify motor carriers and establish a system of  
40 accounts for each class, and prescribe the manner in which  
41 such accounts shall be kept. It may also in its discretion pre-  
42 scribe the form of accounts, records, and memoranda to be  
43 kept by such motor carriers, including the accounts, records,  
44 and memoranda for the movement of traffic as well as the  
45 receipts and expenditures of moneys, and any other forms,  
46 records and memoranda which in the judgment of the com-  
47 mission may be necessary to carry out any of the provisions of  
48 this chapter.

49 (e) Require persons subject to the provisions of this chap-  
50 ter, to furnish any information which may be in their pos-  
51 session, or obtainable from their accounting or other records,  
52 respecting rates, charges, classifications, or practices in con-

53 ducting their business, and to furnish the commission at all  
54 times for inspection any books or papers or reports and  
55 statements, which reports and statements shall be under oath,  
56 when so required by the commission, and the form of all re-  
57 ports required under this act shall be prescribed by the com-  
58 mission. The commission shall collect, receive and preserve  
59 the same, and shall annually tabulate and publish the same  
60 in statistical form, together with the other acts and proceed-  
61 ings of the commission.

62 (f) Either as a commission or by any of its members, or  
63 by designated employees, subpoena witnesses and take testi-  
64 mony, and administer oaths to any witness in any proceeding  
65 or examination instituted before it or conducted by it with  
66 reference to any matter within its jurisdiction. In all hear-  
67 ings or proceedings before the commission or its designated  
68 employees the evidence of witnesses and the production of  
69 documentary evidence may be required at any designated  
70 place of hearing within the state; and in case of disobedience  
71 to a subpoena or other process the commission or any party  
72 to the proceedings before the commission may invoke the aid  
73 of any circuit court in the state in requiring the evidence and  
74 testimony of witnesses and the production of papers, books,  
75 and documents. And such court, in case of refusal to obey  
76 the subpoena issued to any person or to any motor carrier  
77 subject to the provisions of this chapter, shall issue an order  
78 requiring such motor carrier or any person to appear before  
79 the commission or designated employees and produce all  
80 books and papers, if so ordered, and give evidence touching  
81 the matter in question. Any failure to obey such order of  
82 the court may be punished by such court as contempt there-  
83 of. A claim that any such testimony or evidence may tend  
84 to incriminate the person giving the same shall not excuse  
85 such witness from testifying, but such witness shall not be  
86 prosecuted for any offense concerning which he is compelled  
87 hereunder to testify.

88 (g) Require common carriers by motor vehicle and con-  
89 tract carriers by motor vehicle subject to the provisions of  
90 this act either to procure and file liability and property  
91 damage insurance from a company licensed to write such in-  
92 surance in West Virginia or to deposit such security for such

193 limits of liability and upon such terms and conditions as the  
194 commission shall determine to be necessary for the reasonable  
195 protection of the public against damage and injury for which  
196 such carrier may be liable by reason of the operation of any  
197 motor vehicle. In fixing the amount of said insurance policy,  
198 or policies, or deposit of security, the commission shall give  
199 due consideration to the character and amount of traffic and  
200 the number of persons affected and the degree of danger  
201 which the proposed operation involves.

202 (h) Cooperate with the federal government and the inter-  
203 state commerce commission of the United States or any other  
204 commission or organized delegated authority to regulate in-  
205 terstate or foreign commerce by motor vehicles, and it shall  
206 be its duty so to do, to the end that the transportation of  
207 persons and property by motor vehicles in interstate and for-  
208 eign commerce into and through the state of West Virginia  
209 may be regulated and the laws of the United States and of  
210 the state of West Virginia enforced and administered co-  
211 operatively in the public interest.

212 (i) Make agreements on behalf of the state of West Vir-  
213 ginia with any other state or states providing for reciprocal  
214 rights, privileges, and courtesies between the licensees and  
215 permittees of the said state or states and the state of West  
216 Virginia respecting licenses and the transportation of prop-  
217 erty into and through the respective state or states and the  
218 state of West Virginia, and all existing agreements between  
219 a state or states and the state of West Virginia for reciprocal  
220 rights, privileges, and courtesies may, provided constitutional  
221 and contractual rights are not violated, be declared void by  
222 the commission and new agreements negotiated.

223 (j) Promulgate safety rules and regulations applicable to  
224 motor vehicles subject to the provisions of this act and pro-  
225 mulgate regulations governing the hours of employment of  
226 drivers and chauffeurs of motor vehicles subject to the pro-  
227 visions of this act and any other rules and regulations which  
228 the commission may deem proper to carry out the provisions  
229 and intent of this act.

Sec. 4. *Identification Card.* The commission shall prescribe  
2 an identification card which must be displayed within the cab  
3 of each motor vehicle required to have a permit under this  
4 act, setting forth permit number and the route over, or terri-  
5 tory in which, the vehicle is authorized to operate and the  
6 name and address of the owner of said permit. The identifica-  
7 tion card provided for herein may be in such form and con-  
8 tain such other information as may be required by the com-  
9 mission. It shall be unlawful for the owner of said permit,  
10 his agent, servant, or employee, or any other person, to use  
11 or display said identification card, the permit number, or  
12 other insignia of authority from the commission after said  
13 permit has expired, been cancelled, or disposed of, or to oper-  
14 ate any vehicle under permit without such identification  
15 card.

Sec. 5. *Identification Plate; Fee.* It shall be unlawful for  
2 any motor carrier to operate any motor vehicle within this  
3 state unless there shall be displayed and firmly fixed upon  
4 the rear of such vehicle, an identification plate to be furnished  
5 by the commission. Such plate shall be different in design for  
6 the different classes of certificates or permits, shall bear the  
7 number given to the vehicle by the commission, and such other  
8 marks of identification as may be prescribed, and shall be in  
9 addition to the regular license plates required by law. Such  
10 plates shall be issued annually and attached to each such mo-  
11 tor vehicle not later than July first of each year. The commis-  
12 sion shall collect from the applicant a fee of one dollar for  
13 each plate so issued, and all fees for such plates shall be de-  
14 posited in the state treasury to the credit of the public service  
15 commission motor carrier fund.

Sec. 6. *Special License Fees.* In addition to the license fees,  
2 registration fees, or taxes now required by law upon common  
3 carriers by motor vehicle and contract carriers by motor ve-  
4 hicle, subject to the provisions of this act, there shall be  
5 assessed against and collected from each such carrier annually  
6 a special license fee for the administration of this act com-  
7 puted as hereinafter provided.

8 (a) The special license fee for all common carriers of



9 property by motor vehicle and contract carriers of property  
10 by motor vehicle shall be as follows:

	<i>Annual Fee</i>
11	
12	1 ton or less..... \$10.00
13	Over 1 ton to 1½ tons..... \$15.00
14	Over 1½ tons to 2 tons..... \$20.00
15	Over 2 tons to 3 tons..... \$25.00
16	Over 3 tons to 4 tons..... \$30.00
17	Over 4 tons to 5 tons..... \$35.00
18	Over 5 tons to 6 tons..... \$40.00
19	Over 6 tons to 7 tons..... \$45.00
20	Over 7 tons to 8 tons..... \$50.00
21	Over 8 tons to 9 tons..... \$55.00
22	Over 9 tons to 10 tons..... \$60.00
23	Each additional ton over 10 tons..... \$ 5.00

24 (b) The special license fee for common carriers of passen-  
25 gers by motor vehicle, and contract carriers of passengers by  
26 motor vehicle shall be as follows:

	<i>Annual Fee</i>
27	
28	Seating capacity of 10 passengers or less..... \$15.00
29	Seating capacity of 10 to 20 passengers..... \$25.00
30	Seating capacity of 20 to 30 passengers..... \$35.00
31	Seating capacity of 30 to 40 passengers..... \$50.00
32	Seating capacity of over 40 passengers..... \$60.00

33 (c) The special license fees herein provided for shall be  
34 paid to, and collected by, the state road commission of West  
35 Virginia at the same time and in the same manner as regis-  
36 tration fees and license fees required by the motor vehicle  
37 laws of the state of West Virginia are now paid and collected  
38 and no license or permit shall be issued by the state road  
39 commission to any motor carrier subject to the provisions of  
40 this act until it has paid to the state road commission of  
41 West Virginia the special license fee as herein provided.

42 (d) All special license fees collected by the state road com-  
43 mission by virtue of this act shall be paid into the state  
44 treasury and credited to the special fund designated public  
45 service commission motor carrier fund, to be appropriated  
46 as provided by law for the purpose of paying the expenses  
47 of the commission and salaries, compensation costs and ex-  
48 penses of its employees in administering this act. Each mem-  
49 ber of the commission shall receive a salary of fifteen hundred

50 dollars (\$1500) per annum as compensation for the adminis-  
51 tration of this act in addition to all other salary or compen-  
52 sation provided by law, to be paid in monthly installments  
53 from said fund, but in no event shall the salary of a commis-  
54 sioner exceed six thousand dollars per annum: *Provided, how-*  
55 *ever,* That the total sum to be expended in the administration  
56 of this act shall not exceed during any fiscal year the sum of  
57 one hundred thousand dollars.

58 (e) Any balance remaining in said fund, including other  
59 fees collected by the commission pursuant to the provisions of  
60 this act, at the end of the fiscal year shall, the succeeding  
61 year, be applied as credit on the special license fee herein re-  
62 quired and the special license fee required of each motor  
63 carrier shall be proportionately reduced on a percentage  
64 basis.

## Article 7. Complaints, Damages and Violations.

### Section

1. Complaints against motor carriers; investigations.
2. Falsifying records; penalty.
3. Continuing offenses.
4. Penalty for violation of act; second offense.
5. Duty of prosecuting attorneys and peace officers to enforce act; police powers of inspectors.

Section 1. *Complaints Against Motor Carriers; Investiga-*  
2 *tions.* Any person, firm, association of persons, corporation,  
3 municipality, or county, complaining of anything done or  
4 omitted to be done by any motor carrier or by any private  
5 carrier of property by motor vehicle subject to this act, in  
6 contravention of the provisions thereof, or any duty owing  
7 by it under the provisions of this act, may present to the  
8 commission a petition which shall succinctly state all the  
9 facts. Whereupon, if there shall be any reasonable ground  
10 to investigate such complaint, a statement of the charges thus  
11 made shall be forwarded by the commission to such motor  
12 carrier or private carrier of property by motor vehicle, which  
13 shall be called upon to satisfy such complaint or to answer  
14 the same in writing within a reasonable time to be specified  
15 by the commission. If such motor carrier or private carrier  
16 of property by motor vehicle within the time specified shall  
17 make reparations for the injury alleged to have been done  
18 or correct the practice complained of and obey the law and

19 discharge its duties in the premises, then it shall be relieved  
20 of liability to the complainant for the particular violation of  
21 law or duty complained of. If such motor carrier or private  
22 carrier of property by motor vehicle shall not satisfy the  
23 complaint within the time specified it shall be the duty of the  
24 commission to investigate the same in such manner and by  
25 such means as it shall deem proper.

Sec. 2. *Falsifying Records; Penalty.* Any person, officer,  
2 agent or employee of any motor carrier or private carrier of  
3 property by motor vehicle subject to this act who shall know-  
4 ingly or wilfully make any false entries in the accounts, ac-  
5 count books, records, or memoranda kept by any motor car-  
6 rier or private carrier of property by motor vehicle, or who  
7 shall knowingly or wilfully destroy or mutilate any account  
8 book, record, or memorandum useful for the enforcement or  
9 administration of this act by the commission, or who shall al-  
10 ter or by any other means or device falsify the record of any  
11 such accounts, account book, records, or memoranda, or who  
12 shall knowingly or wilfully neglect or fail to make full, true  
13 and correct entries of or in such account, account book, record,  
14 or memorandum of all the facts and transactions appertaining  
15 to such motor carrier or private carrier of property by motor  
16 vehicle, or who shall falsely make any statement required to  
17 be made to the commission, shall be deemed guilty of a felony,  
18 and upon conviction thereof, shall be confined in the peniten-  
19 tiary not less than one year nor more than five years.

Sec. 3. *Continuing Offenses.* Every day during which any  
2 person shall fail to observe and comply with any order or  
3 direction of the commission or to perform any duty enjoined  
4 by this act shall constitute a separate and distinct violation of  
5 the order or direction under this act.

Sec. 4. *Penalty for Violation of Act; Second Offense.* Every  
2 officer, agent, employee, or stockholder of any motor carrier  
3 or private carrier of property by motor vehicle, or any motor  
4 carrier or private carrier of property by motor vehicle, and ev-  
5 ery person who violates, procures, aids, or abets in the violat-  
6 ing of any of the provisions of this act, or who fails to obey any  
7 order, decision, requirement, rule, or regulation of the com-

8 mission or procures, aids, or abets any person in his failure to  
9 obey such order, decision, requirement, rule, or regulation,  
10 shall be deemed guilty of a misdemeanor and, upon conviction,  
11 shall be fined not exceeding one thousand dollars or confined  
12 in jail for not less than thirty days nor more than one year,  
13 or both, in the discretion of the court. When any person is  
14 convicted for a violation of any provision of this act or any  
15 order, decision, requirement, rule, or regulation of the com-  
16 mission and it is alleged in the indictment upon which he is  
17 convicted and it is admitted, or by jury found, that he has  
18 been before convicted of a violation of any provision of this  
19 act or order, decision, requirement, rule, or regulation of the  
20 commission, committed prior to the violation for which the in-  
21 dictment upon trial was found, then he shall be fined not less  
22 than five hundred dollars nor more than five thousand dol-  
23 lars and shall, in addition thereto, be confined in the county  
24 jail for not less than three months nor more than one year.

Sec. 5. *Duty of Prosecuting Attorneys and Peace Officers*  
2 *to Enforce Act; Police Powers of Inspectors.* It shall be the  
3 duty of the department of public safety and the sheriffs of  
4 the counties in West Virginia to make arrests and the duty of  
5 the prosecuting attorneys of the several counties to prosecute  
6 all violations of this act, and the commission employees desig-  
7 nated by it as inspectors shall have all the lawful powers of  
8 peace officers to enforce this act in any county or city of this  
9 state.

### **Article 8. Review of Commission's Action by Supreme Court of Appeals; Inconsistent Acts Repealed.**

#### **Section**

1. Appeal from commission's action.
2. Provisions of act severable.
3. Inconsistent acts repealed.

Section 1. *Appeal From Commission's Action.* Any party  
2 feeling aggrieved by the entry of a final order by the commis-  
3 sion, affecting him or it, may present a petition in writing to  
4 the supreme court of appeals, or to a judge thereof in vaca-  
5 tion, within thirty days after the entry of such order, pray-  
6 ing for the suspension of such final order. The applicant shall  
7 deliver a copy of such petition to the secretary of the commis-  
8 sion before presenting the same to the court or the judge. The

9 court or judge shall fix a time for the hearing on the appli-  
10 cation, but such hearing, unless by agreement of the parties,  
11 shall not be held, sooner than five days after its presentation ;  
12 and notice of the time and place of such hearing shall be  
13 forthwith delivered to the secretary of the commission, so  
14 that the commission may be represented at such hearing by  
15 one or more of its members or by counsel. If the court or the  
16 judge after such hearing be of the opinion that a suspending  
17 order should issue, the court or the judge may require bond,  
18 upon such conditions and in such penalty, and impose such  
19 terms and conditions upon the petitioner, as are just and  
20 reasonable. For such hearing the commission shall file with  
21 the clerk of said court all papers, documents, evidence, and  
22 records or certified copies thereof as were before the commis-  
23 sion at the hearing or investigation resulting in the entry of  
24 the order from which the petitioner appeals. The commission  
25 shall file with the court before the day fixed for the final  
26 hearing a written statement of its reasons for the entry of  
27 such order, and after arguments by counsel the court shall  
28 decide the matter in controversy as may seem to be just and  
29 right.

2 *Sec. 2. Provisions of Act Severable.* If any section, sub-  
3 section, sentence, clause, or phrase is for any reason held to  
4 be unconstitutional and invalid, such decision shall not affect  
5 the validity of the remaining portions of this act. The Legis-  
6 lature hereby declares that it would have passed this act,  
7 each section, subsection, sentence, clause, or phrase thereof  
8 irrespective of the fact that any one or more of the sections,  
9 subsections, sentences, clauses, or phrases be declared un-  
constitutional.

2 *Sec. 3. Inconsistent Acts Repealed.* All parts of chapter  
3 seventeen of the code of West Virginia as amended and  
4 reenacted by chapter sixty, acts of the West Virginia Legis-  
5 lature, first extraordinary session, one thousand nine hundred  
6 thirty-three, inconsistent or in conflict with this act, are here-  
7 by expressly repealed, and the provisions of any other act of  
8 said Legislature, or the code of West Virginia, one thousand  
9 nine hundred thirty-one, as amended, which is inconsistent  
with the provisions of this act, are hereby expressly repealed.

## CHAPTER 51

(House Bill No. 430—By Mr. Van Sickler)

AN ACT to amend section twenty-three, article six, chapter sixty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, as amended by chapter sixty-three, acts of the Legislature of West Virginia, one thousand nine hundred thirty-five, relating to motor vehicle licenses and license plates.

[Passed March 13, 1937; in effect ninety days from passage. Approved by the Governor.]

### Article 7. Licenses.

#### Section

23. License period; duplicate plates; transfer, surrender or retention of plates.

*Be it enacted by the Legislature of West Virginia:*

That section twenty-three, article six, chapter sixty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, as amended by chapter sixty-three, acts of the Legislature of West Virginia, one thousand nine hundred thirty-five, be amended to read as follows:

Section 23. *License Period; Duplicate Plates; Transfer, Surrender or Retention of Plates.* Beginning on the first day of July, one thousand nine hundred thirty-four, the registration fees herein prescribed shall be for the entire fiscal year: *Provided*, That where application for such registration is made between the first day of October and the thirty-first day of December, inclusive, in any fiscal year, the charge therefor shall be three-quarters of such yearly fee, and when application for such registration is made between the first day of January and the thirty-first day of March, inclusive, in any fiscal year, the charges shall be one-half of such yearly fee, and where application for such registration is made between the first day of April and the thirtieth day of June, in-

14 clusive, in any fiscal year, the charge shall be one-quarter of  
15 such yearly fee.

16 The registration certificate and the right to use correspond-  
17 ing registration plates issued after the first day of July, one  
18 thousand nine hundred thirty-four, shall expire at midnight on  
19 the thirtieth day of June of the fiscal year for which issued.

20 The commissioner is authorized to transfer the plates of a  
21 deceased person to his legal heir or legatee upon payment of  
22 a transfer fee of one dollar.

23 In the event of the loss or inadvertent destruction of any  
24 plate issued under the provisions of this article, the commis-  
25 sioner shall investigate the circumstances of alleged loss or  
26 destruction, and if satisfied that the loss or destruction has  
27 occurred as alleged, shall issue a duplicate, or duplicates, or  
28 may in his discretion issue a new set of plates with appro-  
29 priate certificate of registration, at a cost not to exceed one  
30 dollar. The owner of a set of registered plates may surrender  
31 them to the commissioner and, upon the payment of one dol-  
32 lar as an exchange fee and upon the payment of such addition-  
33 al fees as are necessary to equalize the value of the plates sur-  
34 rendered with the value of the registration plates desired,  
35 receive in exchange a set of registration plates for a vehicle  
36 of a different class: *Provided*, That the vehicle for which  
37 such plates are desired is titled in the same name as that in  
38 which the original plates were issued. In the event of the  
39 loss or inadvertent destruction of any certificate of registra-  
40 tion issued under the provisions of this article, the commis-  
41 sioner may issue a duplicate upon receipt of affidavit of such  
42 loss at a cost not to exceed one dollar. Upon the transfer of  
43 ownership of any motor vehicle, it shall be the duty of the  
44 original owner to retain the registration plates issued there-  
45 for and to immediately notify the state road commissioner of  
46 such transfer upon such form as may be provided therefor  
47 and to deliver to him the certificate of registration, where-  
48 upon the commissioner shall, upon the payment of a fee of  
49 one dollar, issue a new certificate showing the use that is to  
50 be made of such plates. Such plates may be used by such  
51 owner on another vehicle of the same class as the vehicle for  
52 which they were originally issued if such other vehicle does  
53 not require a greater license fee than was required for such

54 original vehicle. If such other vehicle requires a greater  
55 license fee than such original vehicle, then such plates may  
56 be used by paying such difference to the road commissioner,  
57 but it shall be unlawful to use such plates until such differ-  
58 ence is paid. When such transfer of ownership is made to a  
59 licensed dealer in motor vehicles it shall be the duty of such  
60 licensed dealer to immediately execute notification of trans-  
61 fer, in triplicate, to have this notification properly signed by  
62 the owner making the transfer. The dealer will also collect  
63 the transfer fee of one dollar and any additional fee that  
64 may be required under the terms of this act. The dealer will  
65 immediately forward to the road commissioner the original  
66 copy of the notification of transfer together with all fees  
67 collected. One copy of the notification of transfer shall be  
68 given to the owner and one shall be retained by the dealer.  
69 The owner's copy, properly signed by the dealer, will be the  
70 owner's identification until he receives a new registration  
71 card from the road commissioner.

72 Any licensed dealer who shall fail to comply with the pro-  
73 visions of this act shall be guilty of a misdemeanor, and upon  
74 conviction thereof shall be fined not less than fifty, nor more  
75 than three hundred dollars. Certificates of registration and  
76 corresponding registration plates of vehicles operating under  
77 a permit or certificate of convenience may be transferred only  
78 under the provisions of, and when provided by, the rules and  
79 regulations of the commissioner.

80 Any owner or operator who shall obtain a registration cer-  
81 tificate, or registration plates, or other licenses provided for  
82 in this article, by misrepresentation or by any other method  
83 not authorized by law, or who shall violate any of the other  
84 provisions of this section, shall be guilty of a misdemeanor,  
85 and, upon conviction thereof, shall be fined not less than ten  
86 nor more than fifty dollars.



## CHAPTER 52

(Senate Com. Sub. for Senate Bill No. 157—Originating in the Committee on Counties and Municipal Corporations)

AN ACT to amend and reenact sections one and nine, chapter twenty-six, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, as amended by chapter forty-nine, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, relating to water works systems of municipal corporations.

[Passed February 23, 1937; in effect from passage. Approved by the Governor.]

### Section

1. Municipal water works; extension beyond corporate limits.
9. Right of eminent domain; limitations.

*Be it enacted by the Legislature of West Virginia:*

That sections one and nine, chapter twenty-six, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, as amended by chapter forty-nine, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 1. *Municipal Water Works; Extension Beyond Corporate Limits.* Subject to and in accordance with the provisions of this act, any municipal corporation in the state of West Virginia may purchase, construct, extend and operate a water works system or construct and operate betterments and improvements to an existing water works system within the corporate limits of said municipality and within the area included in a three mile extension of the corporate limits of said municipality, notwithstanding any provision or limitation to the contrary in any other general law or municipal charter.

Sec. 9. *Right of Eminent Domain; Limitations.* For the purpose of acquiring any water works system under the provision of this act, or for the purpose of acquiring any property

4 necessary therefor, the municipality shall have the right of  
 5 eminent domain as is now provided by chapter fifty-four of  
 6 the code of West Virginia, one thousand nine hundred thirty-  
 7 one, as now or hereafter amended: *Provided, however,* That  
 8 such right of eminent domain for the acquisition of a complete  
 9 privately owned water works system shall not be exercised un-  
 10 der the provision of this act without prior approval of the  
 11 public service commission of West Virginia, and in no event  
 12 shall any municipality establish, construct or extend be-  
 13 yond the corporate limits of said municipality a municipal  
 14 water works system under the provisions of this act to  
 15 supply service in competition with an existing privately  
 16 or municipally owned water works system in such mu-  
 17 nicipality or within the proposed extension of such system,  
 18 unless a certificate of public convenience and necessity there-  
 19 for shall have been issued by the public service commission of  
 20 West Virginia.

## CHAPTER 53

(Senate Bill No. 181—By Mr. Green, by request)

AN ACT to amend and reenact sections nine, ten and fourteen, article six, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to hours of work by municipal fire departments and to the firemen's and policemen's pension or relief funds.

[Passed March 11, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Article 6. Fire Departments, Fire Companies, and Firemen's and Policemen's Pension or Relief Funds.

#### Section

- 9. Two platoon system of municipal fire department.
- 10. Pension or relief fund for firemen and policemen; trustees.
- 14. Levy to maintain fund; gifts, etc.; assessment on members of department.

*Be it enacted by the Legislature of West Virginia:*

That sections nine, ten and fourteen, article six, chapter eight

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

Section 9. *Two Platoon System of Municipal Fire Department.* In any municipal corporation in this state having a population of more than eighteen thousand inhabitants, having, or which may hereafter have, a fire department supported in whole or in part at public expense, the council shall declare the necessity of such service to each twenty-four hours shall be as follows, to-wit: From eight A. M. to six P. M. and from six P. M. to eight A. M.

Upon such declaration being made by the council the members of the fire department shall be divided into two platoons, and the members of such department shall be assigned to service in such platoons by the superintendent of the department of public safety or chief. The periods of service to each twenty-four hours shall be as follows: From eight A. M. to six P. M. and from six P. M. to eight A. M. The superintendent of the department of public safety or chief shall assign one platoon of officers and members to the period from eight A. M. to six P. M. and the other platoon of officers and members from six P. M. to eight A. M., and the officers and members assigned to each platoon shall alternate on the two periods of duty at intervals of not more than two weeks. No officer or member shall be required to remain on duty for more than fourteen consecutive hours except when changing from one tour of duty to the other, or in case of a conflagration requiring the services of more than one-half of the department. The superintendent of the department of public safety or chief is hereby authorized and directed to make the necessary assignments to the two respective platoons.

Nothing in this section shall apply to any town which does not maintain and pay for a fire department and employees thereof for full time.

Sec. 10. *Pension or Relief Fund for Firemen and Policemen; Trustees.* In any municipal corporation in this state having, or which may hereafter have, a fire department and a police department, or either of such departments, supported in whole or in part at public expense, the council or other governing body shall, by ordinance, provide for the establish-

7 ment and maintenance of a firemen's pension or relief fund,  
8 and for a policemen's pension or relief fund, for the pur-  
9 poses hereinafter enumerated, and thereupon there shall be  
10 created boards of trustees who shall administer and distribute  
11 the funds authorized to be raised by this section and suc-  
12 ceeding sections.

Sec. 14. *Levy to Maintain Fund; Gifts, Etc; Assessment*  
2 *on Members of Department.* In every municipality there shall  
3 be a firemen's pension or relief fund and a policemen's pen-  
4 sion or relief fund which shall be maintained as follows: The  
5 council or other governing body of each municipality shall  
6 levy annually and in the manner provided by law for other mu-  
7 nicipal levies, and include within the maximum levy or levies  
8 permitted by law, and if necessary in excess of any charter  
9 provision, a tax of not less than one cent on each one hundred  
10 dollars of all real and personal property as listed for taxation  
11 in such municipality, for the firemen's pension or relief fund,  
12 and a like levy on all real and personal property as listed  
13 for taxation in such municipality, for a policemen's pension  
14 fund: *Provided*, That in any city or municipality of twenty  
15 thousand population or less the laying of the levy herein pro-  
16 vided for shall be within the discretion of the common council  
17 or other body of like power and duties in such city or mu-  
18 nicipality.

19 The levies authorized under this section, or any part of  
20 them, may by the council or other governing body be laid in  
21 addition to all other municipal levies, and to that extent be-  
22 yond the limit of levy imposed by the charter of such mu-  
23 nicipality; and such levies shall supersede and if necessary  
24 exclude levies for other purposes if such priority or exclusion  
25 is necessary under limitations upon taxes or tax levies im-  
26 posed by law.

27 Such corporations are authorized to take by gift, grant, de-  
28 vise or bequest, any money or real or personal property, upon  
29 such terms as to the investment and expenditure thereof as  
30 may be fixed by the grantor or determined by said trustees.

31 In addition to all other sums provided for pensions in this  
32 section, it shall be the duty of every municipal corporation  
33 to assess and collect from each member of such fire depart-  
34 ment and police department, the sum of one dollar each

35 month, which sum shall be deducted from the monthly pay  
36 of such person, and the amount so collected shall become a  
37 regular part of the firemen's pension fund, if collected from  
38 a fireman, and of the policemen's pension fund, if collected  
39 from a policeman.

## CHAPTER 54

(Senate Bill No. 182—By Mr. Green, by request)

AN ACT to amend and reenact section eighteen, chapter sixty, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-three, relating to political activities of members of fire departments under civil service.

[Passed March 13, 1937; in effect ninety days from passage. Approved by the Governor.]

### Section

18. Political activity of members of fire departments under civil service.

*Be it enacted by the Legislature of West Virginia:*

That section eighteen, chapter sixty, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 18. *Political Activity of Members of Fire Departments Under Civil Service.* No member of any fire department within the terms of this act shall engage in any political activity of any kind, character or nature whatsoever, except to cast his vote at any election, and shall not act as an officer of election in any election, municipal or general. Any member of any fire department engaging in any political activity herein prohibited shall be subject to dismissal, as provided by the provisions of this act.

## CHAPTER 55

(Senate Bill No. 252—By Mr. Curtis, by request)

AN ACT to amend and reenact sections twenty-one and twenty-four, chapter sixty-eight, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, relating to municipal public works and to the issuance and sale of revenue bonds for the construction thereof.

[Passed March 13, 1937; in effect ninety days from passage. Became a law without the approval of the Governor.]

### Section

21. Municipal public works; board to supervise; leasing.  
24. Enforcement of rights of bondholders; receivership, including lessee.

*Be it enacted by the Legislature of West Virginia:*

That sections twenty-one and twenty-four, chapter sixty-eight, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, be amended and reenacted to read as follows:

Section 21. *Municipal Public Works; Board to Supervise; Leasing.* The municipal authorities may, in their discretion, provide by ordinance that the custody, administration, operation and maintenance of public works shall be under the supervision and control of a board as provided by section three hereof, and in such case, the municipal authorities may provide, by ordinance or resolution, for said board to exercise such of the functions of the municipal authorities in connection with the matter as they deem proper, and may provide for said board to receive such compensation as such authorities may deem proper, all of which authority and compensation shall be specifically provided for by ordinance or resolution. All compensation and expense of such board shall be paid solely from funds provided under the authority of this act. Such board shall have power to establish by-laws, rules and regulations for its own government.

17 The municipal authorities also, in their discretion, may  
18 provide by ordinance for the leasing of municipal public  
19 works and provide for the custody, operation and main-  
20 tenance thereof by a lessee in accordance with the pro-  
21 visions of such ordinance and lease contract executed pur-  
22 suant thereto: *Provided, however,* That the lessor shall pay  
23 to the municipality for the use and occupancy of such muni-  
24 cipal public works so leased an amount sufficient to provide  
25 a sinking fund for the payment of the bonds and the interest  
26 thereon and all other charges mentioned in said section six-  
27 teen, chapter sixty-eight of the code.

Sec. 24. *Enforcement of Rights of Bondholders; Receiver-  
2 ship, Including Lessee.* Any holder of any such bonds, or any  
3 of the coupons attached thereto, and the trustee, if any, ex-  
4 cept to the extent of the rights herein given, may be restricted  
5 by said ordinance or resolution authorizing issuance of the  
6 bonds, or by the trust indenture, may either at law or in equity,  
7 by suit, action, mandamus, or other proper proceeding, pro-  
8 tect and enforce any and all rights granted hereunder or under  
9 such ordinance, resolution, or trust indenture, and may en-  
10 force and compel performance of all duties required by this  
11 act, or by such ordinances, resolution or trust indenture to be  
12 performed by the municipality issuing the bond, or by the  
13 board or any officer, including the making and collecting of  
14 reasonable and sufficient charges and rates for services ren-  
15 dered by the works. If there be any failure to pay the princi-  
16 pal or interest of any of the bonds on the date therein named  
17 for such payment, any court having jurisdiction may appoint  
18 a receiver to administer the works on behalf of the municipal-  
19 ity, and the bond holders and/or trustees, except as so re-  
20 stricted, with power to charge and collect rates sufficient to  
21 provide for the payment of the expenses of operation, repair  
22 and maintenance, and also to pay any bonds and interest out-  
23 standing, and to apply the revenues in conformity with this  
24 act, and the said ordinance, resolution and/or trust indenture,  
25 and the power herein provided for the appointment of a re-  
26 ceiver and the administration by the court of the works on be-  
27 half of the municipality and the bondholders and/or trustees,  
28 shall apply to cases where such works are operated by a lessee

29 of the municipality as well as to cases where works are  
30 operated by the municipality. In case a receiver is ap-  
31 pointed for works operated by a lessee of a municipality, the  
32 lease agreement then existing between the municipality and  
33 the lessee *ipso facto* thereby shall be terminated and all  
34 property, equipment, bills receivable and assets of every  
35 kind, used in connection with the operation of such works  
36 shall pass to the receiver and upon the termination of such  
37 receivership, such works, equipment, property, bills receiv-  
38 able and assets of every kind then in the hands of the re-  
39 ceiver thereupon shall pass to the municipality.

## CHAPTER 56

(Joint Com. Sub. for Senate Bill No. 325—Originating in the Joint  
Committee on Municipal Home Rule)

AN ACT to give effect to the Municipal Home Rule Amendment to the state constitution by adding a new chapter to the code of West Virginia, one thousand nine hundred thirty-one, to be designated as chapter eight-a.

[Passed March 13, 1937; in effect ninety days from passage. Approved by the  
Governor.]

### Chapter 8-a. MUNICIPAL HOME RULE

#### Article

1. General Provisions.
2. Home Rule Procedure; Charter Elections.
3. Home Rule Charters; Ordinances.
4. Powers of Home Rule Cities.
5. Taxation and Finance.
6. Consolidation.

*Be it enacted by the Legislature of West Virginia:*

That a new chapter designated eight-a be added to the code of West Virginia, one thousand nine hundred thirty-one, to read as follows:

#### Article 1. General Provisions.

##### Section

1. Purpose; short title.
2. Definitions.
3. Legislative interpretation.



4. Classification of municipal corporations.
5. Prior classification.
6. Population.
7. General enumeration of powers of home rule cities.
8. Manner of exercise of municipal powers.
9. Existing status of cities confirmed.
10. Adoption of powers granted by this chapter by amendment to existing charter.
11. Application of other general laws.
12. Sanctions, enforcement of ordinances.
13. Application of levy provisions.
14. Reference.

Section 1. *Purpose; Short Title.* The purpose of this chapter is to give effect to the "Municipal Home Rule Amendment" to the state constitution. It may be cited as the "Municipal Home Rule Law".

Sec. 2. *Definitions.* For the purpose of this chapter, unless the context clearly requires a different meaning:

"Home rule charter" shall mean a charter adopted under this chapter;

"Governing body" shall mean the council or commission created by the charter which enacts ordinances and resolutions and is responsible for the public policy of the city;

"Administrative authority" shall mean the officer or body which is responsible for the conduct and management of the affairs of the city in accordance with general law, the charter and the ordinances, resolutions and orders of the governing body;

"City" shall mean a municipal corporation with a population in excess of two thousand;

"Town" or "village" shall mean a municipal corporation with a population of two thousand or less;

"Voter" shall mean a person qualified to vote in accordance with the provisions of general law and the city charter.

Sec. 3. *Legislative Interpretation.* The Legislature hereby declares its interpretation of the Municipal Home Rule Amendment to be that a single classification by population of municipalities in this state is required which shall exclude any other classification of municipalities by population for any purpose. It is, therefore, the intention of the legislature that the classification established by section four of this article, shall give effect to the constitutional mandate and shall be the only classification by population applying

10 to municipalities in this state. It is the further intention of  
11 the Legislature that subsequent legislation affecting muni-  
12 cipalities in this state shall treat municipalities differently  
13 upon the basis of population, only in accordance with the  
14 general classification established by section four of this  
15 article.

Sec. 4. *Classification of Municipal Corporations.* Pur-  
2 suant to the mandate of the Municipal Home Rule Amend-  
3 ment, municipal corporations are hereby classified by popu-  
4 lation into four classes as follows:

5 (1) Every municipal corporation, the population of  
6 which exceeds fifty thousand persons, shall be a class I  
7 city;

8 (2) Every municipal corporation, the population of which  
9 is more than ten thousand and not more than fifty thousand  
10 persons shall be a class II city;

11 (3) Every municipal corporation, the population of which  
12 is more than two thousand and not more than ten thousand  
13 persons shall be a class III city;

14 (4) Every municipal corporation not included in any of  
15 the foregoing classes shall be known as a town or village.

16 Transition from one to another class of municipal cor-  
17 poration shall occur automatically when the requisite popu-  
18 lation qualification has been met.

Sec. 5. *Prior Classification.* Provisions of general law  
2 establishing classifications by population in effect at the  
3 time of the adoption of the Municipal Home Rule Amend-  
4 ment or enacted prior to the adoption of this enabling act  
5 under the amendment shall operate as follows:

6 (1) The provisions of an act of the Legislature, regular  
7 session, one thousand nine hundred thirty-seven, known and  
8 designated as house bill number two, and chapter sixty of  
9 the acts of the Legislature of one thousand nine hundred  
10 thirty-three, regular session, and as amended, shall be in full  
11 force and effect notwithstanding the provisions of this act as  
12 to classifications by population, and nothing herein contained  
13 shall supersede the provisions of said house bill number two,  
14 or said chapter sixty of the acts of the Legislature, one thou-  
15 sand nine hundred thirty-three, as amended, or to amend,  
16 modify, or repeal any part thereof.

17 (2) The provisions of section seventeen, article four, chap-  
18 ter eight of the official code shall apply only to class I, II and  
19 III cities;

20 (3) The provisions of section eighteen, article four, chap-  
21 ter eight of the official code shall apply only to class I, II,  
22 and III cities;

23 (4) The provisions of sections nineteen and twenty, article  
24 four, chapter eight of the official code shall apply only to  
25 class I, II, and III cities;

26 (5) The provisions of section nine, as amended by the Legis-  
27 lature of West Virginia, regular session, one thousand nine  
28 hundred thirty-seven, article six, chapter eight of the  
29 official code, shall apply only to class I and II, and shall be  
30 optional with class III cities;

31 (6) The provisions of section fifty-three, article twelve,  
32 chapter eleven of the official code shall apply only to class  
33 I, II, and III cities;

34 (7) The provisions of section fifteen, article one, chap-  
35 ter forty-seven of the official code shall apply only to class  
36 I, II, and III cities.

Sec. 6. *Population.* For the purposes of this chapter  
2 population shall be determined by reference to the last  
3 preceding census taken under the authority of the Congress  
4 of the United States or the Legislature of West Virginia.

Sec. 7. *General Enumeration of Powers of Home Rule*  
2 *Cities.* Every city from and after the effective date of a  
3 charter adopted under this chapter, shall be empowered:

4 (1) To have and use a common seal;

5 (2) To contract and be contracted with and to institute,  
6 maintain and defend any action or proceeding in any court;

7 (3) For any municipal purpose to take, purchase, hold  
8 and lease real and personal property within and without  
9 the limits of the city, and to acquire by condemnation real  
10 and personal property within or without the limits of the  
11 city for the purposes set forth in and in accordance with chap-  
12 ter fifty-four of the official code;

13 (4) To take by gift, grant, bequest or devise and to hold  
14 and administer real and personal property within and with-  
15 out the limits of the city, absolutely or in trust for any  
16 public or municipal purpose, upon such terms and con-

17 ditions as may be prescribed by the grantor or donor and  
18 accepted by the city.

Sec. 8. *Manner of Exercise of Municipal Powers.* Sub-  
2 ject to the provisions of this or any other general law,  
3 the powers granted by this chapter shall be exercised, in  
4 the manner prescribed, and by the officer, officers or official  
5 body designated, by a charter or charter amendment  
6 adopted under this chapter, but no provision hereof or of  
7 any such charter or charter amendment shall operate to en-  
8 large the grant of powers contained herein, or limit the  
9 jurisdiction or power of any state officer or body under  
10 general law. If the matter is not covered by general law  
11 or by such a charter or charter amendment, the governing  
12 body of the city shall have power to determine by ordinance  
13 in what manner and by whom such powers shall be  
14 exercised.

Sec. 9. *Existing Status of Cities Confirmed.* The corpo-  
2 rate being and powers of every city now existing is hereby  
3 confirmed. General and special laws and municipal char-  
4 ters in effect upon the adoption of this chapter shall remain  
5 in operation and effect unless amended or repealed by this  
6 chapter, or until amended or repealed by a general law  
7 hereafter enacted, or until a municipal charter is amended  
8 in accordance with article two of this chapter.

Sec. 10. *Adoption of Powers Granted by this Chapter  
2 by Amendment to Existing Charter.* A city which shall  
3 continue to operate under a charter in force upon the  
4 effective date of this chapter may by charter amendment  
5 hereunder adopt any of the powers conferred by articles  
6 four and five of this chapter. It shall derive none of  
7 those powers from this chapter until so adopted. It shall  
8 suffice that an amendment shall make an identifying re-  
9 ference to the section or subsection of this chapter, as  
10 the case may be, sought to be adopted. Section three of  
11 article five hereof may be so adopted only as a whole. An  
12 amendment so adopted shall entirely supersede prior charter  
13 provisions on the same subject.

Sec. 11. *Application of Other General Laws.* Except as  
2 otherwise expressly provided in this chapter none of the pro-

3 visions of chapter eight of the official code shall apply/ to  
4 cities which adopt a charter under this chapter. To the  
5 extent that provisions of chapter eight constitute parts  
6 of the existing charter of a city they shall not be affected  
7 hereby but shall continue as such until superseded by a  
8 charter or charter amendment adopted under this chapter  
9 or by any other general law. All other general laws re-  
10 lating to municipal corporations shall continue to apply to  
11 cities except to the extent otherwise expressly provided in  
12 this chapter.

Sec. 12. *Sanctions, Enforcement of Ordinances.* The  
2 governing body of a city may provide by ordinance for  
3 penalties, in the form of fines, forfeitures and imprisonment  
4 in the city jail, for the violation of the ordinances of the  
5 city. It may also maintain a suit in equity in the name of  
6 the city to compel compliance with, or to restrain by injunction  
7 the violation of any ordinance. The maximum fine and the  
8 maximum imprisonment which may be provided shall be  
9 five hundred dollars and six months, respectively, or both.  
10 Provision may be made to contract for lodging city  
11 prisoners in the jail of any county in which any part of the  
12 city lies, or of an adjoining county, for part or all of their  
13 terms of imprisonment. Police officers of a city shall have  
14 the same authority of pursuit and arrest beyond their  
15 normal jurisdiction as has a sheriff.

Sec. 13. *Application of Levy Provisions.* A limitation  
2 placed on the amount of taxes upon real and personal prop-  
3 erty that may be levied, or the amount of a mandatory levy,  
4 for the support of a specific municipal service or activity  
5 by any provision of general law, shall not apply to cities  
6 under this chapter in the exercise of powers granted to them  
7 by this chapter. But the total amount of taxes upon real  
8 and personal property levied for municipal purposes in any  
9 year shall not exceed the limitations stipulated by article  
10 eight, chapter eleven of the official code.

Sec. 14. *Reference.* A reference contained in this chapter  
2 to another provision of the official code shall be construed  
3 to mean the provision as amended. Where additional sec-  
4 tions are added to the subject matter of sections as referred

5 to in this chapter, the reference shall include such additional  
6 sections.

## Article 2. Home Rule Procedure; Charter Elections.

### Section

1. Grant of charter-making power.
2. Initiation of proceedings for framing a charter.
3. The ballot; election of a charter board.
4. Notice of election.
5. Charter board; number, qualifications and nomination of members.
6. Charter board, cumulative voting for members.
7. Organization and powers of charter board.
8. Reference of draft of charter to the attorney general.
9. Public hearing on draft of charter.
10. Completion, authentication and filing of draft of charter.
11. First charter board a continuing body.
12. Submission of charter to the voters.
13. When a home rule charter takes effect.
14. Home rule charter supersedes existing charter; effect on local  
legislation and administrative law.
15. Charter amendment.
16. Charter revision.
17. Submission of alternative provisions.
18. Qualifications for voting registration.
19. Requisite vote; ballot.
20. Conduct of elections; canvass and declaration of result.
21. Expense of proceeding.
22. Election officials.

Section 1. *Grant of Charter-making Power.* The voters of  
2 any city may frame, adopt and amend the charter of the cor-  
3 poration in the manner provided by this article.

Sec. 2. *Initiation of Proceedings for Framing a Charter.*  
2 The governing body of a city may, by the affirmative vote of  
3 two-thirds of its members, and shall, upon petition bearing  
4 the signatures, written in their own handwriting, of voters  
5 of the city equal in number to fifteen per centum, if a class I  
6 or class II city, and ten per centum, if a class III city, of the  
7 total registration of voters therein or if there be no registra-  
8 tion of voters then a like per centum of duly qualified voters  
9 for the last preceding general election provide by or-  
10 dinance for the submission at the next regular municipal  
11 election, to the voters of the city of the question, "Shall a  
12 charter be framed by representatives of the voters?"

13 The ordinance shall provide for a special election if a peti-  
14 tion bearing the signatures of voters of the city equal in  
15 number to twenty per centum, if a class I or class II city,  
16 and fifteen per centum if a class III city, of such registration  
17 or qualified voters and expressly requesting that a special

18 election be called for the purpose, shall be presented to the  
19 governing body more than one hundred and twenty days  
20 prior to the date of the next regular municipal election.  
21 The special election shall be held not less than thirty nor  
22 more than sixty days after the petition shall have been pre-  
23 sented to the governing body.

Sec. 3. *The Ballot; Election of a Charter Board.* Pro-  
2 vision shall be made for the election of a charter board con-  
3 currently with the submission of the question whether a  
4 charter shall be framed. The names of the candidates for  
5 membership on the charter board shall be set out in alpha-  
6 betical order beneath the question on a special ballot. A  
7 voter who shall vote "No" on the question may, neverthe-  
8 less, vote for such candidates. The ballot shall bear instruc-  
9 tions to this effect, and also instructions which shall indicate  
10 that the names of the candidates are arranged alphabetically  
11 simply for convenience, the number of candidates for which  
12 the voter may vote (which shall be the same as the number  
13 of members to be elected), and that cumulative voting is  
14 permitted.

15 After such an election the votes on the question shall be  
16 counted and canvassed. If the result be in the affirmative  
17, the votes cast for members for the charter board shall be  
18 counted and canvassed and the candidates, in the number to  
19 be chosen, who received the highest number of votes shall be  
20 declared elected.

Sec. 4. *Notice of Election.* The notice of an election on  
2 the question whether a charter shall be framed shall consist  
3 of the initiatory ordinance and a brief prefatory statement  
4 setting out the purpose and date of the election, naming the  
5 candidates, if any, nominated by the governing body for  
6 membership on the charter board and stating how and within  
7 what time limit other nominations may be made. It shall  
8 be published once a week for three consecutive calendar weeks  
9 in two newspapers of opposite politics published in the city,  
10 if there be such, and if not, it shall be published in the news-  
11 paper having the largest circulation in the city and posted  
12 at ten or more public places within the city not less than  
13 thirty days prior to the date set for the election. The first  
14 publication shall be made not less than thirty days prior to  
15 the date fixed for the election.

2        *Sec. 5. Charter Board; Number, Qualifications and Nomi-*  
3 *nation of Members.* A charter board shall consist of eleven  
4 in a class III city. Members shall be elected at large. Any  
5 person who has been a qualified voter of a city for two years  
6 at the date of the election of members shall be eligible for  
7 membership on the charter board.

8        The governing body of a class I or class II city may nomi-  
9 nate five candidates, and that of a class III city three candi-  
10 dates for members of a charter board. Other nominations  
11 may be made by petition bearing the signatures, written in  
12 their own handwriting, of not less than two hundred regis-  
13 tered voters of the city. Nominations by the governing body  
14 shall be made in the initiatory ordinance. Nominating peti-  
15 tions may be filed at any time after the adoption of an ini-  
16 tiatory ordinance and not less than ten days prior to the  
17 date fixed for the election.

2        *Sec. 6. Charter Board, Cumulative Voting for Members.*  
3 Each voter entitled to vote on the question of framing a  
4 charter may cast as many votes for members of the charter  
5 board as there are members to be elected. He may cumulate  
6 all his votes for one candidate or distribute them among the  
7 several candidates as he sees fit.

2        *Sec. 7. Organization and Powers of Charter Board.* A  
3 charter board shall convene within ten days after election  
4 and perfect its organization by electing a chairman and clerk  
5 from its membership and by determining the rules of its  
6 proceedings. A journal shall be kept by the clerk upon  
7 which shall be entered, upon demand by any member, the  
8 vote by "ayes" and "nays" on any question. A majority  
9 shall constitute a quorum. Any voter or taxpayer of a city  
10 may file with a charter board thereof any written material  
11 bearing upon the purposes of the board that he sees fit and  
12 the board shall give material so filed such consideration as it  
13 merits. The charter drafting process may be carried on  
14 through committees but their work shall be advisory only.  
15 A charter board shall complete its draft of charter within  
16 one hundred and twenty days after the date of its organiza-  
17 tion meeting.



Sec. 8. *Reference of Draft of Charter to the Attorney General.* A draft of charter shall, upon its completion, be certified at once to the attorney general of the state. It shall be his duty to examine the draft to determine whether it is consistent in all respects with the constitution and general laws of the state. Within thirty days after receipt of such a draft he shall certify to the charter board in what particulars, if any, the draft is, in his opinion, inconsistent or in conflict with the constitution or general laws of the state.

Sec. 9. *Public Hearing on Draft of Charter.* When it shall have completed its draft of charter a charter board shall conduct a public hearing thereon. Notice of the time, place and purpose of the hearing shall be given by publication at least ten days prior to the date set for the hearing in two newspapers of opposite politics published in the city, if there be such, and if not, by publication in a newspaper of general circulation in the city. Notice shall also be posted in at least ten public places in the city at least ten days prior to the date set for the hearing. The notice shall state where copies of the draft of charter may be obtained. The hearing may be continued by the charter board by adjournments over a period not exceeding fourteen days.

Sec. 10. *Completion, Authentication and Filing of Draft of Charter.* A charter board shall have thirty days after the conclusion of the hearing required by section nine of this article, or the receipt of the certificate of the attorney general, required by section eight of this article, whichever shall occur later, to make any changes it may consider necessary or desirable in its draft of charter.

The completed draft of charter shall be signed in triplicate by at least a majority of the members of the board and two copies shall be filed with the clerk or other recording officer of the city, and one with the clerk of the county court.

Sec. 11. *First Charter Board a Continuing Body.* The members of the first charter board elected in a city under this act shall hold office for a period of six years, in the event their draft of charter is adopted. Any vacancy occurring during that period shall be filled temporarily by appointment by majority action of the remaining members. A suc-

7 cessor shall be elected at the next regular municipal election  
8 in the same manner as elective city officers, to hold office for  
9 the remainder of the term.

10 The board shall make a continuing study of the functioning  
11 of the city government under a home rule charter adopted  
12 during its life and may, by a two-thirds vote of its members  
13 and not less than four years after such charter shall have  
14 taken effect, require the submission to the voters of the city  
15 of the question whether the charter shall be revised. By a  
16 like vote and at any time not less than one year after the  
17 charter shall have taken effect the board may require the  
18 submission of one or more proposed charter amendments to  
19 the voters of the city. In the event revision is voted pursuant  
20 to such submission the board as then constituted shall proceed  
21 to prepare a revision of the charter and the process of revision  
22 as so initiated shall be the same as that for the framing  
23 and adoption of a new charter under this chapter.

Sec. 12. *Submission of Charter to the Voters.* The proposed  
2 charter shall be submitted to the voters at a special  
3 election to be held at the time determined by the charter  
4 board. Notice of the time, place and purpose of a charter  
5 election shall be given by publication once a week for three  
6 consecutive calendar weeks in two newspapers of opposite  
7 politics published in the city, if there be such, and if not, in  
8 a newspaper of general circulation in the city. Notice shall  
9 be posted at ten or more public places within the city not  
10 less than thirty days prior to the date set for the election.  
11 The first of said publications shall be made not less than  
12 thirty days prior to the date fixed for the election. Each such  
13 notice of election shall state that any qualified voter of the  
14 city may obtain a copy of the proposed charter, from a designated  
15 officer and place, upon request.

Sec. 13. *When a Home Rule Charter Takes Effect.* A  
2 home rule charter shall take effect on the first day of the  
3 fiscal year next after the date of its adoption, if the interim  
4 exceeds sixty days; and otherwise on the first day of the second  
5 fiscal year after its adoption.

6 If a proposed charter shall be approved by the voters of a  
7 city one of the signed copies on file with the recording officer  
8 of the city, with a certified copy of the declaration of result

9 of the election showing the total votes cast for and against  
10 adoption attached, shall be certified forthwith to the clerk  
11 of the House of Delegates of the Legislature, in his capacity  
12 as keeper of the rolls. The same shall be preserved by said  
13 clerk as an authentic public record. After the effective date  
14 of a charter so filed all courts shall take judicial notice of  
15 its provisions.

16 A copy of the declaration of the result of the election  
17 showing the total votes cast for and against adoption shall  
18 be certified to the clerk of the county court for filing with  
19 the signed copy of the charter previously deposited with  
20 him.

Sec. 14. *Home Rule Charter Supersedes Existing*  
2 *Charter; Effect on Local Legislation and Administrative*  
3 *Law.* A home rule charter shall entirely supersede the prior  
4 charter of a city. All legislative and administrative acts or  
5 rules theretofore adopted by the governing body and ad-  
6 ministrative agencies of a city which are inconsistent or in  
7 conflict with a home rule charter, shall continue in force for  
8 sixty days after the effective date of the home rule charter,  
9 unless sooner modified or repealed by competent authority;  
10 but at the end of this period, shall to the extent of such  
11 inconsistency or conflict, be of no further force or effect.

Sec. 15. *Charter Amendment.* The voters of a city may  
2 amend an existing special charter or a charter adopted under  
3 the provisions of this chapter. An amendment may be ini-  
4 tiated in the same manner as for the adoption of a charter.  
5 An amendment to a charter adopted hereunder may also  
6 be initiated in the manner provided in section eleven of this  
7 article.

8 A special election shall be called to pass upon a proposed  
9 charter amendment if (1) the date of the next regular mu-  
10 nicipal election shall be more than ninety days after the date  
11 fixed for such special election; (2) the governing body by  
12 the affirmative vote of two-thirds of its members shall deter-  
13 mine as a fact that an emergency exists which requires that  
14 the proposal be submitted without delay; or (3) a petition  
15 expressly requesting the election, which has been signed by  
16 twenty per centum of the total registration of the voters  
17 in the city for the last preceding general election, in case of

18 a class I or class II city, or by fifteen per centum thereof, in  
19 case of a class III city, has been filed with the governing  
20 body. In any other case a proposed charter amendment shall  
21 be submitted at the next regular municipal election. The  
22 petition or ordinance proposing a charter amendment shall  
23 set it out in full.

24 The date of a special election for the purpose shall be fixed  
25 by the initiatory ordinance. The notice of the election shall  
26 state the time, place and purpose thereof and shall set out the  
27 proposed amendment or amendments at length or state that  
28 copies may be obtained by any qualified voter from a desig-  
29 nated officer at a stated place upon request. Notice shall  
30 be published and posted, as in the case of a charter election.

31 A charter amendment shall take effect on the date that  
32 the canvass and declaration of result showing approval by  
33 the voters has been made and entered in the minutes of the  
34 governing body, and one copy thereof with a copy of the  
35 canvass and declaration of result attached shall be certified  
36 to the clerk of the House of Delegates, as keeper of the rolls,  
37 and another to the clerk of the county court.

2 Sec. 16. *Charter Revision.* A charter adopted pursuant  
3 to this article may be revised in like manner as framed and  
4 adopted but no revision shall be made within four years of  
5 the effective date of such a charter or of the last preceding  
6 revision, as the case may be.

2 Sec. 17. *Submission of Alternative Provisions.* A charter,  
3 charter revision or charter amendment may be proposed with  
4 alternative provisions for submission to the voters and the  
5 same may be voted upon separately without prejudice to  
6 the primary question whether the proposed charter, charter  
7 revision or amendment shall be adopted or to other provisions  
8 thereof.

2 Sec. 18. *Qualifications for Voting Registration.* The  
3 qualifications for voting at an election held under this article  
4 shall be those prescribed by the constitution and by chapter  
5 three of the official code.

6 For purposes of any election in a city under this article  
7 the latest registration of voters for regular municipal elec-  
8 tions shall be used.

2       Sec. 19. *Requisite Vote; Ballot.* A simple majority of  
3 the votes cast on the question shall be determinative of any  
4 proposition submitted to the voters of a city under this arti-  
5 cle. A separate, special ballot without party designation  
6 shall be used at every election held under this article even  
7 though conducted at the same time as another election,  
8 whether general or special.

2       Sec. 20. *Conduct of Elections; Canvass and Declaration*  
3 *of Result.* A special election held under this article shall  
4 be conducted in like manner as a regular municipal election.  
5       The governing body of a city shall canvass the returns at  
6 relatively the same time with reference to an election held  
7 hereunder and in the same manner as county courts are  
8 required to do with respect to general elections, and shall  
9 declare the result of the election. This requirement shall  
10 apply to any election held under this article whether it be  
11 special or conducted in conjunction with a regular municipal  
12 election. The canvass and declaration of result shall be en-  
13 tered in the minutes of the governing body on the date  
14 made.

2       Sec. 21. *Expense of Proceeding.* The governing body of  
3 a city shall make full provision for the expense of advertising  
4 and holding any election and all other proper expenses in-  
5 curred in complying with the provisions of this article, in-  
6 cluding the expenses of a charter board, but the members of  
7 a charter board shall receive no compensation.

2       Sec. 22. *Election Officials.* In a special election held  
3 under this article, election officials shall be of the number  
4 and shall perform the duties prescribed by general law.  
5 Election officials shall be appointed by the local governing  
6 body, but the proponents and opponents of the new charter  
7 or charter amendment shall be entitled to representation  
8 among the election officials at each polling place. Election  
9 officials shall be designated as follows:

10       (1) The proponents and the opponents, or either, of a  
11 new charter or a charter amendment, if organized, may not  
12 less than ten days prior to the date of the special election  
13 file with the local governing body a list of persons nomi-  
14 nated as election officials to represent their organization.  
15 The governing body shall appoint as election officials the

15 persons so nominated. If the proponents or opponents, or  
 16 either, of a new charter or charter amendment desire rep-  
 17 resentation at a special charter or charter amendment  
 18 election as an organization they shall, within ten days  
 19 after the official notice of the election has been published  
 20 for the first time, submit to the governing body a state-  
 21 ment showing the name, officers and members of their  
 22 organization. An organization shall have as members at  
 23 least five per cent of the registered voters of the city.  
 24 A person shall not be a member of more than one such  
 25 organization;

26 (2) If the proponents and opponents, or either, of a new  
 27 charter or charter amendment are not organized, the govern-  
 28 ing body shall not less than eight days prior to the special  
 29 election appoint as representatives of proponents and op-  
 30 ponents or either as the case may be an equal number of  
 31 persons known to be in favor of the proposed charter or  
 32 amendment and of persons known to be opposed to the  
 33 proposed charter or amendment, to act at each polling place.

### Article 3. Home Rule Charters; Ordinances.

#### Section

1. Home rule charters.
2. Plan I: "Mayor-council plan."
3. Plan II: "Strong-mayor plan."
4. Plan III: "Commission government."
5. Plan IV: "Manager plan."
6. Municipal officers and employees.
7. Elections.
8. Initiative, referendum and recall.
9. Ordinances.
10. Ordinance procedure.

Section 1. *Home Rule Charters.* A home rule charter  
 2 shall provide for a form of city government in accordance  
 3 with plans, I, II, III or IV of this article. The intention of  
 4 sections two through five, inclusive, of this article is to  
 5 establish basic requirements of alternative plans of structure  
 6 and organization. The structure and organization of a city  
 7 government under a home rule charter may be specified by  
 8 the charter in respects other than those enumerated, and in  
 9 elaboration of the basic requirements, in so far as such pro-  
 10 visions do not conflict with the purpose and the provisions  
 11 of the alternative plans prescribed.

Sec. 2. *Plan I: "Mayor-council Plan."* A home rule charter may provide for a form of government as follows:

- 3 (1) A city council, elected at large or by wards, or both,
- 4 by the voters of the city;
- 5 (2) A mayor elected by the voters of the city;
- 6 (3) Such other elective officers as the charter may pre-
- 7 scribe;
- 8 (4) The mayor and council shall be the governing body.

Sec. 3. *Plan II: "Strong-mayor Plan."* A home rule charter may provide for a form of government as follows:

- 3 (1) A mayor elected by the voters of the city;
- 4 (2) A city council elected at large or by wards, or both,
- 5 by the voters of the city;
- 6 (3) The council shall be the governing body;
- 7 (4) The mayor shall be the administrative authority;
- 8 (5) Other officers and employees shall be appointed by
- 9 the mayor or by his order in accordance with this chapter.
- 10 Appointments by the mayor or by his order may be made
- 11 subject to the approval of the council.

Sec. 4. *Plan III: "Commission Government."* A home rule charter may provide for a form of government as follows:

- 4 (1) A commission of three or five members elected at
- 5 large by the voters of the city;
- 6 (2) The commissioners shall be as follows: A commis-
- 7 sioner of public affairs, a commissioner of finance, a com-
- 8 missioner of public safety, a commissioner of public works,
- 9 and a commissioner of streets. A charter for a class III city
- 10 shall, and a charter for a class I or class II city may provide
- 11 for a commission of three members to be a commissioner of
- 12 finance, a commissioner of public works, and a commissioner
- 13 of public safety;
- 14 (3) The members of the commission shall elect a mayor
- 15 from among their membership;
- 16 (4) The commission shall be the governing body and ad-
- 17 ministrative authority of the city;
- 18 (5) Officers and employees, other than members of the
- 19 commission shall be appointed in accordance with this
- 20 chapter, by the commission or by each commissioner with
- 21 respect to his department as the charter may prescribe.

Sec. 5. *Plan IV: "Manager Plan."* A home rule charter  
2 may provide for a form of government as follows:  
3 (1) A council of not to exceed seven members elected at  
4 large by the voters of the city;  
5 (2) A mayor elected by the council from among its  
6 membership, who shall serve as the presiding officer of the  
7 council;  
8 (3) A city manager who shall be appointed by the  
9 council;  
10 (4) The council shall be the governing body;  
11 (5) The manager shall be the administrative authority.  
12 He shall manage the affairs of the city under the super-  
13 vision of the council and he shall be responsible to them.  
14 He shall appoint or employ in accordance with this chapter  
15 all subordinates and employees for whose duties or work he  
16 is responsible to the council.

Sec. 6. *Municipal Officers and Employees.* Subject to  
2 the provisions of the state constitution, general law and this  
3 chapter, a home rule charter or, in the absence of charter  
4 provisions, a governing body may determine and regulate  
5 the number, method of selection, tenure, qualifications, com-  
6 pensation, and powers and duties of city officers and em-  
7 ployees.

Sec. 7. *Elections.* Regular city elections under a home  
2 rule charter shall be held on the first Tuesday in June at  
3 which elective city officers shall be chosen to take office  
4 upon the first day of July next ensuing for a term of as  
5 many years, not to exceed four, as the charter may pre-  
6 scribe.

7 Persons shall be eligible to vote at city elections who are  
8 qualified to vote at general elections in this state and who  
9 have resided in the city for at least sixty days. But a  
10 charter may provide that a person shall be ineligible to  
11 vote in city elections who has not lived within the city for  
12 at least six months.

13 A home rule charter shall provide a method and time of  
14 registering voters, nominating candidates, conducting elec-  
15 tions, and determining and certifying results of elections.  
16 A charter may prescribe that county registration books be  
17 used for the purposes of registration, and that the pro-



18 visions of general law with respect to primary and general  
19 elections, so far as applicable, shall apply to city elections.  
20 The provisions of article seven, chapter three of the official  
21 code relating to offenses and penalties shall apply to all  
22 elections held under this chapter.

Sec. 8. *Initiative, Referendum and Recall.* A home rule  
2 charter may provide for any or all of the following:

3 (1) The initiation of ordinances by petition of not less  
4 than ten per cent of the voters;

5 (2) The submission to the voters of a proposed ordinance  
6 at a regular or special election upon the petition of not less  
7 than ten per cent of the voters or upon resolution of the  
8 governing body;

9 (3) The holding of a special election to submit to the  
10 voters the question of the recall of an elected officer upon  
11 petition of not less than twenty per cent of the voters. Not  
12 more than one recall election shall be held with respect to  
13 an officer during his term of office.

Sec. 9. *Ordinances.* In the following enumerated cases  
2 the action of a governing body shall be by ordinance:

3 (1) Levying taxes or providing for the collection of fees  
4 of any kind;

5 (2) Requiring a license to do business;

6 (3) Relating to offenses and penalties;

7 (4) Authorizing the issuance of bonds or other forms of  
8 indebtedness;

9 (5) Providing for a public improvement;

10 (6) Providing for the purchase of private property by  
11 the city or for the sale of property belonging to the city;

12 (7) Laying out or vacating a public street, alley, or way;

13 (8) Relating to zoning;

14 (9) Granting franchises to public utilities;

15 (10) Providing for a contractual or other agreement with  
16 another jurisdiction;

17 (11) Relating to such other matters as the charter may  
18 require;

19 (12) Any other case in which an ordinance is required  
20 by this chapter.

Sec. 10. *Ordinance Procedure.* The governing body of  
 2 a city shall enact an ordinance in the cases specified by sec-  
 3 tion nine of this article in accordance with the following  
 4 requirements:

5 (1) An ordinance shall be read at not less than two meet-  
 6 ings with at least one week intervening between each meet-  
 7 ing;

8 (2) Before final passage an ordinance shall be published  
 9 in two newspapers of opposite politics published in the city,  
 10 if such there be, and otherwise in one newspaper so pub-  
 11 lished. If no newspaper is published in the city, publica-  
 12 tion shall be in a newspaper of general circulation in the  
 13 city;

14 (3) An ordinance shall not be finally passed until after  
 15 three days have elapsed after the date of publication and  
 16 persons interested have been given an opportunity to attend  
 17 a meeting of the council and be heard with respect to the  
 18 ordinance;

19 (4) An ordinance shall not be materially amended at the  
 20 same meeting at which finally passed. If materially amend-  
 21 ed after publication the ordinance shall be republished and  
 22 considered as though publication had not taken place.

23 A home rule charter may prescribe a procedure for the  
 24 enactment of ordinances in greater detail than prescribed  
 25 by this section, but the provisions of this section shall be  
 26 required. A governing body may enact an ordinance under  
 27 suspension of the rules prescribed by this section only in the  
 28 case of a pressing public emergency making a procedure in  
 29 accordance with the section dangerous to the public health,  
 30 safety, or morals, and by the affirmative vote of two-thirds  
 31 of the members elected to the governing body. The nature  
 32 of the emergency shall be set out in full in the ordinance.

#### Article 4. Powers of Home Rule Cities.

##### Section

1. General provisions.
2. General provisions; police power.
3. Public morals, safety and good order.
4. Police department.
5. Police court.
6. Fire department.
7. Public library.
8. Public recreation.
9. Public health unit.

10. Purchasing.
11. Retirement pensions for policemen and firemen.
12. Regulatory licenses.
13. Municipal inspection.
14. Permits for construction and alteration.
15. Hazards to life and property; abatement of nuisances.
16. Animals within city limits.
17. Articles unfit for human use or consumption.
18. Accumulation of refuse.
19. Building regulation; general and special codes.
20. Opening of streets.
21. Regulation of traffic.
22. Conservation; shade trees, lowlands and water courses.
23. Signs, billboards and advertising.
24. Planning and zoning.
25. Public property and improvements.
26. Municipal ownership and operation of public utilities.
27. Alienation of municipal public utilities.
28. Franchises.
29. General welfare; miscellaneous powers.
30. Civil service.
31. Intermunicipal contracts and agreements.
32. Special powers of class I and class II cities.

Section 1. *General Provisions.* Every city, from and  
2 after the adoption of a charter under this chapter shall  
3 have all the powers conferred by this chapter upon cities  
4 of the class to which it belongs. A city operating under  
5 a home rule charter may exercise its powers beyond the  
6 boundaries of the city so far as may be necessary to assure  
7 the effective exercise of its powers within the city, but no  
8 authority is conferred hereby to exercise governmental  
9 powers within the limits of any other municipality.

Sec. 2. *General Provisions; Police Power.* A city shall  
2 have the power to protect and promote the public safety,  
3 health, morals and welfare by the exercise of the powers  
4 granted by this article. The enumeration of powers in this  
5 article shall not operate to exclude the exercise of other  
6 powers fairly incidental thereto or reasonably implied and  
7 within the purposes of this chapter; and the provisions of  
8 this article shall be given full effect without regard to the  
9 common law rule of strict construction.

Sec. 3. *Public Morals, Safety and Good Order.* A city  
2 may exercise its police power to protect the public morals,  
3 safety and good order. It may prevent and suppress con-  
4 duct and practices which are immoral, disorderly, lewd,  
5 obscene and indecent.

2       Sec. 4. *Police Department.* A city may provide for and  
3 maintain a police department. The department shall be  
4 subject to authority, control and discipline of the local  
5 administrative authority.

2       Sec. 5. *Police Court.* A city may provide for the creation  
3 and maintenance of a police court and for the selection by  
4 appointment or by election of a police judge. The police  
5 court shall have criminal jurisdiction over violations of city  
6 ordinances and the criminal jurisdiction of a justice of the  
7 peace. A person convicted in a police court shall have the  
8 right to an appeal *de novo* to the court having jurisdiction  
9 over appeals from justice of the peace courts in the county  
10 in the same manner as provided by law for appeals from  
11 justice of the peace courts.

2       Sec. 6. *Fire Department.* A city may provide for, equip  
3 and maintain a fire department. The department shall be  
4 subject to the authority, control and discipline of the local  
5 administrative authority.

6       A city may contribute to the support of a volunteer fire  
7 department by providing a fire house, fire fighting equip-  
8 ment, necessary paid personnel and incidental requirements  
9 to maintain the department upon an efficient basis. A  
10 volunteer fire department shall be subject to the authority  
11 of the local governing body.

2       Sec. 7. *Public Library.* A city may provide for the  
3 establishment and maintenance of a public library by  
4 ordinance or may submit the question to the voters of the  
5 municipality in accordance with article one, chapter ten of  
6 the official code.

2       Sec. 8. *Public Recreation.* A city may provide for the  
3 establishment and maintenance of public recreation and play-  
4 grounds by ordinance or in accordance with article two,  
5 chapter ten of the official code.

2       Sec. 9. *Public Health Unit.* A city may establish and  
3 maintain a public health unit in accordance with section two,  
4 article two, chapter sixteen of the official code. A public  
5 health unit shall exercise its powers subject to the super-  
6 vision and control of the state public health council and  
7 the state department of health.

2       Sec. 10. *Purchasing.* A city may provide for the central-  
3 ized purchasing of materials, supplies and equipment. A  
4 city may, by agreement with the state director of purchases,  
5 purchase through the state department of purchases or may  
6 make agreements with one or more other municipalities,  
7 counties, and/or county boards of education, for centralized  
8 purchasing for all governmental units which are parties to  
9 such an agreement.

2       Sec. 11. *Retirement Pensions for Policemen and Firemen.*  
3 Cities of class I and class II shall, and cities of class III  
4 may provide for pension and relief funds for firemen or  
5 policemen, or both, by charter provisions, or by ordinance,  
6 in accordance with sections ten through twenty-one, article  
7 six, chapter eight of the official code. Amounts paid into  
8 a pension and relief fund shall be held in trust for the pur-  
9 poses of the fund, and shall not be used for or diverted to  
10 any other purpose. A city may extend a pension and relief  
11 fund to include all or specific classes of other city employees.

2       Sec. 12. *Regulatory Licenses.* A city may regulate the  
3 business of and require a special license to be obtained  
4 by:  
5       (1) Hawkers, peddlers, solicitors and other persons sell-  
6 ing from door to door;  
7       (2) Persons maintaining or operating pool rooms, audi-  
8 toriums, theaters, and other places of public gathering and  
9 recreation;  
10       (3) Persons dealing in second hand or used articles, in-  
11 cluding pawn brokers and junk dealers;  
12       (4) Businesses or activities affecting the public health  
13 or safety;  
14       (5) Any other business or practice to which the police  
15 power extends.

2       Sec. 13. *Municipal Inspection.* A city may provide for  
3 the entering and inspection of private premises for the pur-  
4 pose of the enforcement of state law and city ordinances.  
5 This section shall not be construed to authorize an unreason-  
6 able search or seizure in violation of section six, article  
7 three of the state constitution.

2       Sec. 14. *Permits for Construction and Alteration.* The

2 city may require a permit as a condition precedent to the  
3 construction, alteration or repair of any structure or of any  
4 equipment or parts of structures that are regulated by state  
5 law or city ordinance.

Sec. 15. *Hazards to Life and Property; Abatement of*  
2 *Nuisances.* The city may provide for the elimination of  
3 hazards to public health and safety and may define and abate  
4 public nuisances.

Sec. 16. *Animals Within City Limits.* A city may regu-  
2 late or prohibit the keeping of animals within the city  
3 limits. A city may provide for the impounding, sale and  
4 destruction of animals kept contrary to law or found running  
5 at large.

Sec. 17. *Articles Unfit for Human Use or Consumption.*  
2 A city may regulate or prohibit the purchase or sale of  
3 articles which are unfit for human use or consumption or  
4 which may be contaminated or otherwise unsanitary.

Sec. 18. *Accumulation of Refuse.* A city may prohibit  
2 the accumulation and require the disposal of garbage, refuse,  
3 waste, ashes, trash and any other similar matter.

Sec. 19. *Building Regulation: General and Special*  
2 *Codes.* A city may, by ordinance, or by a code of ordinances:

3 (1) Regulate the erection, construction, repair and alter-  
4 ation of structures of every kind within the city. A city  
5 may prohibit, within specified territorial limits the erection,  
6 construction, repair and alteration of structures of wood or  
7 other combustible material. Regulations may extend to  
8 excavations upon private property;

9 (2) Regulate electric wiring by prescribing minimum speci-  
10 fications to be followed in installation, alteration or repairs;

11 (3) Regulate plumbing by prescribing minimum specifi-  
12 cations to be followed in the installation, alteration or repair  
13 of plumbing including equipment, water and sewer pipe,  
14 traps, drains, cesspools and septic tanks.

Sec. 20. *Opening of Streets.* A city may provide for the  
2 opening and excavation of public streets, and ways, and  
3 public places of the city, and may regulate the conditions  
4 under which such openings may be made. Regulations shall  
5 apply to streets maintained by the state only in the absence

6 of regulations applying thereto prescribed by the state road  
7 commission pursuant to general law.

Sec. 21. *Regulation of Traffic.* A city may regulate the  
2 use of public streets and ways, and public places of the  
3 city. Regulations applying to streets or ways maintained  
4 by the state shall be subject to provisions of law relating  
5 to state roads and the regulations prescribed by the state road  
6 commission.

Sec. 22. *Conservation; Shade Trees, Lowlands and Water*  
2 *Courses.* A city may provide for:

3 (1) The protection and conservation of shade or orna-  
4 mental trees whether on public or private property and  
5 the removal of trees or limbs of trees in dangerous con-  
6 dition;

7 (2) The construction and maintenance of water drains  
8 and the drainage of swamps or marsh lands;

9 (3) The construction, maintenance and covering over of  
10 water courses.

Sec. 23. *Signs, Billboards and Advertising.* A city may  
2 regulate by ordinance the location and placing of signs,  
3 billboards, posters and similar advertising.

Sec. 24. *Planning and Zoning.* A city may provide for  
2 city planning and zoning in accordance with article five,  
3 chapter eight of the official code.

Sec. 25. *Public Property and Improvements.* A city  
2 shall have power:

3 (1) To establish and maintain public buildings, including  
4 a city hall, public auditoriums and a city jail, necessary  
5 or appropriate for the performance of municipal functions;

6 (2) To lay out, establish, construct, maintain, operate,  
7 alter and discontinue streets, sewers and drainage systems,  
8 sewage disposal plants and street lighting systems;

9 (3) To establish, construct and maintain, operate, alter  
10 and discontinue bridges, tunnels and ferries, and approaches  
11 thereto;

12 (4) To establish, construct, maintain and operate markets,  
13 parks, recreation grounds, municipal camps, and parking  
14 lots, and upon the discontinuance thereof to sell and convey  
15 the same;

16 (5) To control and administer the water front and water-  
17 ways of the city, and to establish, maintain, operate and  
18 regulate flood control works, wharves and public landings,  
19 warehouses and all adjuncts and facilities for navigation and  
20 commerce and the utilization of the water front and water-  
21 ways and adjacent property;

22 (6) To establish, maintain, manage and administer  
23 hospitals, sanitarium, dispensaries and public baths;

24 (7) To establish, maintain and operate airports as pro-  
25 vided by article eleven, chapter eight of the official code;

26 (8) To establish, maintain and operate cemeteries;

27 (9) To establish, maintain, manage and administer ab-  
28 batoirs, incinerators and all other facilities for the efficient  
29 removal and destruction of garbage, refuse and other offensive  
30 matter;

31 (10) To exercise its police powers to protect the water-  
32 shed and water supply of the city and to exercise general  
33 police jurisdiction over any territory beyond its limits  
34 owned by the city or over which it has a right-of-way.

Sec. 26. *Municipal Ownership and Operation of Public*  
2 *Utilities.* Subject to general law a city shall have power to  
3 acquire or establish, improve, operate, maintain and repair,  
4 within or without the city, water systems and electric and gas  
5 systems for the production and distribution of light, heat  
6 and power primarily for the benefit of the city and con-  
7 sumers therein. A city may acquire' watersheds, water  
8 and riparian rights, plant sites, rights-of-way and any and all  
9 other property and appurtenances necessary or appropriate  
10 for such a system. The products and services of any such  
11 utility may be sold to consumers outside the city limits to  
12 the extent, in the judgment of the governing body, that they  
13 are not required to satisfy the needs of consumers within  
14 the city.

15 A city may purchase the franchises and properties of a  
16 privately owned public utility which the city would have  
17 the authority to acquire and construct as an original under-  
18 taking.

Sec. 27. *Alienation of Municipal Public Utilities.* No  
2 city shall alienate the franchises and properties of a municipi-  
3 pal public utility or lease the same for a period in excess of



4 ten years unless the proposition shall first have been sub-  
5 mitted to the voters of the city in the manner provided by  
6 this chapter for the submission of proposed charter amend-  
7 ments and shall have been approved by a majority of the  
8 voters voting thereon. This limitation does not apply to such  
9 parts of the franchises or properties of a municipal utility  
10 system as the governing body shall determine to be unneces-  
11 sary for the efficient rendering of the services to the city  
12 and consumers within the city.

Sec. 28. *Franchises.* A city shall have power to grant  
2 franchises or rights to use the streets, waters, water front,  
3 public ways and public places in the city. No franchise shall  
4 be granted for a period in excess of twenty-five years, nor  
5 until after a public hearing has been held thereon after notice  
6 of the time, place and purpose of the hearing shall have been  
7 given once a week for four successive calendar weeks in a  
8 newspaper of general circulation in the city.

Sec. 29. *General Welfare; Miscellaneous Powers.* A city  
2 shall have power:

3 (1) To investigate and inquire into all matters of concern  
4 to the city or its inhabitants;

5 (2) To establish, maintain, manage and administer instru-  
6 mentalities other than free public schools for the instruction,  
7 enlightenment, improvement, entertainment, recreation and  
8 welfare of its inhabitants as it may deem appropriate or neces-  
9 sary for the public interest;

10 (3) To create, maintain and administer a system or sys-  
11 tems for the enumeration, identification and registration, or  
12 either, of the inhabitants of the city and visitors thereto, or  
13 such classes thereof as may be deemed advisable;

14 (4) To appropriate and expend not exceeding twenty-five  
15 cents per capita per annum for advertising the city and the  
16 entertainment of visitors.

Sec. 30. *Civil Service.* A city may provide by charter  
2 provision for a merit system for all or any class of city  
3 employees in addition to those classes for which a merit  
4 system is made mandatory by general law.

Sec. 31. *Intermunicipal Contracts and Agreements.* Two  
2 or more cities, a city and a town or village, a city and a

3 county whether the city is located within the county or not,  
4 or a city and a county board of education may engage jointly  
5 in the exercise of any power, the making of any improvement,  
6 or the promotion and maintenance of any undertaking which  
7 the several parties are empowered to exercise or undertake  
8 separately under this chapter or by any other provision of  
9 general law or special act.

10 The contract or agreement shall be reduced to writing,  
11 and before final approval by the governing bodies involved,  
12 shall be submitted to the attorney general. After approval,  
13 by the governing bodies concerned certified copies of the con-  
14 tract or agreement shall be filed in the office of the county  
15 clerk of the county or counties in which the local jurisdictions  
16 are located, and in the office of the state tax commissioner.  
17 A contract or agreement shall be limited in duration to one  
18 fiscal year unless ratified by popular vote of the qualified  
19 voters of the several jurisdictions voting separately at a  
20 regular or special election.

Sec. 32. *Special Powers of Class I and Class II Cities.*

2 A class I or class II city shall have the power:

3 (1) To operate and maintain passenger transportation  
4 lines and facilities. Such lines may be operated for a dis-  
5 tance of not exceeding three miles beyond the limits of the  
6 city, but may not be operated within the limits of another  
7 municipality without the consent of the governing body  
8 thereof;

9 (2) For the purpose of inquiring into and investigating  
10 matters of concern to the city and its inhabitants, to require  
11 the attendance and testimony of witnesses and the produc-  
12 tion of evidence. In case of failure or refusal of a witness to  
13 appear and testify, or to produce evidence, the governing  
14 body may invoke the aid of the circuit court of the county.  
15 Upon proper showing, the circuit court shall issue an order  
16 requiring a witness to appear and to produce evidence and  
17 to give testimony concerning the matter in question. A per-  
18 son who fails or refuses to obey the order of the circuit court  
19 may be punished by the court as for contempt.

20 A claim that any such testimony or evidence may tend to  
21 incriminate the person giving the testimony or evidence shall  
22 not excuse the witness, but such testimony or evidence shall

- 23 not be used against the witness in any criminal prosecution  
24 under the laws of the state or a municipal ordinance;  
25 (3) To provide for a sealer of weights and measures who  
26 shall exercise his powers in accordance with article one, chap-  
27 ter forty-seven of the official code.

## Article 6. Taxation and Finance.

### Section

1. General property and benefit taxes.
2. Capitation taxes.
3. License and privilege taxes.
4. Motor vehicle operator's tax.
5. Amusement tax.
6. Domestic animal tax.
7. Preservation of prior taxing powers.
8. Fees and charges for municipal services.
9. Borrowing power.
10. Audits and accounts.

#### Section 1. *General Property and Benefit Taxes.* A city

2 shall have power:

3 (1) To levy and collect taxes on real and personal prop-  
4 erty for any municipal purpose within the limitations and  
5 subject to the classifications prescribed by the constitution  
6 and general laws of the state. The assessment, levy and col-  
7 lection of such taxes shall be governed by chapter eleven of  
8 this code;

9 (2) To finance public improvements by the levy and col-  
10 lection of special assessments or other benefit taxes in the  
11 manner and to the extent permitted by articles eight and  
12 nine of chapter eight of this code and by any other general  
13 law. The entire cost of sidewalk construction, including curb-  
14 ing, may be imposed upon the owners of abutting property  
15 and made a lien thereon which shall have priority over all  
16 other liens except tax liens.

Sec. 2. *Capitation Taxes.* A city shall have power to levy  
2 and collect an annual capitation tax upon all inhabitants  
3 who have attained the age of twenty-one years. The govern-  
4 ing body may exempt from such tax all persons who are de-  
5 pendent in whole or in part upon public assistance for their  
6 support. The rate of such tax shall not exceed two dollars  
7 per person and the revenue so produced shall be applied pri-  
8 marily to the maintenance and repair of streets and other  
9 public ways and places.

2       Sec. 3. *License and Privilege Taxes.* A city may levy  
3 and collect an annual license tax upon businesses, occupations,  
4 or economic activities regularly conducted within the city,  
5 and a special license tax upon an itinerant or transitory busi-  
6 ness occupation or economic activity conducted within the  
7 city, as follows:

8       (1) Upon any public utility business exercising a fran-  
9 chise from the city. The annual tax shall not exceed five  
10 hundred dollars in class I cities, three hundred fifty dollars  
11 in class II cities, and two hundred dollars in class III cities;

12       (2) Upon any manufacturing or other production busi-  
13 ness or activity. The annual tax shall not exceed two hundred  
14 dollars in class I cities, one hundred fifty dollars in class II  
15 cities, and one hundred dollars in class III cities;

16       (3) Upon any wholesale or other intermediate distribution  
17 business or activity. The annual tax shall not exceed one  
18 hundred fifty dollars in class I cities, one hundred twelve  
19 dollars fifty cents in class II cities and seventy-five dollars  
20 in class III cities;

21       (4) Upon any amusement or entertainment business or  
22 activity, other than literary, dramatic, musical, or benevolent  
23 societies not conducted for private profit or gain. The annual  
24 tax shall not exceed two hundred dollars in class I cities,  
25 one hundred fifty dollars in class II cities, and one hundred  
26 dollars in class III cities;

27       (5) Upon the business of selling tangible personal prop-  
28 erty at retail, except farmers selling products produced by  
29 them, and upon any service business, agency or calling. The  
30 annual tax shall not exceed one hundred dollars in class I  
31 cities, seventy-five dollars in class II cities, and fifty dollars  
32 in class III cities;

33       (6) Upon any profession, recognized and regulated as  
34 such by the laws of this state. The annual tax shall not ex-  
35 ceed twenty-five dollars in a class I or class II city and fifteen  
36 dollars in a class III city;

37       (7) If the business, occupation, or activity taxed under  
38 this section is conducted at two or more separate places, or  
39 locations, each of which is a distinct branch or business unit,  
40 a separate license tax may be imposed and collected for each  
41 place or location;

42       (8) A license tax levied under this section may be further

42 classified within the classes for which maximum amounts of  
43 taxes are fixed to the extent that such further classifications  
44 are not unreasonable or discriminatory in effect.

Sec. 4. *Motor Vehicle Operator's Tax.* A city may levy  
2 and collect an annual motor vehicle operator's license tax of  
3 not exceeding two dollars. The tax shall apply only to inhab-  
4 itants of the city.

Sec. 5. *Amusement Tax.* A city may levy and collect an  
2 admission and amusement tax upon any public amusement  
3 or entertainment conducted for private profit or gain. The  
4 tax shall be added to and collected with the price of admis-  
5 sion, or other charge for the amusement or entertainment.  
6 The tax shall not exceed three per cent of the admission price  
7 or charge, but a tax of one cent may be levied and collected  
8 in any case.

Sec. 6. *Domestic Animal Tax.* A city may levy and collect  
2 an annual license tax upon the privilege of keeping a domestic  
3 animal.

Sec. 7. *Preservation of Prior Taxing Powers.* A city may  
2 include within a home rule charter, and may continue to  
3 exercise under a home rule charter, powers of taxation, other  
4 than property taxes, which are contained in a special charter  
5 in effect upon the adoption of this chapter, and which are  
6 not in conflict with general law.

Sec. 8. *Fees and Charges for Municipal Services.* A city  
2 shall have power to charge and collect reasonable rates, fees  
3 and charges for municipal services other than those rendered  
4 as fire and police protection, subject to the provisions of  
5 chapter twenty-four of the official code of West Virginia, as  
6 amended. In the case of police power services, which may  
7 be mandatory upon those served, the charge shall be based  
8 upon and shall not substantially exceed the cost of render-  
9 ing the same.

Sec. 9. *Borrowing Power.* A city shall have power to  
2 borrow money on the general faith and credit of the city for  
3 any municipal purpose in the manner and subject to the limi-  
4 tations provided by article nine of chapter eight and by chap-  
5 ter thirteen of this code.

2       Sec. 10. *Audits and Accounts.* The provisions of article  
 3 nine, chapter six of the official code shall apply to cities under  
 4 this chapter. A home rule charter or, in the absence of char-  
 5 ter provision, a governing body of a city may provide for a  
 6 system of budgeting, accounting, and record-keeping, and for  
 7 the conduct of the transactions of the city, but such provi-  
 8 sion shall not conflict with article nine, chapter six of the  
 9 official code or with the regulations or orders promulgated  
 under it by the state tax commissioner.

### Article 6. Consolidation.

#### Section

1. Authority to consolidate.
2. Petition and resolution.
3. Orders for elections.
4. Elections.
5. Ballots; expenses of elections.
6. Counting and canvassing; certificate of results.
7. Endorsement of certificate; filing.
8. Effective date of consolidation.
9. Charter and ordinances of consolidated municipality.
10. Ward representation.
11. Commission on wards and election districts.
12. Election of new officers.
13. Officers and employees of old municipalities.
14. Succession to rights and properties of merged municipalities.
15. Taxes and obligations of merged municipalities.
16. Transfer of funds and property.
17. Permits and licenses issued by merged municipalities.
18. Legal proceedings pending at merger.
19. Municipalities in different counties.
20. Annexation of unincorporated territory.
21. Petition for annexation.
22. Ballots.
23. Election.
24. Certification of results.
25. Minor boundary adjustments.

2       Section 1. *Authority to Consolidate.* Any two or more  
 3 adjoining municipalities in this state, lying in the same  
 4 county, may consolidate and become one municipality in the  
 5 manner provided in this article.

2       Sec. 2. *Petition and Resolution.* Upon the presentation  
 3 to the governing body of a municipality of a petition, signed  
 4 by twenty per cent of the qualified voters thereof, requesting  
 5 consolidation with one or more municipalities and setting  
 6 forth the name by which the consolidated municipality is to  
 7 be known, the governing body shall forthwith adopt a  
 resolution proposing such consolidation.

Sec. 3. *Order for Elections.* The governing body shall  
 2 forthwith present a copy of the resolution to the circuit court  
 3 of the county or the judge in vacation. If the court, or  
 4-5 judge receives copies of such resolutions from the respective  
 6 governing bodies of two or more municipalities proposing  
 7 to consolidate with each other, it shall be the duty of the  
 8 court or judge to call, by written order, an election to be  
 9 held within such municipalities for a determination, by the  
 10 qualified voters of the respective municipalities, upon the  
 11 question of consolidation. The order shall set the date for the  
 12 elections, which date shall be not less than thirty nor more  
 13 than sixty days from the date of the order, and shall be on  
 14 the same day in each of the municipalities concerned.

15 The order shall state the names of the municipalities, the  
 16 object of the election, and the name by which the con-  
 17 solidated municipality is to be known.

18 The order shall forthwith be filed in the office of the clerk  
 19 of the county court, and true copies shall at once be served  
 20 upon the clerk, or other recording officer, of each of the  
 21 municipalities concerned.

Sec. 4. *Elections.* The elections shall be held as are  
 2 other municipal elections. The provisions of law governing  
 3 regular municipal elections shall, except as otherwise pro-  
 4 vided herein, apply to those held under this article.

5 The question of the consolidation of the same municipalities  
 6 shall not be submitted to the voters thereof more often than  
 7 once in two years.

Sec. 5. *Ballots; Expenses of Elections.* The ballots to  
 2 be used shall be in substantially the following form:

3 Shall ..... (name  
 4 the municipalities) be consolidated and become one municipi-  
 5 pality, to be known as ..... ?  
 6 (name of the proposed new municipality).

7 For consolidation

8 Against consolidation

9 The expenses of the elections shall be borne by the separate  
 10 municipalities.

Sec. 6. *Counting and Canvassing; Certificate of Results.*

2 The county court shall furnish sealed ballot boxes to the  
3 proper officers of the municipalities wherein the elections are  
4 to be held. The municipal officers responsible for the custody  
5 of the ballots, shall, immediately upon the closing of the  
6 elections, transmit the ballot boxes to the county court, sealed  
7 and unopened. The county court shall proceed to count and  
8 canvass the votes cast, and shall forthwith certify over their  
9 signatures to the circuit court or judge in vacation the result  
10 of the canvass, showing distinctly in their certificate the  
11 number of votes for and the number of votes against the  
12 consolidation in each of the municipalities, and also the num-  
13 ber of voters in each municipality who voted on the question.

Sec. 7. *Endorsement of Certificate; Filing.* If a majority  
2 of the qualified voters in each of the municipalities are shown  
3 by the county court's certificate to have voted in favor of the  
4 consolidation, the circuit court or judge, if satisfied as to the  
5 correctness of the returns evidenced by that certificate, shall  
6 so certify upon the certificate. He shall cause the same to be  
7 filed forthwith in the office of the clerk of the county court,  
8 and to be published in a newspaper of general circulation in  
9 the municipalities so voting.

Sec. 8. *Effective Date of Consolidation.* The consolida-  
2 tion shall be effective at twelve o'clock noon of the first  
3 day of the fiscal year next succeeding the date of the elections  
4 unless that day is less than ninety days prior to such date,  
5 in which event the consolidation shall be effective at twelve  
6 o'clock noon of the first day of the fiscal year next but one  
7 succeeding that date.

Sec. 9. *Charter and Ordinances of Consolidated Municipal-*  
2. *ity.* When the consolidation becomes effective, the consolidated  
3 municipalities shall constitute and be one municipality under  
4 the name set forth in the initiatory petitions and the election  
5 order.

6 The charter of the consolidating municipality having the  
7 largest population shall, when the consolidation becomes  
8 effective, be and remain the charter for the whole of the  
9 consolidated territory, until supplanted.

10 The ordinances, resolutions, orders, rules and regulations



11 in force in the consolidating municipality having the largest  
12 population when the consolidation becomes effective, shall  
13 extend to and be in force throughout the newly consolidated  
14 municipality, until they are supplanted. And the ordinances,  
15 resolutions, orders, rules and regulations of the other  
16 municipalities shall cease to be operative.

Sec. 10. *Ward Representation.* If the charter applying  
2 to the new municipality provides for ward or other territorial  
3 representation, in whole or in part, upon the membership  
4 of the governing body, every ward or similar division in the  
5 new municipality shall be entitled to representation upon  
6 the governing body of the new municipality.

7 The commission provided for in section eleven of this  
8 article shall give careful attention to this section before  
9 commencing upon their prescribed duties.

Sec. 11. *Commission on Wards and Election Districts.*  
2 Within one week after the filing and publication provided  
3 for in section seven of this article, a joint commission shall  
4 be formed consisting of the mayor or other chief executive  
5 officer and the clerk or other recording officer of each  
6 municipality to be consolidated, and three inhabitants thereof  
7 appointed by the governing body.

8 The commission shall be called together by the mayor or  
9 other chief executive of the consolidating municipality  
10 largest in population, at a time and place fixed by him,  
11 but not later than ten days from the formation of the  
12 commission. The commission shall organize by selecting a  
13 chairman and clerk. The clerk shall keep a record of all  
14 proceedings and expenses and shall file the same, not more  
15 than fourteen days after the commission has filed its report  
16 and certificate hereinafter prescribed, in the office of the  
17 clerk of the county court, together with an affidavit as to  
18 the truth and correctness thereof.

19 The commission shall fix and determine the ward lines  
20 (if the largest municipality is so divided) and election dis-  
21 tricts of the new municipality. The commission shall, within  
22 forty-five days from the date of its organization, make a  
23 report and certificate over the signatures of a majority of  
24 its members, and shall file the same in the office of the  
25 clerk of the county court. The certificate shall set forth  
26 and accurately describe the ward lines, if any, and election

27 district lines fixed by the commission, and shall contain a  
28 proper map of the new municipality with such lines set out  
29 thereon. The clerk of the commission shall cause a copy  
30 of the certificate to be filed in the office of the secretary  
31 of state.

32 The lines fixed and determined by the commission shall  
33 be those of the new municipality until changed in accord-  
34 ance with law. Wards, if any, shall be formed of contiguous  
35 territory. No election district shall be in more than one  
36 ward. In dividing the new municipality into wards and  
37 election districts, the commission shall have regard for, and  
38 shall take into consideration, the election laws of the state,  
39 as well as the area and population in all wards and election  
40 districts, and shall divide and arrange the same so that  
41 each will contain, as nearly as possible, an equal number of  
42 inhabitants.

43 A notice setting forth the ward lines, if any, and election  
44 district lines as fixed by the commission shall be published  
45 by the clerk thereof, in at least one newspaper of general  
46 circulation in the municipalities concerned, for two succes-  
47 sive weeks next succeeding the filing of the certificate with  
48 the clerk of the county court. The expenses of the publica-  
49 tion shall be paid by the new municipality. Upon the com-  
50 pletion of the publication, the wards and election districts  
51 of the consolidating municipalities shall be superseded. The  
52 commission shall appoint, in accordance with the charter  
53 of the new municipality, election officers to serve at the  
54 election provided for by section twelve of this article.

55 The commission may employ an engineer and an attorney  
56 to assist in performing its duties. The commission may pro-  
57 vide for compensation to be allowed to its clerk, engineer  
58 and attorney, which shall be paid by the new municipality.  
59 The commission members shall not receive compensation for  
60 their services, but all expenses incurred by them in the  
61 performance of their duties, when itemized and sworn to  
62 by the chairman and clerk, shall be paid by the new  
63 municipality.

2 Sec. 12. *Election of New Officers.* An election shall be  
3 held upon the first Tuesday in June next preceding the  
4 date when the consolidation becomes effective for the election  
of officers for the new municipality. The officers shall be

5 elected and the election shall be conducted in accordance  
6 with the charter which shall apply to the new municipality  
7 and as though the consolidation had become effective.

8 Persons elected to office at the election held under this  
9 section shall take office upon the day the consolidation be-  
10 comes effective, for the term specified by the charter apply-  
11 ing to the new municipality.

Sec. 13. *Officers and Employees of Old Municipalities.*

2 When the consolidation becomes effective, the terms of office  
3 of all officers and officials of the consolidating municipalities,  
4 elected or appointed, shall, except as herein otherwise pro-  
5 vided, cease and be at an end.

6 Policemen and firemen of the consolidating municipalities  
7 shall, when the consolidation becomes effective, continue as  
8 policemen and firemen of the new municipality. They shall  
9 be subject to the orders and control of the mayor or other  
10 chief executive officer of the new municipality, until the  
11 heads of the police and fire departments are chosen and  
12 placed in charge thereof.

13 Tenure of office and pension laws applicable to the em-  
14 ployees of consolidating municipalities shall not be affected  
15 by the provisions of this article.

Sec. 14. *Succession to Rights and Properties of Merged Mu-*

2 *nicipalities.* The new municipality shall, when the consoli-  
3 dation becomes effective, be vested with all the rights and  
4 properties of the municipalities of which it was formed, and  
5 shall be responsible and liable for all contracts, debts and obli-  
6 gations of such municipalities. But the lands and property in  
7 a municipality superseded under this article shall not be taxed  
8 or assessed for the debts or obligations of another municipal-  
9 ity thus superseded. The lands and properties in each of the  
10 constituent and superseded municipalities shall be taxed and  
11 assessed for the debts and obligations of its superseded gov-  
12 ernment until the same shall be paid and satisfied.

Sec. 15. *Taxes and Obligations of Merged Municipalities.*

2 The taxes and assessments, levied or imposed by one of the su-  
3 perseded municipalities, remaining outstanding and unpaid,  
4 and all other moneys due and owing such municipality when  
5 the consolidation becomes effective shall be collected by the

6 new municipality and shall be applied to the purposes for  
7 which raised or owing, and if not raised or owing for a  
8 specific purpose, shall be applied to the reduction or payment  
9 of the bonded or other indebtedness, if any, of the super-  
10 ~~superse~~eded municipality.

11 Proceedings pending to enforce the payment or collection  
12 of taxes and assessments in any of the consolidating munici-  
13 palities shall be carried to completion by the proper officers  
14 of the new municipality; and all taxes and assessments there-  
15 tofore levied and assessed by any of the consolidating munici-  
16 palities shall be valid and effectual as if originally levied  
17 and assessed by the officers of the new municipality. The  
18 governing body of the new municipality is authorized to  
19 perform all necessary acts to confirm and effectuate such  
20 levies and assessments.

Sec. 16. *Transfer of Funds and Property.* Immediately  
2 upon the installation of the new municipal government the  
3 officers having custody of the funds of the consolidated  
4 municipalities shall deliver all funds in their possession  
5 into the custody of the proper fiscal officer of the new munici-  
6 pality, who shall acknowledge delivery by giving his receipt  
7 therefor.

8 The mayor or other chief executive officer shall supervise  
9 and direct the transfer of all personal property, books,  
10 papers, vouchers, or other documents belonging to the con-  
11 solidated municipalities, to the proper officers of the new  
12 government. He shall also cause a complete inventory to  
13 be made of all assets, real and personal, thus received by  
14 the new government.

15 The tax commissioner shall cause an audit and settlement  
16 of officers' accounts to be made forthwith.

Sec. 17. *Permits and Licenses Issued by Merged Municipali-*  
2 *ties.* Permits and licenses granted to any place or person by  
3 any of the consolidating municipalities shall, subject to their  
4 conditions, remain in full force and effect and be recognized by  
5 the new municipality until the expiration of the term for  
6 which they were granted. But this section shall not be con-  
7 strued to prevent the revocation of any such permit or license  
8 before its expiration in the manner provided by law.

2       Sec. 18. *Legal Proceedings Pending at Merger.* No suit, ac-  
3       tion or proceeding pending in any court or before any board  
4       or department, wherein one of the consolidating municipalities  
5       is a party, or in which it is interested, or by the determination  
6       of which it might be affected, shall abate by reason of the con-  
7       solidation, but the new municipality shall be substituted in the  
8       place and stead of such consolidating municipality, and the  
9       suit, action or proceeding shall continue as if the consolida-  
10      tion had not taken place.

2       Sec. 19. *Municipalities in Different Counties.* Two or  
3       more adjoining municipalities in different counties may  
4       consolidate and become one municipality in the manner  
5       provided in this article for the consolidation of adjoining  
6       municipalities lying in the same county. But where a  
7       county court or clerk, or circuit court is designated in this  
8       article, it shall, as to municipalities in different counties, be  
9       the county court or clerk, and the circuit court of the county  
10      wherein the consolidating municipality or part thereof  
11      having the largest population is located.

2       Sec. 20. *Annexation of Unincorporated Territory.* Unin-  
3       corporated territory may be annexed to and become part of a  
4       municipality contiguous thereto in accordance with sections  
5       twenty to twenty-four, inclusive, of this article.

2       Sec. 21. *Petition for Annexation.* Ten per cent of the in-  
3       habitants of the municipality may file a petition, in writing  
4       and signed by them, with the governing body, setting forth  
5       by metes and bounds the territory proposed to be annexed and  
6       asking that a vote be taken upon the proposed annexation. Up-  
7       on the filing of the petition, the governing body shall order a  
8       vote of the qualified voters of the municipality to be taken  
9       upon the proposed annexation at a time to be named in  
10      the order, but not less than twenty nor more than sixty  
11      days from the date of the order. The governing body shall,  
12      at the same time, order a vote of all the qualified voters re-  
13      siding in the contiguous territory, and of all the qualified  
14      voters owning any part of such territory whether resident  
15      thereon or not, to be taken upon the question on the same  
16      day at some convenient place on or near such contiguous  
17      territory. The orders shall be published, at the cost of the

17 municipality, in a newspaper of general circulation in the  
 18 municipality and the contiguous territory, once a week for  
 19 two successive weeks, the first publication to be at least  
 20 fourteen days prior to the day the vote is to be taken. The  
 21 orders so published shall contain an accurate description  
 22 by metes and bounds of the territory proposed to be an-  
 23 nexed, and, if practicable, shall contain also a popular de-  
 24 scription of such territory.

Sec. 22. *Ballots.* The ballots shall be in substantially the  
 2 following form:

3 (Here shall be a map showing plainly the municipality, and  
 4 the territory proposed to be annexed.)

5 Shall the territory indicated on the map be annexed to  
 6 and become part of .....? (name  
 7 of the municipality).

8 For annexation

9 Against annexation

Sec. 23. *Election.* The election shall, except as herein  
 2 otherwise provided, be held and conducted by the proper  
 3 officers of the municipality. The circuit court or judge of  
 4 the county wherein the municipality or the portion thereof  
 5 greatest in population lies, shall appoint persons to attend  
 6 the election, which persons shall have the right to challenge  
 7 the casting of any vote on the question of the annexation.  
 8 The court or judge shall appoint and designate three such  
 9 challengers to serve at each place of voting both in the  
 10 municipality and in the territory proposed to be annexed.  
 11 A challenger so appointed and designated shall be a resi-  
 12 dent of the municipality or territory where he officiates.

13 The county court of the county where the municipality or  
 14 portion thereof greatest in population lies, shall furnish  
 15 sealed ballot boxes, which at the close of the voting shall be  
 16 transmitted sealed and unopened to the county court, which  
 17 shall proceed to count and canvass the votes cast.

Sec. 24. *Certification of Results.* The county court shall  
 2 forthwith certify to the circuit court or judge, hereinbefore  
 3 designated, the results of the election. If a majority of the  
 4 votes cast by the qualified voters of the municipality, and

5 by a majority of the qualified voters residing in and owning  
6 any portion of the contiguous territory are in favor of the  
7 annexation, the circuit court or judge shall endorse the  
8 certificate to that effect and shall file the endorsed certificate  
9 in the office of the clerk of the county court. The annexa-  
10 tion shall be effective as of the date of such filing.

Sec. 25. *Minor Boundary Adjustments.* In the case of a  
2 minor boundary adjustment, the governing body of a muni-  
3 cipality may apply to the circuit court, or judge in vacation  
4 having jurisdiction over the area to be annexed. Applica-  
5 tion shall show the metes and bounds of the area to be  
6 annexed, the number of persons residing therein, and a  
7 proper map of the area.

8 The court or judge, if satisfied that the annexation applied  
9 for is only a minor boundary adjustment, shall order publi-  
10 cation of a notice that annexation has been proposed, and  
11 shall set a time for a hearing on the question. Publication  
12 shall be as in the case of an annexation election. Notice  
13 shall be prominently posted at not less than five public  
14 places within the area to be annexed.

15 If the proposed annexation is not substantially opposed  
16 at the hearing by a person having an interest in the land  
17 within the area to be annexed, the court or judge may enter  
18 an order changing the boundaries of the municipality to  
19 embrace the annexed area. If the annexation is substantially  
20 opposed at the hearing by a proper party the court or judge  
21 shall dismiss the application. The municipality shall pay  
22 the costs of the proceedings under this section.

## CHAPTER 57

(House Bill No. 2—By Messrs. Jimison and Russek)

AN ACT to provide for the appointment and promotion of members of paid police 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 em-

ployees of paid police 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 providing penalties for the violation of the provisions of this act.

[Passed March 1, 1937; in effect June 1, 1937. Approved by the Governor.]

**Section**

1. Appointments and promotions in paid police departments.
2. Civil service commission; appointment; qualifications; removal.
3. Clerk of commission.
4. Offices and supplies for commission.
5. Powers and duties of commission.
6. Rules and regulations of commission; probationary period for appointees.
7. Examinations; eligible lists.
8. Application for examination; refusal to examine or certify; hearing on.
9. Appointments from eligible list.
10. Filling vacancy when there is no eligible list.
11. Filling vacancies by promotion.
12. Physical examinations of applicants; age limits; reappointment of former member.
13. Removal, discharge, retirement, etc., of members of police department.
14. No political or religious test permitted.
15. Failure to comply with provisions of act a misdemeanor.
16. Offenses constituting misdemeanors under act.
17. Penalties.
18. When examinations not required.
19. Provisions severable.
20. Inconsistent acts repealed.
21. Political activity of police officers prohibited.
22. Election to determine if act applies to city of five thousand population or less; cities having police civil service not affected.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Appointments and Promotions in Paid Police Departments.* All appointments to and promotions in all paid police departments of cities and municipalities of five thousand population or more, 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 date this act takes effect no person except the chief of police shall be appointed, reinstated, promoted or discharged as a paid member of said department of any city or municipality in the state of West



11 Virginia subject to the provisions hereof, in any manner or  
12 by any means other than those prescribed in this act.

13       Sec. 2. *Civil Service Commission: Appointment; Quali-*  
14 *fications; Removal.* There shall be a "civil service commis-  
15 sion" in each city or municipality of five thousand popu-  
16 lation or more, having a police department, in which mem-  
17 bers thereof are paid by said city or municipality. The  
18 civil service commission in each shall consist of three com-  
19 missioners, one of whom shall be appointed by the governor;  
20 one of whom shall be appointed by the local fraternal order  
21 of police and the third shall be appointed by the local cham-  
22 ber of commerce, or if there be none, by a business men's  
23 association. The persons appointed commissioners shall be  
24 qualified voters of the city or municipality for which they  
25 are appointed; and at least two of said commissioners shall  
26 be persons in full sympathy with the purposes of this act.  
27 Not more than two of the said commissioners, at any one  
28 time, shall be adherents of the same political party. The  
29 commissioners in each city or municipality shall be appointed  
30 as follows: On the date this act takes effect, the person,  
31 organization or board having appointive power to this civil  
32 service commission shall appoint three commissioners, the first  
33 of which to be appointed by the governor shall serve for six  
34 years from the date of his appointment; the second commis-  
35 sioner to be appointed by the local fraternal order of police  
36 shall serve for four years from the date of his appointment;  
37 and the third commissioner to be appointed by the chamber  
38 of commerce, or business men's association of each city or  
municipality shall serve for a term of two years from the  
date of his appointment; in the absence of the existence of  
a chamber of commerce or business men's association at the  
time any appointment is to be made, this third appointment  
shall be made by the other two commissioners by mutual  
agreement; thereafter all appointments shall be made for  
periods of four years each by the appointing power herein-  
before 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 commis-  
sioner shall be appointed to fill out the unexpired term of  
said commissioner within ten days after said excommissioner

39 shall have ceased to be a member of said commission. Such  
40 appointment shall be made by the person, officer or body who  
41 in the first instance appointed the commissioner who is no  
42 longer a member of the commission. The three members of  
43 the commission shall, together, elect one of their number to  
44 act as president of the commission, who shall serve as presi-  
45 dent for one year. Each year thereafter the commissioners  
46 shall elect one of their number president, the member so  
47 elected to serve one year. The governor, mayor, city man-  
48 ager, or principal executive officer of any city or munici-  
49 pality may, at any time, remove a commissioner or commis-  
50 sioners for good cause, which shall be stated in writing and  
51 made a part of the records of the commission: *Provided,*  
52 *however,* That once the governor, mayor, city manager, or  
53 principal executive officer, has to remove any commissioner,  
54 or commissioners such removal shall be temporary only and  
55 shall be in effect for a period of ten days, if at the end of  
56 said period of ten days the circuit court of the county in  
57 which said city or municipality is located, is in term or  
58 session. Within said ten-day period the governor, mayor,  
59 city manager or principal executive officer, shall file in the  
60 office of the clerk of the circuit court of said county a petition  
61 setting forth in full the reason for said removal and praying  
62 for the confirmation of said circuit court of the action of the  
63 governor, mayor, city manager or principal executive officer,  
64 in so removing the said commissioner or commissioners. A  
65 copy of said petition, in writing, shall be served upon the  
66 commissioner or commissioners so removed simultaneously  
67 with its filing in the office of the clerk of the circuit court  
68 and shall have precedence on the docket of said court and  
69 shall be heard by said court as soon as practicable upon the  
70 request of the removed commissioner or commissioners. All  
71 rights hereby vested in said circuit court may be exercised  
72 by the judge thereof during vacation. In event that no term  
73 of circuit court is being held at the time of the filing of said  
74 petition, and the judge thereof can not be reached in the  
75 county wherein the petition was filed, said petition shall be  
76 heard at the next succeeding term of said circuit court,  
77 whether regular or special, and the commissioner or commis-  
78 sioners so suspended shall remain suspended until a hearing

79 is had upon the said petition of the governor, mayor, city  
80 manager, or principal executive officer of the city. The court,  
81 or the judge thereof, in vacation, shall hear and decide upon  
82 said petition. The contestant or contestants against whom  
83 the decision of the court or judge thereof, in vacation, shall  
84 be rendered, shall have the right to petition the supreme  
85 court of appeals for a review of the decision of the circuit  
86 court, or the judge thereof, in vacation, as in chancery cases.  
87 In the event that the governor, mayor, city manager, or prin-  
88 cipal executive officer of the city, shall fail to file his petition  
89 in the office of the clerk of the circuit court, as hereinbefore  
90 provided, within ten days after the removal of said com-  
91 missioner, or commissioners, such commissioner or commis-  
92 sioners shall immediately resume his or their position or  
93 positions of the civil service commission.

94 Any citizen or citizens shall have the right, at any time,  
95 to file charges against any member of the civil service com-  
96 mission; such charges shall be filed in the form of a petition  
97 in the office of the clerk of the circuit court, a copy of said  
98 petition, in writing, to be served upon the commissioner or  
99 commissioners sought to be removed. Said petition shall be  
100 matured for hearing and heard by the circuit court of the  
101 county wherein the said city or municipality for which said  
102 commissioner or commissioners serves, as members of the  
103 civil service commission in the same manner as chancery pro-  
104 ceedings in the circuit courts of West Virginia are heard,  
105 saving the right to petition the supreme court of appeals for  
106 a review of the action of the circuit court of the contestant  
107 or contestants against whom the circuit court's decision is  
108 rendered.

109 No commissioner shall hold any other office under the  
110 United States, the state of West Virginia, or any city,  
111 municipality, county or other political subdivision thereof;  
112 nor shall any commissioner serve on any political committee  
113 or take any active part in the management of any political  
114 campaign.

Sec. 3. *Clerk of Commission.* 'The city clerk or city recorder  
2 of any city or municipality under the terms of this act shall  
3 be ex officio clerk of the civil service commission and shall

4 supply to the commission without extra compensation all  
5 necessary clerical and stenographic services for the work of  
6 the civil service commission.

Sec. 4. *Offices and Supplies for Commission.* It shall be the  
2 duty of the mayor, city manager, or principal executive officer,  
3 and heads of departments of every city or municipality of five  
4 thousand population or more, to cause suitable and convenient  
5 rooms and accomodations to be assigned and provided, and to  
6 be furnished, heated and lighted for carrying on the work and  
7 examinations of the civil service commission. The civil service  
8 commission may order from the proper authorities the neces-  
9 sary stationery, postage stamps, official seal and other articles  
10 to be supplied, and the necessary printing to be done, for its  
11 official use. It shall be the duty of the officers of every city or  
12 municipality to aid the civil service commission in all proper  
13 ways in carrying out the provisions of this act, and to allow  
14 the reasonable use of public buildings, and to heat and light  
15 the same, for holding examinations and investigations, and in  
16 all proper ways to facilitate the same.

Sec. 5. *Powers and Duties of Commission.* The civil serv-  
2 ice commission in each city or municipality, within the terms  
3 of this act, shall:

4 First: Keep minutes of its own proceedings, and records  
5 of its examinations and other official actions. All recommen-  
6 dations of applicants for office, received by the said commis-  
7 sion or by any officer having authority to make appointments  
8 to office, shall be kept and preserved for a period of ten years,  
9 and all such records, recommendations of former employees  
10 excepted, and all written causes of removal, filed with it.  
11 shall, subject to reasonable regulation, be open to public in-  
12 spection;

13 Second: Make investigations, either by sitting as a body  
14 or through a single commissioner, concerning all matters  
15 touching the enforcement and effect of the provisions of this  
16 act, and the rules and regulations prescribed thereunder,  
17 concerning the action of any person in the public service in  
18 respect to the execution of this act; and, in the course of  
19 such investigation, each commissioner shall have the power  
20 to administer oaths and affirmations, and to take testimony;

21 Third: Have power to subpoena and require the attendance  
22 of witnesses, and the production thereby of books and papers  
23 pertinent to the investigations and inquiries hereby author-  
24 ized and to examine them and such public records as it shall  
25 require, in relation to any matter which it has the authority  
26 to investigate. The fees of such witnesses for attendance and  
27 travel shall be the same as for witnesses before the circuit  
28 courts, and shall be paid from the appropriation for the  
29 incidental expense of the commission. All officers in the  
30 public service, and their deputies, clerks, subordinates and  
31 employees shall attend and testify when required to do so by  
32 said commission and all cities and municipalities are re-  
33 quired to appropriate sufficient funds for the purpose of  
34 carrying out the provisions of this act. Any disobedience to,  
35 or neglect of any one of them, to any person, shall be held a  
36 contempt of court, and shall be punished by any circuit court,  
37 within the county in which is the city, from the civil service  
38 commission of which the said subpoena had issued, as if such  
39 subpoena had been issued therefrom. Any judge of any of said  
40 courts shall, upon the application of any one of said commis-  
41 sioners, in such cases, cause the process of said court to issue  
42 to compel such person or persons, disobeying or neglecting  
43 any such subpoena, to appear and to give testimony before the  
44 said commissioners, or any of them and shall have power to  
45 punish any such contempt;

46 Fourth: Make an annual report to the mayor, city man-  
47 ager, or principal executive officer showing its own action,  
48 and rules and regulations, and all the exceptions thereto in  
49 force, and the practical effects thereof, and any suggestions  
50 it may approve for the more effectual accomplishment of the  
51 purpose of this act. Such report shall be available for public  
52 inspection five days after the same shall have been delivered  
53 to the mayor, city manager, or principal executive officer of  
54 any city or municipality.

Sec. 6. *Rules and Regulations of Commission; Probationary*  
2 *Period for Appointees.* The civil service commission, in each  
3 city or municipality, shall make rules and regulations provid-  
4 ing for examinations for positions in the paid police depart-  
5 ment in each city or municipality under this act, and for ap-  
6 pointments to and promotions therein, and for such other mat-

7 ters as are necessary to carry out the purposes of this act. Due  
8 notice of the contents of such rules and regulations and of any  
9 modifications thereof shall be given, by mail, in due season, to  
10 appointing officers affected thereby; and said rules and regu-  
11 lations and modifications thereof shall also be printed for pub-  
12 lic distribution. All original appointments to any positions in  
13 police departments within the terms of this act shall be for a  
14 probationary period of six months: *Provided, however,* That  
15 at any time during the probationary period the appointee may  
16 be dismissed for just cause, in the manner provided in section  
17 thirteen of this act. If, at the close of this probationary term,  
18 the conduct or capacity of the probationer has not been satis-  
19 factory to the appointing officer, the probationer shall be  
20 notified, in writing, that he will not receive absolute appoint-  
21 ment, whereupon his employment shall cease; otherwise, his  
22 retention in the service shall be equivalent to his final ap-  
23 pointment.

Sec. 7. *Examinations; Eligible Lists.* All examinations for  
2 positions or promotions shall be practical in their character,  
3 and shall relate to such matters, and include such inquiries,  
4 as will fairly and fully test the comparative merit and fitness  
5 of the person or persons examined to discharge the duties of the  
6 employment sought by him or them. All examinations shall be  
7 open to all applicants who have fulfilled the preliminary re-  
8 quirements, stated in other sections of this act. All applicants  
9 for any position in police department shall, as hereinafter stat-  
10 ed, subject to regulations adopted by the civil service commis-  
11 sion, be required to submit to a physical examination before be-  
12 ing admitted to the regular examinations held by the commis-  
13 sion. Said applicant shall have been a resident for three years  
14 next preceding date of his application, of the city or municipal-  
15 ity in which he seeks to obtain employment in the police depart-  
16 ment. Adequate public notice of the time and place of every  
17 examination held under the provisions of this act, together  
18 with information as to the kind of position or place to be  
19 filled, shall be given at least one week prior to such examina-  
20 tion. The said commission shall adopt reasonable regulations  
21 for permitting the presence of representatives of the press at  
22 the examinations. The commission shall post, in a public  
23 place at its office, the eligible list, containing the names and

24 grades of those who have passed examinations for positions  
25 in police departments, under this act, and shall indicate  
26 thereon such appointments as may be made from said lists.

Sec. 8. *Application for Examination; Refusal to Examine  
2 or Certify; Hearing on.* The civil service commission, in each  
3 city or municipality, shall require persons applying for admis-  
4 sion to any examination provided for under this act or under  
5 the rules and regulations of the said commission, to file in its  
6 office, within a reasonable time prior to the proposed examina-  
7 tion, a formal application in which the applicant shall state  
8 under oath or affirmation:

9 First: His full name, residence, and post office address;

10 Second: His United States citizenship, age, and the place  
11 and date of his birth;

12 Third: His health, and his physical capacity for public  
13 service;

14 Fourth: His business and employments and residences for  
15 at least three previous years;

16 Fifth: Such other information as may reasonably be re-  
17 quired, touching the applicant's qualifications and fitness for  
18 the public service.

19 Blank forms for such applications shall be furnished by the  
20 said commission, without charge, to all persons requesting the  
21 same. The said commission may require, in connection with  
22 such application, such certificate of citizens, physicians or oth-  
23 ers, having knowledge of the applicant, as the good of the ser-  
24 vice may require. The said commission may refuse to examine  
25 an applicant, or, after examination, to certify as eligible, one  
26 who is found to lack any of the established preliminary re-  
27 quirements for the examination or position or employment for  
28 which he applies; or who is physically so disabled as to be ren-  
29 dered unfit for the performance of the duties of the position to  
30 which he seeks appointment; or who is addicted to the habitual  
31 use of intoxicating liquors or drugs; or who has been guilty  
32 of any crime, or of infamous or notoriously disgraceful con-  
33 duct; or who has been dismissed from the public service for  
34 delinquency or misconduct; or who has made a false state-  
35 ment of any material fact, or practiced or attempted to prac-  
36 tice any deception or fraud in his application, in his examin-

37 ation, or in securing his eligibility; or who refuses to comply  
38 with the rules and regulations of the commission.

39 If any applicant feels himself aggrieved by the action of  
40 the commission in refusing to examine him, or after an ex-  
41 amination, to certify him as an eligible, as provided in this  
42 section, the commission shall, at the request of such applicant,  
43 appoint a time and place for a public hearing; at which time  
44 such applicant may appear, by himself or counsel, or both,  
45 and the commission shall then review its refusal to make  
46 such examination or certification, and testimony shall be  
47 taken. The commission shall subpoena, at the expense of the  
48 applicant, any competent witnesses requested by him. After  
49 such review, the commission shall file the testimony taken, in  
50 its records, and shall again make a decision, which decision  
51 shall be final.

Sec. 9. *Appointments From Eligible List.* Every po-  
2 sition or employment, unless filled by promotion, rein-  
3 statement, or reduction, shall be filled only in the fol-  
4 lowing manner: The appointing officer shall notify the  
5 civil service commission of any vacancy in the service  
6 which he desires to fill, and shall request the certifica-  
7 tion of eligibles. The commission shall forthwith certify, from  
8 the eligible list, the names of three persons thereon who re-  
9 ceived the highest averages at preceding examinations held  
10 under the provisions of this act within a period of three years  
11 next preceding the date of such appointment. The appointing  
12 officer shall, thereupon, with sole reference to the relative mer-  
13 it and fitness of the candidates, make an appointment from the  
14 three names so certified: *Provided, however,* That should he  
15 make objection, to the commission, to one or more of these per-  
16 sons, for any of the reasons stated in section eight of this act,  
17 and should such objection be sustained by the commission, as  
18 provided in section eight of this act, the commission shall  
19 thereupon strike the name of such person from the eligible list,  
20 and certify the next highest name for each person so stricken off.  
21 As each subsequent vacancy occurs, in the same or another po-  
22 sition, precisely the same procedure shall be followed: *Pro-*  
23 *vided, however,* That after any name has been three times  
24 rejected for the same or another position, in favor of a name  
25 or names below it on the same list, the said name shall be



26 stricken from the list. When there are a number of positions  
27 of the same kind to be filled at the same time, each appoint-  
28 ment shall, nevertheless, be made separately and in accord-  
29 ance with the foregoing provisions. When an appointment is  
30 made under the provisions of this section it shall be, in the  
31 first instance, for the probationary period of six months as  
32 provided in section six of this act.

33 The term "appointing officer" as used in this act shall be  
34 construed to mean the city or municipal officer in whom the  
35 power of appointment of members to a paid police department  
36 is vested by the charter of a city or municipality in which an  
37 appointment shall be made.

Sec. 10. *Filling Vacancy When There is no Eligible List.*  
2 Whenever there are urgent reasons for filling a vacancy in  
3 any position in the police department and there is no list of  
4 persons eligible for appointment after a competitive examina-  
5 tion, the appointing officer may nominate a person to the civil  
6 service commission for noncompetitive examination; and if  
7 such nominee shall be certified by the said commission as  
8 qualified, after such noncompetitive examination, he may be  
9 appointed provisionally, to fill such vacancy until a selection  
10 and appointment can be made after competitive examination,  
11 in the manner prescribed in section nine; but such provisional  
12 appointment shall not continue for a longer period than  
13 three months, nor shall successive provisional appointments  
14 be made to the same position, under this provision.

Sec. 11. *Filling Vacancies by Promotion.* Vacancies in  
2 positions in the police department shall be filled, so far as  
3 practicable, by promotion from among persons holding posi-  
4 tions in the next lower grade in the department. Promotions  
5 shall be based upon merit to be ascertained by tests to be  
6 provided by the civil service commission and upon the su-  
7 perior qualifications of the persons promoted, as shown by  
8 his previous service and experience: *Provided, however,* That  
9 except for chief of police no person shall be eligible for  
10 promotion from the lower grade to the next higher grade  
11 until such person shall have completed at least two years'  
12 service in the next lower grade in the department. The com-  
13 mission shall have the power to determine in each instance  
14 whether an increase in salary constitutes a promotion.

2     *Sec. 12. Physical Examination of Applicants; Age Limits;*  
3     *Reappointment of Former Member.* All applicants for any po-  
4     sition in the police department shall undergo a physical exam-  
5     ination which shall be conducted under the supervision of a  
6     commission composed of two doctors of medicine appointed for  
7     that mission by the mayor, city manager, or principal execu-  
8     tive officer of the city or municipality. Said commission shall  
9     certify that an applicant is free from any bodily or mental  
10    defects, deformity or diseases that might incapacitate him  
11    from the performance of the duties of the position desired  
12    before said applicant shall be permitted to take further ex-  
13    amination. No application will be received if the person ap-  
14    plying is less than twenty-one years of age or more than  
15    thirty-five years of age at the date of his application: *Pro-*  
16    *vided, however,* That in event any applicant has formerly  
17    served upon the police department of the city to which he  
18    makes application, for a period of more than six months, and  
19    has resigned from the department at a time when there were  
20    no charges of misconduct or other misfeasance pending  
21    against such applicant, within a period of two years next  
22    preceding the date of his application, and is a resident of the  
23    city or municipality, and is still a resident of the city or  
24    municipality of the police department on which he seeks  
25    reinstatement, then such person shall be eligible for rein-  
26    statement in the discretion of the civil service commission,  
27    even though such applicant shall be over the age of thirty-  
28    five years. Such applicant, providing his former term of  
29    service so justifies, may be reappointed to the police depart-  
30    ment without examination other than a physical examination;  
31    if such person shall be so reinstated to the police department.  
32    he shall be the lowest in rank in the department next above  
33    the probationers of the department: *Provided further,* That  
34    any person who is, at the time this act goes into effect, serving  
35    upon the police department of the city to which he makes  
36    application, and has served in such capacity for at least six  
37    months prior to the time this act takes effect, shall be eligible  
38    to take the examination provided for herein even though such  
   applicant shall be over the age of thirty-five years.

2     *Sec. 13. Removal, Discharge, Retirement, etc. of Members*  
   *of Police Department.* No member of any police department

3 within the terms of this act shall be removed, discharged or  
4 reduced in rank or pay except for just cause, which shall not  
5 be religious or political, except as hereinafter provided in  
5-a section twenty-one; further, no such employee shall be  
6 removed, discharged or reduced except as provided in this  
7 act, and in no event until he shall have been furnished with  
8 a written statement of the reasons for such action. In every  
9 case of such removal or reduction, a copy of the statement  
10 of reasons therefor and of the written answer thereto, if the  
11 person sought to be removed desires to file such written  
12 answer, shall be furnished to the civil service commission  
13 and entered upon its records. If the person sought to be  
14 removed or reduced shall demand it, the civil service com-  
15 mission shall grant him a public hearing, which hearing shall  
16 be held within a period of ten days from the filing of the  
17 charges in writing and the written answer thereto. At such  
18 hearing the burden shall be upon the removing officer to  
19 justify his action and in event that the civil service commis-  
20 sion finds the action of the removing officer unjustified, then  
21 the person removed shall be reinstated with full pay  
22 for the entire period during which he may have been pre-  
23 vented from performing his usual employment, and no  
24 charges shall be officially recorded against his record. A writ-  
25 ten record of all testimony taken at such hearing shall be kept  
26 and preserved by the civil service commission, which record  
27 shall be sealed and not be open to public inspection,  
28 if no appeal be taken from the action of the com-  
29 mission. In event that the civil service commission shall  
30 sustain the action of the removing officer the person removed  
31 shall have an immediate right of appeal to the circuit court  
32 of the county wherein the city or municipality is situated.  
33 Said appeal shall be taken within ninety days from the entry  
34 by the civil service commission of its final order; upon such  
35 an appeal being taken and docketed with the clerk of the  
36 circuit court of said county, the circuit court shall proceed  
37 to hear the appeal upon the original record taken therein and  
38 no additional proof shall be permitted to be introduced. The  
39 circuit court's decision shall be final, saving to the employee,  
40 however, the right to petition the supreme court of appeals  
41 for a review of the circuit court's decision.

42 The removing officer and the person sought to be removed  
43 shall at all times, both before the civil service commission and  
44 upon appeal, be given the right to employ counsel to repre-  
45 sent them: *Provided, however,* That if for reasons of economy  
46 or other reasons it shall be deemed necessary by any city or  
47 municipality to reduce the number of paid members of any po-  
48 lice department then said municipality shall follow the fol-  
49 lowing procedure:

50 First: If there be any paid policemen eligible for retire-  
51 ment under the terms of a pension fund act, if such fund  
52 exists in said city or municipality, then such reduction in  
53 numbers shall be made by retirement on pension of all such  
54 eligible paid members of the police department;

55 Second: If the number of paid policemen eligible for re-  
56 tirement under the pension fund of said city or municipality,  
57 if such pension fund exists, is sufficient to effect the reduction  
58 in numbers of said paid police department desired by said  
59 city or municipality, or if there is no eligible person for re-  
60 tirement under the pension fund of said city or municipality,  
61 or no pension fund exists in said city or municipality, then  
62 reduction in members of the paid police department of said  
63 city or municipality shall be effected by suspending the last  
64 man or men, including probationers, that have been appointed  
65 to said police department. Such removal shall be accom-  
66 plished by suspending the number desired in the inverse  
67 order of their appointment: *Provided, further,* That in event  
68 the said police department shall again be increased in num-  
69 bers to the strength existing prior to such reduction of mem-  
70 bers the said policemen suspended under the terms of this  
71 act shall be reinstated in the inverse order of their suspen-  
72 sion before any new appointments to said police department  
73 shall be made.

Sec. 14. *No Political or Religious Test Permitted.* No  
2 question in any form of application or in any examination  
3 shall be so framed as to elicit information concerning the  
4 political or religious opinions or affiliations of any applicant;  
5 nor shall inquiry be made concerning such opinions or affilia-  
6 tions; and all disclosures thereof shall be discountenanced.  
7 No discrimination shall be exercised, threatened, or promised  
8 by any person in the police department against, or in favor

9 of, an applicant, eligible, or employee in police departments  
10 under this act because of his political or religious opinions  
11 or affiliations.

Sec. 15. *Failure to Comply With Provisions of Act a Misdemeanor.* Whoever makes an appointment to office, or selects a  
2 person for employment, contrary to the provisions of this act,  
3 or wilfully refuses or neglects otherwise to comply with, or to  
4 conform to any of the provisions of this act, or violate any of  
5 such provisions, shall be deemed guilty of a misdemeanor.  
6

Sec. 16. *Offenses Constituting Misdemeanors Under Act.*  
2 Any commissioner or examiner, or any other person, who  
3 shall wilfully, by himself or in cooperation with one or more  
4 persons, defeat, deceive or obstruct any person in respect to  
5 his right of examination or registration according to this act,  
6 or to any rules or regulations prescribed pursuant thereto,  
7 or who shall wilfully or corruptly, falsely mark, grade, esti-  
8 mate, or report upon the examination or proper standing of  
9 any person examined, registered, or certified, pursuant to the  
10 provisions of this act, or aid in so doing, or who shall wil-  
11 fully or corruptly furnish to any person any special or secret  
12 information, for the purpose of either improving or injuring  
13 the prospects or chances of appointment of any person so  
14 examined, registered, or certified, or to be examined, regis-  
15 tered, or certified; or who shall personate any other person,  
16 or permit or aid in any manner any other person to imper-  
17 sonate him in connection with any examination or registra-  
18 tion, or application or request to be examined or registered,  
19 shall, for each offense, be deemed guilty of a misdemeanor.

Sec. 17. *Penalties.* Misdemeanors under the provisions of  
2 this act shall be punishable by a fine of not less than fifty  
3 dollars, nor more than one thousand dollars, or by imprison-  
4 ment for a term not exceeding one year, or by both fine and  
5 imprisonment, in the discretion of the court.

Sec. 18. *When Examinations Not Required.* All paid po-  
2 licemen, including officers, except chiefs of police, who have  
3 had four years' service, in any city or municipal police depart-  
4 ment, and who are employed by any city or municipality on the  
5 date this act takes effect, shall be construed to have been ap-

6 . pointed under the provisions of this act and shall hold their  
7 positions in accordance therewith. Policemen, including of-  
8 ficers, who have not had four years' service in a paid city or  
9 municipal police department, shall be subject to the exam-  
10 ination provided for in this act: *Provided*, That the re-  
11 quirement for examination of men who have not had four  
12 years' service prior to the passage of this act, shall not  
13 apply to men who have been injured in line of duty while  
14 in service, which injuries would disqualify them under  
15 the examination herein required, nor shall it apply to mem-  
16 bers of paid police departments, including officers of such de-  
17 partments, in cities or municipalities which now operate un-  
18 der a city system of civil service.

2       *Sec. 19. Provisions Severable.* If any clause, sentence, sec-  
3 tion, provision or part of this act shall be adjudged to be  
4 unconstitutional or invalid for any reason by any court of  
5 competent jurisdiction, such judgment shall not impair, af-  
6 fect or invalidate the remainder of this act, which shall re-  
7 main in full force and effect thereafter.

2       *Sec. 20. Inconsistent Acts Repealed.* All acts and parts of  
3 acts of the Legislature of the state of West Virginia, general,  
4 special, local or municipal charters, or parts thereof, in re-  
5 lation to any civil service measure affecting the paid police  
6 departments of any city or municipality inconsistent with  
7 this act shall be, and the same are hereby repealed insofar  
8 as such inconsistencies shall exist. It is understood and in-  
9 tended by this act to furnish a complete and exclusive system  
10 for the appointment, promotion, reduction, removal and re-  
11 instatement of all officers, policemen or other employees of  
12 said police departments in all cities and municipalities of  
13 five thousand population or more, wherein the members of the  
14 police department are paid.

2       *Sec. 21. Political Activity of Police Officers Prohibited.*  
3 No police officer shall serve as an election official, nor shall  
4 he engage in any political activity, other than to vote, in  
5 behalf of, or in opposition to, any candidate, political party  
6 or public issue involved in any election. Any violation by a  
7 police officer of the provisions of this section shall automatic-  
8 ally vacate his appointment.

Sec. 22 *Election to Determine if Act Applies to City of Five Thousand Population or Less; Cities Having Police Civil Service Not Affected.* Any municipality of five thousand population or less, may, by ordinance, provide for an election to determine whether the provisions of this act shall apply to such municipality. Such election shall be held at the first general election held in such municipality after the adoption of said ordinance and shall be conducted and the result thereof ascertained as is provided by law for other elections. The ballots shall have printed thereon:

For Police Civil Service.

Against Police Civil Service.

If a majority of all the votes cast on this question be against police civil service, then none of the provisions of this act shall apply within such municipality.

The provisions of this section shall not apply to any municipality now operating under police civil service.

## CHAPTER 58

(House Bill No. 414—By Mr. Doring)

AN ACT to amend article six, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, by adding to said article a new section to be designated section fourteen-a, providing for the collection of an arrest fee for the benefit of policemen's pension or relief fund, to be taxed as part of costs in convictions for violation of municipal ordinances when arrest is made by a member of the police department.

[Passed March 13, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Article 6. Fire Departments, Fire Companies, and Firemen's and Policemen's Pension or Relief Fund.

#### Section

14-a. When arrest fee to be collected for municipal policemen's pension or relief fund.

*Be it enacted by the Legislature of West Virginia:*

That article six, chapter eight of the code of West Virginia, one

thousand nine hundred thirty-one, be amended by adding thereto a new section to be designated section fourteen-a, to read as follows:

Section 14-a. *When Arrest Fee to be Collected for Municipal Policemen's Pension or Relief Fund.* In cases of the conviction for violation of any municipal ordinance of any person arrested by any member of the police department of any city or municipality having a policemen's pension or relief fund an arrest fee of one dollar shall be taxed as part of the costs, in addition to other fees authorized by law, and shall be collected from the person convicted, and such arrest fee shall be paid into the policemen's pension or relief fund.

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## CHAPTER 59

(Senate Bill No. 119—By Mr. Allen, by request)

AN ACT to amend and reenact section nine, article seven, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, relating to the registration of nurses, and prohibiting the illegal practice of nursing.

[Passed March 13, 1937; in effect ninety days from passage. Approved by the Governor.]

### Article 7. Nurses.

#### Section

9. Use of title "registered nurse"; nurses registered in another state.

*Be it enacted by the Legislature of West Virginia:*

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

Section 9. *Use of Title "Registered Nurse"; Nurses Registered in Another State.* Any person who has received a certificate according to the provisions of this article shall be styled and known as a "registered nurse," and no other per-



5 son shall assume such title, or use the abbreviation "R. N." or  
6 any other letters or figures to indicate that she is a registered  
7 nurse. No person who has not duly received a certificate from  
8 the state board of examiners shall practice professional nurs-  
9 ing with the representation that she is a registered nurse, nor  
10 shall advertise to the public as a nurse, without stating that  
11 she is not a registered nurse, and it shall be unlawful for any  
12 hospital, or other similar institution, physician, dentist, phar-  
13 macist or other person to advertise any person as a nurse, or  
14 to keep publicly the name of any person upon a record or list  
15 of names of nurses, unless such person has been duly granted a  
16 certificate to practice as a registered nurse within this state,  
17 or unless such advertisement, record or list shall state that  
18 such person or nurse is "not registered". No registered nurse  
19 who is registered in any other state, territory or in the Dis-  
20 trict of Columbia, shall practice nursing in this state without  
21 being registered in this state under the provisions of this  
22 article.

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## CHAPTER 60

(Senate Bill No. 120—By Mr. Allen, by request)

AN ACT to amend and reenact section five, article seven, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, relating to the registration and training of nurses.

[Passed March 13, 1937; in effect ninety days from passage. Approved by the Governor.]

### Article 7. Nurses.

#### Section

5. Accredited schools for nurses; affiliated schools; school records; advance credit to pupils.

*Be it enacted by the Legislature of West Virginia:*

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

Section 5. *Accredited Schools for Nurses; Affiliated Schools; School Records; Advance Credit to Pupils.* An accredited school for nurses within the meaning of this article is defined to be one connected with a hospital having a daily average of at least fifteen patients, which requires its pupil nurses in training to have had at least four years of high school education, or three years of high school work after graduation from a standard junior high school, and to have received a diploma or certificate of graduation from a standard high school in this state, or from a high school outside this state having equal standards, grades and requirements; which does not send out its pupil nurses for private duty; which employs regularly at least one registered nurse; and which provides for its pupil nurses a three years' continuance theoretical and practical course of training in bedside nursing, except for a vacation not to exceed four weeks each year, and a substantial course of training in each of the subjects named in the preceding section upon which applicants for certificates are to be examined by the board of examiners for nurses. Practical bedside nursing shall include the care of medical and surgical patients, male and female, obstetrical patients and children.

If a school for nurses is unable to give a full three years' course, but provides a two years' course and otherwise meets the requirements of an accredited school, it may affiliate for a third year's training with an accredited three-year school which complements the training of the first by supplying the courses which the first lacks. An applicant who has completed a full three years' course by attendance in two such affiliated schools may, in the board's discretion, be treated as a graduate of an accredited school. A hospital which gives training to pupil nurses along special lines may, under the supervision of the board, be accredited for its particular service as an affiliated school.

Any school for nurses to receive credit under this article shall maintain accurate and current records showing in full the theoretical and practical courses of instruction given to each pupil, and shall maintain healthful and comfortable living conditions for the pupils. Schools may only give

- 39 advance credit to pupils transferring from accredited schools,  
40 and then only upon a certificate from the school from which  
41 the pupil is transferred, evidencing the good standing of the  
42 pupil at the time of transfer.

## CHAPTER 61

(Senate Bill No. 2—By Mr. Barnhart)

AN ACT to regulate the assignment of the assets of an insolvent debtor to a trustee for the benefit of all of his creditors; to prescribe the rights, powers and duties of trustees thereunder, the powers and duties of commissioners of accounts and clerks of county courts in connection therewith; to provide for the proof, allowance and payment of secured and unsecured claims against such debtors; to regulate the sale of the assets assigned thereby; to authorize the payment of the costs and expenses of administration and the payment of dividends to the persons entitled thereto, and for said purposes to repeal sections fourteen, fifteen, sixteen, seventeen and eighteen, article one, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, and to enact a new article of said chapter thirty-eight to be known as article thirteen thereof.

[Passed March 3, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Article 13. Assignment by Insolvent for the Benefit of all Creditors.

#### Section

1. Assignment by insolvent; form; acknowledgment; recordation; assent of trustee.
2. Oath and bond of trustee.
3. Reference to commissioner of accounts; appraisers.
4. Trustee to file schedule; substitute trustee.
5. Notice by trustee to creditors; publication and mailing.
6. Filing and proof of claims.
7. Liens requiring or not requiring proof; waiver by lienor; delinquent taxes.
8. First meeting of creditors; substitute trustee.
9. Sales by trustee; creditors may prescribe manner and terms; powers of commissioner.
10. Trustee's report to commissioner; notice to creditors of filing and meeting.

11. Report by commissioner; appeal from decision; directions to trustee; dividends; closing trusteeship.
12. Powers, duties and qualifications of trustee; substitute trustee.
13. Powers and duties of commissioner.
14. Duties of assignor.
15. Commissioner to certify to circuit court disobedience of order, etc.; action by court.
16. Expenses and fees of trustee, commissioner, appraisers and attorney for trustee.
17. Provisions of article severable.
18. Sections repealed; code chapter and article of act.

*Be it enacted by the Legislature of West Virginia:*

That sections fourteen, fifteen, sixteen, seventeen and eighteen, article one, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, be repealed, and that a new article, to be known as article thirteen, be added to said chapter thirty-eight, as follows:

Section 1. *Assignment by Insolvent; Form; Acknowledgement; Recordation; Assent of Trustee.* Every assignment, conveyance or transfer made by an insolvent debtor to a trustee which is intended to operate as an assignment of all of such debtor's property for the benefit of all of his creditors, or of all such property except what is exempt from execution or other process, shall be in writing, and shall specifically state therein the residence and kind of business carried on by such debtor at the time of making the assignment, the place at which such business was conducted, and the name, residence, address and place of business of the trustee and there shall be annexed thereto a statement of the assets of the debtor and the location thereof, and a list of the names and addresses of his creditors.

Every such assignment, conveyance or transfer shall be duly acknowledged before an officer authorized to take the acknowledgment of deeds and shall be recorded in the office of the clerk of the county court of the county in which the principal place of business of the debtor is situated when real property is a part of the property assigned and is situated in a county other than the one in which the original assignment is required to be recorded, a certified copy of such assignment shall be filed and recorded in the county where such property is situated. The assent of the trustee, subscribed and acknowledged by him, shall appear in writing embraced in or at

26 the end of, or endorsed upon the assignment, before the  
27 same is recorded. In all cases where an assignment is  
28 made by a corporation the right to recover the amount due  
29 from stockholders on unpaid capital stock issued to or sub-  
30 scribed by them shall pass to the trustee whether mentioned in  
31 the assignment or not.

32 No such assignment, conveyance or transfer shall be valid  
33 and no title to the property assigned, conveyed or transferred  
34 shall vest in the trustee unless the same be executed as herein-  
35 above provided and unless the same be recorded within five  
36 days after the date of the execution thereof. The clerk shall  
37 record such instruments in the deed books in his office, and  
38 shall also keep them on file in his office.

Sec. 2. *Oath and Bond of Trustee.* Before the trustee shall  
2 have any power or authority to sell, dispose of or convert to  
3 the purposes of the trust any of the assigned property he  
4 shall qualify as such by taking an oath and giving a bond in  
5 a penalty double the amount of the estate, with a solvent sur-  
6 ety company as surety, before the clerk of the county court of  
7 the county in which such assignment, conveyance or trans-  
8 fer has been recorded. The oath of the trustee shall be  
9 that he will faithfully perform the duties of the office  
10 of trustee to the best of his skill and judgment, and will  
11 account for and pay over all money that comes into his  
12 hands as such trustee. The bond of the trustee shall be  
13 approved by the clerk, shall be conditioned that the trustee  
14 shall faithfully perform the duties of trustee to the best  
15 of his skill and judgment and account for and pay over  
16 all money that may come into his hands as trustee, and  
17 shall be filed in the office of the clerk. At any time after  
18 the giving of such bond the clerk may, upon his own motion,  
19 or upon the application of any party in interest, and on five  
20 days' notice given to the assignor, trustee and surety, increase  
21 the amount of the bond or require further security to be given,  
22 whenever in his judgment the penalty of the bond or the se-  
23 curity afforded by it is not adequate.

Sec. 3. *Reference to Commissioner of Accounts; Appraisers.*  
2 Upon the qualification of the trustee, the clerk shall refer the  
3 estate to a commissioner of accounts of the county, provided,

4 that in counties where there are two or more such commis-  
5 sioners, such estates shall be referred to such commissioners  
6 in rotation; and the clerk shall appoint three disinterested  
7 appraisers to appraise all the property belonging to the estate  
8 and, within seven days after their appointment, they shall  
9 make to the commissioner a report thereof in writing duly  
10 sworn to.

Sec. 4. *Trustee to File Schedule; Substitute Trustee.* With-  
2 in ten days after the recordation of an assignment, conveyance  
3 or transfer the trustee shall cause to be made and filed with  
4 the clerk of the county court of the county where the same is  
5 recorded a schedule containing:

6 1. The name, occupation, place of residence and place of  
7 business of the debtor;

8 2. A full and true account of all the creditors of the  
9 debtor, stating the last known place of residence of each,  
10 if known, or if unknown, the fact to be stated; the sum owing  
11 to each, with the true cause and consideration thereof; and a  
12 full statement of any existing security for the payment of the  
13 same;

14 3. A full and true inventory of all the debtor's estate  
15 at the date of the assignment, both real and personal,  
16 in law and in equity, with the liens and encumbrances  
17 existing thereon. The trustee shall verify the schedule so  
18 made by him to the effect that the same is in all respects  
19 just and true to the best of his knowledge and belief,  
20 and shall state the sources of his information and the grounds  
21 of his belief. The trustee shall at the same time file a dupli-  
22 cate of the said schedule with the commissioner of accounts  
23 to whom the estate has been referred. In case said trustee  
24 shall be unable to make and file such schedule, within ten  
25 days, the commissioner may, upon application under oath,  
26 showing such inability, allow him such further time as shall  
27 be necessary, not exceeding thirty days. If the trustee fails  
28 to make and file such schedule within said ten days or such  
29 further time as may be allowed, the commissioner shall re-  
30 quire, by order, the trustee forthwith to appear before him,  
31 and show cause why he should not be removed, and, if good  
32 cause be not shown, such trustee shall be removed and a meet-

33 ing of the creditors shall be called by the commissioner, at  
 34 which meeting a substitute trustee shall be elected. Any per-  
 35 son interested in the trust estate may apply for such order  
 36 and demand such removal.

*Sec. 5. Notice by Trustee to Creditors; Publication and Mail-*

2 *ing.* Within ten days after the filing of the schedule the trustee  
 3 shall cause to be published once a week for two successive  
 4 weeks in some newspaper published in the county, or, if there  
 5 be no newspaper published in the county, in some newspaper  
 6 having general circulation in the county, in which the assign-  
 7 ment, conveyance or transfer was recorded, a notice reading  
 8 substantially as follows:

9 "To the Creditors of..... :  
 10 Take notice that a general assignment for the benefit of  
 11 creditors was made by the above named debtor to.....  
 12 ....., Trustee, on.....  
 13 and that said assignment has been duly recorded in the office of  
 14 the Clerk of the County Court of..... County.

15 All persons having claims against the said debtor are here-  
 16 by notified that the same shall be presented to the undersigned  
 17 Trustee on or before.....  
 18 The estate has been referred to.....,  
 19 Commissioner of Accounts, and the first meeting of the  
 20 creditors will be held in his office at.....,  
 21 in..... County, West Virginia, on.....  
 22 ....., at..... o'clock ..... M.

23 Dated this ..... day of.....  
 24 (Signed)....., Trustee  
 25 (Address of Trustee)....."

26 A copy of the said notice shall be mailed by the trustee  
 27 on or before the date of the first publication thereof to  
 28 every creditor whose name appears in the schedule or of  
 29 whom the trustee has notice, to the assignor and to the  
 30 commissioner of accounts, and an affidavit evidencing such  
 31 mailing and publication shall be filed by the trustee with the  
 32 commissioner.

2 *Sec. 6. Filing and Proof of Claims.* The trustee shall specify  
 3 in the notice a date on or before which claims shall be present-  
 ed to him which date shall be not less than thirty days nor more

4 'than sixty days after the date of the first publication of the  
5 notice, and no claim filed with the trustee after the date  
6 specified in the notice shall be recognized or allowed, ex-  
7 cept that if a surplus remain after the payment of the  
8 claims presented on or before the date specified such sur-  
9 plus shall be applied to the payment of the claims pre-  
10 sented after that date. Claims of creditors shall be item-  
11 ized, accompanied by proper vouchers, and verified by the  
12 affidavit of the creditor or his duly authorized agent, stat-  
13 ing the character of the claim, whether open account,  
14 note, bond, bill, writing obligatory, judgment, decree or  
15 other evidence of debt, and the amount thereof, and from  
16 what date and on what items interest runs and at what  
17 per cent per annum, and stating further that the claim is  
18 just and true, and that the creditor, or any prior owner  
19 of the claim, if such there was, has not received any part  
20 of the money stated to be due, or any security or satis-  
21 faction for the same, except what is credited. The vouchers  
22 for a judgment or decree shall be an abstract thereof; for  
23 a specialty, bond, note, bill of exchange, writing obliga-  
24 tory, or other instrument, shall be the instrument itself,  
25 or a true copy thereof, verified by the commissioner of  
26 accounts, or proof of the same in case the instrument be lost;  
27 and for an open account, an itemized copy of the account. A  
28 surety may prove a claim of a creditor which he has  
29 secured when such creditor fails or refuses to do so.  
30 Every claim so itemized, so accompanied by proper vouchers,  
31 and so verified, shall be taken to be proved and shall be  
32 allowed unless, before the trustee shall make up his report  
33 of claims, the assignor or a creditor or any party in in-  
34 terest shall file before the trustee a counter-affidavit, deny-  
35 ing the claim in whole or in part; and when such counter-  
36 affidavit is so filed the trustee shall at once refer the claim  
37 to the commissioner who shall at the request of the claimant  
38 fix a time and place for hearing evidence of and against  
39 such claim and give reasonable notice of such time and  
40 place to the claimant and the party objecting. All hear-  
41 ings on disputed claims shall be completed within seven  
42 days after the last day on which claims may be presented



43 to the trustee, unless for good cause shown the commissioner  
44 extends the time for such hearings.

Sec. 7. *Liens Requiring or Not Requiring Proof; Waiver  
2 by Lienor; Delinquent Taxes.* Creditors holding valid liens  
3 of the following character on property belonging to the estate,  
4 to-wit: vendor's lien reserved in a deed duly recorded; lien  
5 created by deed of trust or mortgage, duly recorded, on real  
6 or personal property; judgment lien on real estate, duly dock-  
7 eted in the county in which the real estate is situated; lien on  
8 personal property created by execution, duly docketed in the  
9 county in which the property is located; reservation of title  
10 contained in conditional sales contract, duly filed, need not file  
11 proof of their said secured claims with the trustee, and in the  
12 event they do not do so the property affected shall be sold by  
13 the trustee subject to any such liens; but if said creditors file  
14 proofs of their secured claims with the trustee and request that  
15 the property affected shall be sold by the trustee free of said  
16 liens and deliver to the trustee a consent in writing, duly ac-  
17 knowledged in the manner provided for the acknowledg-  
18 ment of releases of liens, the trustee may, if he deems it  
19 in the best interest of the estate, record said consent in  
20 the release book in the office of the clerk of the county  
21 court of the county in which the property is located, and  
22 sell the property free and clear of the said lien, but the  
23 said lien shall attach to the proceeds of the property at  
24 the sale, and the trustee shall pay the said proceeds to  
25 the secured creditor to the amount of the secured claim,  
26 without any deduction for costs of administration. Creditors  
27 holding landlord's liens and other liens not included in  
28 those mentioned above shall file proof of their claims in  
29 the manner and within the time prescribed for proving  
30 unsecured claims, otherwise they shall not be recognized  
31 or allowed; but if they are properly filed the lien shall  
32 attach to the proceeds of the sale of the property covered  
33 thereby. The trustee may sell property belonging to the  
34 estate subject to delinquent taxes, or may sell free of taxes,  
35 and pay the same, but no proof of delinquent taxes need  
36 be filed with the trustee.

Sec. 8. *First Meeting of Creditors; Substitute Trustee.* The commissioner of accounts shall preside over the first meeting of the creditors which shall be held not less than ten nor more than twenty days after the date of the first publication of the notice thereof by the trustee. The assignor and the trustee shall attend the meeting, and either or both of them may be publicly examined at the meeting at the instance of any creditor. The creditors shall at the meeting take such steps as may be pertinent and necessary for the promotion of the best interests of the estate, and the meeting may be adjourned from time to time if the creditors see fit. If a majority in number and amount of all the unsecured creditors of the assignor, including those absent as well as those present, desire that the trustee named in the assignment shall not serve, at the first meeting of the creditors such a majority may elect a substitute trustee who shall have all the rights, powers and duties conferred upon the trustee named in the assignment. The substitute trustee shall qualify by taking the oath and giving a proper bond before the clerk, and a copy of the order appointing the substitute trustee shall be recorded in each county in which the assignment is recorded. Creditors may be represented at meetings by their agents, employees, or attorneys, duly authorized in writing.

Sec 9. *Sales by Trustee; Creditors May Prescribe Manner and Terms; Powers of Commissioner.* At the first meeting of the creditors a majority in number and amount of the creditors present may prescribe in what manner and on what terms the property belonging to the estate shall be sold, and the trustee shall not sell, or otherwise dispose of, any property belonging to the estate prior to the first meeting of the creditors, unless expressly authorized to do so by the commissioner of accounts after good cause therefor has been shown. The trustee shall not sell or otherwise dispose of, the property belonging to the estate for less than seventy-five per cent of its appraised value without the approval of the commissioner. The trustee may compromise or compound any claim or debt belonging to the estate with the approval of the commissioner. All sales by the trustee shall be made at public auction, unless otherwise ordered by the commissioner or authorized by the

17 creditors. The trustee shall give at least ten days' notice by  
18 mail to all of the creditors of the time and place of sale of any  
19 property belonging to the estate of the value of five hundred  
20 dollars, or more, and shall advertise the sale once a week for  
21 two successive weeks in some newspaper published in the  
22 county, if there be one, unless such notice and advertisement  
23 are waived by the creditors at their first meeting. Upon ap-  
24 plication to the commissioner, and for good cause shown, the  
25 trustee may be authorized to sell any portion of the estate at  
26 private sale, in which case he shall keep an accurate record  
27 of each article sold, the price received therefor and to whom  
28 sold, which account he shall file with the commissioner. Upon  
29 application by the trustee or a creditor setting forth that a  
30 part or the whole of the estate is perishable, the nature and  
31 location of such perishable property, and that there will be  
32 loss if the same is not sold immediately, the commissioner, if  
33 satisfied, of the facts stated and that the sale is required in  
34 the interests of the estate, may order the same to be sold  
35 without notice or with such notice as he may direct. Upon  
36 application by the trustee or a creditor setting forth that it  
37 is for the best interests of the estate that the trustee continue to  
38 operate the business, the commissioner may authorize the  
39 trustee to operate the business until the first meeting of the  
40 creditors, at which meeting a majority in number and amount  
41 of the creditors present shall determine whether such oper-  
42 ation is to be continued thereafter.

2       Sec. 10. *Trustees Report to Commissioner; Notice to Credit-*  
3 *ors of Filing and Meeting.* Within ten days after the last day  
4 on which claims may be presented to him the trustee shall file  
5 with the commissioner of accounts a report showing the names  
6 of the creditors whose claims have not been contested and  
7 who have filed proper proofs of claims, and the amounts  
8 thereof; the names of the creditors whose claims have been  
9 contested, and the amounts thereof; the disposition he has  
10 made of the property belonging to the estate; the costs and  
11 expenses he has incurred; the amount of money he has on  
12 hand and the name of the bank in which it is deposited; the  
13 property of the estate not disposed of and his plans for dispos-  
ing of the same. The trustee shall attach to said report all

14 proofs of claims, vouchers, exhibits, accounts, writings, affi-  
15 davits and counter-affidavits which have been filed with him.  
16 The trustee shall at once notify each creditor who has present-  
17 ed a claim that the report has been filed, and that a meeting  
18 of the creditors will be held before the commissioner on a date  
19 specified in the notice, which date shall not be less than five  
20 days after the notice is mailed nor more than ten days after  
21 the report is filed.

Sec. 11. *Report by Commissioner; Appeal From Decision; Directions to Trustee; Dividends; Closing Trusteeship.* At the  
2 meeting of the creditors held following the filing of the trustee's  
3 report the commissioner of accounts shall file a report  
4 showing how much, if anything, he has allowed on each of the  
5 disputed claims. Any party interested may, within ten days  
6 thereafter, appeal from the decision of the commissioner to  
7 the circuit court of the county without any formal bill of ex-  
8 ceptions, and the appeal shall be tried and heard in the circuit  
9 court, or before the judge thereof in vacation, on the record  
10 made before the commissioner. At the same meeting the commissioner  
11 shall approve such expenditures, costs and expenses  
12 as he may find necessary and proper in the administration of  
13 the estate; shall direct the payment of proper fees and commissions;  
14 shall direct the trustee to distribute the funds in his  
15 hands belonging to secured creditors; and shall direct the  
16 trustee to pay a dividend of an equal per cent on all  
17 allowed claims, except such as have priority or are secured.  
18 A secured creditor whose claim is in excess of the security  
19 held may share in such dividend on such excess only. The  
20 trustee shall not pay such dividend until the time has expired  
21 within which an appeal may be taken from the decision of the  
22 commissioner on a disputed claim, and if any such appeal is  
23 pending the trustee shall retain in his hands sufficient money  
24 to pay the same dividend thereon, should the claim be allowed  
25 on appeal, and shall distribute the remainder to the creditors  
26 entitled thereto. After paying any dividend the trustee shall  
27 file with the commissioner a copy of a dividend sheet showing  
28 to whom the dividend was paid. If all of the property be-  
29 longing to the estate has not been disposed of at the time of  
30  
31

32 said meeting, the trustee shall from time to time make further  
33 reports to the commissioner, and the commissioner may di-  
34 rect the trustee to pay further costs, expenses, fees and divi-  
35 dends. Dividends which are unclaimed for six months shall  
36 be distributed among the remaining creditors whose claims  
37 have been allowed. After the trustee has disposed of all the  
38 property belonging to the estate, and has paid out all of the  
39 funds which have come into his hands, he shall without delay  
40 make a final report in duplicate to the commissioner show-  
41 ing all his receipts and disbursements, and if the commis-  
42 sioner finds the same correct and approves it, the commissioner  
43 shall enter an order discharging the trustee, a copy of which  
44 order the commissioner shall furnish to the surety on the bond  
45 of the trustee, and the commissioner shall transmit a copy of  
46 said order and a copy of the final report of the trustee to the  
47 clerk of the county court to be filed.

Sec. 12. *Powers, Duties and Qualifications of Trustees;*  
2 *Substitute Trustee.* It shall be the duty of the trustee to  
3 collect and reduce to money the property belonging to the  
4 estate; to keep all funds belonging to the estate on deposit in  
5 a sound bank; to report promptly to the creditors any claims  
6 presented to him which are not provable or are incorrect  
7 or false so that counter-affidavits may be filed thereto; to file  
8 the reports and give the notices herein provided for; to close  
9 up the estate as expeditiously as possible; to furnish such in-  
10 formation concerning the estate as may be requested by par-  
11 ties in interest; to keep regular accounts; to pay dividends as  
12 often as is compatible with the best interests of the estate. The  
13 trustee shall, as to all property transferred by the assignment,  
14 be deemed vested with all the rights, remedies and powers of  
15 a creditor holding a lien thereon by legal or equitable pro-  
16 ceedings. The trustee shall be a resident of West Virginia, and  
17 shall not occupy the position of relative, creditor, attorney,  
18 agent or employee to the assignor, nor an officer of the as-  
19 signor, if the assignor be a corporation, and if an assignment,  
20 conveyance or transfer be made to such a person it shall not  
21 for that reason be void, but shall be deemed to be for the benefit  
22 of all the creditors of the assignor, and the clerk, at the request  
23 of any party in interest, may refer the estate to a commissioner

24 of accounts who shall proceed to call a meeting of the credit-  
25 ors, at which meeting a majority in number and amount of  
26 the creditors present shall elect a substitute trustee. Upon the  
27 petition of one or more creditors showing misconduct or in-  
28 competency of the trustee, or on the petition of the trustee  
29 himself, showing sufficient reason therefor, and after due no-  
30 tice of not less than five days to the assignor, trustee, the sur-  
31 ety on the bond of the trustee, and the creditors whose claims  
32 have been filed with the trustee, the commissioner may, after  
33 hearing the parties in interest, remove or discharge the trus-  
34 tee; and in that event a majority in number and amount of  
35 the creditors present shall elect a substitute trustee. If the  
36 trustee shall die or become unable to act the commissioner  
37 shall call a meeting of the creditors whose claims have been  
38 filed with the trustee, after notice of not less than five days,  
39 and a majority in number and amount of the creditors present  
40 at the hearing shall elect a substitute trustee.

Sec. 13. *Powers and Duties of Commissioner.* Commission-  
2 ers of accounts shall have power to preside over all meetings  
3 of creditors; to preside over all examinations of the assignor  
4 or trustee; to allow and disallow all claims presented to them  
5 for determination; to administer oaths to witnesses; to issue  
6 subpoenas for the attendance of any person for examination;  
7 to examine accounts filed by trustees hereunder, to hear and  
8 determine any objections thereto, and to surcharge any trus-  
9 tee for any moneys improperly expended or for which the  
10 trustee shall have failed to account; to authorize the business  
11 of the assignor to be conducted for limited periods by the trus-  
12 tee if necessary in the best interests of the estate; to re-open  
13 estates whenever it appears that they have been closed  
14 before being fully administered; to authorize a trustee to  
15 bring an action, which he is hereby empowered to maintain,  
16 against any person who has received, taken, or in any  
17 manner interfered with the estate, property or effects of the  
18 debtor, in fraud of his creditors, and which might have been  
19 avoided by a creditor of the assignor, and the trustee may re-  
20 cover the property so transferred or its value; to require or  
21 allow any inventory or schedule filed to be corrected or amend-  
22 ed, and require and compel from time to time supplemental

23 inventories or schedules to be made and filed; to determine  
24 the excess of the claims of secured creditors over and above the  
25 value of the securities held by them; to require the trustee  
26 to render and file the accounts and reports herein provided  
27 for; to authorize and approve the payment of costs, expenses,  
28 fees and commissions; to declare dividends; to discharge the  
29 trustee and his surety after the trustee has properly completed  
30 the performance of his duties; to authorize the appointment  
31 of an attorney for the trustee if necessary in the best interests  
32 of the estate.

Sec. 14. *Duties of Assignor.* The assignor shall comply with  
2 all lawful orders of the commissioner of accounts, examine  
3 the correctness of all claims presented against the estate if  
4 ordered by the commissioner so to do, and if any are incorrect  
5 or false notify the trustee thereof immediately; deliver to the  
6 trustee all his books, papers and records; execute and deliver  
7 such papers relating to the estate as shall be ordered by the  
8 commissioner; execute and deliver to the trustee proper trans-  
9 fers of all his property outside the state of West Virginia;  
10 attend the first meeting of the creditors; and submit to an  
11 examination under oath concerning the conduct of his  
12 business, the cause of his inability to pay his debts, his  
13 dealings with his creditors and other persons, the amount,  
14 kind and whereabouts of his property, and all matters  
15 which may affect the administration and settlement of his  
16 estate, but no testimony given by him shall be offered in  
17 evidence against him in any criminal proceedings. The  
18 books and papers of the assignor shall at all times be subject  
19 to the inspection and examination of any creditor.

Sec. 15. *Commissioner to Certify to Circuit Court Diso-*  
2 *bedience of Orders, Etc.; Action by Court.* The commissioner  
3 of accounts shall certify the facts to the circuit court of the  
4 county if any person shall disobey or resist any order, process,  
5 or writ which may be issued, or misbehave during any hear-  
6 ing, or neglect to produce, having been ordered to do so, any  
7 pertinent documents, or refuse to appear, take the oath, or be  
8 examined according to law, after having been subpoenaed. Up-  
9 on the filing of such certificate by any commissioner the judge

10 shall in a summary manner hear the evidence of the acts com-  
11 plained of, and, if it is such as to warrant him in so doing,  
12 he may punish such person in the same manner and to the  
13 same extent as for a contempt committed before the court.

Sec. 16. *Expenses and Fees of Trustee, Commissioner, Appraisers and Attorneys for Trustee.* Trustees shall be allowed  
2 their reasonable and necessary disbursements for the costs and  
3 expenses, and shall receive for their services commissions on  
4 all moneys disbursed or turned over by them to any person,  
5 not including lienholders or secured creditors, which commis-  
6 sions shall be five per cent on the first five thousand dollars  
7 or less, two per cent on moneys in excess of five thousand  
8 dollars and less than ten thousand dollars, and one per cent  
9 on moneys in excess of ten thousand dollars, but the commis-  
10 sion in no case shall be less than twenty-five dollars. Com-  
11 missioners of accounts shall be allowed their reasonable and  
12 necessary disbursements for costs and expenses, and shall  
13 receive for their services commissions on all moneys disbursed  
14 or turned over by the trustees to any person, not including  
15 lienholders or secured creditors, which commissions shall be  
16 one per cent on the first five thousand dollars or less, and  
17 one half of one per cent on moneys in excess of five thou-  
18 sand dollars, but the commission in no case shall be less than  
19 fifteen dollars. Appraisers shall receive for their services a  
20 fair and reasonable allowance which shall be fixed by the  
21 commissioner upon a petition therefor showing the amount of  
22 time spent by the appraisers in the performance of their du-  
23 ties. Attorneys for the trustee shall receive for their ser-  
24 vices a fair and reasonable allowance which shall be fixed by  
25 the commissioner upon petition showing the services rendered  
26 by them.

Sec. 17. *Provisions of Article Severable.* The sections, pro-  
2 visions and clauses of this act shall be deemed separable each  
3 from the other, and if any separable part of this act be, or be  
4 held to be unconstitutional or for any reason invalid or un-  
5 enforceable, the remaining parts thereof shall be and remain  
6 in full force and effect.



2       Sec. 18. *Sections Repealed; Code Chapter and Article of*  
3 *Act.* Sections fourteen, fifteen, sixteen, seventeen and  
4 eighteen, article one, chapter thirty-eight of the code of West  
5 Virginia, and all other acts and parts of acts inconsistent with  
6 this act are hereby repealed, and this act shall be known as  
7 article thirteen of chapter thirty-eight of the code of West  
8 Virginia.

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## CHAPTER 62

(House Bill No. 7—By Mr. Van Sickler)

AN ACT to amend and reenact section six, article one, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter thirty-eight, acts of the Legislature, regular session, one thousand nine hundred thirty-five, relating to criminal procedure and admission to bail.

[Passed February 1, 1937; in effect from passage. Approved by the Governor.]

### Article 1. Arrest, Commitment and Bail, Searches and Seizures.

#### Section

6. Admission to bail; procedure; exceptions.

*Be it enacted by the Legislature of West Virginia:*

That section six, article one, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter thirty-eight, acts of the Legislature, regular session, one thousand nine hundred thirty-five, be amended to read as follows:

Section 6. *Admission to Bail; Procedure; Exceptions.* A  
2 justice may admit to bail a person who is charged with, but  
3 not convicted of, an offense not punishable with death. If the  
4 offense be punished by confinement in the penitentiary, he  
5 shall not admit such person to bail in a sum less than  
6 five hundred dollars. But a justice shall not admit any per-  
7 son to bail if bail has been previously refused to such person  
8 by any court or judge; nor shall any person confined in jail

9 by an order of commitment in which the amount of bail he  
10 is to give is specified, or where an order has been made by  
11 a court or judge fixing the bail such person is to give, be  
12 admitted to bail by a justice in a sum less than is specified  
13 in the order. But a circuit, intermediate or criminal court,  
14 or the supreme court of appeals, or a judge of either of said  
15 courts in vacation, may, for good cause shown, admit any  
16 person to bail before conviction, or after conviction, except  
17 a conviction for offenses where the penalty is confinement in  
18 the penitentiary for life, or death, and during the suspension  
19 of the execution of the judgment of conviction or pending  
20 an appeal or writ of error, and may, by order, direct the  
21 clerk of the circuit, intermediate or criminal court of the  
22 county in which the offense is charged to have been com-  
23 mitted to take the bond with good security in such sum as  
24 the court or judge may fix in such order: *Provided*, That in  
25 cases where bail has been allowed, after conviction as afore-  
26 said, the condition of the recognizance, or bond, shall be that  
27 the accused shall appear before the said circuit, intermediate  
28 or criminal court at its first regular term after the appellate  
29 court shall have rendered its final order or judgment, upon  
30 such writ of error, appeal or supersedeas, and submit himself  
31 to such order or judgment, and to be further dealt with  
32 according to law.

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## CHAPTER 63

(House Bill No. 9—By Mr. Van Sickler)

AN ACT to amend and reenact section four, article three, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, relating to commissioner of accounts.

[Passed March 1, 1937; in effect from passage. Approved by the Governor.]

### Article 3. Commissioners of Accounts; Their Powers and Duties Generally.

#### Section

4. Matters that will disqualify commissioner of accounts.

*Be it enacted by the Legislature of West Virginia:*

That section four, article three, chapter forty-four of the code of

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

Section 4. *Matters That Will Disqualify Commissioner of*  
2 *Accounts.* No person shall perform the duties of a commis-  
3 sioner of accounts in any matter wherein he will be passing  
4 upon his own account or acts; nor, where he will be called to  
5 pass upon any account or acts with reference to which he  
6 served as attorney or counsellor in or out of court; nor shall  
7 he be in any manner interested in the fees or emoluments of  
8 any fiduciary whose account or acts are before him for any  
9 action required by this chapter; nor shall he be surety on  
10 the bond of the fiduciary whose accounts are before him,  
11 or agent of, or pecuniarily associated with, another who may  
12 be such surety; nor shall he be qualified to act in or pass  
13 upon any matter before him in which, were he a judge of the  
14 circuit court, and the matter were therein pending, he would  
15 for any reason be disqualified to serve. Any person who  
16 violates this section shall be guilty of a misdemeanor, and,  
17 upon conviction thereof shall, for each and every violation,  
18 be fined not less than fifty nor more than five hundred dol-  
19 lars, or imprisoned in the county jail for not more than six  
20 months, or punished by both fine and imprisonment at the  
21 discretion of the court; and upon such conviction his office  
22 shall ipso facto become vacant.

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## CHAPTER 64

(House Bill No. 109—By Mr. LaFon)

AN ACT to amend and reenact section one, article four, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, relating to accounting by fiduciaries and the filing of inventories and appraisements.

[Passed March 13, 1937; in effect from passage. Approved by the Governor.]

### Article 4. Accounting by Fiduciaries.

#### Section

1. Inventories in duplicate.

*Be it enacted by the Legislature of West Virginia:*

That section one, article four, chapter forty-four of the code of

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

Section 1. *Inventories in Duplicate.* Every personal representative, guardian, curator, or committee, shall, within two months after the date of the order conferring his authority or qualifying him, return to the commissioner of accounts to whom the estate or trust has been referred, an inventory, executed in duplicate, in proper form, of all the personal and real estate which has come to his possession or knowledge, which is under his management or subject to his authority in his fiduciary character; and shall, within two months after any other such estate shall come to his possession or knowledge, return to such commissioner a further inventory thereof, in duplicate. If any fiduciary shall fail to make the return herein first mentioned, or such commissioner shall have reason to believe that a fiduciary has failed to make the further return herein required, such commissioner of accounts shall summon such fiduciary to make a return as to which he appears to be delinquent; and if such return be not made within thirty days after the date of service of the summons, such commissioner shall make report of the fact to the circuit court of the county, or to the judge thereof in vacation, as soon as possible, and shall cause such fiduciary to be summoned to appear before such court, or judge in vacation, on a day to be fixed by the court or judge, and the attendance of such fiduciary may be compelled by rule, and attachment. Such fiduciary upon appearing shall, unless excused for sufficient reason, be fined by the court not less than fifty nor more than five hundred dollars, and be ordered by the court to make such return within a time to be specified by the court, and if he fails to comply with such order he shall be deemed guilty of contempt of court and be dealt with accordingly. An appraisalment of an estate as required by law shall be considered such an inventory as is required by this section if it be signed by the personal representative.

## CHAPTER 65

(House Bill No. 110—By Mr. LaFon)

AN ACT to amend and reenact section five, article three, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, relating to the duties of commissioner of accounts and fiduciaries of estates.

[Passed March 13, 1937; in effect from passage. Approved by the Governor.]

### Article 3. Commissioners of Accounts; Their Powers and Duties Generally.

#### Section

5. Disposition by commissioner of accounts of inventories and accounts of sales.

*Be it enacted by the Legislature of West Virginia:*

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

Section 5. *Disposition by Commissioner of Accounts of Inventories and Accounts of Sales.* The commissioner of accounts shall inspect all inventories and accounts of sales returned to him by fiduciaries, require the same to be executed in duplicate and in proper form, and, within ten days after they are respectively received and approved by him, deliver one copy thereof to the clerk of the county court and mail one copy to the tax commissioner of West Virginia. Any commissioner of accounts who fails, refuses or declines to comply with the provisions of this section shall be guilty of a misdemeanor and shall be punished for each offense by a fine of not less than twenty-five dollars nor more than five hundred dollars.

## CHAPTER 66

(House Bill No. 111—By Mr. LaFon)

AN ACT to amend and reenact section fourteen, article one, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, relating to appraisal of estates.

[Passed March 13, 1937; in effect from passage. Approved by the Governor.]

### Article 1. Personal Representatives.

#### Section

14. Appraisal of estates in duplicate; disposition.

*Be it enacted by the Legislature of West Virginia:*

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

#### Section 14. *Appraisal of Estates in Duplicate; Disposition.*

2 The real and personal estate of every deceased person shall be  
3 appraised as follows: The court or clerk by whose order any  
4 person is authorized to act as personal representative shall,  
5 upon the qualification of such personal representative, appoint  
6 not less than three nor more than five appraisers, any three of  
7 whom may act, in the county in which the will of the deceased  
8 is probated or administration is granted upon his estate, and a  
9 like number in every other county in which there may be any  
10 real or personal estate of the deceased. Such appraisers, af-  
11 ter first taking an oath for the purpose, shall list and ap-  
12 praise at its real and actual value all the real estate and all  
13 the tangible property of every description owned by the de-  
14 ceased at the time of his death and located in their respective  
15 counties, and they shall also list and appraise all his intangi-  
16 ble property of every description, including moneys, credits,  
17 investments, annuities, insurance policies, judgments, and  
18 decrees for moneys, notes, bonds, accounts and all other evi-  
19 dences of debt, whether owing to him by persons or corpora-  
20 tions in or out of the state, and the number and value, in-  
21 cluding both the par value, if any, and the actual value, of  
22 any shares of capital stock owned by him in any corporation,

23 whether located in this state or elsewhere. Such appraisers  
24 shall designate such intangible property as good, bad or doubt-  
25 ful as to them may appear to be correct, and by whom owing  
26 and when payable, and from what time such of them as are in-  
27 terest-bearing bear interest. Every note, bond or evidence of  
28 debt shall have endorsed thereon the word "appraised", un-  
29 der which each acting appraiser shall sign his name. No  
30 judgment shall be rendered by any of the courts of this  
31 state upon such note, bond or evidence of debt unless and  
32 until the same shall be first shown to have been listed by the  
33 appraisers: *Provided, however,* That any note, bond or evi-  
34 dence of debt which bears the endorsement by the appraisers,  
35 as above required, shall need no further proof that the same  
36 was listed. The several appraisements and lists aforesaid  
37 shall be executed in duplicate and shall be signed by the ap-  
38 praisers who made the same, and be forthwith returned to the  
39 commissioner of accounts to whom the estate of such deceased  
40 person has been referred as provided in section one, article  
41 two of this chapter. Said commissioner of accounts shall in-  
42 spect such appraisements, see that the same are in proper  
43 form, and, within ten days after they are received and ap-  
44 proved by him, deliver one copy of the same to the clerk of  
45 the county court, who shall record the same, with the certifi-  
46 cate of approval, and mail one copy of the same to the tax  
47 commissioner of West Virginia. The date of return of an  
48 appraisal shall be entered by such clerk in his record of  
49 fiduciaries. Every such appraisal and list shall be prima  
50 facie evidence of the value of the estate embraced therein,  
51 and that the personal estate embraced therein came to the  
52 hands of the personal representative. Such appraisers shall  
53 each receive a fee of not less than one dollar nor more than  
54 five dollars per day, to be fixed by said commissioner in ac-  
55 cordance with the amount of the estate and the work in-  
56 volved in making the appraisal, and their actual ex-  
57 penses necessarily incurred in making such appraisal,  
58 and such fees and expenses and the commissioner's approval  
59 thereof shall be noted in the commissioner's certificate. No  
60 person shall be permitted by any means whatsoever to avoid  
61 the appraisal and listing of his estate as herein provided,  
62 nor shall his personal representative be permitted to do so.

63 Any personal representative who fails, refuses or declines to  
64 comply with the provisions of this section shall be guilty of a  
65 misdemeanor, and upon conviction shall be fined not less than  
66 twenty-five dollars nor more than five hundred dollars.

## CHAPTER 67

(House Bill No. 345—By Mr. Kurtz)

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

[Passed March 11, 1937; in effect from passage. Approved by the Governor.]

### Article 3. Competency of Witnesses.

#### Section

1. Competency of party or interested person to testify; transactions with decedent or lunatic.

*Be it enacted by the Legislature of West Virginia:*

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

Section 1. *Competency of Party or Interested Person to Testify; Transactions With Decedent or Lunatic.* No person offered as a witness in any civil action, suit or proceeding, shall be excluded by reason of his interest in the event of the action, suit or proceeding, or because he is a party thereto, except as follows: No party to any action, suit or proceeding, nor any person interested in the event thereof, nor any person from, through or under whom any such party or interested person derives any interest or title by assignment or otherwise, shall be examined as a witness in regard to any personal transaction or communication between such witness and a person at the time of such examination, deceased, insane or lunatic, against the executor, administrator, heir-at-law, next of kin, assignee, legatee, devisee or survivor



15 of such person, or the assignee or committee of such insane  
16 person or lunatic. But this prohibition shall not extend to  
17 any transaction or communication as to which any such  
18 executor, administrator, heir-at-law, next of kin, assignee,  
19 legatee, devisee, survivor or committee shall be examined on  
20 his own behalf, nor as to which the testimony of such de-  
21 ceased person or lunatic shall be given in evidence: *Provided,*  
22 *however,* That where an action is brought for causing the  
23 death of any person by any wrongful act, neglect or default  
24 under article seven, chapter fifty-five of this code, the person  
25 sued, or the servant, agent or employee of any firm or cor-  
26 poration sued, shall have the right to give evidence in any  
27 case in which he or it is sued, but he may not give evidence  
28 of any conversation with the deceased.

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## CHAPTER 68

(Senate Bill No. 237—By Mr. Paull, by request)

AN ACT to amend and reenact section one, article four, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, relating to duties of prosecuting attorney.

[Passed March 6, 1937: in effect ninety days from passage. Approved by the Governor.]

### Article 4. Prosecuting Attorney, Rewards and Legal Advice.

#### Section

1. Duties of prosecuting attorney; further duties upon request of the attorney general.

*Be it enacted by the Legislature of West Virginia:*

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

Section 1. *Duties of Prosecuting Attorney; Further Duties*

2 *Upon Request of the Attorney General.* It shall be the duty  
3 of the prosecuting attorney to attend to the criminal business  
4 of the state in the county in which he is elected and qualified,  
5 and when he has information of the violation of any penal  
6 law committed within such county, he shall institute and prose-  
7 cute all necessary and proper proceedings against the offender,  
8 and may in such case issue or cause to be issued a summons for  
9 any witness he may deem material. Every public officer shall  
10 give him information of the violation of any penal law com-  
11 mitted within his county. It shall also be the duty of the  
12 prosecuting attorney to attend to civil suits in such county  
13 in which the state, or any department, commission or board  
14 thereof, is interested, and to advise, attend to, bring, prosecute  
15 or defend, as the case may be, all matters, actions, suits and  
16 proceedings in which such county or any county board of  
17 education is interested. It shall also be the duty of the  
18 prosecuting attorney, when requested by the attorney gen-  
19 eral, to perform or to assist the attorney general in perform-  
20 ing, in the county in which he is elected, any legal duties  
21 required to be performed by the attorney general, and which  
22 are not inconsistent with the duties of the prosecuting attor-  
23 ney as the legal representative of such county. It shall also  
24 be the duty of the prosecuting attorney, when requested by  
25 the attorney general, to perform or to assist the attorney  
26 general in performing, any legal duties required to be per-  
27 formed by the attorney general, in any county other than  
28 that in which such prosecuting attorney is elected, and for the  
29 performance of any such duties in any county other than  
30 that in which such prosecuting attorney is elected he shall be  
31 paid his actual expenses.

32 Upon the request of the attorney general the prosecuting  
33 attorney shall make a written report of the state and condi-  
34 tion of the several causes in which the state is a party, pend-  
35 ing in his county, and upon any matters referred to him by  
36 the attorney general as provided by law.

## CHAPTER 69

(Com. Sub. for House Bill No. 150—Originating in the  
House Committee on the Judiciary)

AN ACT to amend and reenact section six, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, relating to assistants and stenographers or clerks for prosecuting attorney; salaries, and when the court may appoint attorney to prosecute.

[Passed March 13, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Article 7. Salaries; Deputies and Assistants and Their Salaries.

#### Section

6. Assistants and stenographers for prosecuting attorney; salaries; when court may appoint attorney to prosecute.

*Be it enacted by the Legislature of West Virginia:*

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

Section 6. *Assistants and Stenographers for Prosecuting Attorney; Salaries; When Court May Appoint Attorney to Prosecute.* Any prosecuting attorney may, with the assent of the county court of his county, entered of record, appoint one (and in Ohio and Kanawha counties two each) practicing attorney to assist him in the discharge of his official duties for and during his term of office, and such assistant shall take the same oath and may perform the same duties as his principal; and he may be removed from office as such at any time by his principal; and further he may be removed from his office as such assistant by the circuit court of the county in which he is appointed, for any cause for which his principal might be so removed. The compensation of such assistant shall be paid by the principal, except in the counties of Barbour, Berkeley, Boone, Brooke, Cabell,

16 Calhoun, Fayette, Harrison, Hancock, Kanawha, Lewis,  
17 Logan, Marion, Marshall, McDowell, Mercer, Mineral, Mingo,  
18 Monongalia, Nicholas, Ohio, Putnam, Raleigh, Randolph,  
19 Summers, Taylor, Wayne, Wetzel, Wood and Wyom-  
20 ing, and in said counties the county court thereof shall  
21 allow annually to such assistants such compensation to be  
22 paid out of the county treasury as is deemed reasonable by  
23 the court; in Ohio county for the first assistant, three thou-  
24 sand dollars, and for the second assistant not to exceed fif-  
25 teen hundred dollars; in Kanawha county for the first as-  
26 sistant, not less than four thousand nor more than five thou-  
27 sand dollars, and for the second assistant not less than three  
28 thousand nor more than four thousand dollars; in Marion  
29 county not less than two thousand nor more than three thou-  
30 sand dollars; in Harrison, McDowell, Mercer, Mingo and  
31 Raleigh counties, not less than fifteen hundred nor more than  
32 three thousand dollars; in Cabell, Fayette, Logan, Summers,  
33 and Wood counties, not less than one thousand nor more  
34 than two thousand dollars; in Boone and Wyoming counties,  
35 not less than twelve hundred nor more than eighteen hun-  
36 dred dollars; in Barbour county, one thousand dollars; in  
37 Monongalia county, two thousand dollars; in Berkeley and  
38 Wayne counties, not to exceed one thousand two hundred dol-  
39 lars; in Lewis, Lincoln, Marshall, Mineral, Nicholas and Ran-  
40 dolph counties, not to exceed nine hundred dollars; in Wetzel  
41 county, not less than six hundred nor more than nine hun-  
42 dred dollars; in Taylor and Tucker counties, not to ex-  
43 ceed six hundred dollars; in Putnam and Calhoun counties,  
44 three hundred dollars. In each case such compensation shall  
45 include the compensation provided by law for such assist-  
46 ant's services as attorney for boards of education and other  
47 administrative boards and officers of the county.

48 In any case in which it would, in the opinion of the court,  
49 be improper for the prosecuting attorney and his assistant  
50 (if he has one) to act; or if the prosecuting attorney and his  
51 assistant be unable to act, such court shall appoint some  
52 competent practicing attorney to prosecute such case, and  
53 upon the performance of the service for which he was ap-  
54 pointed, the court shall certify that fact, with its opinion of  
55 what would be a reasonable allowance to such attorney for

56 the service rendered, to the county court of the county, and  
57 such sum, or a different sum, when allowed by the county  
58 court, shall be paid out of the county treasury: *Provided*,  
59 That nothing in this section shall be construed to prohibit  
60 the employment by any person of a competent attorney or  
61 attorneys to assist in the prosecution of any person or cor-  
62 poration charged with crime.

63 In each of the counties herein named except Har-  
64 rison, and including Greenbrier, Lewis, Hampshire, Poca-  
65 hontas, Preston, Putnam, Ritchie, Roane, Tucker and Up-  
66 shur, the prosecuting attorney may employ a stenographer  
67 for his office at a salary payable out of the county treasury  
68 of not less than nine hundred nor more than two thousand  
69 dollars per annum; except, the annual salary of such sten-  
70 ographer in Barbour, Lewis, Pocahontas, Preston and Taylor  
71 counties shall not exceed twelve hundred dollars; in Upshur  
72 and Calhoun counties shall not exceed nine hundred dollars;  
73 in Berkeley, Hampshire, Roane and Wetzel counties shall  
74 not exceed six hundred dollars; in Putnam and Ritchie coun-  
75 ties shall be seven hundred dollars; in Boone county shall be  
76 twelve hundred dollars; in Tucker and Webster counties shall  
77 be six hundred dollars; and in Braxton and Jefferson counties  
78 shall not exceed nine hundred dollars: *Provided*, That in each  
79 of the last three named counties the prosecuting attorney may  
80 not employ a stenographer except with the consent of the  
81 county court entered of record.

82 In the county of Harrison the prosecuting attorney may  
83 employ two stenographers for his office at a salary for each  
84 stenographer of not less than nine hundred nor more than  
85 twelve hundred dollars per annum, payable out of the county  
86 treasury.

87 In the county of Clay the prosecuting attorney may em-  
88 ploy a clerk or a stenographer for his office at a salary of  
89 twelve hundred dollars per annum, payable out of the county  
90 treasury.

91 In the county of Mingo the prosecuting attorney may em-  
92 ploy one stenographer for his office at a salary not to exceed  
93 fifteen hundred dollars per annum, payable out of the county  
94 treasury.

## CHAPTER 70

(Senate Bill No. 155—By Mr. Paull)

AN ACT authorizing certain special grants for relief made necessary by the recent emergency conditions.

[Passed February 16, 1937; in effect from passage. Approved by the Governor.]

### Section

1. Special emergency grants by department of public assistance.
2. Application by county court for special grant for general relief.
3. Duties of director upon application.
4. Duties of state board upon application.
5. Notification of action of state board upon application.
6. Reports by county council to state director.
7. Suspension of payments under special grant.
8. Special grants conditioned on repayment.
9. Expiration of authority to make special grants.

WHEREAS, A flood of unprecedented proportions has created unusual and unforeseen demands for relief upon the department of public assistance and upon certain counties; and

WHEREAS, Adequate funds exist in the department of public assistance but no authority exists for their expenditure, as hereinafter provided; therefore

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Special Emergency Grants by Department of Public Assistance.* Until the close of the fiscal year terminating June thirty, one thousand nine hundred thirty-seven, the department of public assistance is authorized to make special grants from the state general relief fund of such sums as are necessary to provide relief in those counties where funds are unavailable either from the county or under the provisions of section eight, article ten, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, in order to meet these emergency conditions.

Sec. 2. *Application by County Court for Special Grant for General Relief.* If the amount needed for general relief in a county exceeds the amount available under section eight, article ten, chapter nine of the code, as amended, the county council and the county court may apply to the state depart-

6 ment of public assistance for a special grant from the state  
7 fund. The application shall be in such form and shall be sub-  
8 mitted at such times as the state department shall prescribe.  
9 The application shall set forth:

10 The conditions which make necessary the request for spe-  
11 cial grant; the actual cost of general relief in the county for  
12 the first six months of the fiscal year one thousand nine hun-  
13 dred thirty-seven, and the estimated cost for the remainder of  
14 the fiscal year; the levies and expenditures of the county,  
15 showing the rate of tax delinquency, amounts provided for  
16 various county activities, expenditures made mandatory by  
17 law, and amounts allocated to the county relief fund; such  
18 other information as the state department or the state board  
19 may require.

2 *Sec. 3. Duties of Director Upon Application.* Upon receipt  
3 of an application for a special grant the director shall examine  
4 the application and make such investigations as are necessary  
5 to determine the existence of need and compliance with the  
6 requirements of this act. The director shall prepare a report  
7 and recommendations for submission to the state advisory  
8 board.

2 *Sec. 4. Duties of State Board Upon Application.* The state  
3 board shall determine as to each county whether:

4 The special conditions specified by this act exist in respect  
5 to the particular county; a special grant from the state fund  
6 is necessary to maintain relief until the end of the fiscal  
7 year one thousand nine hundred thirty-seven; the estimated  
8 cost of relief is reasonable both as to the total cost and the  
9 estimated cost per case.

10 If the state board determines that the special grant should  
11 be made to a county it shall set the total amount of the grant  
12 to be authorized and shall fix the conditions upon which the  
13 grant shall be made.

14 The state board may hold a hearing upon the application of  
15 a county at which the county council, the county court,  
16 citizens of the county, and other interested parties may be  
17 heard.

*Sec. 5. Notification of Action of State Board Upon Appli-*

2 *ction.* The state director shall notify the county council and  
3 the county court of the action taken by the state board with  
4 respect to the matters herein provided.

2 *Sec. 6. Reports by County Council to State Director.* The  
3 county council shall submit to the state director, at such times  
4 as he shall prescribe, reports similar to those required by the  
5 public welfare law of one thousand nine hundred thirty-six.

2 *Sec. 7. Suspension of Payments Under Special Grant.* The  
3 state director may suspend payments under a special grant if  
4 he finds that :

4 There has been a misrepresentation of the need for the spe-  
5 cial grant ; or relief is being granted to ineligible persons ; or  
6 funds dedicated for relief have not actually been made avail-  
7 able for expenditure by the county council or are being divert-  
8 ed for other purposes ; or need for the special grant no longer  
9 exists.

2 *Sec. 8. Special Grants Conditioned on Repayment.* Special  
3 grants made under the provisions of this act shall be con-  
4 ditioned upon a written undertaking by the county council  
5 and the county court to provide within the maximum levies  
6 for the fiscal year one thousand nine hundred thirty-eight an  
7 amount necessary to repay to the department of public assist-  
8 ance the amount of the special grant.

2 *Sec. 9. Expiration of Authority to Make Special Grants.*  
3 The authority to make special grants under this act shall ex-  
4 pire June thirtieth, one thousand nine hundred thirty-seven,  
5 but all rights of the department of public assistance to super-  
6 vise and protect the special grants shall continue thereafter.

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## CHAPTER 71

(House Bill No. 444—By Mr. LaFon)

AN ACT to amend article four, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-six,



by adding thereto section fifteen, relating to the administration of the public welfare law in a county in order to insure compliance with the federal social security act.

[Passed March 13, 1937; in effect from passage. Approved by the Governor.]

#### **Article 4. County Public Assistance Council.**

##### **Section**

15. Administration in default of county compliance.

*Be it enacted by the Legislature of West Virginia:*

That article four, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding section fifteen, as follows:

- Section 15. *Administration in Default of County Compliance.* Whenever in any county the condition of the "general relief fund", its administration, or the general administration of this act endangers compliance with the standards established by the federal social security act on which the receipt of federal grants are conditioned, the director may:
- (1) Withhold the payment of state funds into the county fund and make payments through the county council directly to those entitled to benefits.
  - (2) Supervise and advise the county council on the administration necessary for compliance with the terms of the state and federal acts.
  - (3) Upon the failure of the county council to comply with the necessary administrative standards for federal compliance, temporarily provide for the administration of this chapter within the county until a proper county administration can be established. No state administration under the authority of this sub-section shall be continued for longer than ninety days.

## CHAPTER 72

(House Bill No. 445—By Mr. LaFon)

AN ACT to amend and reenact section two, article six, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-six, relating to general relief under the public welfare law of one thousand nine hundred thirty-six.

[Passed March 13, 1937; in effect from passage. Approved by the Governor.]

### Article 6. General Relief.

#### Section

#### 2. General relief; definition.

*Be it enacted by the Legislature of West Virginia:*

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

#### Section 2. *General Relief; Definition.* "General relief"

2 shall mean care and assistance to an indigent person who is  
3 a resident of the county and who is in fact and is found to  
4 be by the county council:

5 (1) A public charge, or in danger of becoming a public  
6 charge, or

7 (2) In need of continuing institutional care because of his  
8 physical or mental condition, or

9 (3) In need of medical or surgical care whether in an in-  
10 stitution or in his home.

11 Unless the county council specifically assumes responsibil-  
12 ity in writing, it shall not be charged with or responsible for  
13 cost of transportation or support of a person institutionalized  
14 by another committing authority.

## CHAPTER 73

(House Bill No. 446—By Mr. LaFon)

AN ACT to amend article three by adding thereto section ten-a; to amend and reenact section three, article seven; and to amend article seven by adding thereto sections three-a, three-b and three-c; all of chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-six, relating to institutional care under the public welfare law.

[Passed March 13, 1937; in effect from passage. Approved by the Governor.]

### Article

3. The Director of Public Assistance.
7. County Infirmaries.

*Be it enacted by the Legislature of West Virginia:*

That section ten-a be added to article three, section three of article seven be amended, and sections three-a, three-b, and three-c be added to article seven, all of chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter one, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-six, to read as follows:

### Article 3. The Director of Public Assistance.

#### Section

- 10-a. Temporary assembly institutions.

Section 10-a. *Temporary Assembly Institutions.* The state  
2 department, upon the approval of the advisory board, may  
3 maintain such temporary assembly institutions as are neces-  
4 sary for the temporary care, maintenance, and training of  
5 children and persons needing institutional protection.

**Article 7. County Infirmaries.****Section.**

3. Two or more counties may jointly establish.

3-a. Contribution to support by county council.

3-b. Management by county council.

3-c. Transfer of institutional cases to other counties.

*Section 3. Two or More Counties May Jointly Establish.*

2 The county courts of two or more adjoining counties may es-  
3 tablish jointly an institution for general relief and contribute  
4 to the expense of establishing and maintaining it in the pro-  
5 portions and under the regulations agreed upon, or a county  
6 court of one county may contract for the maintenance of per-  
7 sons eligible for institutional care with the county court of an-  
8 other county maintaining an institution.

9 Where an institution is jointly established the management  
10 shall be in the county court of the county where the institu-  
11 tion is situated unless otherwise agreed by the county courts  
12 concerned.

*Sec. 3-a. Contribution to Support by County Council.* If a  
2 county court has complied with the maximum levy require-  
3 ments of section five of article ten and there is still an in-  
4 sufficient amount to maintain a county infirmary or institu-  
5 tion the county council may contribute to the support of that  
6 institution or infirmary.

*Sec. 3-b. Management by County Council.* A county court  
2 and county council may transfer by written agreement the  
3 management and operation of a county infirmary or institu-  
4 tion from the county court to the county council. The trans-  
5 ference of management and operation, however, shall not re-  
6 lieve the county court from the obligation to levy for the  
7 support of such institution or infirmary according to the pro-  
8 visions of section five, article ten of this chapter.

*Sec. 3c. Transfer of Institutional Cases to Other Counties.*  
2 If the maintenance of persons in a county institution or in-  
3 firmary within the county is determined to be uneconomical,  
4 undesirable, or impractical by the county council, the council  
5 may contract with the county court or county council of an-  
6 other county for the institutional care and maintenance of  
7 such persons.

8 If the state director determines that efficiency and economy  
9 in the administration of the department can be achieved by  
10 the transference of persons from a county infirmary or insti-  
11 tution in one county to an institution in another county he  
12 may order such transference if such transfer does not result  
13 in unreasonable separation of persons.

## CHAPTER 74

(House Bill No. 448—By Mr. LaFon)

AN ACT to amend article ten, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-six, by adding thereto section seventeen-a, creating a special fund under the public welfare law of one thousand nine hundred thirty-six.

[Passed March 13, 1937; in effect from passage. Approved by the Governor.]

### Article 10. Fiscal Provisions.

#### Section

17-a. Creation of special fund.

*Be it enacted by the Legislature of West Virginia:*

That article ten, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter one, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-six, be amended by adding section seventeen-a, to read as follows:

Section 17-a. *Creation of Special Fund.* In addition to the  
2 fund maintained for the payment of public assistance benefits  
3 and the "general relief fund", the department shall maintain  
4 a "special fund" for the support and furtherance of any ac-  
5 tivity not embraced within the scope of the funds above speci-  
6 fied, but authorized by the "Public Welfare Law of 1936".

## CHAPTER 75

(House Bill No. 449—By Mr. LaFon)

AN ACT to amend and reenact section thirty-four, article five, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-six, relating to liens against benefits to blind persons under the public welfare law of one thousand nine hundred thirty-six.

[Passed March 13, 1937; in effect from passage. Approved by the Governor.]

### Article 5. Public Assistance.

#### Section

#### 34. Liability of blind persons.

*Be it enacted by the Legislature of West Virginia:*

That section thirty-four, article five, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter one, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-six, be amended and reenacted to read as follows:

Section 34. *Liability of Blind Persons.* The same liens  
2 shall be taken against the grant of assistance to blind per-  
3 sons as are imposed on grants to aged persons. The total  
4 amount of public assistance granted to a blind person shall  
5 be allowed as a claim of the state against the recipient and  
6 his estate but the lien shall not be enforced against real es-  
7 tate of the recipient occupied by a surviving spouse unless  
8 such spouse is a widow who remarries.

## CHAPTER 76

(House Bill No. 450—By Mr. LaFon)

AN ACT to amend and reenact section twenty-seven, article five, and to amend article six by adding thereto section seventeen, both of chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-six, relating to exemptions of payments made under the authority of the public welfare law of one thousand nine hundred thirty-six.

[Passed March 13, 1937; in effect from passage. Approved by the Governor.]

### Article

5. Public Assistance.
6. General Relief.

*Be it enacted by the Legislature of West Virginia:*

That section twenty-seven, article five, be amended and reenacted, and that section seventeen be added to article six, both of chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-six, to read as follows:

### Article 5. Public Assistance.

#### Section

27. Grants exempt from taxes and legal process.

Section 27. *Grants Exempt from Taxes and Legal Process.*

- 2 Public assistance grants received under the provisions of this
- 3 article shall be exempt from the collection of taxes (except
- 4 sales taxes), from levy of execution, garnishment, and any
- 5 other legal process.

### Article 6. General Relief.

#### Section

17. Payments exempt from taxes and legal process.

Section 17. *Payments Exempt From Taxes and Legal Pro-*

2 *cess.* General relief payments received under the provisions  
 3 of this article shall be exempted from the collection of taxes  
 4 (except sales taxes), from levy of execution, garnishment and  
 5 any other legal process.

## CHAPTER 77

(Senate Bill No. 136—By Mr. Hodges, Mr. President, by request)

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

[Passed February 18, 1937; in effect ninety days from passage. Approved by the Governor.]

### Section

1. Road bonds; amount; when may issue.
2. Transfer, fee; registration, fee; where payable; interest rate; tax exempt.
3. Form of bond.
4. Form of coupon.
5. Listing by auditor.
6. State road sinking fund, sources; used to pay bonds and interest; investment of remainder.
7. Tax levy to pay, unless other funds available.
8. Sale by governor; minimum price.
9. Proceeds paid into state road fund.
10. Plates property of state.
11. Auditor to be custodian of unsold bonds.
12. Interim certificates.
13. Payment of expenses.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Road Bonds; Amount; When May Issue.* That  
 2 bonds of the state of West Virginia of the par value of ten  
 3 million dollars are hereby authorized to be issued and sold for



4 the purpose of raising funds for assisting in building and con-  
5 structing the system of state roads and highways provided for  
6 by the constitution. Said bonds may be issued by the governor  
7 in such amounts, in coupon or registered form, in such de-  
8 nominations, at such times and bearing such date or dates as  
9 the governor may determine, and shall become due and pay-  
10 able serially in equal amounts beginning one year and ending  
11 twenty-five years from the date thereof: *Provided, however,*  
12 That no bonds may be issued under the provisions of this act  
13 until bonds authorized and issued under the provisions of the  
14 "good roads amendment" to the constitution of the state,  
15 ratified at the general election held in November, one thou-  
16 sand nine hundred twenty, have been retired and cancelled  
17 out of the state road sinking fund created by section six,  
18 chapter one hundred thirteen, acts of the Legislature of  
19 West Virginia, one thousand nine hundred twenty-one, in  
20 an amount equal to or greater than the amount to be issued  
21 hereunder at any one time.

Sec. 2. *Transfer, Fee; Registration, Fee; Where Payable; Interest Rate; Tax Exempt.* The auditor and treasurer are  
2 hereby authorized to arrange for the transfer of registered  
3 bonds, and for each such transfer a fee of fifty cents shall be  
4 charged by and paid to the state of West Virginia, to the  
5 credit of the state road sinking fund. Bonds taken in ex-  
6 change will be cancelled by the auditor and treasurer and be  
7 carefully preserved by the treasurer. The treasurer shall make  
8 provisions for registering "payable to bearer" bonds and for  
9 each bond registered a fee of fifty cents shall likewise be  
10 charged by and paid to the state of West Virginia, to the credit  
11 of the state road sinking fund. All of such bonds shall be pay-  
12 able at the office of the treasurer of the state of West Virginia,  
13 or, at the option of the holder, at some designated bank in the  
14 city of New York to be designated by the governor. Said bonds  
15 shall bear interest at a rate not exceeding four and one-half  
16 per centum per annum, payable semi-annually, on the first day  
17 of..... and the first day of....., of  
18 each year, to bearer, at the office of the treasurer of the state  
19 of West Virginia, at the capitol of said state, or at the bank  
20 designated by the governor, upon presentation and surrender  
21

22 of interest coupons then due, in the case of coupon bonds. In  
 23 the case of registered bonds the treasurer of the state of West  
 24 Virginia shall issue his check for the interest then due on the  
 25 first day of.....and.....of each year, and  
 26 mail the same to the registered owner at his address as shown  
 27 by the record of registration. Both the principal and interest  
 28 of said bonds shall be payable in lawful money of the United  
 29 States of America and said bonds shall be exempt from tax-  
 30 ation by the state of West Virginia, or by any county, district,  
 31 or municipality thereof, which fact shall appear on the face  
 32 of the bonds as part of the contract with the holder thereof.

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

7  
 8                                   COUPON ROAD BOND  
 9                                   (Or registered road bond, as the case may be)  
 10                                   OF THE  
 11                                   STATE OF WEST VIRGINIA  
 12 \$..... No.....  
 13 The State of West Virginia, under and by virtue of author-  
 14 ity of an act of its Legislature passed at the regular session  
 15 of one thousand nine hundred thirty-seven, on the.....  
 16 day of.....one thousand nine hundred thirty-  
 17 seven, and approved by the governor on the.....  
 18 day of.....,one thousand nine hundred thirty-seven,  
 19 which is hereby made a part hereof as fully as if set forth  
 20 at length herein, acknowledges itself to be indebted to, and  
 21 hereby promises to pay to the bearer hereof (in the case of  
 22 a coupon bond) or to.....or assigns, (the owner  
 23 of record, in case of registered bonds).....years  
 24 after the date of this bond, to-wit: On the..... day  
 25 of....., 19....., in lawful money of the United  
 26 States of America at the office of the Treasurer of the State  
 27 of West Virginia, at the capitol of said state, or at the option  
 28 of the holder at..... bank in the City of New York,  
 29 the sum of .....dollars, with interest thereon at  
 .....per centum per annum from date, payable

30 semi-annually in like lawful money of the United States of  
 31 America at the Treasurer's office or bank aforesaid, on the  
 32 first day of.....and the first day of.....of  
 33 each year, (and in the case of coupon bonds) according to  
 34 the tenor of the annexed coupons, bearing the engraved fac-  
 35 simile signature of the Treasurer of the State of West Virginia,  
 36 upon surrender of such coupons. This bond (in the case of a  
 37 coupon bond) may be exchanged for a registered bond of like  
 38 tenor upon application to the Treasurer of the State of West  
 39 Virginia.

40 To secure the payment of this bond, principal sum and  
 41 interest, when other funds and revenues sufficient are not  
 42 available for that purpose, it is agreed that, within the limits  
 43 prescribed by the constitution, the board of public works of  
 44 the State of West Virginia shall annually cause to be levied  
 45 and collected an annual state tax on all property in the state,  
 46 until said bond is fully paid, sufficient to pay the annual in-  
 47 terest on said bond and the principal sum thereof within the  
 48 time this bond becomes due and payable.

49 This bond is hereby made exempt from any taxation by the  
 50 State of West Virginia, or by any county, district or municipi-  
 51 pal corporation thereof.

52 In testimony whereof, witness the signature of.....  
 53 Treasurer of the State of West Virginia, and the counter-  
 54 signature of....., the Auditor of said State, hereto  
 55 affixed according to law, dated the.....day of.....,  
 56 one thousand nine hundred....., and the seal of  
 57 the State of West Virginia.

58 (S E A L)

59 .....  
 60 Treasurer of the State of West Virginia

61 Countersigned :

62 .....  
 63 Auditor of West Virginia.

Sec. 4. *Form of Coupon.* The form of coupons shall be  
 2 substantially as follows, to-wit:

3 STATE OF WEST VIRGINIA  
 4 Bond No..... Coupon No.....  
 5 On the first day of....., 19....., the State of West

6 Virginia will pay to the bearer, in lawful money of the United  
 7 States of America, at the office of the Treasurer of the State,  
 8 or at the option of the holder at.....bank in the City  
 9 of New York, the sum of.....dollars, the same being  
 10 semi-annual interest on Road Bond No....., series of  
 11 one thousand nine hundred.....

12

13

14

15

16

17

18

19

20

21

22

.....  
 Treasurer of the State of West Virginia

The signature of the treasurer to said coupon shall be by his engraved facsimile signature and the coupons shall be numbered in the order of their maturity, from number one consecutively. Said bonds and coupons may be signed by the present treasurer and auditor, or by any of their respective successors in office, and bonds signed by the persons now in office may be sold by the governor or his successor in office without being signed by the successor in office of the present treasurer or auditor.

2 Sec. 5. *Listing by Auditor.* All coupons and registered  
 3 bonds issued under this act shall be separately listed by the  
 4 auditor of the state in books provided for the purpose, in each  
 5 case giving the date, number, character and amount of obli-  
 6 gations issued, and in case of registered bonds, the name and  
 7 post office address of the person, firm or corporation registered  
 as the owner thereof.

2 Sec. 6. *State Road Sinking Fund, Sources; Used to Pay*  
 3 *Bonds and Interest; Investment of Remainder.* Into the state  
 4 road sinking fund shall be paid all moneys received from the  
 5 annual state tax levy on the taxable property in the state levied  
 6 under the provisions of this act, from any and all appropri-  
 7 ations made by the state from other sources for the purposes  
 8 of paying the interest on said bonds or paying off and retiring  
 9 same, from fines, forfeitures and penalties, if any made ap-  
 10 plicable by law for the payment of said bonds or the interest  
 11 thereon, from transfer fees as herein provided, and from any  
 12 source whatsoever, which is made liable by law for the pay-  
 13 ment of the principal of said bonds or the interest thereon.

14 All such funds shall be kept by the treasurer in a separate  
 account, under the designation aforesaid, and all money be-

15 longing to said fund shall be deposited in the state treasury  
16 to the credit thereof.

17 Said fund shall be applied by the treasurer of the state,  
18 first to the payment of the semi-annual interest on said bonds  
19 as it shall become due as herein provided. The remainder of  
20 said fund shall be turned over by the state treasurer to the  
21 state sinking fund commission, whose duty it shall be to in-  
22 vest the same in bonds of the government of the United  
23 States, bonds of the state of West Virginia, or any political  
24 sub-division thereof: *Provided, however,* That bonds so pur-  
25 chased by the state sinking fund commission shall mature so  
26 as to provide sufficient money to pay off all bonds herein  
27 provided to be issued as they may become due; and the money  
28 so paid into the said state road sinking fund under the pro-  
29 visions of this act shall be expended for the purpose of paying  
30 the interest and principal of the bonds hereby provided for,  
31 and for no other purpose except that said fund may be in-  
32 vested until needed, as herein provided.

Sec. 7. *Tax Levy to Pay, Unless Other Funds Available.* In  
2 order to provide the revenue necessary for the payment of  
3 the principal and interest of said bonds, as hereinbefore pro-  
4 vided, the board of public works, within the limits prescribed  
5 by the constitution, is authorized, empowered and directed to  
6 lay annually a tax upon all real and personal property sub-  
7 ject to taxation within this state, sufficient to pay interest on  
8 said bonds accruing during the current year and one twenty-  
9 fifth of the total issue (at par value) of said bonds, for such  
10 number of years, not exceeding twenty-five, as may be neces-  
11 sary to pay the interest thereon and to pay off the principal  
12 sum of said bonds; and said taxes, when so collected, shall not  
13 be liable for or applicable to any other purpose: *Provided,*  
14 *however,* That if there be other funds in the state treasury, or  
15 in the state road funds, in any fiscal year, not otherwise appro-  
16 priated, or if other sources of revenue be hereafter provided  
17 by law for the purpose, the board of public works is author-  
18 ized, empowered and directed to set apart, in any year there  
19 be such funds, or other sources of revenue provided for such  
20 purpose, a sum sufficient to pay the interest on bonds accru-

21 ing during the current year, and to pay off, and retire the  
22 principal of said bonds, or any part thereof, at maturity.

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

Sec. 8. *Sale by Governor; Minimum Price.* The governor  
2 shall sell all bonds herein mentioned at such time or times  
3 as he may determine necessary to provide funds for road  
4 construction purposes, as herein provided, upon recommenda-  
5 tion of the state road commission. All sales shall be at not  
6 less than par and accrued interest. Registered bonds shall  
7 bear interest only from the date of delivery. All interest cou-  
8 pons becoming payable prior to said sale date shall be can-  
9 celled by the treasurer and rendered ineffective, before the  
10 delivery of the bonds so sold.

Sec. 9. *Proceeds Paid Into State Road Fund.* The proceeds  
2 of all sales of bonds herein authorized shall be paid into the  
3 state road fund created by section one, article three, chapter  
4 forty, acts of the Legislature, first extraordinary session, one  
5 thousand nine hundred thirty-three.

Sec. 10. *Plates Property of State.* The plates from which  
2 the bonds authorized by this act are engraved shall be the  
3 property of the state of West Virginia.

Sec. 11. *Auditor to be Custodian of Unsold Bonds.* The  
2 state auditor shall be the custodian of all unsold bonds issued  
3 pursuant to the provisions of this act.

Sec. 12. *Interim Certificates.* The governor may authorize  
2 the issuance of interim certificates to be issued to the pur-  
3 chasers of said bonds to be held by them in lieu of engraved  
4 bonds. When said interim certificates are so issued, they shall  
5 become full and legal obligations of the state of West Vir-  
6 ginia under all of the provisions of this act just as fully and  
7 completely as the engraved and permanent bonds.

Sec. 13. *Payment of Expenses.* All necessary expenses in-  
2 curred in the execution of this act shall be paid out of any  
3 money in the treasury of the state of West Virginia, not oth-  
4 erwise appropriated, on warrants of the auditor of the state  
5 drawn on the state treasurer.

## CHAPTER 78

(Senate Bill No. 138—By Mr. Hodges, Mr. President, by request)

AN ACT to amend and reenact section eight, article two-a; section four, article four; and section nineteen, article four, all of chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to roads and highways.

[Passed March 5, 1937; in effect ninety days from passage. Approved by the Governor.]

### Article

2-a. State Road Commissioner.

4. State Road System; Primary and Secondary Roads.

*Be it enacted by the Legislature of West Virginia:*

That section eight, article two-a; section four, article four; and section nineteen, article four, all of chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, are hereby amended and reenacted to read as follows:

**Article 2-a. State Road Commissioner.**

### Section

8. Assistants and employees.

Section 8. *Assistants and Employees.* The commissioner  
2 shall employ such assistants and employees as may be neces-  
3 sary for the efficient operation of his department, who shall  
4 possess all of the qualifications which may from time to time  
5 be prescribed for such positions by the road commissioner.  
6 The duties and salaries of such assistants and employees shall  
7 be fixed by the road commissioner, who shall have authority  
8 to remove the same at his will and pleasure.  
9 The commissioner shall require every employee who collects  
10 fees or handles funds or who has custody of equipment  
11 and supplies belonging to the state to take the con-  
12 stitutional oath and give an official bond properly conditioned  
13 and signed by sufficient sureties in a sum to be fixed by the  
14 commissioner, which bond shall be approved by him and filed  
15 in the office of the secretary of state.

16 The commissioner shall fix their compensation, but the  
17 total compensation paid to assistants and employees shall not  
18 exceed in any one year the appropriation made by the Legis-  
19 lature for that purpose.

#### Article 4. State Road System; Primary and Secondary Roads.

##### Section

4. Powers of state road commissioner over state roads.
19. Contracts for road construction or materials; convict labor.

##### Section 4. Powers of State Road Commissioner Over Roads.

2 The authority and control over the state roads vested in the  
3 state road commissioner shall include the power to:

4 (1) Locate and relocate any primary or secondary road; and  
5 upon the petition of any interested party or upon his own in-  
6 itiative create, extend or establish any new road that shall be  
7 necessary;

8 (2) Upon petition and hearing, or after due investiga-  
9 tion, upon his own initiative, discontinue any road no longer  
10 necessary;

11 (3) Construct, reconstruct, repair and maintain the state  
12 roads;

13 (4) Allocate the cost of retaining walls for the protec-  
14 tion of a state road or its right-of-way to the cost of con-  
15 struction, reconstruction, improvement or maintenance;

16 (5) Close any state road while under construction or  
17 repair and provide for a temporary road during the course  
18 of construction or repair;

19 (6) Adjust damages occasioned by the construction, re-  
20 construction or repair of any state road or the establishment  
21 of any temporary road;

22 (7) Fix standard widths for rights-of-way, bridges and  
23 approaches; fix the grades on all state roads; and pro-  
24 vide for the acquisition of land necessary for cuts and  
25 fills;

26 (8) Make emergency purchases of materials, supplies,  
27 repair parts for road equipment and emergency equipment  
28 rentals, such emergency purchase or rental in no event to ex-  
29 ceed two hundred dollars in value; to purchase or lease  
30 all necessary ground and buildings for the storage of road  
31 equipment or road building materials, including necessary



- 32 rights-of-way for the construction of public roads; to pur-  
33 chase and negotiate for the use of waste sites, gravel or  
34 sand banks, cinders, red dog or other road building materials;  
35 (9) Purchase, produce and sell road materials as provided  
36 by section twenty-five of this article;  
37 (10) Test and standardize materials used in the construc-  
38 tion and maintenance of state roads;  
39 (11) Establish a uniform system of road signs and  
40 markers;  
41 (12) Classify and designate by number the routes within  
42 the primary and secondary road system;  
43 (13) Institute complaints before the public service com-  
44 mission concerning interstate freight rates, car service, and  
45 movement of road materials and machinery;  
46 (14) Make such administrative rules and regulations as  
47 are necessary to give effect to the powers granted by this  
48 chapter.

2 *Sec. 19. Contracts for Road Construction or Material; Con-*  
3 *vict Labor.* All work of construction and reconstruction of  
4 state roads and bridges, and the furnishing of all materials and  
5 supplies therefor, and for the repair thereof, unless manufac-  
6 tured or assembled by the commissioner, shall be done and  
7 furnished pursuant to contract except that the commissioner  
8 shall not be required to award any contract for work or for ma-  
9 terials or supplies for an amount less than three thousand dol-  
10 lars. When the commissioner is about to construct, reconstruct,  
11 or improve any road or highway, he shall file with the clerk of  
12 the county court, or of the municipality, as the case may be, in  
13 which such road lies, a certified copy of the plans and specifica-  
14 tions therefor, and a notice that the commissioner is about to  
15 enter upon and proceed with the work in question. If the work  
16 is to be done, or the materials therefor are to be furnished  
17 by contract, the commissioner shall thereupon advertise once  
18 each week for at least two successive weeks in two news-  
19 papers of opposite politics, if there be such, but if not,  
20 then in one newspaper published in each county or munici-  
21 pality in which the road lies, and once in at least one daily  
22 newspaper published in the city of Charleston, and in such  
other journals or magazines as may to the commissioner

23 seem advisable, for sealed proposals for the construction or  
24 other improvement of such road, and for the furnishing of  
25 materials therefor, accurately describing the same, and stat-  
26 ing the time and place for opening such proposals and re-  
27 serving the right to reject any and all proposals. The com-  
28 missioner shall have the power to prescribe proper pre-  
29 qualifications of contractors bidding on state road construc-  
30 tion work. To all sealed proposals there shall be attached  
31 the certified check of the bidder or bidder's bond acceptable  
32 to the commissioner, in such amount as the commissioner  
33 shall specify in the advertisement, but not to exceed five per  
34 cent of the aggregate amount of the bid; but such amount  
35 shall never be less than five hundred dollars. Such pro-  
36 posals shall be publicly opened and read at the time and  
37 place specified in the advertisement, and the contract for  
38 such work, or for the supplies or materials required there-  
39 for shall, if let, be awarded by the commissioner to the  
40 lowest responsible bidder for the type of construction  
41 selected. In case the commissioner shall reject all bids, he  
42 may thereafter do the work with his own forces or with  
43 prison labor, or may readvertise in the same manner as before  
44 and let a contract for such work pursuant thereto. But  
45 nothing in this section shall be so construed as to prevent the  
46 commissioner from building, constructing, reconstructing or  
47 repairing a road to any extent with prison labor without first  
48 advertising and rejecting bids therefor.

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## CHAPTER 79

(Com. Sub. for House Bill No. 16—Originating in the  
House Committee on Roads)

AN ACT to provide for the working of felony prisoners in the construction of state roads, and in making articles required by the state departments and institutions or otherwise, by amending and reenacting the whole of article five, chapter seventeen, and amending and reenacting sections one, two and four, article fifteen, chapter seventeen, and section nine, article five, chapter twenty-eight of the code of West Virginia,

one thousand nine hundred thirty-one; and repealing the portions thereof not reenacted.

[Passed March 13, 1937; in effect ninety days from passage. Became a law without the approval of the Governor.]

## Article 5. State Convict Road Force.

### Section

1. State convict road force; how used.
2. How convict workers selected.
3. Guards and regulations; pay of prisoners.
4. Housing, feeding and transportation of prisoners.
5. Escape of convict from state road force.
6. Return of convicts to penitentiary; trusties.
7. Medical inspection of convict camps.
8. Convicts in same classification placed in same camp.
9. Commissioner to pay expenses of convicts and cost of equipment and materials.
10. Convict discharged at expiration of term.
11. Commissioner may act through agents; may set up department of prison labor.
12. In what work other convicts may be employed by warden.
13. Other acts repealed.

*Be it enacted by the Legislature of West Virginia:*

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

Section 1. *State Convict Road Force; How Used.* All male  
 2 persons convicted of felony and sentenced to imprisonment or  
 3 confinement in the penitentiary by any court, or who may  
 4 hereafter be sentenced for a felony, whether actually sentenced  
 5 to labor or not, or so many thereof as may be required by  
 6 the state road commissioner, shall, as incident to such sent-  
 7 ence or confinement, constitute the state convict road force  
 8 and as such may be employed under the supervision of  
 9 the state road commissioner in building, surfacing, and main-  
 10 taining roads under the supervision of the state road com-  
 11 missioner, including both primary and secondary roads, and  
 12 in and about any quarries, gravel pits, sandbanks, crushers,  
 13 brick kilns, or other plants and places operated by the state  
 14 road commission for the manufacture and acquisition of ma-

15 terials for use in the construction, maintenance and repair  
16 of such roads.

Sec. 2. *How Convict Workers Selected.* The warden of  
2 the penitentiary shall prepare for the road commissioner  
3 a monthly report which shall show the names of not less than  
4 five hundred inmates who are suitable for road work. From  
5 the said prepared list of inmates the road commissioner shall  
6 select the number needed for road work.

7 The warden shall deliver and the road commissioner shall  
8 receive at the penitentiary, convicts selected by the warden  
9 to work on the road.

Sec. 3. *Guards and Regulations; Pay of Prisoners.* The  
2 state convict road force shall be guarded when working on  
3 the roads and in making road materials, and when being  
4 transported to and from the penitentiary, by guards detailed  
5 by the warden, who shall designate one guard as the superior,  
6 and the other or others as assistants. The state guard and as-  
7 sistants shall obey the rules prescribed for prison camps. Any  
8 guard or assistant not obeying such rules shall, on the rec-  
9 ommendation of the superintendent or engineer in charge of  
10 the work, be immediately recalled, and some other person de-  
11 tailed in his stead. The wages of each guard, superior and as-  
12 sistant, shall be fixed by the road commissioner. All guards  
13 and prisoners shall be under the direction of the warden, or  
14 his authority, and shall work not to exceed sixty hours per  
15 week, and each prisoner shall be paid for each work day, not  
16 to exceed ten hours, the sum of ten cents and for time in  
17 excess thereof ten cents per hour for such excess time worked.

Sec. 4. *Housing, Feeding and Transportation of Prisoners.*  
2 The state board of health, warden and the state road commis-  
3 sioner shall promptly formulate rules and regulations govern-  
4 ing the camps essential to the housing of the prisoners, and  
5 the state road commissioner shall provide suitable quarters,  
6 not inconsistent with such rules and regulations, for such con-  
7 vict road force, to be constructed, when practicable, with pris-  
8 on labor. He shall supply such force with all necessary food,  
9 cooking utensils, beds and bedding, and provide means of  
10 transportation for such road force and camp equipment, when

11 necessary, from place to place, or to and from the work of  
12 such convicts.

Sec. 5. *Escape of Convict From State Road Force.* Any  
2 penitentiary convict who shall escape from the state road  
3 force, or in going to or returning therefrom, shall be guilty  
4 of a felony and on conviction in the county where the escape  
5 was made, shall be sentenced by the court and returned to  
6 the authority from which he escaped, there to labor on the  
7 roads for a sentence of not more than two years in addition  
8 to the unserved time of his original sentence; and it is made  
9 the duty of all arresting officers in the state to apprehend  
10 such escaped prisoner and return him to the jail of the county  
11 from which he escaped as for an original felony; and the  
12 costs shall be paid as in other cases of felony; but the road  
13 commissioner may offer and pay suitable rewards for his  
14 apprehension, and any guard may pursue and arrest him in  
15 any county.

Sec. 6. *Return of Convicts to Penitentiary; Trustees.* The  
2 state road commissioner or warden shall in all cases where  
3 convicts or prisoners are under his control and supervision  
4 have authority to return any convict or prisoner to the peni-  
5 tentiary who because of mental or physical infirmity is unable  
6 to work, or whose presence in the camp, due to insubordin-  
7 ation, bad conduct or disposition may impair the discipline  
8 of the road force.

9 Under the supervision of the warden, or rules pro-  
10 mulgated for the government and discipline of the state  
11 convict road force approved by him, such force, or so many  
12 thereof as appear eligible and trustworthy, shall be made  
13 trustees; but reasonable corrective measures may be taken  
14 against trustees who violate their privileges as such.

Sec. 7. *Medical Inspection of Convict Camps.* It shall  
2 be the duty of the state road commissioner to designate  
3 some competent physician or physicians to make inspection  
4 of all camps where a convict road force is employed. It shall  
5 be the duty of such physician to make thorough investigations  
6 of the sanitary conditions of such camps each sixty days and  
7 report every inspection to the governor, together with such  
8 recommendations as he may deem necessary; and he shall

9 furnish copies thereof to the warden of the penitentiary, the  
10 state road commissioner, the state public health council, and  
11 the local board of health of the county in which such camp  
12 is located. A reasonable compensation to the physician ren-  
13 dering such services shall be paid by the commissioner.

Sec. 8. *Convicts in Same Classification Placed in Same*  
2 *Camp.* It shall be the duty of the state road commissioner,  
3 with the assistance of the warden, to organize the penitentiary  
4 convicts in the state road force, as far as practicable, into  
5 groups or classes according to the similarity of their respective  
6 dispositions, temperaments, criminal inclinations, regard for  
7 orderly observance of the rules and general habits respecting  
8 stability or safety, and, as far as practicable, to place those so  
9 classified in separate camps, and particularly to employ or use  
10 in one camp, or class of camps, those youths and first offenders  
11 whose correction, improvement and reclamation may reas-  
12 onably be anticipated and whose habits are not dangerous to  
13 their fellow convicts, and for the purpose of effecting such  
14 classifications prisoners may be removed from one camp to  
15 another. All classes of prisoners on the state convict road  
16 force shall be employed and used under such safeguards and  
17 in accordance with such rules and regulations as may be pro-  
18 vided by the road commissioner, the warden and the gov-  
19 ernor.

Sec. 9. *Commissioner to Pay Expenses of Convicts and*  
2 *Cost of Equipment and Materials.* The expenses incident to  
3 the transportation of convicts and prisoners, their food, cloth-  
4 ing, medical attention and maintenance while in the state con-  
5 vict road force shall be paid by the state road commissioner,  
6 and all equipment, materials, tools, teams and machinery  
7 necessary in the prosecution of the work shall be provided out  
8 of any funds at his disposal available for the building, surfac-  
9 ing, paving and completing of the roads upon which such con-  
10 victs and prisoners labor. And when a convict is discharged  
11 at camp the commissioner shall pay him any sum due him and  
12 may pay in whole or in part his expenses home.

13 In any case of a prisoner taken from the penitentiary to  
14 a road convict camp the state road commissioner shall pay  
15 for the per diem cost of feeding, clothing and caring for such  
16 prisoners.

2       Sec. 10. *Convict Discharged at Expiration of Term.* The  
3 warden of the penitentiary shall have power to discharge any  
4 prisoner working on the state road force wherever he may  
5 be in the state when the term of such prisoner has expired,  
6 and section twenty-seven, article five, chapter twenty-eight  
7 shall apply to all convicts from the penitentiary on said state  
8 road force.

2       Sec. 11. *Commissioner May Act Through Agents; May Set*  
3 *Up Department of Prison Labor.* Where anything herein is  
4 required or permitted to be done by the state road commis-  
5 sioner, the same may be done in person or by superintendents,  
6 agents, or employees of the state road commissioner, upon his  
7 authority duly given, and he may set up a department of  
8 prison labor having charge of the agencies and persons under  
9 his authority as herein provided for, and account for the oper-  
10 ations of the state convict road force therein; but in any event  
11 such accounts and operations shall be separately stated.

2       Sec. 12. *In What Work other Convicts May be Employed*  
3 *by Warden.* Convicts of both sexes not employed in the state  
4 convict road force as provided by article five of chapter sev-  
5 enteen, may be employed by the warden under the directions  
6 of the state board of control in work for the state at the peni-  
7 tentiary or any farm now or hereafter under control of the  
8 state, but such convicts actually confined within the peniten-  
9 tiary and not available for outside work shall, as far as pos-  
10 sible, be used in the making of articles required by the state  
11 departments and institutions. The warden may charge the  
12 various state departments and institutions for such convict-  
13 made supplies the actual cost of the materials used in the  
14 manufacture of the articles furnished them and, in addition  
15 thereto, an amount sufficient to defray the maintenance cost  
16 of the prisoners employed in such manufacture and to keep  
17 in repair with suitable replacements the machinery, tools and  
18 appliances used in the manufacture of such articles, to the  
19 extent of the fair market price thereof, the amount of which  
20 shall be stated by the state board of control. Any articles and  
21 supplies so manufactured and not required by the state de-  
22 partments and institutions may be sold by the warden to  
23 municipalities and counties and the agencies thereof, or to

23 federal agencies, upon the same terms and conditions, but in  
24 no event shall such articles be sold to private persons, firms,  
25 or corporations, or be sold or consumed otherwise than by  
26 public departments and institutions of government.

27 This act shall not impair any contracts now existing be-  
28 tween the state board of control and any person, firm, or  
29 corporation for the use of convict labor for manufacturing  
30 within the walls of the penitentiary, nor prevent the hiring  
31 of convicts either within or without the walls as otherwise  
32 provided by this article.

Sec. 13. *Other Acts Repealed.* Article five of chapter  
2 seventeen, sections one, two and four of article fifteen of  
3 chapter seventeen and section nine of article five of chapter  
4 twenty-eight of the code of West Virginia, one thousand nine  
5 hundred thirty-one, except to the extent amended and re-  
6 enacted by this act, are hereby repealed.

## CHAPTER 80

(House Bill No. 245—By Mr. Speaker, Mr. Thomas)

AN ACT to amend article eight, chapter seventeen of the code of  
West Virginia, one thousand nine hundred thirty-one, as  
amended by chapter forty, acts of the Legislature, first ex-  
traordinary session, one thousand nine hundred thirty-three,  
by adding section thirty-one-a, relating to the powers of the  
state road commissioner to regulate traffic upon state roads.

[Passed March 13, 1937; in effect from passage. Approved by the Governor.]

### Article 8. Traffic Regulations and Laws of the Road.

#### Section

31-a. When commissioner may prohibit, restrict or regulate traffic on  
a state road; copies of regulations; official signs.

*Be it enacted by the Legislature of West Virginia:*

That article eight, chapter seventeen of the code of West Vir-  
ginia, one thousand nine hundred thirty-one, as amended by chap-



ter forty, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, be amended by adding section thirty-one-a to read as follows.

Section 31-a. *When Commissioner May Prohibit, Restrict or Regulate Traffic on a State Road; Copies of Regulations; Official Signs.* If the state road commissioner finds that life, property, or the preservation of a state road is endangered because of the condition of the road, the congestion of traffic on the road, or the character of traffic on the road, he may promulgate regulations as follows, by :

1. Closing the road to the use of vehicles of specified size, weight, load or other characteristics.
2. Prescribing maximum and minimum rates of speed which shall be observed by vehicles using the road.
3. Prohibiting the use of the road by all vehicles or by particular classes of vehicles during particular hours of the day or on particular days of the week.
4. Specifying minimum distances to be maintained between heavy vehicles traveling in the same direction.
5. Prescribing such other traffic regulations as he may find necessary for the purposes of this section.

The state road commissioner shall deposit a copy of a regulation promulgated by him with the county clerk of each county through which the road passes. He shall print copies and distribute them free of charge to any person requesting them.

The state road commissioner shall place official signs prominently located at the entrance of the state road affected by a regulation, and at each intersection where vehicles habitually enter upon the road. The placing of official signs shall be notice that the regulations with respect to that road have been promulgated and are in effect.

A person who violates a regulation promulgated under this section shall be guilty of a misdemeanor, and upon conviction shall be fined not less than five dollars nor more than one hundred dollars or imprisoned in the county jail not less than three days nor more than thirty days, or both, in the discretion of the court.

## CHAPTER 81

(House Bill No. 470—By Mr. Shores)

AN ACT to amend and reenact section twenty-six, article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter forty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, relating to bridges.

[Passed March 13, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Article 4. State Roads.

#### Section

26. Bridges as part of state road system; maintenance by state.

*Be it enacted by the Legislature of West Virginia:*

That section twenty-six, article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter forty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 26. *Bridges as Part of State Road System; Maintenance by State.* The state road commissioner shall designate and may, at any time, relocate and redesignate as a connecting part of a primary road, any bridge or street within a municipal corporation. The commissioner shall construct, reconstruct, improve and maintain the designated connecting part at the cost and expense of the state: *Provided, however,* That any existing free bridge forming a connecting link between two counties and two state routes, is hereby adopted as part of the state road system and shall hereafter be maintained by the state: *Provided further,* That any existing free bridge forming a connecting link as an interstate bridge between this state and another state is hereby adopted as part of the state road system, and as to that part of the bridge within the boundary of this state shall be maintained by the state.

## CHAPTER 82

(House Bill No. 1—By Mr. Doringer)

AN ACT to fix the compensation of certain elective and appointive state and county officers, to prescribe the method of fixing the compensation of other state officers, and of assistants and employees, and to repeal chapter twenty of the acts of the extraordinary session of the Legislature of West Virginia, one thousand nine hundred thirty-two.

[Passed March 9, 1937; in effect from passage. Approved by the Governor.]

### Section

1. Salary of governor.
2. Salaries of other elective state officials.
3. Salary of judges of supreme court of appeals.
4. Salary of tax commissioner.
5. Salary of members of public service commission.
6. Salary of compensation commissioner.
7. Salary of banking commissioner.
8. Salary of commissioner of health.
9. Salary of members of board of control.
10. Salary of chief of department of mines.
11. Salary of warden of the penitentiary.
12. Salary of superintendent of department of public safety.
13. Salary of conservation commissioner.
14. Salary of commissioner of labor.
15. Salary of director of bureau of negro welfare and statistics.
16. Salary of director of purchases.
17. Salary of adjutant general.
18. When increases effective; how paid.
19. How and by whom compensation of assistants and employees fixed.
20. Salaries of judges of circuit courts; additional compensation from counties.
21. Salaries of judges of inferior courts.
22. Employment of wife at public expense by state official or employee prohibited.
23. Act repealed.
24. Provisions severable.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Salary of Governor.* The salary of the governor shall be ten thousand dollars per annum.

Sec. 2. *Salaries of Other Elective State Officials.* The salary of the attorney-general, the auditor, the secretary of state, the treasurer, the commissioner of agriculture and the superintendent of free schools shall be, each, six thousand dollars per annum.

2       Sec. 3. *Salary of Judges of Supreme Court of Appeals.* The  
3 salary of each of the judges of the supreme court of appeals  
3 shall be ten thousand dollars per annum.

2       Sec. 4. *Salary of Tax Commissioner.* The salary of the tax  
2 commissioner shall be six thousand dollars per annum.

2       Sec. 5. *Salary of Members of Public Service Commission.*  
2 The salary of each of the members of the public service com-  
3 mission shall be six thousand dollars per annum.

2       Sec. 6. *Salary of Compensation Commissioner.* The salary  
2 of the state compensation commissioner shall be six thousand  
3 dollars per annum.

2       Sec. 7. *Salary of Banking Commissioner.* The salary of the  
2 commissioner of banking shall be six thousand dollars per  
3 annum.

2       Sec. 8. *Salary of Commissioner of Health.* The salary of  
2 the commissioner of health shall be five thousand dollars per  
3 annum.

2       Sec. 9. *Salary of Members of Board of Control.* The salary  
2 of each of the members of the state board of control shall be  
3 five thousand dollars per annum.

2       Sec. 10. *Salary of Chief of Department of Mines.* The sal-  
2 ary of the chief of the department of mines shall be six thou-  
3 sand dollars per annum.

2       Sec. 11. *Salary of Warden of the Penitentiary.* The salary  
2 of the warden of the West Virginia penitentiary shall be five  
3 thousand dollars per annum.

2       Sec. 12. *Salary of Superintendent of Department of Public*  
2 *Safety.* The salary of the superintendent of the department  
3 of public safety shall be six thousand dollars per annum.

2       Sec. 13. *Salary of Conservation Commissioner.* The salary  
2 of the conservation commissioner shall be five thousand dol-  
3 lars per annum.

2       Sec. 14. *Salary of Commissioner of Labor.* The salary of  
2 the commissioner of labor shall be four thousand dollars per  
3 annum.

2       Sec. 15. *Salary of Director of Bureau of Negro Welfare*  
3 *and Statistics.* The salary of the director of the bureau of  
4 negro welfare and statistics shall be three thousand six hun-  
5 dred dollars per annum.

2       Sec. 16. *Salary of Director of Purchases.* The salary of the  
3 director of purchases shall be six thousand dollars per an-  
4 num.

2       Sec. 17. *Salary of Adjutant General.* The salary of the  
3 adjutant general shall be four thousand dollars per annum.

2       Sec. 18. *When Increases Effective; How Paid.* Where an  
3 officer of any executive department is now receiving a com-  
4 pensation different in amount from that fixed by this act the  
5 rate of compensation provided for by this act shall not become  
6 effective until the close of the term for which the officer was  
7 elected or appointed.

8       Where under the provisions of the constitution and this  
9 act an increase in salary may become effective, such increase  
10 may be paid from any other item of the appropriation for  
11 such department not otherwise expended, if the specific item  
12 in the budget act is insufficient therefor.

2       Sec. 19. *How and by Whom Compensation of Assistants*  
3 *and Employees Fixed.* The compensation of officers, assist-  
4 ants, and employees in state departments, agencies or insti-  
5 tutions whose salary is not otherwise fixed by law, shall be de-  
6 termined in accordance with personnel classifications and uni-  
7 form salary schedules established as provided by law. Subject  
8 to such classifications and schedules the amount of the com-  
9 pensation shall be fixed as follows:

10       1. The salary of an officer in the state government who is  
11 appointed by the governor shall be fixed by the governor.

12       2. The compensation to be received by a subordinate officer,  
13 assistant, or employee in the state government shall be fixed  
14 by the person who appoints or employs the subordinate officer,  
15 assistant or employee.

16       3. The compensation to be received by persons employed in  
17 state institutions under the control of the board of governors  
18 of West Virginia University shall be fixed by such board of  
19 governors.

19 4. The compensation to be received by persons employed in  
20 state institutions under the control of the state board of edu-  
21 cation shall be fixed by the state board of education.

22 5. The compensation to be received by persons employed  
23 in state institutions under the control of the board of control  
24 shall be fixed by the board of control.

Sec. 20. *Salaries of Judges of Circuit Courts; Additional*  
2 *Compensation From Counties.* The salaries of the judges of  
3 the circuit courts shall be paid out of the state treasury and  
4 shall, unless otherwise provided by law, be in the following  
5 annual amounts:

6 (1) In circuits having more than one hundred thousand  
7 population, seven thousand five hundred dollars;

8 (2) In circuits having more than eighty thousand and less  
9 than one hundred thousand population, seven thousand dol-  
10 lars;

11 (3) In circuits having more than sixty thousand and less  
12 than eighty thousand population, six thousand five hundred  
13 dollars;

14 (4) In circuits having more than forty thousand and less  
15 than sixty thousand population, six thousand dollars;

16 (5) In circuits having less than forty thousand popula-  
17 tion, five thousand dollars.

18 A county court may pay the judge of the circuit additional  
19 compensation, but the salary and additional compensation  
20 shall not exceed seven thousand five hundred dollars, except  
21 in circuits of over one hundred thousand population, where-  
22 in the salary and additional compensation shall not exceed  
23 eight thousand dollars.

24 The population shall be according to the United States cen-  
25 sus, or the estimate of the United States bureau of census, as  
26 certified to the state auditor by the United States director of  
27 the census, last preceding the beginning of the calendar year  
28 in which the salary is payable.

Sec. 21. *Salaries of Judges of Inferior Courts.* The sal-  
2 ary of each and every judge of a criminal, intermediate, do-  
3 mestic relations, or other court of record, inferior to circuit  
4 courts, is restored to the sum and amount received as salary  
5 by each of such judges prior to the enactment of chapter

6 twenty, acts of the Legislature of West Virginia, extraordi-  
7 nary session, one thousand nine hundred thirty-two.

2 Sec. 22. *Employment of Wife at Public Expense by State*  
3 *Official or Employee Prohibited.* The employment of his wife  
4 at public expense by any official or employee of the state is  
5 expressly prohibited.

2 Sec. 23. *Act Repealed.* Chapter twenty, acts of the Leg-  
3 islature of West Virginia, extraordinary session, one thousand  
4 nine hundred thirty-two, is hereby repealed.

2 Sec. 24. *Provisions Severable.* The provisions of this act  
3 shall be construed as separable and several, and should any of  
4 the provisions or parts hereof be construed or held to be un-  
5 constitutional, or for any other reason invalid or unenforce-  
6 able, the remaining provisions of this act shall not be thereby  
7 affected.

7 All acts or parts of acts inconsistent herewith are hereby re-  
8 pealed.

## CHAPTER 83

(Com. Sub. for House Bill No. 420—Originating in the House  
Committee on the Judiciary)

AN ACT to amend and reenact sections one, two, three, four and five, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter nineteen, acts of the Legislature, extraordinary session, one thousand nine hundred thirty-two, relating to the salaries of sheriffs, county clerks, circuit clerks, and prosecuting attorneys.

[Passed March 13, 1937; in effect ninety days from passage. Became a law without the approval of the Governor.]

### Article 7. Salaries; Deputies and Assistants and Their Salaries.

#### Section

1. Salaries of sheriffs.
2. Salaries of county clerks.
3. Salaries of circuit clerks.
4. Salaries of joint clerks of the county and circuit courts.
5. Salaries of prosecuting attorneys.

*Be it enacted by the Legislature of West Virginia:*

That sections one, two, three, four and five, article seven, chapter

seven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter nineteen, acts of the Legislature, extraordinary session, one thousand nine hundred thirty-two, be amended and reenacted so as to read as follows:

Section 1. *Salaries of Sheriffs.* The annual compensation  
2 of the sheriff of each county shall be as follows: Barbour  
3 county, two thousand five hundred dollars; Berkeley county,  
4 three thousand seven hundred dollars; Boone county, two  
5 thousand five hundred dollars; Braxton county, two thousand  
6 eight hundred dollars; Brooke county, two thousand five hun-  
7 dred dollars; Cabell county, four thousand eight hundred dol-  
8 lars; Calhoun county, one thousand eight hundred dollars;  
9 Clay county, one thousand eight hundred dollars; Doddridge  
10 county, two thousand four hundred dollars; Fayette county,  
11 four thousand dollars; Gilmer county, two thousand two  
12 hundred dollars; Grant county, one thousand eight hundred  
13 dollars; Greenbrier county, two thousand seven hundred  
14 dollars; Hampshire county, two thousand dollars; Hancock  
15 county, two thousand dollars; Hardy county, one thousand  
16 six hundred dollars; Harrison county, four thousand five  
17 hundred dollars; Jackson county, two thousand dollars;  
18 Jefferson county, two thousand five hundred dollars; Kan-  
19 awha county, five thousand dollars; Lewis county, three  
20 thousand dollars; Logan county, three thousand six hundred  
21 dollars; Lincoln county, two thousand five hundred dollars;  
22 Marion county, four thousand eight hundred dollars; Mar-  
23 shall county, three thousand five hundred dollars; Mason  
24 county, two thousand five hundred dollars; Mercer county,  
25 three thousand nine hundred dollars; Mineral county, three  
26 thousand dollars; Mingo county, three thousand five hundred  
27 dollars; Monongalia county, three thousand six hundred  
28 dollars; Monroe county, one thousand eight hundred dollars;  
29 McDowell county, four thousand eight hundred dollars;  
30 Morgan county, one thousand five hundred dollars; Nicholas  
31 county, two thousand five hundred dollars; Ohio county, four  
32 thousand five hundred dollars; Pendleton county, one thou-  
33 sand six hundred dollars; Pleasants county, one thousand  
34 eight hundred dollars; Pocahontas county, two thousand one



35 hundred dollars; Preston county, three thousand dollars;  
36 Putnam county, two thousand dollars; Raleigh county, three  
37 thousand six hundred dollars; Randolph county, three thou-  
38 sand dollars; Ritchie county, two thousand seven hundred  
39 fifty dollars; Roane county, two thousand four hundred dol-  
40 lars; Summers county, two thousand dollars; Taylor county,  
41 two thousand dollars; Tucker county, two thousand two hun-  
42 dred dollars; Tyler county, two thousand four hundred  
43 dollars; Upshur county, two thousand seven hundred dollars;  
44 Wayne county, two thousand four hundred dollars; Webster  
45 county, two thousand two hundred dollars; Wetzel county,  
46 three thousand dollars; Wirt county, one thousand six hun-  
47 dred fifty dollars; Wood county, four thousand dollars;  
48 Wyoming county, two thousand eight hundred dollars.

Sec. 2. *Salaries of County Clerks.* The annual compensa-  
2 tion of the clerk of the county court in each county shall be  
3 as follows: Barbour county, two thousand two hundred  
4 dollars; Berkeley county, two thousand dollars; Boone  
5 county, two thousand four hundred dollars; Braxton county,  
6 two thousand two hundred dollars; Brooke county, one  
7 thousand nine hundred dollars; Cabell county, four thou-  
8 sand five hundred dollars; Calhoun county, one thousand  
9 seven hundred dollars; Clay county, one thousand seven hun-  
10 dred dollars; Doddridge county, one thousand eight hundred  
11 dollars; Fayette county, three thousand two hundred dollars;  
12 Gilmer county, one thousand eight hundred dollars; Green-  
13 brier county, two thousand five hundred dollars; Hampshire  
14 county, one thousand eight hundred dollars; Hancock county,  
15 one thousand eight hundred dollars; Harrison county, four  
16 thousand dollars; Jackson county, one thousand eight hun-  
17 dred dollars; Jefferson county, two thousand dollars; Kan-  
18 awha county, five thousand five hundred dollars; Lewis  
19 county, two thousand five hundred dollars; Lincoln county,  
20 two thousand four hundred dollars; Logan county, three  
21 thousand three hundred dollars; Marion county, four thou-  
22 sand eight hundred dollars; Marshall county, three thousand  
23 dollars; Mason county, two thousand five hundred dollars;  
24 McDowell county, four thousand five hundred dollars; Mercer  
25 county, three thousand six hundred dollars; Mineral county,  
26 three thousand dollars; Mingo county, three thousand dol-

27 lars; Monongalia county, three thousand five hundred dol-  
28 lars; Monroe county, one thousand five hundred dollars;  
29 Morgantown county, one thousand seven hundred dollars;  
30 Nicholas county, two thousand two hundred fifty dollars;  
31 Ohio county, four thousand dollars; Pleasants county,  
32 one thousand eight hundred dollars; Pocahontas coun-  
33 ty, one thousand eight hundred dollars; Preston county,  
34 two thousand three hundred dollars; Putnam county, two  
35 thousand two hundred dollars; Raleigh county, three thou-  
36 sand six hundred dollars; Randolph county, two thousand  
37 eight hundred dollars; Ritchie county, two thousand five  
38 hundred dollars; Roane county, two thousand two hundred  
39 dollars; Summers county, one thousand six hundred dollars;  
40 Taylor county, two thousand dollars; Tucker county, one  
41 thousand nine hundred dollars; Tyler county, two thousand  
42 dollars; Upshur county, two thousand dollars; Wayne county,  
43 two thousand four hundred dollars; Webster county, two  
44 thousand dollars; Wetzel county, two thousand six hundred  
45 dollars; Wirt county, one thousand two hundred dollars;  
46 Wood county, three thousand six hundred dollars; Wyoming  
47 county, three thousand dollars.

Sec. 3. *Salaries of Circuit Clerks.* The annual compensa-  
2 tion of the clerk of the circuit court (or clerk of the circuit  
3 and criminal or intermediate or other court of limited juris-  
4 diction) in each county shall be as follows: Barbour county,  
5 two thousand dollars; Berkeley county, two thousand dollars;  
6 Boone county, two thousand dollars; Braxton county, two  
7 thousand dollars; Brooke county, one thousand eight hun-  
8 dred dollars; Cabell county, four thousand five hundred dol-  
9 lars; Calhoun county, one thousand two hundred dollars;  
10 Clay county, one thousand four hundred dollars; Doddridge  
11 county, one thousand five hundred dollars; Fayette county,  
12 three thousand dollars; Gilmer county, one thousand six  
13 hundred dollars; Greenbrier county, one thousand eight  
14 hundred dollars; Hampshire county, one thousand dol-  
15 lars; Hancock county, one thousand eight hundred dol-  
16 lars; Harrison county, four thousand dollars; Jackson  
17 county, one thousand five hundred dollars; Jefferson coun-  
18 ty, two thousand dollars; Kanawha county, five thousand  
19 five hundred dollars; Lewis county, two thousand two

20 hundred dollars; Lincoln county, two thousand dollars;  
21 Logan county, three thousand dollars; Marion county,  
22 four thousand eight hundred dollars; Marshall county,  
23 two thousand four hundred dollars; Mason county, one  
24 thousand eight hundred dollars; McDowell county, four  
25 thousand five hundred dollars; Mercer county, three thou-  
26 sand six hundred dollars; Mineral county, three thou-  
27 sand dollars; Mingo county, three thousand dollars; Monon-  
28 galia county, three thousand five hundred dollars; Mon-  
29 roe county, one thousand two hundred dollars; Morgan  
30 county, nine hundred dollars; Nicholas county, two thousand  
31 dollars; Ohio county, five thousand dollars; Pleasants county,  
32 one thousand three hundred fifty dollars; Pocahontas county,  
33 one thousand eight hundred dollars; Preston county, two  
34 thousand dollars; Putnam county, one thousand eight hun-  
35 dred dollars; Raleigh county, three thousand three hundred  
36 dollars; Randolph county, two thousand six hundred dollars;  
37 Ritchie county, one thousand eight hundred dollars; Roane  
38 county, one thousand eight hundred dollars; Summers  
39 county, one thousand six hundred dollars; Taylor county,  
40 two thousand dollars; Tucker county, one thousand six hun-  
41 dred dollars; Tyler county, one thousand eight hundred  
42 dollars; Upshur county, two thousand dollars; Wayne county,  
43 two thousand dollars; Webster county, one thousand eight  
44 hundred dollars; Wetzel county, two thousand dollars; Wirt  
45 county, nine hundred dollars; Wood county, three thousand  
46 dollars; Wyoming county, three thousand dollars.

Sec. 4. *Salaries of Joint Clerks of County and Circuit  
2 Courts.* The annual compensation of the clerks of the courts in  
3 the counties where both the office of the clerk of the county  
4 court and clerk of the circuit court are held by the same per-  
5 son shall be as follows: Hardy county, one thousand eight hun-  
6 dred dollars; Grant county, one thousand nine hundred dol-  
7 lars; Pendleton county, one thousand eight hundred dollars.

Sec. 5. *Salaries of Prosecuting Attorneys.* The annual  
2 compensation of the prosecuting attorney in each county,  
3 including the compensation provided by law for his services  
4 as attorney for boards of education and other administrative  
5 boards and officers in the county, shall be as follows: Bar-

6 bour county, two thousand dollars; Berkeley county, one  
7 thousand eight hundred dollars; Boone county, two thousand  
8 four hundred dollars; Braxton county, one thousand eight  
9 hundred dollars; Brooke county, one thousand eight hundred  
10 dollars; Cabell county, four thousand eight hundred dollars;  
11 Calhoun county, one thousand two hundred dollars; Clay  
12 county, one thousand five hundred dollars; Doddridge  
13 county, one thousand two hundred dollars; Fayette county,  
14 three thousand two hundred dollars; Gilmer county, one thou-  
15 sand five hundred dollars; Grant county, six hundred dollars;  
16 Greenbrier county, two thousand five hundred dollars;  
17 Hampshire county, one thousand dollars; Hancock coun-  
18 ty, two thousand dollars; Hardy county, one thousand  
19 dollars; Harrison county, four thousand dollars; Jack-  
20 son county, one thousand two hundred dollars; Jefferson  
21 county, one thousand two hundred dollars; Kanawha county,  
22 six thousand dollars; Lewis county, two thousand dollars;  
23 Lincoln county, two thousand four hundred dollars; Logan  
24 county, three thousand six hundred dollars; Marion county,  
25 four thousand eight hundred dollars; Marshall county, one  
26 thousand eight hundred dollars; Mason county, two thousand  
27 five hundred dollars; McDowell county, four thousand eight  
28 hundred dollars; Mercer county, three thousand six hundred  
29 dollars; Mineral county, two thousand dollars; Mingo county,  
30 four thousand two hundred dollars; Monongalia county, four  
31 thousand dollars; Monroe county, six hundred dollars; Mor-  
32 gan county, one thousand dollars; Nicholas county, two thou-  
33 sand two hundred dollars; Ohio county, four thousand seven  
34 hundred dollars; Pendleton county, six hundred dollars;  
35 Pleasants county, one thousand two hundred dollars; Poca-  
36 hontas county, one thousand two hundred dollars; Preston  
37 county, two thousand five hundred dollars; Putnam county,  
38 one thousand eight hundred dollars; Raleigh county, not less  
39 than three thousand nor more than four thousand dollars;  
40 Randolph county, two thousand four hundred dollars; Rit-  
41 chie county, one thousand two hundred dollars; Roane coun-  
42 ty, one thousand five hundred dollars; Summers county, one  
43 thousand six hundred dollars; Taylor county, two thousand  
44 dollars; Tucker county, one thousand two hundred dollars;  
45 Tyler county, one thousand two hundred dollars; Upshur

46 county, one thousand five hundred dollars; Wayne county,  
47 one thousand five hundred dollars; Webster county, one thou-  
48 sand eight hundred dollars; Wetzel county, two thousand  
49 dollars; Wirt county, six hundred dollars; Wood county,  
50 three thousand six hundred dollars; Wyoming county, not less  
51 than three thousand dollars nor more than four thousand  
52 dollars.

53 This act shall not apply to any sheriff, prosecuting attorney,  
54 clerk of a county court, or clerk of a circuit court, now hold-  
55 ing the respective offices, during the terms for which they  
56 were elected or appointed, prior to the passage of this act.

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## CHAPTER 84

(Senate Bill No. 236—By Mr. Paull, by request)

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AN ACT to amend and reenact section two, article three, chapter five of the code of West Virginia, one thousand nine hundred thirty-one relating to duties of the attorney general.

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[Passed March 6, 1937; in effect ninety days from passage. Approved by the Governor.]

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### Article 3. Attorney General.

#### Section

2. To act as counsel for state; duties and powers as to prosecuting attorneys.

*Be it enacted by the Legislature of West Virginia:*

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

Section 2. *To Act as Counsel for State; Duties and Powers as to Prosecuting Attorneys.* He shall appear as counsel for the state in all causes pending in the supreme court of appeals, or in any federal court, in which the state is interested; he shall appear in any cause in which the state is interested that is pending in any other court in the state, on the written request of the governor, and when such appearance is entered he shall take charge of and have control of

9 such cause; he shall defend all actions and proceedings  
10 against any state officer in his official capacity in any of the  
11 courts of this state or any of the federal courts, when the state  
12 is not interested in such cause against such officer, but should  
13 the state be interested against such officer, he shall appear for  
14 the state; he shall institute and prosecute all civil actions and  
15 proceedings in favor of or for the use of the state which may  
16 be necessary in the execution of the official duties of any state  
17 officer, board or commission, on the written request of such of-  
18 ficer, board or commission; he may consult with and advise  
19 the several prosecuting attorneys in matters relating to the  
20 official duties of their office, and may require a written report  
21 from them of the state and condition of the several causes, in  
22 which the state is a party, pending in the courts of their re-  
23 spective counties; he may require the several prosecuting at-  
24 torneys to perform, within the respective counties in which  
25 they are elected, any of the legal duties required to be per-  
26 formed by the attorney general, which are not inconsistent  
27 with the duties of the prosecuting attorneys as the legal repre-  
28 sentatives of their respective counties; when the perform-  
29 ance of any such duties by the prosecuting attorney con-  
30 flict with his duties as the legal representative of his county,  
31 or for any reason any prosecuting attorney is disqualified  
32 from performing such duties, the attorney general may  
33 require the prosecuting attorney of any other county to  
34 perform such duties, in any county other than that in which  
35 such prosecuting attorney is elected and for the perform-  
36 ance of which duties outside of the county in which he is  
37 elected the prosecuting attorney shall be paid his actual  
38 traveling and other expenses out of the appropriation for  
39 contingent expenses for the department for which such  
40 services are rendered; he shall keep, in proper books, a  
41 register of all causes prosecuted or defended by him in be-  
42 half of the state or its officers and of the proceedings had  
43 in relation thereto, and deliver the same to his successor  
44 in office; he shall preserve in his office all his official opinions  
45 and publish the same in his biennial report.

## CHAPTER 85

(House Bill No. 355—By Mr. LaFon)

AN ACT to amend and reenact section three, article three, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, relating to assistant attorneys general.

[Passed March 10, 1937; in effect from passage. Approved by the Governor.]

### Article 3. Attorney General.

#### Section

#### 3. Assistants to attorney general.

*Be it enacted by the Legislature of West Virginia:*

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

Section 3. *Assistants to Attorney General.* The attorney  
2 general may appoint four assistants to serve at his pleasure  
3 and to perform such duties as he may require of them. They  
4 shall each receive a salary not in excess of four thousand  
5 eight hundred dollars per annum. And upon finding of the  
6 necessity therefor by the Governor and attorney general, the  
7 attorney general may appoint not more than one special  
8 assistant to serve at his pleasure and to perform such duties  
9 as he may require of him for such time as the Governor and  
10 attorney general determine the necessity to continue, and he  
11 shall for the time actually employed receive a salary not to  
12 exceed four hundred dollars per month.

## CHAPTER 86

(House Bill No. 359—By Mr. Speaker, Mr. Thomas)

AN ACT to authorize the expenditure of appropriations made by the Legislature for the purpose of relieving the congested con-

dition of the West Virginia penitentiary, and to authorize the acceptance and expenditure of federal money provided for or applicable to that purpose.

[Passed March 11, 1937; in effect ninety days from passage. Approved by the Governor.]

**Section**

1. Expenditure of appropriation to relieve congestion at state penitentiary.
2. Federal funds for penitentiary; governor's powers.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Expenditure of Appropriation to Relieve Congestion at State Penitentiary.* The board of control is hereby authorized to provide, with the approval of the Governor, for the expenditure of appropriations, made by the Legislature for the purpose of relieving the congested condition of the West Virginia penitentiary, by increasing the capacity of the West Virginia penitentiary at Moundsville.

The board may, with the approval of the Governor, provide for the expenditure of such appropriations or part thereof in the purchase, operation and maintenance of a suitable place or places in the state other than within the walls of the West Virginia penitentiary, for the purpose stated.

The board shall have power and authority to acquire, by purchase, gift or condemnation, lands upon which to operate such place or places; to construct necessary buildings and structures thereon; to purchase suitable or other buildings and structures already located thereon, and make necessary alterations and improvements to such buildings; to develop and use such place or places in the manner found necessary and desirable by them and approved by the Governor.

Sec. 2. *Federal Funds for Penitentiary; Governor's Powers.* The Governor is hereby authorized and empowered to accept and provide for the expenditure of any money from federal sources which may be provided for or applicable to the purpose of this act.



## CHAPTER 87

(House Bill No. 275—By Mr. Matthews)

AN ACT to amend and reenact section five, article nine, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter three, acts of the Legislature, regular session, one thousand nine hundred thirty-three, and as further amended and reenacted by chapter eighty-one, acts of the Legislature, regular session, one thousand nine hundred thirty-five, by adding thereto a new subsection (d), relating to the board of the school fund, and providing for the extension of time in the payment of securities invested by the board prior to March fourth, one thousand nine hundred thirty-three, as the board may deem proper and expedient.

[Passed March 13, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Article 9. School Finances.

#### Section

5. School fund; board of the school fund; investment of school fund.

*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, as amended and reenacted by chapter three, acts of the Legislature, regular session, one thousand nine hundred thirty-three, and as further amended and reenacted by chapter eighty-one, acts of the Legislature, regular session, one thousand nine hundred thirty-five, be amended and reenacted to read as follows:

Section 5. *School Fund; Board of the School Fund; Investment of School Fund.* All such sums as have accrued to this state from the several sources enumerated in section four, article twelve of the constitution, not in excess of one million dollars, shall be set apart as a separate fund to be called "the school fund," and the governor, state superintendent of free schools, auditor and treasurer shall be a corporation under the name of "The Board of the School Fund," and shall have

9 the management, control and investment of said fund, as  
10 provided by section four, article twelve of the constitution.  
11 Such fund shall be invested in the interest-bearing securities  
12 of the United States, or securities, the payment of which as  
13 to both principal and interest, has been guaranteed by the  
14 United States, or of this state, or of any county, city, town  
15 or village, or school district of this state, or, if such interest-  
16 bearing securities cannot be obtained, then such fund shall  
17 be invested in such other solvent interest-bearing securities  
18 as shall be approved by such board. The governor shall be  
19 president of the board, and in his absence the board shall  
20 choose one of the number to preside temporarily in his place.  
21 The auditor shall be secretary of the board. The state treas-  
22 urer shall be custodian of all investments made by such  
23 board. A record shall be kept of all the proceedings and be  
24 signed by the president and secretary, and a copy thereof,  
25 certified by the secretary of the board, shall be evidence in  
26 all cases in which the original would be. A majority of the  
27 board shall constitute a quorum for the transaction of busi-  
28 ness.

29 The board may acquire, own, hold, use, receive rents and  
30 issues from, dispose of and convey, real estate, subject to the  
31 following limitations, and for the following purposes:

32 (a) Such as shall have been mortgaged to it, or conveyed  
33 to trustees, as security for debts in its favor;

34 (b) Such as shall be conveyed to it in satisfaction of debts,  
35 or in partial payment of debts, previously contracted;

36 (c) Such as it has heretofore purchased, or shall hereafter  
37 purchase, at sales under judgments, decrees, trust deeds or  
38 mortgages in its favor, or shall purchase at private sale, to  
39 secure and effectuate the payment of debts due to it.

40 Any real estate acquired by the board under clauses (b)  
41 and (c) shall be disposed of by the board at the earliest  
42 practicable date, but the board shall have a reasonable dis-  
43 cretion in the matter of the time to dispose of such property  
44 in order to prevent unnecessary losses; and such property, in  
45 the discretion of the board, may be sold either at public sale  
46 or at private sale and for cash or on such other terms as the  
47 board may deem expedient.

48 (d) The board shall have full power and authority to ex-  
49 tend the time for the payment of the principal or interest,

50 or both principal and interest or any part thereof, of any  
51 interest-bearing securities in which the fund may have been  
52 invested prior to March fourth, one thousand nine hundred  
53 thirty-three, as in the discretion of the board it may deem  
54 proper and expedient.

## CHAPTER 88

(Senate Bill No. 327—By Mr. Hodges, Mr. President, by request)

AN ACT to authorize the board of public works to provide for and maintain developments upon and adjacent to the grounds of the state capitol, to the extent that moneys for the purpose may be appropriated; and to authorize the appointment of an advisory committee to advise with and assist the board in the preparation of plans for such development.

[Passed March 13, 1937; in effect from passage. Approved by the Governor.]

### Section

1. Development of state capitol grounds.
2. Advisory committee.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Development of State Capitol Grounds.* To the  
2 extent that moneys may be appropriated for the purpose, the  
3 board of public works is hereby authorized to provide for and  
4 maintain developments upon and adjacent to the grounds of  
5 the state capitol, including among such development: Streets,  
6 sidewalks, driveways, paths, landscaping, ornamentation, and  
7 memorial structure. The board may employ architects and  
8 landscape gardeners.

Sec. 2. *Advisory Committee.* The governor is hereby auth-  
2 orized to appoint an advisory committee of not more than five  
3 members to advise with and assist the board of public works  
4 in the planning of the developments contemplated in section  
5 one of this act. The governor shall designate one member of  
6 the committee as chairman. The committee shall select one of  
7 its own members as secretary. It shall meet as and when re-

8 requested by the governor, and shall render such advice and  
 9 assistance as the board of public works may, under the pur-  
 10 pose of this act, request.

11 The members of the committee shall receive no compensa-  
 12 tion for their services, but may be allowed their expenses  
 13 actually incurred in the performance of their duties as mem-  
 14 bers, when submitted upon sworn and itemized requisitions,  
 15 signed by the chairman.

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## CHAPTER 89

(Com. Sub. for House Bill No. 261—Originating in the House  
 Committee on the Judiciary)

AN ACT to amend and reenact sections two and three, article one;  
 and sections one, seven and fourteen, article three, chapter  
 twenty-one of the code of West Virginia, one thousand nine  
 hundred thirty-one, relating to the state department of labor.

[Passed March 13, 1937; in effect ninety days from passage. Approved by the  
 Governor.]

### Article

1. State Department of Labor.
3. Safety and Welfare of Employees.

*Be it enacted by the Legislature of West Virginia:*

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

### Article 1. State Department of Labor.

#### Section

2. Commissioner of labor; qualifications; appointment; term of office;  
 salary.
3. Inspections by commissioner; duties and records of employer; com-  
 missioner may appoint assistants.

Section 2. *Commissioner of Labor; Qualifications; Appoint-  
 ment; Term of Office; Salary.* The state commissioner of labor  
 shall be appointed by the governor, by and with the advice

4 and consent of the senate. He shall be a competent person,  
5 who is identified with the labor interests of the state. The  
6 commissioner of labor in office on the effective date of this  
7 act shall, unless sooner removed, continue to serve until his  
8 term expires and his successor has been appointed and has  
9 qualified. On or before the first day of March, one thousand  
10 nine hundred thirty-one, and on or before the first day of  
11 March of each fourth year thereafter, the governor shall  
12 appoint a commissioner of labor to serve for a term of four  
13 years, commencing on said first day of March. The salary of  
14 the commissioner of labor shall be four thousand dollars per  
15 annum.

Sec. 3. *Inspections by Commissioner; Duties and Records of*  
2 *Employer; Commissioner May Appoint Assistants.* The com-  
3 missioner of labor and his authorized representatives shall  
4 have the power and authority in the discharge of their duties,  
5 to enter any place of employment or public institution, for the  
6 purpose of collecting facts and statistics relating to the em-  
7 ployment of workers and of making inspections for the proper  
8 enforcement of all labor laws of the state. No employer or  
9 owner shall refuse to admit the commissioner of labor or his  
10 authorized representative when they so seek admission to his  
11 place of employment, public building or place of public  
12 assembly.

13 The commissioner or his authorized representative shall, at  
14 least once each year, visit and inspect the principal factories  
15 and workshops of the state, and shall, upon complaint and re-  
16 quest of any three or more reputable citizens, visit and inspect  
17 any place where labor is employed and make true report of  
18 the result of his inspection.

19 Every employer and owner shall furnish to the department  
20 of labor all information which the commissioner of labor or  
21 his representative is authorized to require, and shall make  
22 true and specific answers to all questions submitted by the  
23 department of labor, orally or in writing as required by the  
24 said department. Every employer shall keep a true and accur-  
25 ate record of the name, address, and occupation of each per-  
26 son employed by him, and of the daily and weekly hours  
27 worked by each such person, and of the wages paid each  
28 pay period to each such person. Such records shall be kept on

29 file for at least one year after the date of the record. No em-  
30 ployer shall make or cause to be made any false entries in  
31 any such record.

32 In addition to such other powers and duties as may be  
33 conferred upon the commissioner of labor by law, the said  
34 commissioner of labor shall have the power, duty, jurisdiction  
35 and authority to employ, promote and remove deputies, in-  
36 spectors, clerks, and other assistants, as needed, and to fix  
37 their compensation, with regard to existing laws applicable  
38 to the employment and compensation of officers and employees  
39 of the state of West Virginia, and to assign to them their  
40 duties; to make or cause to be made all necessary inspections,  
41 to see that all laws and lawful orders which the department  
42 has the duty, power, and authority to enforce, are promptly  
43 and effectively carried out.

### Article 3. Safety and Welfare of Employees.

#### Section

1. Employer to safeguard life, etc., of employees; reports and investigations of accidents; orders of commissioner.
7. Regulations for operation of steam boilers; penalty.
14. Power of commissioner as to witness.

Section 1. *Employer to Safeguard Life, Etc., of Employees;*  
2 *Reports and Investigations of Accidents; Orders of Commis-*  
3 *sioner.* Every employer shall furnish employment which shall  
4 be reasonably safe for the employees therein engaged and shall  
5 furnish and use safety devices and safeguards, and shall adopt  
6 and use methods and processes reasonably adequate to render  
7 employment and the place of employment safe, and shall do  
8 every other thing reasonably necessary to protect the life,  
9 health, safety, and welfare of such employees: *Provided,* That  
10 as used in this section, the terms "safe" or "safety" as applied  
11 to any employment, place of employment, place of public as-  
12 sembly or public building, shall include, without being re-  
13 stricted hereby, conditions and methods of sanitation and hy-  
14 giene reasonably necessary for the protection of the life,  
15 health, safety, or welfare of employees or the public.

16 Every employer and every owner of a place of employment,  
17 place of public assembly, or a public building, now or here-  
18 after constructed, shall so construct, repair and maintain the  
19 same as to render it reasonably safe.

20 When an accident occurs in any place of employment or  
21 public institution which results in injury to any employee,  
22 the employer or owner of such place of employment or public  
23 institution, when the same shall come to his knowledge, shall  
24 provide the commissioner of labor the necessary information  
25 as to cause of the injury, on blanks furnished free of charge  
26 to the employer and prescribed by the commissioner of labor.

27 To carry out the provisions of this chapter the commis-  
28 sioner of labor shall have the power to investigate and pre-  
29 scribe that reasonable safety devices, safeguards, or other  
30 means of protection be adopted for the prevention of acci-  
31 dents in every employment or place of employment, and to  
32 make, modify, repeal, and enforce reasonable general orders,  
33 applicable to either employers or employees, or both, for the  
34 prevention of accidents.

35 All orders of the commissioner of labor shall be prima  
36 facie lawful and reasonable, and shall not be held invalid  
37 because of any technical omission, provided there is sub-  
38 stantial compliance with the provisions of this act.

*Sec. 7. Regulations for Operation of Steam Boilers; Penalty.*

2 Any person owning or operating a steam boiler of more than  
3 three horse power (except boilers on railroad locomotives  
4 subject to inspection under federal laws; portable boilers used  
5 for agricultural purposes, boilers on automobiles, boilers of  
6 steam fire engines brought into the state for temporary use  
7 in times of emergency for the purpose of checking conflagra-  
8 tions, boilers carrying pressure of less than fifteen pounds  
9 per square inch, which are equipped with safety devices ap-  
10 proved by the commissioner of labor, and boilers under the  
11 jurisdiction of the United States) in this state shall first  
12 obtain a permit to operate a steam boiler from the commis-  
13 sioner of labor, or from an inspector working under his juris-  
14 diction.

15 Applications for permits to operate a steam boiler must  
16 be accompanied by a sworn statement made by the owner or  
17 operator of such boiler, setting forth the condition of the  
18 boiler and its appurtenances, at which time, if the facts dis-  
19 closed by such statement meet the safety requirements estab-  
20 lished under this article, the commissioner of labor shall issue  
21 a temporary permit, which shall be valid until such boiler has

22 been inspected by a boiler inspector authorized by the state  
23 commissioner of labor; thereupon, if the boiler meets the  
24 safety requirements established under this article, the com-  
25 missioner of labor shall issue an annual permit to operate  
26 such steam boiler: *Provided, however,* That boilers which are  
27 insured by an insurance company operating in this state and  
28 which are inspected by such insurance company's boiler in-  
29 spector, then such boiler will not be subject to inspection by  
30 the state department of labor for so long a period as is covered  
31 by a copy of the insurance company's boiler inspector's sworn  
32 report when such report is filed annually with the state de-  
33 partment of labor, or as often as such boiler inspection is  
34 made by the insurance company's boiler inspector.

35 The commissioner of labor or state boiler inspector shall  
36 have the authority to inspect steam boilers in this state. To  
37 carry out the provisions of this section, the commissioner of  
38 labor shall prescribe rules and regulations under which  
39 boilers may be constructed and operated, according to their  
40 class. The commissioner of labor shall be authorized to revoke  
41 any permit to operate a steam boiler if the rules prescribed  
42 by the commissioner of labor, or his authorized representa-  
43 tive, are violated, or if a condition shall prevail which is  
44 hazardous to the life and health of persons operating or  
45 employed at or around the boiler. Any person or corporation  
46 who shall operate a steam boiler for which a permit is neces-  
47 sary under the provisions of this section, without first obtain-  
48 ing such permit to operate a steam boiler, shall be guilty of  
49 a misdemeanor, and upon conviction thereof shall be fined  
50 not less than one hundred dollars nor more than five hundred  
51 dollars. Each day a steam boiler requiring a permit to oper-  
52 ate is operated without such permit shall be considered a  
53 separate offense.

Sec. 14. *Power of Commissioner as to Witness.* The com-  
2 missioner of labor or any authorized representative of the  
3 department of labor in the performance of any duty or the  
4 execution of any power prescribed by law shall have the  
5 power to administer oaths, certify to official acts, take and  
6 cause to be taken depositions of witnesses.



7 It shall be the duty of the attorney general and the several  
8 prosecuting attorneys, upon request of the commissioner of  
9 labor or any of his authorized representatives, to prosecute  
10 any violation of the law which it is made the duty of the said  
11 commissioner of labor to enforce.

12 If any employer, employee, owner or other person shall  
13 violate any provision of this chapter or shall fail or refuse  
14 to perform any duty lawfully required within the time pre-  
15 scribed by the commissioner of labor or his authorized repre-  
16 sentatives, for which no penalty has been specifically pro-  
17 vided, or shall fail, neglect, or refuse to obey any lawful  
18 order given, made or promulgated by the commissioner of  
19 labor or his authorized representatives, or shall interfere  
20 with, impede, or obstruct in any manner the commissioner  
21 of labor or his authorized representatives in the performance  
22 of his or their official duties, he shall be guilty of a misde-  
23 meanor, and upon conviction thereof shall be fined not less  
24 than ten dollars nor more than fifty dollars, or shall be im-  
25 prisoned for not exceeding six months, or both so fined and  
26 imprisoned, for each such offense; and each day such viola-  
27 tion, omission, failure, or refusal continues shall be deemed a  
28 separate offense.

29 A justice of the peace shall have concurrent jurisdiction  
30 with the circuit court and other courts having criminal juris-  
31 diction in his county for the trial of offenses under this ar-  
32 ticle. Those portions of all coal mining properties and opera-  
33 tions which are under the supervision of the department of  
34 mines are excepted from the operation of provisions of this  
35 act.

36 In lieu of the penalties heretofore provided in this section,  
37 any such penalty may be recovered in a civil action in the  
38 name of the state of West Virginia.

## CHAPTER 90

(House Bill No. 262—By Mr. LaFon)

AN ACT to amend and reenact sections four and twenty, article one, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, relating to weights and measures.

[Passed March 13, 1937; in effect from passage. Approved by the Governor.]

### Article 1. Weights and Measures.

#### Section

4. Commissioner of weights and measures; deputies and inspectors.
20. Records and reports of county and city sealers.

*Be it enacted by the Legislature of West Virginia:*

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

Section 4. *Commissioner of Weights and Measures; Deputies and Inspectors.* The state commissioner of labor shall be ex officio commissioner of weights and measures, and he shall be authorized to appoint such deputies and inspectors as may be required to carry out the provisions and purposes of this article within the limits of such appropriation as may be made by the Legislature for the maintenance of the work of the department of labor.

Sec. 20. *Records and Reports of County and City Sealers.* The county or city sealer shall keep a complete record of all his official acts, and shall submit monthly reports, and shall make an annual report duly sworn to on the first day of July, to the state commissioner of weights and measures, on blanks furnished by the commissioner.

## CHAPTER 91

(House Bill No. 146—By Mr. Jimison)

AN ACT to amend and reenact section twenty-eight, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by section twenty-eight, chapter twenty-eight, acts of the Legislature, regular session, one thousand nine hundred thirty-five, relating to pensions for members of the department of public safety and for their dependents.

[Passed March 12, 1937; in effect from passage. Approved by the Governor.]

### Article 2. Department of Public Safety.

#### Section

28. Pension fund board; payments from fund.

*Be it enacted by the Legislature of West Virginia:*

That section twenty-eight, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by section twenty-eight, chapter twenty-eight, acts of the Legislature, regular session, one thousand nine hundred thirty-five, be amended and reenacted to read as follows:

#### Section 28. *Pension Fund Board; Payments From Fund.*

2 (a) The board of commissioners created by section twen-  
3 ty, article two, chapter fifteen of the code of West Vir-  
4 ginia, one thousand nine hundred thirty-one, and the su-  
5 perintendent of the department of public safety shall  
6 constitute a pension fund board and shall have the  
7 power to make awards or to revise awards previously  
8 made for such times and under such terms and conditions  
9 as are hereinafter provided for, and shall make all neces-  
10 sary rules and regulations regarding the same not inconsis-  
11 tent with this act.

12 (b) Any member of the department of public safety who  
13 has served in said department for a period of twenty years  
14 and who has reached the age of fifty-five years, upon appli-  
15 cation by said member to the superintendent of said depart-

16 ment, together with certificate of service and with the ap-  
17 proval of the board of commissioners, shall be retired and  
18 shall thereupon receive annually, in monthly installments,  
19 from said pension fund an amount equal to two per cent of  
20 the total salary earned by him during his service in the  
21 department.

22 (c) Any member of said department of public safety who  
23 has heretofore received or who may hereafter receive per-  
24 manent disability in the performance of his duty shall, upon  
25 certificate of disability of a physician designated for the  
26 purpose by the board of commissioners, be retired upon an  
27 annual pension of not less than two nor more than five per  
28 cent of twenty years' salary based on his average earnings  
29 while employed by the department: *Provided*, That in no  
30 case shall the total amount received be more than the total  
31 amount received when regularly employed as a member of  
32 the department.

33 (d) The widow or children under the age of sixteen years,  
34 or sole dependent parent of any member of the department  
35 of public safety who shall have heretofore or shall hereafter  
36 lose his life in the performance of his duty, or where death  
37 results from injury received in the performance of duty,  
38 shall receive an annual pension that shall not exceed two  
39 per cent of twenty years' salary based on his average earn-  
40 ings while employed by the department: *Provided*, That in  
41 case of a widow and children such pension shall be for the  
42 widow and the children and shall be paid to the widow, and  
43 in case there are three or more children under the age of  
44 sixteen years and no widow, the said children shall receive  
45 the pension in equal shares until they attain the age of six-  
46 teen years, and in case there are two children under the age  
47 of sixteen years and widow, they shall be paid such pension,  
48 but not to exceed fifteen dollars monthly each, until they  
49 attain the age of sixteen years, and in the case of only one  
50 child and no widow, he or she shall be paid such pension, but  
51 not to exceed fifteen dollars monthly, until he or she attains  
52 the age of sixteen years: *Provided further*, That in case there  
53 is no widow and no children under the age of sixteen years  
54 then such pension shall be paid to the parent or parents de-

55 pendent upon the deceased member: *Provided further*, That  
56 if any widow entitled to a pension aforesaid dies or remarries,  
57 then such pensions shall cease to be paid to such widow, or  
58 her estate, but shall be paid to each of said children, or child,  
59 until they reach the age of sixteen years. No such child shall  
60 receive more than fifteen dollars per month.

61 (e) Any member of the department of public safety who  
62 is released or who severs his connection with the department  
63 of public safety and who has served two full years or more  
64 with the department, shall, upon request, be refunded all  
65 deductions made from his salary, but without interest, on  
66 account of this fund. But in the event that such refund is  
67 made, and such member subsequently reenlists, no credit shall  
68 be allowed to him for any former service. If any member is  
69 released or severs his connection with the department before  
70 he has served two full years, he shall forfeit his right to have  
71 refunded to him any such deductions.

72 (f) All outstanding annuities shall be paid from the cur-  
73 rent income to such fund and from the interest on or income  
74 from an accumulated fund amounting to one hundred and  
75 seven thousand dollars.

76 (g) All future awards from such fund shall be valued  
77 annually and reserves based on sound actuarial principles  
78 for their payment shall be carried on the funds account as  
79 a liability against the general fund.

80 (h) An adequate system of accounting shall be installed  
81 and kept so as to insure a proper record of all transactions  
82 in a detailed record of all contributions and refunds, dates of  
83 enlistments, time served, and all releases of members.

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## CHAPTER 92

(House Bill No. 321—By Mr. Speaker, Mr. Thomas)

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AN ACT to amend and reenact section nine, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter

twenty-nine, acts of the Legislature of West Virginia, one thousand nine hundred thirty-five, relating to equipment, supplies, local headquarters and quarters for members of department of public safety.

[Passed March 6, 1937; in effect from passage. Approved by the Governor.]

## Article 2. Department of Public Safety.

### Section

9. Equipment and supplies; local headquarters and quarters for members.

*Be it enacted by the Legislature of West Virginia:*

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

Section 9. *Equipment and Supplies; Local Headquarters and Quarters for Members.* The standard uniform to be used by the department of public safety on and after the first day of July, one thousand nine hundred thirty-five, shall be as follows: Forestry green blouse with West Virginia state police emblem on sleeve; black shoulder strap; one inch black stripe around sleeve, four inches from end of sleeve; forestry green breeches with one-inch black stripe down the side; trousers (slacks) with one-inch black stripe down the side for officers and clerks regularly enlisted in the department; forestry green shirts with West Virginia state police emblem, on sleeve; black shoulder straps; forestry green mackinaw with West Virginia state police emblem on sleeve; black shoulder straps; one-inch black stripe around sleeve four inches from end of sleeve; campaign hat of olive drab color; cordovan Sam Browne belt with holster; cordovan leggings and shoes; the officers' uniform will have one and one-quarter inch black stripe around the sleeve or blouse and mackinaw, four inches from end of

20 sleeve circumposed with one-half inch gold braid, also black  
21 collars on blouse, with two silver shoulder bars for captains,  
22 one silver shoulder bar for first lieutenant and one gold  
23 shoulder bar for second lieutenant. For non-commissioned  
24 officer the uniform blouse and shirt will have thereon black  
25 chevrons of the appropriate rank.

26 The superintendent shall provide the members of the de-  
27 partment of public safety with suitable arms and weapons,  
28 and, when and where he shall deem it necessary, with suit-  
29 ably equipped horses, automobiles, motorcycles, watercraft,  
30 aeroplanes, and other means of conveyance, to be used by the  
31 department of public safety, the Governor, and other officers  
32 and executives in the discretion of the Governor, in times of  
33 flood, disaster, and other emergencies, for traffic study and  
34 control, criminal and safety work, and in other matters of  
35 official business. He shall also provide the standard uni-  
36 forms for all members of the department, for officers, non-  
37 commissioned officers and privates herein provided for. All  
38 uniforms and all arms, weapons and other property furnished  
39 the members of the department of public safety by the state  
40 of West Virginia shall be and remain the property of the  
41 state.

42 The superintendent shall establish and maintain local  
43 headquarters at such places in West Virginia as are in his  
44 judgment suitable and proper to render the department of  
45 public safety most efficient for the purpose of preserving the  
46 peace, protecting property, preventing crime, apprehending  
47 criminals and carrying into effect all other provisions of this  
48 article. The superintendent shall provide by lease or other-  
49 wise for housing and quarters for the accommodation of the  
50 members of the department of public safety, and shall pro-  
51 vide all equipment and supplies necessary for them in the  
52 performance of the duties of their office.

## CHAPTER 93

(House Bill No. 357—By Mr. Speaker, Mr. Thomas)

AN ACT to provide for the establishment by the department of public safety of a radio broadcasting system in the state for police purposes, and for the operation and maintenance of the same.

[Passed March 13, 1937; in effect from passage. Approved by the Governor.]

### Section:

1. Radio broadcasting stations for department of public safety.
2. Superintendent responsible for operation; receiving sets for sheriffs and municipalities.
3. Use of stations.
4. Priority of calls to stations.
5. Permits for short wave sets on motor vehicles; exceptions.
6. Location of stations.
7. Staffs of stations.
8. Superintendent to make rules and regulations to govern system.
9. Jurisdiction of justices to enforce act.
10. Provisions of act severable.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Radio Broadcasting Stations For Department of Public Safety.* The superintendent of the department of public safety is authorized and empowered to establish one or more radio broadcasting stations in the state, one of which shall be in the city of Charleston. The station or stations shall be used for police purposes only. The superintendent is further authorized and empowered to provide for the purchase of the necessary apparatus and equipment, and of materials for the construction and maintenance of the station or stations.

Sec. 2. *Superintendent Responsible for Operation; Receiving Sets for Sheriffs and Municipalities.* The superintendent of the department of public safety shall be responsible for the operation, maintenance and conduct of the station or stations.

The sheriff of any county in the state may apply to the



7 superintendent for a radio receiving set to be used in the  
8 county. If the superintendent approves the application, he  
9 shall furnish the receiving set without cost. The expense  
10 of operating and maintaining such a receiving set shall be  
11 upon the county, and the sheriff shall be responsible for the  
12 proper care thereof. But the receiving set so furnished shall  
13 remain the property of the state.

14 A municipality of the state may, with the approval of the  
15 superintendent, purchase such radio receiving sets from the  
16 state at cost.

Sec. 3. *Use of Stations.* The superintendent of the de-  
2 partment of public safety shall broadcast all police dis-  
3 patches and reports submitted which, in his opinion, have a  
4 reasonable relation to or connection with the apprehension of  
5 criminals, the prevention of crime, or the maintenance of  
6 peace, safety and order in the state.

7 It shall be the duty of every sheriff and of the police au-  
8 thorities of every municipality to report to the superintend-  
9 ent such information as he may request and at the times and  
10 in the form requested.

Sec. 4. *Priority of Calls to Stations.* Every telegraph and  
2 telephone company operating in this state shall give priority  
3 to all messages or calls directed to the state police radio sta-  
4 tion or stations provided for in this act. A person respon-  
5 sible for failure to do so shall be guilty of a misdemeanor and  
6 upon conviction thereof fined not to exceed five hundred dol-  
7 lars.

Sec. 5. *Permits for Short Wave Sets on Motor Vehicles;*  
2 *Exceptions.* A person desiring to equip a motor vehicle  
3 with a short-wave radio receiving set to be used in this state  
4 shall first make written application to the superintendent of  
5 the department of public safety for a permit to do so. Such  
6 a permit shall not be transferable.

7 A person who equips a motor vehicle with such a receiving  
8 set without the permit herein required, or who operates or  
9 knowingly possesses such a set in a motor vehicle when a per-  
10 mit has not been granted, shall be guilty of a misdemeanor

11 punishable by a jail sentence not exceeding one year, or by a  
12 fine of not more than five hundred dollars, or both such fine  
13 and imprisonment in the court's discretion.

14 The provisions of this section shall not apply to ve-  
15 hicles used by police officers, sheriffs and other law enforce-  
16 ment officers, nor shall the provisions of this section apply to  
17 mobile radio stations licensed by the federal communications  
18 commission, nor registered professional communications en-  
19 gineers engaged in the pursuit of their profession.

Sec. 6. *Location of Stations.* The superintendent of the  
2 department of public safety is empowered to authorize a state-  
3 wide survey, and to seek cooperation of the federal communi-  
4 cations commission in the survey, to determine suitable loca-  
5 tions for the state radio station or stations provided for in this  
6 act.

Sec. 7. *Staffs of Stations.* The superintendent of the de-  
2 partment of public safety may employ radio engineers, radio  
3 operators, assistants, and radio maintenance men, necessary to  
4 effectuate the purposes of this act.

5 The cost of the establishment, operation, and maintenance  
6 of the state radio station or stations, and the cost of the re-  
7 ceiving sets furnished to the counties shall be subject to the  
8 funds available therefor.

Sec. 8. *Superintendent to Make Rules and Regulations to*  
2 *Govern System.* The superintendent of the department of pub-  
3 lic safety shall have authority to prescribe and promulgate  
4 reasonable rules and regulations to carry out the purposes  
5 of this act.

Sec. 9. *Jurisdiction of Justices to Enforce Act.* Justices of  
2 the peace shall have concurrent jurisdiction with other courts  
3 in the enforcement of this act.

Sec. 10. *Provisions of Act Severable.* The provisions of  
2 this act shall be construed as severable, and if any part is  
3 held to be unconstitutional, or for any other reason invalid,  
4 the remaining provisions shall not be affected.

## CHAPTER 94

(House Bill No. 358—By Mr. Speaker, Mr. Thomas)

AN ACT to authorize and provide for the acceptance by the state of federal aid which may be made available during a period when the Legislature is not in session.

[Passed March 10, 1937; in effect from passage. Approved by the Governor.]

### Section

1. Governor may secure congressional appropriations when legislature not in session.
2. Powers of designated state agency.
3. Transfers by the governor.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Governor May Secure Congressional Appropriations When Legislature Not in Session.* The Governor is hereby authorized and empowered to take whatever action not contrary to law that he may find proper and necessary to enable the state to receive the benefits of appropriations which may be made by the congress of the United States while the Legislature is not in session.

Sec. 2. *Powers of Designated State Agency.* A department, institution or agency of the state government designated by congress, in the event contemplated in section one and with the approval of the Governor, shall have authority to do all acts not contrary to law which may be necessary for enforcement with the requirements and conditions for the receipt of such federal appropriations.

Sec. 3. *Transfers by the Governor.* The Governor shall have authority to order transfers within the items of appropriations for such department, institution or agency as may be necessary to effectuate the purpose of this act (and not contrary to law).

## CHAPTER 95

(Senate Com. Sub. for Senate Bill No. 60—Originating in the  
Committee on the Judiciary)

**AN ACT** to amend and reenact section two, article one, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, relating to the state historian and archivist.

[Passed March 11, 1937; in effect ninety days from passage. Approved by the  
Governor.]

### **Article 1. Department of Archives and History.**

#### **Section**

2. State historian and archivist; duties; annual report.

*Be it enacted by the Legislature of West Virginia:*

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

Section 2. *State Historian and Archivist; Duties; Annual Report.* The department shall be in charge of a person who shall be appointed by the governor for a term of four years, and who shall be known as the state historian and archivist. He shall be the custodian of the collections of this department and it shall be his duty to carry into operation and full effect the provisions of section one of this article. He shall have power and authority to adopt and establish such by-laws and regulations for its government as may seem necessary and proper to effect the objects of the department, subject in all matters, however, to the approval of the governor; and he shall cause to be enforced such library rules and regulations as will aid students, readers, investigators and research workers in the use of the material of the department and in the proper protection thereof. He shall employ the necessary clerical assistants and make rules and regulations for their government. He shall arrange for the publication of such matter as the legislature may from time to time provide for printing, including the editing and publishing of a quarterly historical magazine devoted to the history, biography, bibliography

21 and genealogy of West Virginia. He shall cause the rooms  
22 of the department to be kept open to the public daily, ex-  
23 cept Sunday, from nine o'clock in the morning until five  
24 o'clock in the afternoon, throughout the year; and upon  
25 the request of the president of the senate or the speaker of  
26 the house of delegates, from seven o'clock until nine o'clock  
27 in the evening during the sessions of the legislature. He  
28 shall make annually a report to the governor to be trans-  
29 mitted by him to the legislature, which report shall contain  
30 a list of all the state's papers, public documents, books,  
31 pamphlets, and other property belonging to the depart-  
32 ment, not theretofore published, also a statement of its  
33 annual accumulations, and a statement of the receipts and  
34 expenditures, accompanied by such recommendations as he  
35 deems best for the state's interests in said department.

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## CHAPTER 96

(Senate Bill No. 145—By Messrs. Beacom and Hall)

AN ACT to authorize the West Virginia board of control to use any surplus collections from pay patients in the "clinic" at the Huntington state hospital for the purpose of purchasing additional farm land adjacent to said Huntington state hospital farm.

[Passed February 26, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Section

1. Expenditure of surplus of executive emergency fund of Huntington state hospital.
2. Payment from future surplus collections.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Expenditure of Surplus of Executive Emergency Fund of Huntington State Hospital.* In the event the collections from pay patients in the "clinic" operated at the Huntington state hospital and deposited to the credit of a special fund known as the "executive emergency fund" exceed the amount necessary for the payment of all salaries, charges and

7 expenses connected with the operation of said clinic, the West  
8 Virginia board of control is authorized to expend, payable out  
9 of said surplus collections in said "executive emergency  
10 fund," a sum not to exceed eight thousand dollars, to be used  
11 in the purchase of the fee simple title to a tract of land con-  
12 taining two hundred fifty-six and sixty-seven one hundredths  
13 acres, known as the "J. W. Crotts farm," or now known as  
14 the "Coffey farm," and now under lease to the West Virginia  
15 board of control for the use of the Huntington state hospital,  
16 said lease being dated the twenty-first day of February, one  
17 thousand nine hundred thirty-six, and which said lease con-  
18 tains an option, giving the state the right to purchase said  
19 leased property in fee simple at any time during said lease  
20 at the price of eight thousand dollars, including all gas rights  
21 under said property and the gas well now located on said prop-  
22 erty, which leased property adjoins the present state hospital  
23 farm on Guyandotte river; and the said board is also author-  
24 ized to expend out of said surplus collections in said "execu-  
25 tive emergency fund," if any, the sum of three thousand dol-  
26 lars to be used for fencing and equipping said farm.

Sec. 2. *Payment From Future Surplus Collections.* In the  
2 event the surplus collections accruing in said "executive emer-  
3 gency fund" during the fiscal year ending June thirtieth, one  
4 thousand nine hundred thirty-seven, should not be sufficient  
5 to pay in cash the sums hereby authorized to be expended out  
6 of said anticipated surplus collections, but will pay a substan-  
7 tial part of said purchase price, then the West Virginia board  
8 of control is authorized to purchase said property under its  
9 said option, paying in cash the amount on hand in any said  
10 surplus collections, after payment of all charges in connection  
11 with the operation of said "clinic" for the fiscal year ending  
12 June thirtieth, one thousand nine hundred thirty-seven, and  
13 contract in the deed to pay the balance on said purchase price  
14 out of any such surplus collections remaining in said fund  
15 during the biennium ending June thirtieth, one thousand nine  
16 hundred thirty-nine.

## CHAPTER 97

(House Bill No. 182—By Mr. LaFon)

AN ACT to make available for the payment of the expenses of the public service commission of West Virginia, and the salaries, compensations, costs and expenses of its employees, the balance of funds appropriated for its use during prior years and unexpended on the first day of July, one thousand nine hundred thirty-six, and to authorize said commission to expend the same, and providing for the disposition of any portion thereof remaining unexpended on the thirtieth day of June, one thousand nine hundred thirty-seven.

[Passed February 26, 1937; in effect from passage. Approved by the Governor.]

### Section

1. Appropriation for public service commission.
2. Uses of appropriations.
3. Disposition of residue of funds.

WHEREAS, There is now in the public service commission fund, not available for the use of said commission or for any other purpose, because it arose from a special license tax levied on and paid by public utilities, which in no event, can become general revenue for the state, the sum of ninety-eight thousand eight hundred fourteen dollars and twenty-three cents heretofore appropriated and collected for the use of the public service commission of West Virginia prior to the current fiscal year, and unexpended within the several periods for which appropriated; and

WHEREAS, The said public service commission does not now have available sufficient funds remaining of its appropriation for the current fiscal year to continue and complete investigations initiated by it and now in progress and to pay its current general expenses; therefore,

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Appropriation for Public Service Commission.*

- 2 There is hereby made available for the fiscal year ending

3 June thirtieth, one thousand nine hundred thirty-seven, out  
4 of the balance remaining unexpended, but heretofore appro-  
5 priated for the public service commission of West Virginia,  
6 in the public service commission fund in the treasury, to  
7 pay the current general expenses of the public service com-  
8 mission of West Virginia, and the salaries, compensations,  
9 costs and expenses of its employees, as provided by law,  
10 the sum of ninety-eight thousand eight hundred fourteen  
11 dollars and twenty-three cents, in addition to the appropri-  
12 ation made for said commission by section one, account num-  
13 ber sixty, title two, chapter nine, acts of the Legislature,  
14 regular session, one thousand nine hundred thirty-five.

Sec. 2. *Uses of Appropriations.* The public service com-  
2 mission of West Virginia is hereby authorized to expend said  
3 sum of ninety-eight thousand eight hundred fourteen dol-  
4 lars and twenty-three cents so made available, to pay its  
5 current general expenses and the salaries, compensations,  
6 costs and expenses of its employees.

Sec. 3. *Disposition of Residue of Funds.* Any amount of  
2 the sum hereby made available remaining unexpended on the  
3 thirtieth day of June, one thousand nine hundred thirty-  
4 seven, shall not revert to the treasury, nor remain as an un-  
5 expended balance in the public service commission fund, but  
6 shall be credited by the auditor upon the amount of the  
7 special license fees to be levied by him upon the public utili-  
8 ties subject to the public service commission law of this  
9 state, for the next ensuing fiscal year, under the provisions  
10 of section six, article three, chapter twenty-four of the code  
11 of West Virginia, one thousand nine hundred thirty-one, as  
12 amended and reenacted by chapter one hundred fifteen, acts  
13 of the Legislature, regular session, one thousand nine hundred  
14 thirty-five, on the same basis and in the same proportions as  
15 funds are raised under said section.



## CHAPTER 98

(Senate Bill No. 187—By Mr. Howard, by request)

AN ACT to amend article two-a, chapter forty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three; by adding a new section to be numbered eighteen, relating to the sale of property of the state road commission.

[Passed March 3, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Section

18. State road commissioner may sell or exchange property of commission.

*Be it enacted by the Legislature of West Virginia:*

That article two-a, chapter forty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, be amended by adding section eighteen, to read as follows:

Section 18. *State Road Commissioner May Sell or Exchange Property of Commission.* The state road commissioner shall have the authority, by and with the consent of the governor, to sell or exchange any property, real or personal, held by it, and any sale or exchange of such property heretofore made by the commissioner is hereby ratified and declared valid.

## CHAPTER 99

(Senate Bill No. 323—By Mr. Belknap, by request)

AN ACT to amend and reenact section one, article three, chapter twelve of the code of West Virginia, one thousand nine hund-

red thirty-one, relating to payment of money out of the state treasury.

[Passed March 13, 1937; in effect from passage. Became a law without the approval of the Governor.]

### **Article 3. Appropriations and Expenditures.**

#### **Section**

1. Manner of payment from treasury; form of checks.

*Be it enacted by the Legislature of West Virginia:*

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

Section 1. *Manner of Payment From Treasury; Form of*  
2 *Checks.* Every person claiming to receive money from the  
3 treasury of the state shall apply to the auditor for a warrant  
4 for same. The auditor shall thereupon examine the claim, and  
5 the vouchers, certificates and evidence, if any, offered in sup-  
6 port thereof, and for so much thereof as he shall find to be  
7 justly due from the state, if payment thereof be authorized by  
8 law, and if there be an appropriation not exhausted or expired  
9 out of which it is properly payable, he shall issue his warrant  
10 on the treasurer, specifying to whom and on what account the  
11 money mentioned therein is to be paid, and to what appropri-  
12 ation the same is to be charged. On the presentation of such  
13 warrant to the treasurer, he shall ascertain whether the same  
14 has been drawn in pursuance of an appropriation made by  
15 law, and if he finds it to be so, he shall in that case, but not  
16 otherwise, indorse his check upon such warrant, directed to  
17 some depository, which check shall be payable to the order of  
18 the person who is to receive the money therein specified.  
19 If such check shall not be presented for payment within three  
20 years after it is drawn, it shall then be the duty of the treas-  
21 urer to charge it again to the depository on which it was  
22 drawn, to credit the state fund with the amount, and imme-  
23 diately to notify the auditor to make corresponding entries  
24 on his books. No state depository shall pay a check unless it  
25 is presented within six months after it is drawn, and the  
26 treasurer is hereby authorized to cover into the treasury, by  
27 appropriate entries, all checks that have been outstanding

28 for three years or over. Every check shall bear upon its face  
29 the words, "Void, unless presented for payment within six  
30 months." All claims required by law to be allowed by any  
31 court, and payable out of the state treasury, shall have the  
32 seal of the court allowing or authorizing the payment of the  
33 same affixed by the clerk of such court to his certificate of its  
34 allowance; and no such claim shall be audited and paid by the  
35 auditor unless the seal of such court be thereto attached as  
36 aforesaid. No tax or fee shall be charged by the clerk for affix-  
37 ing his seal to the certificate referred to in this section.

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## CHAPTER 100

(Senate Bill No. 263—By Mr. Pauli, by request)

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AN ACT to amend and reenact section three, article one; sections six, seven, fourteen, seventeen and eighteen, article two; sections three, four, five, seven, ten, eleven, twelve and nineteen, article five; sections one, two, three, four, eight, ten, eleven, twelve and thirteen, article six; sections two, four, six and eight, article seven; sections five and nine, article eight; and section four, article ten; to add section six-a to article two; to repeal section eight, article five; and sections fourteen, fifteen, sixteen, seventeen, eighteen and nineteen, article six; all of chapter one, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-six, relating to unemployment compensation.

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[Passed March 8, 1937; in effect from passage. Approved by the Governor.]

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### Article

1. Department of Unemployment Compensation.
2. The Director of Unemployment Compensation.
5. Employer Coverage and Responsibility.
6. Employee Eligibility; Benefits.
7. Claim Procedure.
8. Unemployment Compensation Fund.
10. General Provisions.

*Be it enacted by the Legislature of West Virginia:*

That section eight, article five, and sections fourteen, fifteen, sixteen, seventeen, eighteen and nineteen, article six, chapter one, acts

of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-six, be, and they are hereby, repealed; that section three, article one, sections six, seven, fourteen, seventeen and eighteen, article two, sections three, four, five, seven, ten, eleven, twelve and nineteen, article five, sections one, two, three, four, eight, ten, eleven, twelve and thirteen, article six, sections two, four, six and eight, article seven, sections five and nine, article eight and section four, article ten of said chapter one be amended and reenacted; and that article two of said chapter one be amended by adding thereto a new section to be numbered section six-a, all to read as follows:

### **Article 1. Department of Unemployment Compensation.**

#### **Section**

#### **3. Definitions.**

Section 3. *Definitions.* As used in this chapter, unless the context clearly requires otherwise:

“Administration fund” means the unemployment compensation administration fund, from which the administrative expenses under this chapter shall be paid.

“Annual payroll” means the total amount of wages payable by an employer (regardless of the time of payment) for employment during one year.

“Average annual payroll” means the average of the annual payrolls of an employer for the last three or five preceding years, whichever is the higher.

“Base period” means the period beginning with the first day of the nine completed calendar quarters immediately preceding the first day of an individual’s benefit year and ending with the last day of the next to the last completed calendar quarter immediately preceding any week with respect to which benefits are payable.

“Benefit year” with respect to any individual, means the fifty-two consecutive week period beginning with the first day of the week with respect to which benefits are first payable to him, and thereafter the fifty-two consecutive week period beginning with the first day of the first week with respect to which benefits are next payable to him after the termination of his last preceding benefit year.

“Benefits” means the money payable to an individual with respect to his unemployment.

26 "Board" means board of review.

27 "Calendar quarter" means the period of three consecutive  
28 calendar months ending on March thirty-one, June thirty,  
29 September thirty, or December thirty-one, excluding, how-  
30 ever, any calendar quarter or portion thereof which occurs  
31 prior to January one, one thousand nine hundred thirty-  
32 seven, or the equivalent thereof as the director may by  
33 regulation prescribe.

34 "Director" means the unemployment compensation  
35 director.

36 "Employing unit" means an individual, or type of organ-  
37 ization, including any partnership, association, trust, estate,  
38 joint stock company, insurance company, corporation  
39 (domestic or foreign), or the receivership, trustee in bank-  
40 ruptcy, trustee or successor thereof, or the legal represen-  
41 tative of a deceased person which has on January one,  
42 one thousand nine hundred thirty-five, or subsequent there-  
43 to, had in its employ one or more individuals performing  
44 service within this state.

45 "Employer" means an employing unit which for some  
46 portion of a day, not necessarily simultaneously, in each of  
47 twenty different weeks, which weeks need not be consecutive,  
48 within either the current year or the preceding year, has  
49 had in employment eight or more individuals (irrespective  
50 of whether the same individuals were or were not employed  
51 on each of such days).

52 "Employment," subject to the other provisions of this  
53 subsection, means:

54 (1) Service, including service in interstate commerce,  
55 performed for wages or under any contract of hire, written  
56 or oral, express or implied.

57 (2) The term "employment" shall include an individual's  
58 entire service, performed within or both within and with-  
59 out this state if: (a) The service is localized in this state;  
60 or (b) The service is not localized in any state but some  
61 of the service is performed in this state; and (i) the base  
62 of operations, or, if there is no base of operations, then  
63 the place from which such service is directed or controlled,

64 is in this state; or (ii) the base of operations or place  
65 from which such service is directed or controlled is not  
66 in any state in which some part of the service is per-  
67 formed but the individual's residence is in this state.

68 (3) Service not covered under paragraph (2) of this sub-  
69 section and performed entirely without this state, with re-  
70 spect to no part of which contributions are required and  
71 paid under an unemployment compensation law of any  
72 other state or of the federal government, shall be deemed  
73 to be employment subject to this act if the individual per-  
74 forming such services is a resident of this state and the  
75 director approves the election of the employing unit for  
76 whom such services are performed that the entire service  
77 of such individual shall be deemed to be employment sub-  
78 ject to this act.

79 (4) Service shall be deemed to be localized within a  
80 state if: (a) The service is performed entirely within  
81 such state; or (b) the service is performed both within  
82 and without such state, but the service performed without  
83 such state is incidental to the individual's service within  
84 the state: For example, is temporary or transitory in  
85 nature or consists of isolated transactions.

86 (5) Services performed by an individual for wages shall  
87 be deemed to be employment subject to this act unless  
88 and until it is shown to the satisfaction of the director  
89 that: (a) Such individual has been and will continue to  
90 be free from control or direction over the performance  
91 of such services, both under his contract of service and  
92 in fact; and (b) such service is either outside the usual  
93 course of the business for which such service is performed  
94 or that such service is performed outside of all the places  
95 of business of the enterprise for which such service is per-  
96 formed; and (c) such individual is customarily engaged in  
97 an independently established trade, occupation, profession,  
98 or business.

99 The term "employment" shall not include:

100 (1) Services performed in the employ of this state or  
101 any political subdivision thereof, or any instrumentality  
102 of this state or its subdivisions.

103 (2) Service performed in the employ of another state,  
104 its political subdivisions or an instrumentality of that state  
105 or its subdivisions.

106 (3) Service performed in the employ of the United States  
107 or an instrumentality of the United States.

108 (4) Service with respect to which unemployment com-  
109 pensation is payable under an unemployment compensation  
110 system established by an act of congress. The director  
111 may enter into agreements with the proper agency estab-  
112 lished under such act of congress to provide reciprocal  
113 treatment to individuals who, after acquiring potential  
114 rights to benefits under this chapter, have acquired rights  
115 to unemployment compensation under an act of congress,  
116 or who have, after acquiring potential rights to unemploy-  
117 ment compensation under an act of congress, acquired rights  
118 to benefits under this chapter. Such agreements shall be-  
119 come effective ten days after such publication as complies  
120 with the general rules of the department.

121 (5) Agricultural labor.

122 (6) Domestic service in a private home.

123 (7) Service performed as an officer or member of a crew  
124 of a vessel on the navigable waters of the United States.

125 (8) Service performed by an individual in the employ  
126 of his son, daughter, or spouse.

127 (9) Service performed by a child under the age of twenty-  
128 one years in the employ of his father or mother.

129 (10) Service performed in the employ of an employing  
130 unit organized and operated exclusively for religious, charit-  
131 able, scientific, literary, or educational purpose or for pre-  
132 vention of cruelty to children or animals, no part of the  
133 net earnings of which inure to the benefit of any private  
134-135 shareholder or individual.

136 "Employment office" means a free employment office or  
137 branch thereof, operated by this state or maintained as a  
138 part of a state-controlled system of public employment  
139 offices.

140 "Fund" means the unemployment compensation fund  
141 established by this chapter.

142 "Payments" means the money required to be paid into  
143 the state unemployment compensation fund as provided by  
144 article five of this chapter.

145 "State" includes in addition to the states of the United  
146 States, Alaska, Hawaii, and the District of Columbia.

147 "Total and partial unemployment":

148 (1) An individual shall be deemed "totally unemployed"  
149 in any week during which he performs no services and  
150 with respect to which no wages are payable to him.

151 (2) An individual shall be deemed "partially unem-  
152 ployed" in any week of less than full time work if the  
153 wages payable to him for such week are less than six-fifths  
154 of the weekly benefit amount he should be entitled to re-  
155 ceive if totally unemployed and eligible.

156 (3) As used in this subsection, the term "wages" shall  
157 include only that part of remuneration for odd jobs or  
158 subsidiary work, or both, which is in excess of three dollars  
159 in any one week, and the term "services" shall not include  
160 that part of odd jobs or subsidiary work, or both, for  
161 which remuneration equal to or less than three dollars  
162 in any one week is payable.

163 (4) An individual's week of unemployment shall be  
164 deemed to commence only after his registration at an em-  
165 ployment office, except as the director may by regulation  
166 otherwise prescribe.

167 "Wages" means all remuneration payable for personal  
168 services, including commissions and bonuses and the cash  
169 value of all remuneration payable in any medium other  
170 than cash. Gratuities customarily received by an individual  
171 in the course of his employment from persons other than  
172 his employing unit shall be treated as wages paid by his  
173 employing unit.

174 The reasonable cash value of remuneration payable in  
175 any medium other than cash, and the reasonable amount  
176 of gratuities shall be estimated and determined in accord-  
177 ance with rules prescribed by the director.

178 "Week" means a calendar week, ending at midnight  
179 Saturday, or the equivalent thereof, as determined in accord-  
180 ance with the regulations prescribed by the director.

181 "Weekly benefit amount" means the amount of benefit an  
182 individual would be entitled to receive for one week of  
183 total unemployment.

184 "Year" means a calendar year, or the equivalent there-  
185 of as determined by the director.



**Article 2. The Director of Unemployment Compensation.****Section**

6. Powers and duties.
- 6-a. Agreements concerning persons employed in this and other states.
7. Divisions within the department.
14. Deputies.
17. Federal-state cooperation.
18. Acceptance of aid.

Section 6. *Powers and Duties.* The director shall be the executive and administrative head of the department and shall have the power and duty to:

- (1) Exercise general supervision of and make regulations for the government of the department.
- (2) Prescribe uniform rules pertaining to investigations, departmental hearings, and promulgate rules and regulations.
- (3) Supervise fiscal affairs and responsibilities of the department.
- (4) Prescribe the qualifications of, appoint, remove, and fix the compensation of the officers and employees of the department.
- (5) Organize and administer the department so as to comply with the requirements of this chapter and to satisfy any conditions established in applicable federal legislation.
- (6) Make reports in such form and containing such information as the federal social security board may from time to time require, and comply with such provisions as the federal social security board may from time to time find necessary to assure the correctness and verification of such reports.
- (7) Make available to any agency of the United States charged with the administration of public works or assistance through public employment, upon its request, the name, address, ordinary occupation and employment status of each recipient of unemployment compensation, and a statement of the recipient's rights to further compensation under this chapter.
- (8) Keep an accurate and complete record of all departmental proceedings; record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the department.
- (9) Sign and execute in the name of the state, by "The State Department of Unemployment Compensation," any con-

35 tract or agreement with the federal government, its agencies,  
36 other states, their subdivisions, or private persons.

37 (10) Prescribe a salary scale to govern compensation of  
38 appointees and employees of the department.

39 (11) Make the original determination of right in claims  
40 for benefits.

41 (12) Make recommendations, and an annual report to  
42 the governor concerning the condition, operation, and func-  
43 tioning of the department.

44 (13) Invoke any legal, equitable or special remedy for  
45 the enforcement of orders or the provisions of this chap-  
46 ter.

47 (14) Exercise any other power necessary to standardize  
48 administration, expedite departmental business, assure the  
49 establishment of fair rules and regulations and promote the  
50 efficiency of the service.

Sec. 6-a. *Agreements Concerning Persons Employed in This  
2 and Other States.* The director is hereby authorized to enter  
3 into arrangements with the appropriate agencies of other  
4 states or the federal government whereby individuals per-  
5 forming services in this and other states for a single em-  
6 ploying unit under circumstances not specifically provided for  
7 in section three, article one, of this act, or under similar pro-  
8 visions in the unemployment compensation laws of such other  
9 states, shall be deemed to be engaged in employment per-  
10 formed entirely within this state or within one of such other  
11 states, and whereby potential rights to benefits accumulated  
12 under the unemployment compensation laws of several states  
13 or under such a law of the federal government, or both, may  
14 constitute the basis for the payment of benefits through a  
15 single appropriate agency under terms which the director  
16 finds will be fair and reasonable as to all affected interests  
17 and will not result in any substantial loss to the fund.

Sec. 7. *Divisions Within the Department.* The director  
2 shall establish within the department the division of unemploy-  
3 ment compensation, and the division of employment service  
4 and such other divisions as will promote efficiency and econ-  
5 omy in administration. Each division shall be a separate ad-  
6 ministrative division with respect to personnel, budget and  
7 duties, except insofar as the director may find that such sep-  
8 aration is impracticable.

2       Sec. 14. *Deputies.* For the original determination of benefit  
3 claims, the director shall appoint a necessary number of depu-  
4 ties as his representatives.

2       Sec. 17. *Federal-State Cooperation.* The head of the em-  
3 ployment service division shall have all powers and duties  
4 necessary to secure to the state the benefits of congressional  
5 action for the promotion and maintenance of a system of pub-  
6 lic employment offices. To this end the provisions of the act  
7 referred to in the preceding section and such additional con-  
8 gressional action consistent with the above act are accepted by  
9 the state and the state pledges its observance and compliance  
10 therewith.

11       The state employment service division is designated the  
12 agent of this state for the purpose of compliance with the act  
13 of Congress entitled "An act to provide for the establishment  
14 of a national employment system and for cooperation with  
15 states in the promotion of such system, and for other pur-  
16 poses," approved June six, one thousand nine hundred thirty-  
17 three, as amended. The director shall appoint the head of the  
18 service and all appointees and employees in accordance with  
19 the regulations prescribed by the director of the United States  
employment service.

2       Sec. 18. *Acceptance of Aid.* All moneys received by this  
3 state under the said act of Congress, as amended, shall be paid  
4 into the employment service account, to be expended as pro-  
5 vided by this act and by said act of Congress. For the purpose  
6 of establishing and maintaining free public employment of-  
7 fices, the director may enter into agreements with any politi-  
8 cal subdivision of the state or with any private nonprofit or-  
9 ganization, and as part of such an agreement the director may  
10 accept money, services, or quarters as a contribution to the  
employment service account.

## Article 5. Employer Coverage and Responsibility.

### Section

3. Voluntary coverage.
4. Payments.
5. Rate of contributions.
7. Separate or joint accounts of employers; charges against.
10. Merit rating; decreased rates.
11. Merit rating; increased rates.
12. Auxiliary rates.
19. Adjustments and refunds.

Section 3. *Voluntary Coverage.* (1) An employing unit, not otherwise subject to this act, which files with the director its written election to become an employer subject hereto for not less than two calendar years, shall, with the written approval of such election by the director, become an employer subject hereto to the same extent as all other employers, as of the date stated in such approval, and shall cease to be subject hereto as of January first of any calendar year subsequent to such two calendar years, only if at least thirty days prior to such first day of January, it has filed with the director a written notice to that effect.

(2) Any employing unit for which services that do not constitute employment as defined in this act are performed, may file with the director a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this act for not less than two calendar years. Upon the written approval of such election by the director, such services shall be deemed to constitute employment subject to this act from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January first of any calendar year subsequent to such two calendar years, only if at least thirty days prior to such first day of January such employing unit has filed with the director a written notice to that effect.

(3) Any employing unit which is or becomes an employer subject to this act within any calendar year shall be subject to this act during the whole of such calendar year.

Sec. 4. *Payments.* On and after January first, one thousand nine hundred thirty-six, an employer shall be liable for payments in respect to wages payable for employment occurring during each year in which he is subject to this act.

Sec. 5. *Rate of Contributions.* An employer shall make payments to the unemployment compensation fund equal to the following percentages of wages payable by him with respect to employment as follows:

Nine-tenths of one per cent with respect to employment during the year one thousand nine hundred thirty-six.

7 One and eight-tenths per cent with respect to employ-  
8 ment during the year one thousand nine hundred thirty-  
9 seven.

10 Two and seven-tenths per cent with respect to employ-  
11 ment during the years one thousand nine hundred thirty-  
12 eight, one thousand nine hundred thirty-nine and one thou-  
13 sand nine hundred forty; and thereafter, the percentage  
14 shall be determined by sections eight to thirteen of this ar-  
15 ticle.

*Sec. 7. Separate or Joint Accounts of Employers; Charges*  
2 *Against.* (1) The director shall maintain a separate account  
3 for each employer, and shall credit his account with all the  
4 contributions paid on his own behalf in excess of one per  
5 centum of his annual pay roll for each calendar year. But  
6 nothing in this act shall be construed to grant any employer  
7 or individuals in his service prior claims or rights to the  
8 amounts paid by him into the fund either on his own behalf  
9 or on behalf of such individuals. Benefits paid to an eligible  
10 individual shall be charged, in the amount hereinafter pro-  
11 vided, against the account of his most recent employer, except  
12 that if such individual had not earned within the completed  
13 calendar quarter and the expired portion of the uncompleted  
14 calendar quarter immediately preceding the first week of any  
15 continuous period of unemployment, wages for employment by  
16 such most recent employer equal to more than twelve times  
17 his weekly benefit amount, such benefits may also be charged  
18 against the account of his next most recent employer, in the  
19 inverse chronological order in which the employment of such  
20 individual occurred. The maximum amount so charged  
21 against the account of any employer shall not exceed one-sixth  
22 of the wages payable to such individual by each such employer  
23 for employment which occurs on and after the first day of such  
24 individual's base period, and shall not exceed sixty-five dollars  
25 per completed calendar quarter or portion thereof, which oc-  
26 curs within such base period. The director shall by general  
27 rules prescribe the manner in which benefits shall be  
28 charged against the accounts of several employers for whom  
29 an individual performed employment at the same time.

30 (2) The director may prescribe regulations for the estab-  
31 lishment, maintenance, and dissolution of joint accounts by

32 two or more employers, and shall, in accordance with such  
33 regulations and upon application by two or more employers  
34 to establish such an account, or to merge their several indi-  
35 vidual accounts in a joint account, maintain such joint ac-  
36 count as if it constituted a single employer's account.

37 (3) The director shall, for the year one thousand nine  
38 hundred forty-one and for each calendar year thereafter,  
39 classify employers in accordance with their actual experience  
40 in the payment of contributions on their own behalf and  
41 with respect to benefits charged against their accounts, with  
42 a view to fixing such contribution rates as will reflect such  
43 experience.

Sec. 10. *Merit Rating; Decreased Rates.* After the require-  
2 ments of section nine have been complied with, an employer's  
3 payment shall remain two and seven-tenths per cent, until:

4 (1) There have elapsed three years throughout which an  
5 individual in his employ could have received benefits if un-  
6 employed and eligible.

7 (2) His payments credited to his account for all past years  
8 exceed the benefits charged to his account by an amount  
9 equal to at least seven and one-half per cent of his average  
10 annual payroll, in which case his rate shall be one and eight-  
11 tenths per cent.

12 (3) His payments credited to his account for all past  
13 years exceed the benefits charged to his account by an  
14 amount equal to at least ten per cent of his average annual  
15 payroll, in which case his rate shall be nine-tenths of one  
16 per cent.

17 The director shall determine an employer's compliance  
18 with these requirements.

Sec. 11. *Merit Rating; Increased Rates.* If the total pay-  
2 ments credited to an employer's account for all the past pe-  
3 riods or the last sixty consecutive calendar months (which-  
4 ever period is the more advantageous to the employer) are less  
5 than the total benefits charged against his account during the  
6 same period, his rate shall be three and six-tenths per cent,  
7 unless he shows to the satisfaction of the director that such ex-  
8 perience is due to an act of God, fire, or other catastrophe, or  
9 act of civil or military authority, directly affecting the place  
10 in which individuals were employed by him, in which case the  
11 rate shall be two and seven-tenths per cent.

Sec. 12. *Auxiliary Rates.* If the director determines that the  
2 above rates work inequities and hardships upon particular in-  
3 dividuals or industries he may hold an investigation after  
4 proper notice and hearing and establish other rates more in  
5 consonance with the risk of each employer and more nearly  
6 calculated to increase stabilization of employment. Rates  
7 fixed by the director shall be subject to the following lim-  
8 itations:

9 (1) The combined rates of all employers shall be calcu-  
10 lated to yield approximately two and seven-tenths per cent  
11 of the total annual payrolls.

12 (2) The rate for a particular employer shall not be less  
13 than two and seven-tenths per cent until there has been  
14 three years throughout which an individual in his employ  
15 could have received benefits if unemployed and eligible.

Sec. 19. *Adjustments and Refunds.* Within one year after  
2 the date on which payment or interest thereon is due, an em-  
3 ployer, who has paid such payment or interest, may make ap-  
4 plication for:

5 (1) An adjustment thereof in connection with subsequent  
6 payments.

7 (2) A refund thereof if adjustment cannot be made.

8 If the director determines that payments and interest were  
9 erroneously collected, he shall make the adjustment without  
10 interest, in connection with subsequent payments of the em-  
11 ployer, or if such adjustment cannot be made, refund the  
12 amount without interest from the clearing account of the un-  
13 employment compensation fund.

14 For like cause and within the same period the director, on  
15 his own initiative, may make an adjustment or refund.

## Article 6. Employee Eligibility; Benefits.

### Section

1. Eligibility qualifications.
2. Waiting period construed.
3. Extension of employment period.
4. Disqualification for benefits.
8. Payment of benefits
10. Amount of benefits; total unemployment.
11. Amount of benefits; partial unemployment.
12. Ratio of benefits.
13. Method of charging benefits.

Section 1. *Eligibility Qualifications.* An unemployed individual shall be eligible to receive benefits, only if the director finds that:

(1) He has registered for work at and thereafter continues to report at an employment office in accordance with the regulations of the director.

(2) He has made a claim for benefits in accordance with the provisions of article seven of this chapter.

(3) He is able to work, and is available for work.

(4) He has been totally unemployed for a waiting period of two weeks prior to the week for which he claims benefits for total unemployment (and for the purposes of this subsection two weeks of partial unemployment shall be deemed to be equivalent to one week of total unemployment).

(5) He has within the first three out of the last four completed calendar quarters immediately preceding the first day of his benefit year, earned wages for employment by employers equal to not less than twelve times his weekly benefit amount.

Sec. 2. *Waiting Period Construed.* The waiting period of two weeks need not be consecutive but may be accumulated during the thirteen consecutive weeks preceding the week for which benefits are claimed. This requirement shall not interrupt the payment of benefits for consecutive weeks of unemployment; but the waiting period must occur after benefits could first become payable to an individual under this chapter: *Provided further,* That no individual shall be required to accumulate more than five waiting period weeks during any sixty-five consecutive week period.

During the waiting period the individual must be eligible in all respects except for the requirements of subsections two and five, section one of this article.

No week shall be counted toward the waiting period if benefits have been paid with respect thereto.

Sec. 3. *Extension of Employment Period.* If the director finds that during the qualifying period specified by subsection (5) of section one of this article, an individual has been:

(1) Incapable of work because of some physical or mental disability; (2) engaged in self-employment; or (3) engaged



6 in the performance of services not subject to this chapter;  
7 the qualifying period shall be extended by the duration of  
8 the incapacity, self-employment or services. No such ex-  
9 tensions shall exceed four additional calendar quarters.

Sec. 4. *Disqualification for Benefits.* Upon the determination  
2 of the facts by the director, an individual shall be disqualified  
3 for benefits:

4 (1) For the week in which he left work voluntarily with-  
5 out good cause and for not less than one nor more than five  
6 weeks which immediately follow.

7 (2) For the week in which he has been discharged for mis-  
8 conduct connected with his work and for not less than one nor  
9 more than nine weeks which immediately follow.

10 (3) For the week in which he failed without good cause, to  
11 apply for available suitable work, accept suitable work when  
12 offered, or return to his customary self employment when di-  
13 rected to do so by the director and for not less than one nor  
14 more than five weeks which immediately follow.

15 (4) For a week in which his total or partial unemploy-  
16 ment is due to a stoppage of work which exists because  
17 of a labor dispute at the factory, establishment, or other  
18 premises at which he was last employed, unless the director  
19 is satisfied that he was not (a) participating, financing,  
20 or directly interested in such dispute, and (b) did not  
21 belong to a grade or class of workers who were participating,  
22 financing, or directly interested in the labor dispute which  
23 resulted in the stoppage of work.

24 (5) For a week with respect to which he is receiving or  
25 has received:

26 (a) Wages in lieu of notice; (b) compensation for tempo-  
27 rary partial disability under the workmen's compensation  
28 law of any state or under a similar law of the United States;  
29 (c) old age benefits under title II of the social security  
30 act or similar payments under any act of congress.

Sec. 8. *Payment of Benefits.* Benefits shall become payable  
2 from the fund twenty-four months after the first day when  
3 payments first accrue.

4 Benefits shall be payable only with respect to unemploy-  
5 ment occurring after expiration of such twenty-four months.

Sec. 10. *Amount of Benefits; Total Unemployment.* Each  
2 eligible individual who is totally unemployed in any week  
3 shall be paid benefits with respect to that week at the rate of  
4 fifty per cent of his full time weekly wage, but no more than  
5 fifteen dollars per week nor less than five dollars or three-  
6 fourths of his full time weekly wage, whichever is the lesser.

Sec. 11. *Amount of Benefits; Partial Unemployment.* An  
2 eligible individual who is partially unemployed in any week  
3 shall be paid with respect to such week a partial benefit. Such  
4 partial benefit shall be an amount equal to the difference be-  
5 tween his weekly benefit amount and five-sixths of his wages  
6 (as used in the definition of "total and partial unemploy-  
7 ment" in section three, article one of this act) for such week.

8 If such partial benefit for any week equal less than two  
9 dollars it shall not be payable unless and until the accumu-  
10 lated total of such partial benefits with respect to weeks  
11 occurring within the thirteen preceding weeks equal two  
12 dollars or more.

Sec. 12. *Ratio of Benefits.* (1) The full time weekly wage  
2 of any individual means the weekly wages that such individual  
3 would receive if he were employed at the most recent wage  
4 rate earned by him for employment by an employer during  
5 the period prescribed pursuant to paragraph (3) of this sub-  
6 section, and for the customary scheduled full time weekly  
7 hours prevailing for his occupation in the enterprise in which  
8 he last earned wages for employment by an employer during  
9 the same period.

10 (2) If the director finds that the full time weekly wage,  
11 as above defined, would be unreasonable or arbitrary or not  
12 readily determinable with respect to any individual, the  
13 full time weekly wage of such individual shall be deemed  
14 to be one-thirteenth of his total wages for employment by  
15 employers during that quarter in which such total wages  
16 were highest during the period prescribed pursuant to  
17 paragraph (3) of this section.

18 (3) The full time weekly wage of any individual shall  
19 be determined and redetermined at such reasonable times  
20 as the director may find necessary to administer this act  
21 and may by regulations prescribe. The period hereinabove  
22 referred to shall consist of the next to the last completed  
23 calendar quarter immediately preceding the date with re-  
24 spect to which an individual's full time weekly wage is  
25 determined, and such of the seven immediately preceding  
26 consecutive calendar quarters as the director may by regula-  
27 tion prescribe.

Sec. 13. *Method of Charging Benefits.* The director shall  
2 compute wage credits for each individual by crediting him  
3 with the wages earned by him for employment by employers  
4 during each quarter, or three hundred ninety dollars, which-  
5 ever is the lesser. Benefits paid to any eligible individual shall  
6 be charged, in the same chronological order as such wages  
7 were earned, against one-sixth of his wage credits which are  
8 based upon wages earned during his base period and which  
9 have not been previously charged hereunder. The maximum  
10 total amount of benefits payable to any eligible individual dur-  
11 ing any benefit year shall not exceed whichever is the lesser of  
12 (1) twelve times his weekly benefit amount, and (2) one-  
13 sixth of such uncharged wage credits with respect to his base  
14 period.

## Article 7. Claim Procedure.

### Section

2. Display of regulations.
4. Initial determination by deputy.
6. Board procedure in referred cases.
8. Appeals; notice of decision by appeal tribunal.

Sec. 2. *Display of Regulations.* An employer shall post and  
2 maintain in places readily accessible to individuals in his ser-  
3 vice the claim procedure regulations prescribed by the direct-  
4 or. At the time any such individual becomes unemployed, an  
5 employer shall furnish such individual with a copy of the  
6 regulations. The director shall provide an employer copies of  
7 the regulations without cost.

Sec. 4. *Initial Determination by Deputy.* A deputy shall  
2 promptly investigate a claim and shall, after the establishment

3 of the facts, determine whether or not such claim is valid ; and,  
4 if valid, shall determine :

5 (1) The week with respect to which benefits will commence.

6 (2) The amount of benefit.

7 (3) The maximum duration of benefits.

8 The deputy, then, shall promptly notify the claimant and  
9 interested parties of his findings and decisions.

Sec. 6. *Board Procedure in Referred Cases.* The board shall  
2 follow the same procedure in referred cases as in disputed  
3 cases. The board shall upon such findings and such additional  
4 evidence as it may procure make and transmit to the deputy  
5 a decision, which shall be deemed the decision of the deputy.

6 The deputy shall promptly notify the claimant and inter-  
7 ested parties of the findings and decisions.

Sec. 8. *Appeals; Notice of Decision by Appeal Tribunal.* Up-  
2 on reference by the board, or a deputy, or upon appeal from  
3 the determination of a deputy, an individual shall be entitled  
4 to a fair hearing and reasonable opportunity to be heard be-  
5 fore an appeal tribunal as provided in section seven of this  
6 article.

7 Upon a consideration of all the evidence the appeal tribunal  
8 shall make a decision, and shall notify the parties of its find-  
9 ings and decision.

## Article 8. Unemployment Compensation Fund.

### Section

5. Clearing account.

9. Deposit of funds.

Sec. 5. *Clearing Account.* Upon the receipt of payments and  
2 other moneys payable into the fund under this chapter, the  
3 director shall immediately deposit them in the clearing ac-  
4 count. Refunds payable under section nineteen, article five  
5 shall be made from the clearing account. Such refunds shall  
6 be made upon warrants issued by the director.

Sec. 9. *Deposit of Funds.* Except as otherwise provided in  
2 this article money in the clearing and benefit accounts shall be  
3 deposited by the director, with the consent of the governor, in  
4 any bank or public depository in which public funds of the  
5 state may be deposited. No public deposit insurance charge or

- 6 premium shall be paid out of the unemployment compensation  
7 fund.

### Article 10. General Provisions.

#### Section

4. Records and reports by employer; effective date of act; provisions severable.

Sec. 4. *Records and Reports by Employer; Effective Date of Act; Provisions Severable.* An employing unit shall keep true and accurate work records containing such information as the director may prescribe. The record shall be open to inspection and be subject to being copied by the director or his authorized representatives at any reasonable time.

This act shall take effect as of January first, one thousand nine hundred thirty-seven.

The provisions of this act shall be construed as severable, and should any provision be held unconstitutional, or for any other reason invalid, the remaining provisions shall not be affected thereby.

Acts or parts of acts in conflict with or superseded by the provisions of this act are hereby repealed.

## CHAPTER 101

(House Bill No. 48—By Mr. Jones, of McDowell)

AN ACT to amend and reenact section one, article thirteen, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter twelve, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, relating to West Virginia State College.

[Passed March 9, 1937; in effect from passage. Approved by the Governor.]

### Article 13. West Virginia State College.

#### Section

1. Continuation and management; Four-H Camp.

*Be it enacted by the Legislature of West Virginia:*

That section one, article thirteen, chapter eighteen of the code

of West Virginia, one thousand nine hundred thirty-one, as amended by chapter twelve, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted so as to read as follows:

Section 1. *Continuation and Management; Four-H Camp.* The institution for the instruction of colored students heretofore established and located at Institute, in Kanawha county, shall be continued and shall be known as the "West Virginia State College." The educational affairs of said college shall be under the control, supervision and management of the state board of education and the negro board of education, as provided in sections thirteen and sixteen, article two of this chapter, and its financial and business affairs shall be under the charge and control of the state board of control as provided in section four, article one, chapter twenty-five of the code.

The said joint boards of education shall establish and maintain in the West Virginia State College, in addition to the departments already established, such professional and graduate schools and college courses of study as may be expedient and practicable, and shall prescribe the conditions for graduation therefrom and make rules for the conferring of degrees and for issuing the proper diplomas to those who complete such courses.

The rules and regulations made by the president and faculty of said college for its general government for the admission of students thereto, the standards of scholarship to be maintained therein, and the graduation of students therefrom, shall be submitted to the said joint boards of education for their approval.

The West Virginia State College shall have the power and authority to do extension work in agriculture, home economics, mining, and such other subjects as the said joint boards of education may direct among the negro population of West Virginia. For the purpose of teaching negro boys and girls the Four-H standards of living and to inspire them to lift themselves toward these standards, and to discover and train negro boys and girls for leadership, and for the purpose of teaching standards of excellence in agriculture, soil conser-

36 vation, vocational agriculture and home economics, a Four-H  
37 camp, institute and state exhibit for negroes is hereby es-  
38 tablished. It shall be the duty of the state board of control  
39 to secure a site for the aforesaid camp, institute and state  
40 exhibit at some suitable place and to erect the necessary  
41 buildings and provide necessary and suitable equipment for  
42 carrying out the purposes aforesaid. It shall be the duty of  
43 the state board of control, when such grounds and buildings  
44 are provided and equipped, as above stated, to turn same  
45 over to the department of agriculture of the West Virginia  
46 State College, to be operated by the extension division of  
47 said college in carrying out the purposes and intents here-  
48 in set forth, and in the same manner as at the Four-H camp  
49 at Jackson's Mill. When not in use by the extension divi-  
50 sion of said college and under its regulation, this equipment  
51 may be rented to other organizations for convention use, and  
52 the funds received as rent or other collections shall be by  
53 such extension division turned over to the board of control  
54 for deposit in the state treasury to the credit of collections  
55 from said state college as required by section two, article  
56 two, chapter twelve, for special funds mentioned in sub-  
57 section (b) of said section two. Any appropriations here-  
58 after made to carry out the provisions and purposes of this  
59 section shall be expended through the state board of control.  
60 The county court may appropriate money from the county  
61 fund to erect county buildings on such Four-H camp prop-  
62 erty as mentioned in this section, and such buildings shall  
63 be operated so as to carry out the provisions and purposes  
64 set forth in this section.

## CHAPTER 102

(Senate Bill No. 275—By Mr. Fleming)

AN ACT to amend and reenact sections three and six, article eight, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, relating to the West Virginia training school.

[Passed March 11, 1937; in effect ninety days from passage. Became a law without the approval of the Governor.]

### Article 8. West Virginia Training School.

#### Section

3. Persons who may be admitted.
6. Discharge or parole of inmates.

#### *Be it enacted by the Legislature of West Virginia:*

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

Section 3. *Persons Who May Be Admitted.* There shall be  
2 admitted to said school any person with mental defectiveness  
3 from birth or from an early age, so pronounced that he or she  
4 is unable to care for himself or herself and manage his or her  
5 affairs with ordinary prudence, and who, because of such  
6 mental defect, is a menace to the happiness and welfare of  
7 himself or herself or of others in the community, and requires  
8 care, training or control for the protection of himself or her-  
9 self or of others, and yet who is not insane. This type of person,  
10 commonly classed as feeble-minded, including idiots, im-  
11 beciles or morons, shall be known and designated as "mental  
12 defectives" for the purposes of this article. Should the  
13 school at any time not be able to accomodate all persons of  
14 such class offered for admission, preference in admission  
15 shall be given to children between the ages of seven and four-  
16 teen years, inclusive, of the moron type who are capable of  
17 being trained and of attending to their own ordinary physical  
18 needs. No person suffering from epilepsy, tuberculosis or



19 leprosy shall be admitted, nor shall any deaf or blind person  
20 be admitted.

Sec. 6. *Discharge or Parole of Inmates.* When, in the judgment of the superintendent of the school, a patient or inmate thereof shall, under the treatment and training given therein, improve mentally and physically to such an extent as to no longer constitute a menace to himself or herself or others, the superintendent shall have the right, and it shall be his duty, to discharge or parole such person, under such rules and regulations as the board of control may prescribe.

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## CHAPTER 103

(House Bill No. 61—By Mr. Strouss)

AN ACT to authorize the board of public works to revive and transfer from "Current Expenses" to "Lands," ten thousand dollars of the unexpended balance appropriated for current expenses for the West Virginia University by account number thirty-eight, chapter nine, acts of the Legislature of West Virginia, one thousand nine hundred thirty-five, and to authorize the West Virginia board of control to use said funds, so revived and transferred, for the purchase of the properties known as the Hunt properties, at the corner of Hunt street and Beechurst avenue, in Morgantown, West Virginia, in the rear of the president's home at West Virginia University.

[Passed January 29, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Section

1. Transfer of West Virginia University funds.
2. Board of control authorized to purchase Hunt property.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Transfer of West Virginia University Funds.* The board of public works is hereby authorized to revive and transfer from the "Current Expense" fund to the "Lands" fund under account number thirty-eight, as found in chapter nine, acts of the Legislature of West Virginia, one thousand nine

6 hundred thirty-five, the sum of ten thousand dollars, being  
7 a part of the balance of the appropriation heretofore made  
8 and now remaining unexpended, out of the current expense  
9 item for the West Virginia University for the fiscal year  
10 ending June thirtieth, one thousand nine hundred thirty-  
11 six.

Sec. 2. *Board of Control Authorized to Purchase Hunt*  
2 *Property.* The West Virginia board of control is hereby  
3 authorized to expend said sum of ten thousand dollars, as  
4 revived and transferred, to purchase the properties at  
5 and near the corner of Hunt street and Beechurst avenue,  
6 in the rear of the president's residence at the West Virginia  
7 University, known as the Hunt properties, and now under  
8 option to the said board of control under option expiring  
9 February twenty-first, one thousand nine hundred thirty-  
10 seven.

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## CHAPTER 104

(House Bill No. 384—By Mr. LaFon)

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AN ACT to amend and reenact sections one, four and eight, article two, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, section two, subdivision (b) of section three, subdivision (e) of section six, sections eight, nine, and nine-a, (said section nine-a having been added by chapter seventy-eight, acts of the Legislature, regular session, one thousand nine hundred thirty-five), sections fourteen and seventeen, article four of said chapter of said code, and to add two new sections to article four of said chapter, to be known, respectively, as sections nine-b and fifteen-a, and to amend and reenact sections one, two, three, four and five, article five of said chapter of said code, (the last four sections having been added to said article by chapter seventy-eight, acts of the Legislature, regular session, one thousand nine hundred thirty-

five), all relating to workmen's compensation and the administration of the workmen's compensation law.

[Passed March 13, 1937; in effect ninety days from passage. Approved by the Governor.]

**Article**

2. Employers and Employees Subject to Chapter; Premiums.
4. Disability and Death Benefits.
5. Review of Commission's Findings; Appeal Board.

*Be it enacted by the Legislature of West Virginia:*

That sections one, four and eight, article two, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted; that section two, subdivision (b) of section three, subdivision (e) of section six, sections eight, nine, and nine-a, (said section nine-a having been added by chapter seventy-eight, acts of the Legislature, regular session, one thousand nine hundred thirty-five), sections fourteen and seventeen, article four of said chapter of said code, be amended and reenacted, and that two new sections be added to article four of said chapter of said code, to be known, respectively, as sections nine-b and fifteen-a, and that sections one, two, three, four and five, article five of said chapter of said code (the last four sections having been added to said article by chapter seventy-eight, acts of the Legislature, regular session, one thousand nine hundred thirty-five), be amended and reenacted to read as follows:

**Article 2. Employers and Employees Subject to Chapter; Premiums.**

**Section**

1. Employers and employees, including state and its agencies, subject to chapter.
4. Classification of industries; accounts by commissioner; rate of premiums.
8. Election not to pay or default in payment of premiums; defenses to action not available.

Section 1. *Employers and Employees, Including State and its Agencies, Subject to Chapter.* The state of West Virginia and all governmental agencies or departments created by it are hereby required to subscribe to, and pay premiums into the workmen's compensation fund for the protection of their employees, and shall be subject to all requirements of this act, and all rules and regulations prescribed by the

8 commissioner with reference to rates, classifications and  
9 premium payments.

10 All persons, firms, associations and corporations regularly  
11 employing other persons for the purpose of carrying on any  
12 form of industry or business in this state, are employers with-  
13 in the meaning of this chapter and subject to its provisions.  
14 All persons in the service of employers as herein defined, and  
15 employed by them for the purpose of carrying on the indus-  
16 try, business or work in which they are engaged, and check-  
17 weighmen employed according to law, and all members of  
18 rescue teams assisting in mine accidents with the consent of  
19 the owner who, in such case, shall be deemed the employer, or  
20 at the direction of the chief of the department of mines, are  
21 employees within the meaning of this chapter and subject to  
22 its provisions: *Provided*, That the chapter shall not apply to  
23 employers of employees in domestic or agricultural service,  
24 persons prohibited by law from being employed, nor to em-  
25 ployees of any employer while employed without the state;  
26 nor shall a member of a firm of employers, or any officer of an  
27 association or of a corporation employer, including managers,  
28 or any elective or appointive official of the state, whose term of  
29 office is definitely fixed by law, be deemed an employee within  
30 the meaning of this chapter.

31 The premium and actual expenses in connection with gov-  
32 ernmental agencies and departments of the state of West Vir-  
33 ginia, shall be paid out of the state treasury from appropri-  
34 ations made for such agencies and departments, in the same  
35 manner as other disbursements are made by such agencies and  
36 departments, and such premiums of state agencies and  
37 departments shall be paid into the fund in the same man-  
38 ner as herein provided for other employers subject to this  
39 chapter.

40 Any employer whose employment in this state is to  
41 be for a definite or limited period, which could not  
42 be considered "regularly employing" within the mean-  
43 ing of this section, may elect to pay into the work-  
44 men's compensation fund the premiums herein provided  
45 for, and at the time of making application to the com-  
46 missioner such employer shall furnish a statement un-  
47 der oath showing the probable length of time the em-  
48 ployment will continue in this state, the character of

49 the work, an estimate of the monthly payroll, and any other  
50 information which may be required by the commissioner.  
51 At the time of making application such employer shall de-  
52 posit with the state compensation commissioner to the credit  
53 of the workmen's compensation fund the amount required  
54 by section five of this article, which amount shall be returned  
55 to such employer, if his application be rejected by the com-  
56 missioner. Upon notice to such employer of the acceptance  
57 of his application by the commissioner, he shall be an em-  
58 ployer within the meaning of this chapter and subject to all  
59 of its provisions.

60 Any foreign corporation employer electing to comply with  
61 the provisions of this chapter and to receive the benefits here-  
62 under, shall, at the time of making application to the com-  
63 missioner, in addition to other requirements of this chapter,  
64 furnish such commissioner with a certificate from the secre-  
65 tary of state showing that it has complied with all the re-  
66 quirements necessary to enable it legally to do business in  
67 this state, and no application of such foreign corporation  
68 employer shall be accepted by the commissioner until such  
69 certificate is filed.

70 For the purpose of this chapter, a mine shall be adjudged  
71 within this state when the main opening, drift, shaft or slope  
72 is located wholly within this state.

73 Any employee within the meaning of this chapter whose  
74 employment necessitates his temporary absence from this  
75 state in connection with such employment, and such absence  
76 is directly incidental to carrying on an industry in this state,  
77 who shall have received injury during such absence in the  
78 course of and resulting from his employment, shall not be  
79 denied the right to participate in the workmen's compensa-  
80 tion fund.

2 *Sec. 4. Classification of Industries; Accounts By Commis-*  
3 *sioner; Rate of Premiums.* The commissioner shall distribute  
4 into groups or classes the industries subject to this chapter,  
5 in accordance with the nature of the business and the degree  
6 of hazard incident thereto. And the commissioner shall have  
7 power, in like manner, to reclassify such industries into  
8 groups or classes at any time, and to create additional groups  
9 or classes. The commissioner may make necessary expendi-  
tures to obtain statistical and other information to establish

10 the classes provided for in this section.

11 The commissioner shall keep an accurate account of all  
12 money or moneys paid or credited to the compensation fund,  
13 and of the liability incurred and disbursements made against  
14 same; and an accurate account of all money or moneys re-  
15 ceived from each individual subscriber, and of the liability in-  
16 curred and disbursements made on account of injuries and  
17 death of the employees of each subscriber, and of the receipts  
18 and incurred liability of each group or class.

19 In fatal cases and permanent disability cases exceeding  
20 eighty-five per cent disability, the amount charged against  
21 the employer's account shall be such sum as is estimated to be  
22 the average cost of such cases to the fund; provided the  
23 commissioner decides that the injury or injuries causing  
24 death or permanent disability were received in the course of  
25 and resulting from the employee's employment.

26 It shall be the duty of the commissioner to fix and maintain  
27 the lowest possible rates of premiums consistent with the  
28 maintenance of a solvent workmen's compensation fund and  
29 the creation and maintenance of a reasonable surplus in each  
30 group after providing for the payment to maturity of all  
31 liability incurred by reason of injury or death to employees  
32 entitled to benefits under the provisions of this chapter. A  
33 readjustment of rates shall be made yearly on the first day  
34 of July, or at any time the same may become necessary. The  
35 determination of the lowest possible rates of premiums with-  
36 in the meaning hereof and of the existence of any surplus or  
37 deficit in the fund, shall be predicated solely upon the ex-  
38 perience and statistical data compiled from the records and  
39 files in the commissioner's office under this and prior work-  
40 men's compensation laws of this state for the period from  
41 the first day of June, one thousand nine hundred thirteen, to  
42 the nearest practicable date prior to such adjustment: *Pro-*  
43 *vided, however,* That any expected future return, in the na-  
44 ture of interest or income from invested funds, shall be predi-  
45 cated upon the average realization from investments to the  
46 credit of the compensation fund for the two years next pre-  
47 ceding. Any reserves set up for future liabilities and any  
48 commutation of benefits shall likewise be predicated solely up-  
49 on prior experience under this and preceding workmen's  
50 compensation laws and upon expected realization from in-

51 vestments determined by the respective past periods, as  
52 aforesaid.

53 The commissioner may fix a rate of premiums applicable  
54 alike to all subscribers forming a group or class, and such  
55 rates shall be determined from the record of such group or  
56 class shown upon the books of the commissioner: *Provided*,  
57 That if any group has a sufficient number of employers  
58 with considerable difference in their degrees of hazard, the  
59 commissioner may fix a rate for each subscriber of such  
60 group, such rate to be based upon the subscriber's record  
61 on the books of the commissioner for the twelve months last  
62 ending June thirtieth of the year in which the rate is to be-  
63 come effective; and the liability part of such record shall in-  
64 clude such cases as have been acted upon by the commissioner  
65 during such twelve months' period, irrespective of the date  
66 the injury was received; and any subscriber in a group so  
67 rated, whose record for such twelve months' period cannot be  
68 obtained, shall be given a rate based upon his record for any  
69 part of such period or such rate as may be deemed just and  
70 equitable by the commissioner; and the commissioner shall  
71 have authority to fix a reasonable minimum and maximum  
72 for any group to which this individual method of rating is  
73 applied, and to add to the rate determined from the subscrib-  
74 er's record such amount as necessary to liquidate any deficit  
75 in the schedule or to create a reasonable surplus.

76 It shall be the duty of the commissioner, whenever he  
77 changes any rate, to notify every employer affected thereby  
78 of that fact and of the new rate and when the same takes  
79 effect. It shall also be his duty to furnish to each employer  
80 yearly, or oftener if requested by the employer, a statement  
81 giving the name of each of his employees who were paid for  
82 injury and the amount so paid during the period covered by  
83 the statement.

2 *Sec. 8. Election Not to Pay or Default in Payment of*  
3 *Premiums; Defenses to Action Not Available.* All employers  
4 subject to this chapter (except the State of West Virginia and  
5 political subdivisions thereof) who shall not have elected to pay  
6 into the workmen's compensation fund the premiums provided  
7 by this chapter and have not elected to pay individually and di-  
8 rectly or from benefit funds, compensation and expenses to  
injured employees or fatally injured employees' dependents

9 under the provisions of section nine, article two of this chap-  
 10 ter, or, having so elected, shall be in default in the payment of  
 11 the same or not having otherwise fully complied with the pro-  
 12 visions of section five or section nine of this article, shall be  
 13 liable to their employees (within the meaning of this article)  
 14 for all damages suffered by reason of accidental personal in-  
 15 juries or accidental death sustained in the course of and re-  
 16 sulting from their employment, and in any action by any  
 17 such employee or personal representative thereof, such de-  
 18 fendant shall not avail himself of the following common law  
 19 defenses: The defense of the fellow-servant rule; the de-  
 20 fense of the assumption of risk; or the defense of contribu-  
 21 tory negligence; and further, shall not avail himself of any  
 22 defense that the negligence in question was that of someone  
 23 whose duties are prescribed by statute, provided no action  
 24 shall lie, and no recovery shall be had, against casual em-  
 25 ployers as hereinafter defined, without allegation and proof  
 26 that such accidental personal injuries or accidental death  
 27 were caused by the wrongful act, neglect or default of the  
 28 employer, or any of the employer's officers, agents or em-  
 29 ployees. Casual employers within the meaning hereof shall  
 30 be those employing at the time of such accidental personal in-  
 31 juries or accidental death, in and about the operation or work  
 32 in which such accidental injuries or death occurred, less  
 33 than ten employees, and those employers employing more than  
 34 ten employees, who have not conducted the operation or busi-  
 35 ness in which accidental injuries or death occurred, for more  
 36 than sixty days prior to such accidental injuries or death.

#### **Article 4. Disability and Death Benefits.**

##### **Section**

- 2. Disbursement where injury is self-inflicted; when intentionally caused by employer; rules and safety appliances.
- 3-b. Disbursement for medical treatment, etc.
- 6-e. Classification of disability benefits.
- 8. Physical examination of claimant; expenses.
- 9. Physical and vocational rehabilitation.
- 9-a. Charge and credit to subscriber in case of total permanent disability.
- 9-b. Waiver by employee having physical impairment.
- 14. Computation of benefits.
- 15-a. Benefits to nonresident alien beneficiaries.
- 17. Computation of periodical benefits.

*Section 2. Disbursement Where Injury is Self-Inflicted;  
 2 When Intentionally Caused by Employer; Rules and Safety*



3 *Appliances.* Notwithstanding anything hereinbefore or herein-  
4 after contained, no employee or dependent of any employee  
5 shall be entitled to receive any sum from the workmen's com-  
6 pensation fund, or to direct compensation from any employer  
7 making the election and receiving the permission mentioned  
8 in section nine, article two of this chapter, or otherwise under  
9 the provisions of this chapter, on account of any personal  
10 injury to or death of any employee caused by a self-inflicted  
11 injury, wilful misconduct, wilful disobedience to such rules  
12 and regulations as may be adopted by the employer and ap-  
13 proved by the commissioner, and which rules and regulations  
14 have been and are kept posted in conspicuous places in and  
15 about the work, or the intoxication of such employee, or the  
16 failure of such employee to use or make use of any protective  
17 or safety appliance or appliances prescribed by the commis-  
18 sioner and furnished by the employer for the use of or ap-  
19 plicable to such employee. For the purpose of this chapter  
20 and to prevent accidents to employees, the commissioner may  
21 require all employers to adopt rules, which have been ap-  
22 proved by him, for the protection and safety of their em-  
23 ployees and keep the same posted in conspicuous places in  
24 and about the work; and the commissioner may require em-  
25 ployers to install, use or adopt such protective or safety ap-  
26 pliance or appliances as in the commissioner's opinion are  
27 necessary for the protection of the employees. If injury or  
28 death result to any employee from the deliberate intention  
29 of his employer to produce such injury or death, the em-  
30 ployee, the widow, widower, child or dependent of the em-  
31 ployee shall have the privilege to take under this chapter, and  
32 shall also have cause of action against the employer as if this  
33 chapter had not been enacted for any excess of damages over  
34 the amount received or receivable under this chapter.

Sec. 3-b. *Disbursements for Medical Treatment, Etc.*

2 Payment for such medicine, medical, surgical, dental, hospital  
3 treatment, crutches, artificial limbs and such other and ad-  
4 ditional approved mechanical appliances authorized under  
5 subdivision (a) hereof may be made to the injured employee,  
6 or to the person or persons who have furnished such service,  
7 or who have advanced payment for same, as the commissioner  
8 may deem proper, but no such payments or disbursements

9 shall be made or awarded by the commissioner unless duly  
10 verified statements on forms prescribed by the commissioner,  
11 shall be filed with the commissioner within three months  
12 from the time such services or appliances were authorized by  
13 the commissioner.

Sec. 6-e. *Classification of Disability Benefits.* The total loss  
2 of one eye, or the total and irrevocable loss of the sight thereof,  
3 shall be considered a thirty-three per cent disability, and the  
4 injured employee shall be entitled to compensation for a  
5 period of one hundred and thirty-two weeks;

6 For the partial loss of vision in one, or both eyes, the per-  
7 centage of disability shall be determined by the commissioner,  
8 using as a basis the total loss of one eye;

9 Should a claimant to whom has been made a permanent  
10 partial award of less than eighty-five per cent for one of the  
11 specific disabilities as set forth in subdivision (d) and sub-  
12 division (e) hereof die from sickness or non-compensable in-  
13 jury, the unpaid balance of such award shall be paid to claim-  
14 ant's dependents as defined in this chapter, if any; such pay-  
15 ment to be in the same installments that would have been paid  
16 to claimant if living: *Provided, however,* That no payment  
17 shall be made to any widow of such claimant after her re-  
18 marriage, but this liability shall not accrue to the estate of  
19 such claimant and shall not be subject to any debts of, or  
20 charges against, said estate.

Sec. 8. *Physical Examination of Claimant; Expenses.*

2 The commissioner shall have authority, after due notice to the  
3 employer and claimant, whenever in his opinion it shall be  
4 necessary, to order a claimant to appear for examination be-  
5 fore a medical examiner selected by the commissioner; and the  
6 claimant and employer, respectively, shall each have the right  
7 to select a physician of his or its own choosing and at his or its  
8 own expense to participate in such examination. The claim-  
9 ant and employer shall, respectively, be furnished with a copy  
10 of the report of examination made by the medical examiner  
11 selected by the commissioner. The claimant shall also be en-  
12 titled to reasonable traveling and other expenses necessarily  
13 incurred by him in obeying said order, which shall be paid out  
14 of the amount allowed under this chapter for medical, surgi-  
15 cal, dental and hospital treatment. The respective physicians

16 selected by the claimant and employer shall have the right to  
17 concur in any report made by the medical examiner selected  
18 by the commissioner, or each may file with the commissioner a  
19 separate report. Any report filed by the physician of the  
20 claimant or the physician of the employer shall be considered  
21 by the commissioner in passing upon the claim.

Sec. 9. *Physical and Vocational Rehabilitation.* In cases  
2 where an employee has sustained a permanent disability, or  
3 has sustained injuries likely to result in permanent disability,  
4 and such fact has been determined by the commissioner, and  
5 the employee can be physically and vocationally rehabilitated  
6 and returned to remunerative employment by vocational train-  
7 ing, by the use of crutches, artificial limbs, and/or other ap-  
8 proved mechanical appliances, or by medicines, medical, sur-  
9 gical, dental or hospital treatment, the commissioner shall  
10 forthwith, after due notice to the employer, expend such an  
11 amount as may be necessary for the aforesaid purposes, not,  
12 however, in any case, to exceed the sum of eight hundred dol-  
13 lars. No payment, however, shall be made for such purposes as  
14 provided by this section unless authorized by the commissioner  
15 prior to the rendering of such treatment.

Sec. 9-a. *Charge and Credit to Subscriber in Case of To-  
2 tal Permanent Disability.* Where an employee in the course  
3 of and resulting from his employment has suffered the loss, or  
4 loss of use of a hand, arm, foot, leg or eye, and receives, in the  
5 course of and resulting from his employment while employed  
6 by the same employer, injury resulting in total permanent  
7 disability, the commissioner in estimating the total cost of  
7 such permanent total disability shall allow the subscriber  
8 credit on his account for the partial permanent disability al-  
9 ready received. Where an employee, in the course of and re-  
10 sulting from his employment, has suffered the loss, or loss of  
11 use of a hand, arm, foot, leg or eye, and in the event of  
12 subsequent accidental injury received in the course of and re-  
13 sulting from his employment while employed by another em-  
14 ployer, resulting in total permanent disability, the cost of  
15 such total permanent disability shall be paid by the commis-  
16 sioner out of any funds in his hands and at his disposal, after  
17 charging to said last employer an amount equal to the partial

18 permanent disability attributable to the last injury, independ-  
19 ently of the pre-existing impairment.

Sec. 9-b. *Waiver by Employee Having Physical Impairment.*

2 Where an employee has a definitely ascertainable physical im-  
3 pairment originating otherwise than from an injury received  
4 in the course of and resulting from employment, such impair-  
5 ment, and the effect thereof, in case of injury as hereinafter  
6 set forth and any aggravation thereof on account of such in-  
7 jury, may be waived by said employee, notwithstanding any  
8 other provisions of this chapter, but such waiver shall be in  
9 the manner hereinafter provided. If said physical impair-  
10 ment shall be so waived, then in the event that such employee  
11 shall thereafter receive an injury in the course of and resulting  
12 from his employment, such physical impairment, and the ef-  
13 fects thereof, and any aggravation thereof, shall not be taken  
14 into consideration in fixing the amount of compensation  
15 allowed by reason of such injury, and such compensation shall  
16 be awarded only in the amount that would have been allow-  
17 able had such employee not had such pre-existing physical im-  
18 pairment. A waiver, in order to be valid under this section,  
19 shall meet the following requirements: (1) It shall be in writ-  
20 ing, signed prior to injury by the employee, and either ac-  
21 knowledged before an officer duly qualified to administer oaths  
22 in this state, or be witnessed by two persons, neither of whom  
23 shall be the employer, or any officer or director of employer;  
24 (2) It shall be accompanied by a certificate of a duly licensed  
25 physician of this state or of another state, not connected with  
26 the employer, which certificate shall contain a statement that  
27 such physician has examined the said employee, has found  
28 such impairment to exist, that such impairment is definitely  
29 ascertainable, and a statement of the character and nature of  
30 such impairment.

Sec. 14. *Computation of Benefits.* The average weekly  
2 wage earnings, wherever earned, of the injured person at  
3 the time of the injury, shall be taken as the basis upon which  
4 to compute the benefits. The time of injury within the mean-  
5 ing of this section shall be sixty days, six months, or twelve  
6 months immediately preceding the date of the injury, which-  
7 ever is most favorable to the injured employee.

2       Sec. 15-a. *Benefits to Nonresident Alien Beneficiaries.* Not-  
3       withstanding any other provisions of this chapter, benefits  
4       payable under any of the provisions of this chapter and com-  
5       mutation of periodical benefits payable under the provisions  
6       of section seventeen of this article to nonresident alien bene-  
7       ficiaries, shall be at the rate of one-half of like benefits or  
8       commutation of periodical benefits payable to resident bene-  
9       ficiaries. Nonresident alien beneficiaries within the meaning  
10      hereof shall mean persons not citizens of the United States re-  
11      siding outside of the territorial limits of the United States at  
12      the time of the injury with respect of which such benefits are  
13      paid. In case of such nonresident alien beneficiaries, the  
14      commissioner in his discretion may make, and such bene-  
15      ficiaries shall be required to accept, commutation of such  
16      benefits into a lump sum settlement and payment at the rate  
16      of one-half of like benefits to resident beneficiaries.

2       Sec. 17. *Commutation of Periodical Benefits.* The commis-  
3       sioner, under special circumstances and when the same is  
4       deemed advisable, may commute periodical benefits to one or  
5       more lump sum payments. Upon the application of any  
6       claimant who has received an award of partial or total dis-  
7       ability, who is not a citizen of the United States and desires to  
8       reside permanently beyond the territorial limits of the United  
9       States, or upon the application of an alien dependent of a de-  
10      ceased employee with respect of whose death award of com-  
11      pensation has been made, such dependent residing in the  
12      territorial limits of the United States at the time of decedent's  
13      death, and desiring to reside permanently beyond such terri-  
14      torial limits of the United States, the commissioner may com-  
15      mute into one lump sum payment the periodical payments to  
16      which such claimant or dependent would be entitled, but at  
17      the rate of one-half the amount that would be payable to a  
18      citizen of the United States under like circumstances, and such  
19      lump sum payment at the rate aforesaid shall discharge all  
20      liability with respect of said award, but in no event shall  
21      such award be paid until such claimant or dependent shall  
22      have actually arrived and domiciled himself or herself outside  
23      the territorial limits of the United States, except a sufficient  
24      portion of said award to pay transportation and other neces-  
24      sary expenses.

**Article 5. Review of Commissioner's Finding; Appeal Board.****Section**

1. Hearing on commissioner's finding; appeal.
2. Workmen's compensation appeal board.
3. Appeals to and hearings by board.
4. Appeals from final decisions of board.
5. Fees of attorney for claimant.

*Section 1. Hearing on Commissioner's Findings; Appeal.*

2 The commissioner shall have full power and authority to hear  
3 and determine all questions within his jurisdiction, but upon  
4 the making or refusing to make any award, or upon the making  
5 or refusing to make any modification or change with respect to  
6 former findings or orders, as provided by section sixteen, ar-  
7 ticle four of this chapter, the commissioner shall give notice, in  
8 writing, to the employer, employee, claimant, or dependent,  
9 as the case may be, of his action, which notice shall state the  
10 time allowed for filing an objection to such finding, and such  
11 action of the commissioner shall be final unless the employer,  
12 employee, claimant or dependent shall, within thirty days af-  
13 ter the receipt of such notice, object, in writing, to such find-  
14 ing. Upon receipt of such objection the commissioner shall,  
15 within thirty days from the receipt thereof, set a time and  
16 place for the hearing of evidence. Any such hearing may be  
17 conducted by the commissioner or his duly authorized repre-  
18 sentative at the county seat of the county wherein the injury  
19 occurred, or at any other place which may be agreed upon by  
20 the interested parties, and in the event the interested parties  
21 cannot agree, and it appears in the opinion of the commissioner  
22 that the ends of justice require the taking of evidence else-  
23 where, then at such place as the commissioner may direct, hav-  
24 ing due regard for the convenience of witnesses. Both the em-  
25 ployer and claimant shall be notified of such hearing at least  
26 ten days in advance, and the hearing shall be held within sixty  
27 days after the filing of objection to the commissioner's finding  
28 as hereinabove provided, unless such hearing be postponed by  
29 agreement of the parties or by the commissioner for good  
30 cause. The evidence taken at such hearing shall be transcribed  
31 and become part of the record of the proceedings, together with  
32 the other records thereof in the commissioner's office. At any  
33 time within sixty days after hearing, if the commissioner is of

34 opinion that the facts have not been adequately developed at  
35 such hearing, he may order supplemental hearing upon due no-  
36 tice to the parties. After final hearing the commissioner shall,  
37 within sixty days, render his decision affirming, reversing or  
38 modifying his former action, which shall be final: *Provided,*  
39 *however,* That the claimant or the employer may apply to the  
40 appeal board herein created for a review of such decision;  
41 but no appeal or review shall lie unless application therefor  
42 be made within thirty days of receipt of notice of the com-  
43 missioner's final action, or in any event within sixty days of  
44 the date of such final action, regardless of notice.

Sec. 2. *Workmen's Compensation Appeal Board.* There is  
2 hereby created a board to be known as the "Workmen's Com-  
3 pensation Appeal Board," which shall be referred to in this ar-  
4 ticle as the "Board," to be composed of three members, none  
5 of whom shall be a contributor to the compensation fund or in  
6 any way connected with a contributor thereto, and none of  
7 whom shall be a beneficiary of the compensation fund or in  
8 any way connected with the beneficiary thereof. Two members  
9 of such board shall be of opposite politics to the third, and  
10 all three shall be citizens of this state who have resided therein  
11 for a period of at least five years. All members of said board  
12 shall be appointed by the Governor for a term of six years,  
13 except that the persons first appointed under this act shall be  
14 appointed to serve, one for two, one for four and one for six  
15 years. The Governor is hereby vested with power to remove  
16 any member of the board according to section four, article  
17 four, chapter six of this code. The members of such board  
18 shall be paid for their services a compensation of twenty dol-  
19 lars per day for each day they are in session, which shall be  
20 the total compensation, including any and all expenses, of  
21 such member or members. The Governor shall designate one of  
22 the members of said board as chairman thereof, and said board  
23 shall meet at the capitol or at such other places throughout the  
24 state as it may determine in regular sessions to be fixed by the  
25 board. No more than six sessions shall be held during any one  
26 year and no session shall continue more than twenty consecu-  
27 tive calendar days. All clerical services required by the board  
28 shall be paid for by the compensation commissioner from any  
29 funds at his disposal. The board shall, from time to time, com-

30 pile and promulgate such rules of practice and procedure as to  
31 it shall appear proper for the prompt and efficient discharge  
32 of its business, and such rules shall be submitted to the su-  
33 preme court of appeals for approval, and if approved by said  
34 court shall have the same force and effect as the approved  
35 rules of procedure of circuit courts.

Sec. 3. *Appeal to and Hearings by Board.* Any employer,  
2 employee, claimant, or dependent, who shall feel aggrieved at  
3 any final action of the commissioner taken after a hearing held  
4 in accordance with the provisions of section one of this article,  
5 shall have the right to appeal to the board created in section  
6 two of this article for a review of such action. The aggrieved  
7 party shall file a written notice of appeal with the compen-  
8 sation commissioner, directed to said board, within thirty days  
9 after receipt of notice of the action complained of, or in any  
10 event, regardless of notice, within sixty days after the date of  
11 the action complained of, and the commissioner shall notify  
12 the other party immediately upon the filing of said notice of  
13 appeal. The commissioner shall forthwith make up a tran-  
14 script of the proceedings before him and certify and transmit  
15 the same to the board. In such certificate, he shall incorporate  
16 a brief recital of the proceedings therein had and recite each  
17 order entered and the date thereof. The board shall review  
18 the action of the commissioner complained of at its next meet-  
19 ing after the filing of notice of appeal, provided said notice  
20 of appeal shall have been filed thirty days before said meet-  
21 ing of the board, unless such review be postponed by agree-  
22 ment of parties or by the board for good cause. The board  
23 shall set a time and place for the hearing of arguments on  
24 each claim and shall notify the interested parties thereof, and  
25 briefs may be filed by the interested parties in accordance  
26 with the rules of procedure prescribed by the board. And  
27 thereupon, after a review of the case, the board shall sustain  
28 the finding of the commissioner or enter such order or make  
29 such award as the commissioner should have made and shall  
30 thereupon certify the same to the commissioner, who shall  
31 proceed in accordance therewith. Or, instead of affirming  
32 or reversing the commissioner as aforesaid, the board may,  
33 upon motion of either party or upon its own motion, remand  
34 said cause to the commissioner for the taking of such new,  
35 additional or further evidence as in the opinion of the board



36 may be necessary for a full and complete development of  
37 the facts of the case. In the event the board shall remand  
38 the cause to the commissioner for the taking of further evi-  
39 dence therein, the commissioner shall proceed to take such  
40 new, additional or further evidence in accordance with any  
41 instructions given by the board, and shall take the same  
42 within thirty days after receipt of the order remanding the  
43 case, giving to the interested parties at least ten days' notice  
44 of such supplemental hearing, unless the taking of evidence  
45 shall be postponed by agreement of parties, or by the com-  
46 missioner for good cause. After the completion of such sup-  
47 plemental hearing the commissioner shall, within sixty days,  
48 render his decision affirming, reversing or modifying his  
49 former action, which decision shall be appealable to, and  
50 proceeded with by the appeal board in like manner as in the  
51 first instance. The board may remand any cause as often as  
52 in its opinion is necessary for a full development and just  
53 decision of the case. The board may take evidence or consider  
54 ex parte statements furnished in support of any motion to  
55 remand the cause to the commissioner. All evidence taken by  
56 or filed with the board shall become a part of the record. All  
57 appeals from the action of the commissioner shall be de-  
58 cided by said board at the same session at which they are  
59 heard, unless good cause for delay thereof be shown and en-  
60 tered of record. In all proceedings before the board, either  
61 party may be represented by counsel.

Sec. 4. *Appeals From Final Decisions of Board.* From any  
2 final decision of the board, an application for review may be  
3 prosecuted by either party, or by the commissioner, to the su-  
4 preme court of appeals within thirty days from the date there-  
5 of by the filing of a petition therefor to said court against the  
6 board and the adverse party (claimant or employer, as the  
7 case may be) as respondents, and the clerk of said court shall  
8 notify each of said respondents and the commissioner of the  
9 filing of such petition. The board shall, within ten days after  
10 receipt of such notice, file with the clerk of said court the rec-  
11 ord of the proceedings had before it, including all the evi-  
12 dence. The court or any judge thereof in vacation may there-  
13 upon determine whether or not a review shall be granted. And  
14 if granted to a nonresident of this state, he shall be required  
15 to execute and file with the clerk before such order of review

16 shall become effective, a bond, with security to be approved  
17 by the clerk, conditioned to perform any judgment which may  
18 be awarded against him thereon. The board may certify to  
19 said court and request its decision of any question of law  
20 arising upon the record, and withhold its further proceeding  
21 in the case, pending the decision of the court on the certified  
22 question, or until notice that the court has declined to docket  
23 the same. If a review be granted or the certified question be  
24 docketed for hearing, the clerk shall notify the board and the  
25 parties litigant or their attorneys and the commissioner, of  
26 that fact by mail. If a review be granted or the certified  
27 question docketed, the case shall be heard by said court in the  
28 same manner as in other cases, except that neither the record  
29 nor briefs need be printed. Every such review granted or  
30 certified question docketed prior to thirty days before the be-  
31 ginning of the term, shall be placed upon the docket for such  
32 term. The attorney general shall, without extra compensa-  
33 tion, represent the board in such cases. The court shall de-  
34 termine the matter so brought before it and certify its deci-  
35 sion to the board and to the commissioner. The cost of such  
36 proceedings on petition, including a reasonable attorney's  
37 fee, not exceeding thirty dollars to the claimant's attorney,  
38 shall be fixed by the court and taxed against the employer if  
39 the latter be unsuccessful, and if the claimant, or the com-  
40 missioner (in case the latter be the applicant for review) be  
41 unsuccessful, such costs, not including attorney's fees, shall  
42 be taxed against the commissioner, payable out of any funds  
43 available in his hands, or shall be taxed against the claimant,  
44 in the discretion of the court. But there shall be no cost taxed  
45 upon a certified question.

2 *Sec. 5. Fees of Attorney for Claimant.* If any claimant shall  
3 employ an attorney to represent him in his claim for compen-  
4 sation while such claim is pending before the commissioner,  
5 the appeal board, or the supreme court of appeals, and such  
6 attorney shall file with the commissioner an attested copy of  
7 his contract of employment with such claimant, it shall be the  
8 duty of the commissioner to protect such attorney in the  
9 collection of his fees to the extent hereinafter provided; and  
10 if said contract of employment shall not violate the following

11 schedule of fees, the commissioner shall make payment of such  
12 fee directly to such attorney out of any award or awards made  
13 to the claimant. If the claim is finally determined while pend-  
14 ing before the commissioner and no appeal is filed therein  
15 with the appeal board the attorney fee shall not exceed two  
16 hundred dollars; if the claim is finally determined while pend-  
17 ing before the appeal board, the attorney fee shall not ex-  
18 ceed three hundred fifty dollars; and if the claim is finally  
19 determined by the supreme court of appeals, or if an appeal  
20 is allowed by said court, then the attorney fee shall not ex-  
21 ceed six hundred dollars. In no event shall the commissioner  
22 pay aggregate attorney fees of more than six hundred dollars  
23 in any one claim, nor shall the commissioner pay aggregate  
24 attorney fees of more than twenty-five per cent of the total  
25 award of any claim.

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## CHAPTER 105

(House Bill No. 112—By Mr. Brotherton)

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AN ACT to amend and reenact section two-c, chapter eighty-six, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, relating to business, occupation and privilege taxes.

[Passed March 3, 1937; in effect April 1, 1937. Approved by the Governor.]

**Section**

2-c. Privilege tax on business of selling tangible property; sales exempt.

*Be it enacted by the Legislature of West Virginia:*

That section two-c, chapter eighty-six, acts of the Legislature of West Virginia, one thousand nine hundred thirty-five, be amended and reenacted to read as follows:

Section 2-c. *Privilege Tax on Business of Selling Tangible Property; Sales Exempt.* Upon every person engaging  
3 or continuing within this state in the business of selling  
4 any tangible property whatsoever, real or personal, includ-

5 ing the sale of food, and the services incident to the sale of  
6 food in hotels, restaurants, cafeterias, confectioneries, and  
7 other public eating houses, except sales by any person en-  
8 gaging or continuing in the business of horticulture, agricul-  
9 ture or grazing, or of selling stocks, bonds or other evidences  
10 of indebtedness, there is likewise hereby levied, and shall be  
11 collected, a tax equivalent to one-half of one per cent of the  
12 gross income of the business, except that in the case of a  
13 wholesaler or jobber, the tax shall be equal to fifteen one-  
14 hundredths of one per cent of the gross income of the busi-  
15 ness.

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## CHAPTER 106

(House Bill No. 314—By Mr. LaFon)

AN ACT to amend sections three, twelve, thirteen and twenty, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by sections three, twelve, thirteen and twenty, article twelve, chapter thirty-three, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, relating to privilege tax on business and occupations.

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[Passed March 13, 1937; in effect from passage. Approved by the Governor.]

### Article 13. Business and Occupation Tax.

#### Section

3. Exemptions.
12. Lien of tax due and unpaid.
13. Collection by suit; payment by receiver.
20. Collection by distraint.

#### *Be it enacted by the Legislature of West Virginia:*

That sections three, twelve, thirteen and twenty, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by sections three, twelve, thirteen and twenty, article twelve, chapter thirty-three, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 3. *Exemptions.* There shall be an exemption

2 in every case of twenty-five dollars in amount of tax  
3 computed under the provisions of this article. A per-  
4 son exercising a privilege taxable hereunder for a frac-  
5 tional part of a tax year shall be entitled to an exemp-  
6 tion of the sum bearing the proportion to twenty-five  
7 dollars that the period of time the privilege is exercised  
8 bears to a whole year. Only one exemption shall be allowed  
9 to any one person, whether he exercised one or more privi-  
10 leges taxable hereunder.

11 The provisions of this article shall not apply to: (a) In-  
12 surance companies which pay the state of West Virginia a  
13 tax upon premiums; (b) mutual savings banks not having  
14 a capital stock represented by shares and non-profit mutual  
15 building and loan associations operated for the exclusive  
16 benefit of their members; (c) non-profit cemetery companies  
17 organized and operated for the exclusive benefit of their  
18 members; (d) societies, organizations and associations organ-  
19 ized and operated for the exclusive benefit of their members  
20 and not for profit; and (e) corporations, associations and  
21 societies organized and operated exclusively for religious or  
22 charitable purposes: *Provided, however,* That the exemptions  
23 of this section shall not apply to corporations or cooperative  
24 associations organized under the provisions of article four,  
25 chapter nineteen of the code of West Virginia, one thousand  
26 nine hundred thirty-one, as amended by chapter sixteen, acts  
27 of the Legislature, regular session, one thousand nine hun-  
28 dred thirty-three.

Sec. 12. *Lien of Tax Due and Unpaid.* A tax due  
2 and unpaid under this article shall be a debt due the state.  
3 It shall be a personal obligation of the taxpayer and shall be  
4 a lien upon all property used in the business or occupation  
5 upon which such tax is imposed and said lien shall have  
6 priority over all other liens and obligations except those due  
7 the United States. A penalty of five per cent of the tax shall  
8 be added for any default for thirty days or less, and for each  
9 succeeding thirty days elapsing before payment there shall  
10 be an additional penalty of one per cent.

Sec. 13. *Collection by Suit; Payment by Receiver.*  
2 The tax commissioner may by himself, or a duly appoint-

3 ed agent mentioned in section twenty-two of this ar-  
4 ticle, collect taxes due and unpaid under this article, to-  
5 gether with all accrued penalties, by action in assumpsit,  
6 motion for judgment, or other appropriate proceeding in the  
7 circuit court of the county in which the privilege taxed had  
8 been exercised. After delinquency shall have continued sixty  
9 days, the tax commissioner may proceed, by himself or agent,  
10 in the circuit court of the county in which the privilege  
11 taxed had been exercised to obtain an injunction restraining  
12 the further exercise of the privilege until full payment shall  
13 have been made of all taxes and penalties due under this  
14 article. In any proceeding under this section upon judgment  
15 or decree for the plaintiff he shall be awarded his costs.

16 In the event a business subject to the tax imposed by this  
17 article shall be operated in connection with a receivership  
18 or insolvency proceeding, the court under whose direction  
19 such business is operated shall, by the entry of a proper order  
20 in the cause, make provision for the regular payment of such  
21 taxes as the same become due.

Sec. 20. *Collection by Distraint.* The tax commissioner  
2 may distraint upon any goods, chattels or intangibles rep-  
3 resented by negotiable evidences of indebtedness, or any  
4 taxpayer delinquent under this article for the amount  
5 of all taxes and penalties accrued and unpaid hereunder.  
6 The commissioner may require the assistance of the sher-  
7 iff of any county of the state in levying such distress  
8 in the county of which such sheriff is an officer. A sheriff  
9 so collecting taxes due hereunder shall be entitled to com-  
10 pensation in the amount of all penalties collected over and  
11 above the principal amount of the tax due, but in no case  
12 shall such compensation exceed twenty-five dollars. All taxes  
13 and penalties so collected shall be reported within ten days  
14 after collection to the tax commissioner, who shall prescribe  
15 by general regulation the manner of remittance of such funds  
16 and of allowing the collecting officer the compensation due  
17 him under this section. The lien created by this article on  
18 real estate may be enforced by suit in equity and the pro-  
19 visions of section fourteen, article nine of this chapter may  
20 also be invoked for the collection of taxes accruing under  
21 this article.

## CHAPTER 107

(House Bill No. 315—By Mr. LaFon)

AN ACT to amend section ten, article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by article twelve-a, chapter thirty-three, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, and to amend said article twelve-a by the addition thereto of sections ten-a to ten-e, inclusive, relating to privilege taxes on certain carrier corporations.

[Passed March 13, 1937; in effect from passage. Approved by the Governor.]

### Article 12-a. Privilege Tax on Carrier Corporations.

#### Section

10. Lien of tax; penalty.
- 10-a. Creation and release of lien.
- 10-b. Collection by distraint.
- 10-c. Payment before certificate of dissolution or withdrawal issues.
- 10-d. Contracts with political subdivisions withheld till taxes paid by contractor.
- 10-e. Taxes paid first by fiduciary; personal liability.

*Be it enacted by the Legislature of West Virginia:*

That section ten, article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by article twelve-a, chapter thirty-three, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted, and that said article twelve-a be amended by the addition thereto of sections ten-a to ten-e, inclusive, to read as follows:

- Section 10. *Lien of Tax; Penalty.* The amount of the tax
- 2 imposed by this article shall be a debt due the state.
  - 3 It shall be a personal obligation of the taxpayer and shall
  - 4 be a lien upon all property used in the business or occupa-
  - 5 tion upon which such tax is imposed, and said lien shall
  - 6 have priority over all other liens and obligations except
  - 7 those due the United States. A penalty of one per cent
  - 8 per month shall be added to the amount of tax for each
  - 9 month of delinquency and shall be secured by the lien herein
  - 10 provided.

2       Sec. 10-a. *Creation and Release of Lien.* The tax com-  
3       missioner for the more effective collection of such taxes, may  
4       file with the clerk of the county court of any county a cer-  
5       tified copy of any assessment of taxes under this article. A  
6       certificate so filed shall be recorded in a book provided for  
7       the purpose and shall thereby create a lien upon all property  
8       and assets of the taxpayer located in the county, which lien  
9       shall likewise be binding against all other parties whose in-  
10      terest may arise after such recordation. Upon payment of  
11      taxes delinquent under this article and for which such lien  
12      shall have been perfected as herein provided, the tax commis-  
13      sioner shall certify in duplicate the fact and amount of pay-  
14      ment and the balance due, if any, and shall forward the cer-  
15      tificates, one to the taxpayer and one to the clerk of the  
16      county court of the county wherein such certificate of assess-  
17      ment shall have been recorded. The clerk of the county court  
18      shall record the certificate in the book in which releases are re-  
19      corded, without payment of any fee, and the recordation of  
20      such certificate, certifying to the payment in full of such  
21      delinquent taxes, shall constitute a release and full discharge  
22      of said lien.

2       Sec. 10-b. *Collection by Distraint.* The tax commissioner  
3       may distraint upon any goods, chattels or intangibles repre-  
4       sented by negotiable evidences of indebtedness, of any tax-  
5       payer delinquent under this article for the amount of all taxes  
6       and penalties accrued. The commissioner may require the  
7       assistance of the sheriff of any county of the state in levying  
8       such distress in the county of which such sheriff is an of-  
9       ficer. A sheriff so collecting taxes due hereunder shall be en-  
10      titled to compensation in the amount of all penalties collect-  
11      ed over and above the principal amount of the tax due, but in  
12      no case shall such compensation exceed twenty-five dollars.  
13      All taxes and penalties so collected shall be reported within  
14      ten days after collection to the tax commissioner, who shall  
15      prescribe by general regulation the manner of remittance  
16      of such funds and of allowing the collecting officer the com-  
17      pensation due him under this section. The lien created by  
18      this article on real estate may be enforced by suit in equity,  
19      and the provisions of section fourteen, article nine of this  
20      chapter may also be invoked for the collection of taxes ac-  
21      cruing under this article.



2       Sec. 10-c. *Payment Before Certificate of Dissolution or*  
3 *Withdrawal Issues.* The secretary of state shall withhold the  
4 issuance of a certificate of dissolution of any corporation or  
5 organized under the laws of this state, or a certificate of with-  
6 drawal to any foreign corporation authorized to do business  
7 in this state, until notified in writing by the tax commissioner  
8 that all taxes imposed against such corporation have been  
9 paid in full.

2       Sec. 10-d. *Contracts With Political Subdivisions Withheld*  
3 *Till Taxes Paid By Contractor.* All state, county, district  
4 and municipal officers and agents making contracts on be-  
5 half of the state of West Virginia or any political subdivis-  
6 ions thereof shall withhold final settlement under such con-  
7 tracts until notified in writing by the tax commissioner that  
8 all taxes imposed by this article against such contractors  
9 have been paid.

2       Sec. 10-e. *Taxes Paid First by Fiduciary; Personal*  
3 *Liability.* In the distribution of the estate of any person,  
4 firm or corporation, arising out of a creditor's suit, bank-  
5 ruptcy or receivership proceeding, or assignment for the  
6 benefit of creditors, all unpaid taxes accruing under this  
7 article shall be paid from the first moneys available for dis-  
8 tribution for that purpose, in conformity with the liens cre-  
9 ated by this article. Any person charged with the adminis-  
10 tration of an estate who shall violate the provisions of this  
11 section shall be personally liable for any taxes accrued and  
12 unpaid under this article, which are chargeable against the  
13 person, firm or corporation whose estate is in administra-  
14 tion.

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## CHAPTER 108

(Com. Sub. for House Bill No. 60—Originating in the House  
Committee on Taxation and Finance)

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AN ACT to provide general revenue by amending chapter eleven  
of the code of West Virginia, one thousand nine hundred  
thirty-one, as amended, by inserting section five-a in article

twelve-a, and section three-a in article thirteen, relating to surtaxes, and by adding article fifteen, relating to a general consumers sales tax.

[Passed February 11, 1937; in effect July 1, 1937. Approved by the Governor.]

**Article**

12-a. **Privilege Tax on Carrier Corporations.**

13. **Business and Occupation Tax.**

15. **Consumers Sales Tax.**

*Be it enacted by the Legislature of West Virginia:*

That chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be further amended by adding section five-a to article twelve-a, by adding section three-a to article thirteen, and by adding article fifteen to said chapter, all to read as follows:

**Article 12-a. Privilege Tax on Carrier Corporations.**

**Section**

5-a. **Surtaxes.**

Section 5-a. *Surtaxes.* Every person taxable under sections two, three, four or five of this article shall pay, in addition to that tax and all other taxes, an additional surtax of three-tenths of the tax imposed by such sections.

**Article 13. Business and Occupation Tax.**

**Section**

3-a. **Surtaxes; businesses exempt.**

Section 3-a. *Surtaxes; Businesses Exempt.* Every person taxable under sections two-a, two-b, two-c, two-d and two-g of this article shall pay, in addition to that tax, and all other taxes, an additional surtax of three-tenths of each tax imposed by such sections.

The surtax imposed by this section shall not apply to:

1. A public service or utility business conducted wholly within this state by a corporation organized under the laws of this state with a capital stock not in excess of fifty thousand dollars and which does not generate its own current, or any part thereof.

2. Water companies.

3. Privileges taxed under section two-c except in the case of wholesalers or jobbers.

**Article 15. Consumers Sales Tax.****Section**

1. General consumers sales tax imposed.
2. Definitions.
3. Amount of tax.
4. Purchaser to pay; accounting by retailer.
5. Total amount collected to be remitted.
6. Seller must show sale not at retail; presumption.
7. Tax on gross proceeds of retail sales of manufactured, etc., product.
8. Furnishing of services included; exceptions.
9. Sales not included.
10. Tax paid by consumer.
11. Seller may not pay tax; penalty.
12. Agreements by competing taxpayers.
13. Collection of tax when sale on credit.
14. When separate records of sales required.
15. Sales to affiliated companies or persons.
16. Tax return and payment.
17. Lien of tax; penalties.
18. Enforcement of lien.
19. Other times of filing returns.
20. Quarterly return.
21. Annual return.
22. Consolidated returns.
23. Keeping and preservation of records.
24. Assessment and collection of tax when return incomplete.
25. Records of nonresidents doing business in state.
26. Records of tax commissioner; preservation of returns.
27. When information obtained is confidential.
28. Rules and regulations of tax commissioner.
29. Penalty for violations.
30. Proceeds of tax for free schools.
31. Provisions of act severable.

Section 1. *General Consumers Sales Tax Imposed.* The purpose of this article is to impose a general consumers sales tax.

Sec. 2. *Definitions.* For the purposes of this article:

1. "Person" shall mean any person, firm, partnership, association, corporation, guardian, or committee;
2. "Tax commissioner" shall mean the state tax commissioner;
3. "Gross proceeds" shall mean the amount received in money, credits, property or other consideration from sales at retail within this state, without deduction on account of the cost of the property sold, amounts paid for interest or discounts, or other expenses whatsoever. Losses shall not be deducted, but deductions may be made to the amount of credits or refunds for returned goods and of the sale price of any article sold, if the full sale price of the new article is included in "gross proceeds";

15 4. "Sale at retail" shall mean any transaction by which  
16 the ownership of tangible personal property is transferred  
17 for a consideration, when the transfer is made in the ordinary  
18 course of the transferor's business and is made to the trans-  
19 feree for consumption or use or any other purpose, save re-  
20 sale, without change or processing, in the form of tangible  
21 personal property. "Sale at retail" includes conditional  
22 sales and transactions under whatever name whereby title is  
23 ultimately to pass, although possession is retained for se-  
24 curity;

25 5. "Sale at retail" shall not include an isolated transac-  
26 tion in which any tangible personal property is sold, trans-  
27 ferred, offered for sale, or delivered by the owner thereof,  
28 or by his representative for the owner's account, such sale,  
29 transfer, offer for sale or delivery not being made in the  
30 ordinary course of repeated and successive transactions of a  
31 like character by such owner or on his account by such  
32 representative;

33 6. "Retail dealer" shall mean a person engaged in the  
34 business of sale at retail in this state, or one who furnishes  
35 services taxed by this article;

36 7. "Wholesale dealer" shall mean a person engaged in  
37 this state in the business of selling to a retail dealer in this  
38 state for resale only, or of selling machinery, supplies and  
39 material in wholesale quantities, to contractors, or to persons  
40 engaged in manufacturing in this state or in the production  
41 of natural resources;

42 8. "Business" shall include all activities engaged in or  
43 caused to be engaged in with the object to gain or economic  
44 benefit, direct, or indirect;

45 9. "Tax" shall include all taxes, interest or penalties  
46 levied hereunder;

47 10. "Purchaser" shall mean a person who purchases  
48 tangible personal property, or a service taxed by this ar-  
49 ticle;

50 11. "Personal service" shall include those:

51 (a) Compensated by the payment of wages in the ordi-  
52 nary course of employment;

53 (b) Rendered to the person of an individual without, at  
54 the same time, selling tangible personal property or the

- 55 use of such property, such as nursing, barbering, shoe shin-  
56 ing, manicuring, and similar services;  
57 12. "Taxpayer" shall mean a retail dealer.

Sec. 3. *Amount of Tax.* For the privilege of engaging in the  
2 business of selling tangible personal property at retail, and of  
3 dispensing certain selected services defined in section seven of  
4 this article, a retail dealer shall collect from a purchaser a tax  
5 of two per cent of the gross proceeds of each separate trans-  
6 action, and shall pay the amount collected to the tax com-  
7 missioner in accordance with the provisions of this article.

8 There shall be no tax on sales where the monetary con-  
9 sideration is five cents or less. The amount of the tax pay-  
10 able by the purchaser shall be computed as follows:

11 (1) On each sale, where the monetary consideration is  
12 from six cents to fifty cents, both inclusive, one cent.

13 (2) On each sale where the monetary consideration is from  
14 fifty-one cents to one dollar, both inclusive, two cents.

15 (3) On each fifty cents of monetary consideration or frac-  
16 tion thereof in excess of one dollar, one cent.

Sec. 4. *Purchaser to Pay; Accounting by Retailers.* A pur-  
2 chaser shall pay the amount of the tax levied by this article to  
3 the retail dealer. The retail dealer shall keep the tax paid by  
4 the purchaser separate and apart from the proceeds of sale,  
5 unless the tax commissioner authorizes the retail dealer to re-  
6 cord the amount of the tax in a different manner. Where such  
7 authorization is given, the state's claim shall be enforceable  
8 against and shall take precedence over all other claims against  
9 the moneys commingled. The retail dealer shall account to  
10 the state for all the tax paid by the purchaser.

Sec. 5. *Total Amount Collected to be Remitted.* No profit  
2 shall accrue to any person as a result of the collection of the  
3 tax levied by this article notwithstanding the total amount of  
4 such taxes collected may be in excess of the amount for which  
5 such person would be liable by the application of the levy of  
6 two per cent to the gross proceeds of his sales and the total  
7 of all taxes collected by any such person shall be returned and  
8 remitted to the tax commissioner as hereinafter provided.

Sec. 6. *Seller Must Show Sale Not at Retail; Presumption.*  
2 The burden of proving that a sale was not at retail shall be

3 upon the seller, unless he takes from the purchaser a certifi-  
4 cate signed by and bearing the address of the purchaser to  
5 the effect that the property was purchased for resale. To pre-  
6 vent evasion, it shall be presumed that all proceeds are sub-  
7 ject to the tax until the contrary is clearly established.

2 *Sec. 7. Tax on Gross Proceeds of Retail Sales of Manufac-*  
3 *tured, Etc., Product.* A person exercising the privilege of pro-  
4 ducing for sale, profit or commercial use, any natural re-  
5 sources, product or manufactured product, and engaging in  
6 the business of selling at retail any such product not other-  
7 wise exempted herein shall make returns of the gross pro-  
8 ceeds of such retail sales and pay the tax imposed by this ar-  
9 ticle.

2 *Sec. 8. Furnishing of Services Included; Exceptions.* The  
3 provisions of this article shall apply not only to selling tan-  
4 gible personal property, but also to the furnishing of all ser-  
5 vices, except professional and personal services, and except  
6 those services furnished by corporations subject to the control  
7 of the public service commission and the state road commis-  
8 sion.

2 *Sec. 9. Sales Not Included.* The provisions of this article  
3 shall not apply to:

3 1. Sales of gasoline, taxable under article fourteen, chapter  
4 eleven of the official code, one thousand nine hundred thirty-  
5 one;

6 2. Sales of gas, steam and water delivered to consumers  
7 through mains or pipes, and sales of electricity;

8 3. Sales of school books required to be used in any of the  
9 schools of this state.

10 4. Sales to the state, its institutions or subdivisions, and  
11 sales to the United States, including sales to agencies of fed-  
12 eral, state or local governments for distribution in public  
13 welfare or relief work;

14 5. Sales on motor vehicles which are titled by the state  
15 road commission.

2 *Sec. 10. Tax Paid by Consumer.* It is the intent of this ar-  
3 ticle that the tax levied hereunder shall be passed on to and  
4 be paid by the consumer. The amount of the tax shall be

4 added to the sales price, and shall constitute a part of that  
5 price and be collectible as such.

Sec. 11. *Seller May Not Pay Tax; Penalty.* A person en-  
2 gaged in any business taxable hereunder shall not advertise  
3 or hold out to the public, in any manner, directly or indirectly,  
4 that he will absorb all or any part of the tax, or that the tax  
5 imposed by this article is not to be considered an element in  
6 the price to the consumer. A person who violates this provis-  
7 ion shall be guilty of a misdemeanor and upon conviction shall  
8 be punishable by a fine of not less than fifty, nor more than  
9 one thousand dollars, or imprisonment in the county jail for  
10 not exceeding one year, or both, in the discretion of the court.

Sec. 12. *Agreements by Competing Taxpayers.* To provide  
2 uniform methods of adding the average equivalent of the tax  
3 to the selling price in each sale or transaction subject to the  
4 tax, appropriate rules and regulations, except as otherwise  
5 herein provided, may be agreed upon or adopted by competing  
6 taxpayers or associations of taxpayers, except that all collec-  
7 tions shall be made on the basis of the total transaction at the  
8 time of sale, without regard to the value of the separate  
9 items making up the total amount of the sale. Such rules and  
10 regulations, if they do not involve price fixing, shall not be  
11 deemed illegal as in restraint of trade or commerce. The tax  
12 commissioner shall cooperate in formulating such rules and  
13 regulations, and, in the event appropriate rules and regu-  
14 lations are not submitted to him within thirty days after this  
15 act takes effect, or within a reasonable extended period fixed  
16 by the tax commissioner, he shall himself formulate and  
17 promulgate appropriate rules and regulations to effectuate the  
18 purpose of this section.

Sec. 13. *Collection of Tax When Sale on Credit.* A taxpayer  
2 doing business wholly or partly on a credit basis shall require  
3 the purchaser to pay the full amount of tax due upon a credit  
4 sale, at the time such sale is made, or within thirty days  
5 thereafter.

Sec. 14. *When Separate Records of Sales Required.* Any  
2 person engaged in the business of making sales at retail who is  
3 at the same time engaged in some other kind of business, occu-  
4 pation, or profession, not taxable under this article, shall keep

5 books to show separately the transactions used in determining  
6 the tax base herein taxed. In the event of such person fail-  
7 ing to keep such separate books, or records, there shall be  
8 levied upon him a tax based upon the entire gross proceeds  
9 of both or all of his businesses.

Sec. 15. *Sales to Affiliated Companies or Persons.* In de-  
2 termining gross proceeds of sales from one to another of  
3 affiliated companies or persons, or under other circumstances  
4 where the relation between the buyer and seller is such that  
5 the gross proceeds from a sale are not indicative of the true  
6 value of the subject matter of the sale, the tax commissioner  
7 shall prescribe uniform and equitable rules for determining the  
8 amount upon which the tax shall be levied, corresponding as  
9 nearly as possible to gross proceeds from the sale of similar  
10 products of like quality or character, where no common in-  
11 terest exists between the parties.

Sec. 16. *Tax Return and Payment.* The taxes levied by this  
2 article shall be due and payable in monthly installments, on or  
3 before the fifteenth day of the month next succeeding the month  
4 in which the tax accrued. The taxpayer shall, on or before the  
5 fifteenth day of each month, make out and mail to the tax  
6 commissioner a return for the preceding month, in the form  
7 prescribed by the tax commissioner, showing (a) the total gross  
8 proceeds of his business for that month; (b) the gross proceeds  
9 of his business upon which the tax is computed; (c) the  
10 amount of the tax for which he is liable; and (d) any fur-  
11 ther information necessary in the computation and collec-  
12 tion of the tax which the tax commissioner may require. A  
13 remittance for the amount of the tax shall accompany the  
14 return. A monthly return shall be signed by the taxpayer or  
15 his duly authorized agent.

Sec. 17. *Lien of Tax; Penalties.* A tax due and unpaid under  
2 this article shall be a debt due the state. It shall be a personal  
3 obligation of the taxpayer and shall be a lien upon all of the  
4 property of the taxpayer. The lien shall have priority over all  
5 other liens and obligations except those due the United States.  
6 A taxpayer who fails to file his return and remit the tax  
7 at the time required by this article shall, in addition to all  
8 other penalties, pay a penalty of six per cent of the amount  
9 of the tax collected during the period reported. For each



10 succeeding thirty days elapsing before payment there shall  
11 be added an additional penalty of one per cent. If the tax-  
12 payer is an association, or corporation, the officers thereof  
13 whose duty it is to make the return and pay the tax shall be  
14 personally liable, jointly and severally, for any default on  
15 the part of the corporation.

2       Sec. 18. *Enforcement of Lien.* A lien for taxes under this  
3 article shall attach when the obligation to pay the tax to the  
4 tax commissioner accrues. The lien shall be enforceable by the  
5 tax commissioner as any other lien against the property of a  
6 debtor.

2       Sec. 19. *Other Times of Filing Returns.* The tax commis-  
3 sioner may, upon written request, authorize a taxpayer whose  
4 books and records are not kept on a monthly basis to file re-  
5 turns at other times than those specified in the preceding sec-  
6 tion, but in no event shall a taxpayer make less than one re-  
7 turn a calendar month, except as provided by section sixteen.

2       Sec. 20. *Quarterly Return.* When the total tax for which a  
3 person is liable does not exceed ten dollars for any month, he  
4 may make quarterly return on or before the fifteenth day of  
5 the first month in the next succeeding quarter in lieu of  
6 monthly returns.

2       Sec. 21. *Annual Return.* On or before thirty days after  
3 the end of the tax year, each person liable for the payment of  
4 a tax hereunder shall make an annual return in such form as  
5 may be required by the tax commissioner, showing total gross  
6 proceeds of his business for the preceding tax year, gross pro-  
7 ceeds upon which the tax for that year was computed, and any  
8 other information necessary in the computation or collection of  
9 the tax that the tax commissioner may require. After deducting  
10 the amount of prior payments during the tax year, the tax-  
11 payer shall transmit the return with a remittance for any  
12 remaining tax, payable by him during the preceding tax year,  
13 to the tax commissioner. The taxpayer or his duly author-  
14 ized agent, shall verify the return under oath. The tax com-  
15 missioner for good cause shown, may, on written applica-  
16 tion of a taxpayer, extend the time for making any return  
required by the provisions of this article.

2       Sec. 22. *Consolidated Returns.* A person engaging in two or  
3 more places in the same business or businesses of like char-  
4 acter, taxable hereunder, shall file consolidated returns cover-  
5 ing all such business activities engaged in within this state.

2       Sec. 23. *Keeping and Preservation of Records.* A person  
3 liable for the tax imposed hereunder shall keep the records,  
4 render under oath the statements, make returns, and comply  
5 with the rules and regulations that the tax commissioner may,  
6 from time to time, prescribe. The tax commissioner may re-  
7 quire such records, statements, or returns, upon notice, from  
8 any person in order to determine whether he is liable to the  
9 tax hereunder. The tax commissioner may require preservation  
10 of records for not to exceed five years, and may, at any time  
11 through his authorized agents, inspect all books and accounts  
12 of the taxpayer, including banking accounts, which in any way  
13 enter into the record of the business out of which the tax im-  
14 posed herein arises.

2       Sec. 24. *Assessment and Collection of Tax When Return In-*  
3 *complete.* If the tax commissioner has reason to believe that  
4 the tax imposed by this article is insufficiently returned by a  
5 taxpayer, either because the taxpayer has failed or refused to  
6 make a return, or has made an incomplete return, or has made  
7 a return which is deficient or otherwise erroneous, he may pro-  
8 ceed to determine the amount of the tax for which the tax-  
9 payer is liable. The tax commissioner may make such audits  
10 and investigations, and take such evidence and testimony as  
11 may be necessary for the purpose of his investigation.

12       As a result of his investigation, the tax commissioner may  
13 assess the amount of the tax which he finds to be due. After  
14 ten days' notice in writing to the person assessed, he may  
15 proceed to collect the tax.

2       Sec. 25. *Records of Nonresidents Doing Business in State.*  
3 A nonresident person or foreign corporation engaged in a  
4 business within this state in the conduct of which the tax  
5 levied by this article becomes due, shall keep within this state  
6 adequate records concerning the operation of the business, and  
7 all taxes collected in the course of the business. The amount of  
8 the tax collected shall not be transmitted outside of this state  
9 without the written consent of, and in accordance with the  
10 conditions prescribed by the tax commissioner.

2       *Sec. 26. Records of Tax Commissioner; Preservation of Re-*  
3 *turns.* The tax commissioner shall keep full and accurate  
4 records of all moneys received by him. He shall preserve all  
5 returns filed with him hereunder for five years.

2       *Sec. 27. When Information Obtained is Confidential.* Unless,  
3 in compliance with the judicial order, or as may be required  
4 by the proper administration hereof, the tax commissioner,  
5 his agents and employees and former tax commissioners,  
6 agents and employees shall not divulge facts or information  
7 obtained in the administration hereof.

2       *Sec. 28. Rules and Regulations of Tax Commissioner.* The  
3 tax commissioner shall have the authority to promulgate and  
4 enforce reasonable rules and regulations necessary to the ad-  
5 ministration and enforcement of this article.

2       *Sec. 29. Penalty for Violations.* Except as herein other-  
3 wise provided a person who wilfully violates any of the pro-  
4 visions of this article, or any lawful rule or regulation  
5 promulgated under it, shall be guilty of a misdemeanor and  
6 upon conviction, shall be fined not less than fifty nor more  
7 than five thousand dollars.

2       *Sec. 30. Proceeds of Tax for Free Schools.* The proceeds of  
3 the tax imposed by this article shall be devoted to the support  
4 of the free schools, and be expended in such manner as may be  
5 provided by law.

2       *Sec. 31. Provisions of Act Severable.* The provisions of this  
3 act shall be construed as severable and if any part is held to  
4 be unconstitutional, or for any other reason invalid, the re-  
5 maining provisions shall not be affected. If the application  
6 of a tax imposed by this act to any particular taxpayer or to  
7 period of time is held to be invalid, its application to other  
8 taxpayers and to other periods of time shall not be affected  
9 thereby.

## CHAPTER 109

(Senate Bill No. 241—By Mr. Howard, by request)

AN ACT to amend and reenact sections three and twenty-two, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to the state gasoline tax.

[Passed March 13, 1937; in effect ninety days from passage. Approved by the Governor.]

### Article 14. Gasoline Tax.

#### Section

3. Amount, duration, measure and lien of tax.
22. Use of tax for roads and road bonds; refunds.

*Be it enacted by the Legislature of West Virginia:*

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

#### Section 3. *Amount, Duration, Measure and Lien of Tax.*

2 There is hereby imposed upon every person who is a dis-  
3 tributor, retail dealer or importer under the terms of this ar-  
4 ticle, an excise tax based on the quantities of all gasoline sold,  
5 purchased or used in this state on and after the first day of  
6 April, one thousand nine hundred thirty-seven (except as  
7 herein provided), which tax shall until July one, one thou-  
8 sand nine hundred thirty-nine, be equivalent to five cents per  
9 gallon thereof and shall be paid as hereinafter provided. On  
10 and after the first day of July, one thousand nine hundred  
11 thirty-nine, the tax herein provided shall be equivalent to four  
12 cents per gallon.

13 A distributor shall use as the measure of the tax the gallon-  
14 age sold, for whatever use, in this state (as provided in section  
15 four of this article), and the gallonage used by him in motor  
16 vehicles operated in this state. A retail dealer shall use as the  
17 measure of the tax the gallonage purchased or obtained by him.  
18 An importer shall use as the measure of the tax the gallonage

19 purchased by him for use in motor vehicles to be operated in  
20 this state.

21 The special excise tax imposed by this article shall be paid  
22 by the person first selling, or using in this state, the gallonage  
23 of gasoline which under this article shall form the measure of  
24 such tax; but in no case shall any such gallonage be used more  
25 than once in determining taxes due hereunder. The taxes im-  
26 posed by this article are in addition to all other taxes now im-  
27 posed or prescribed by law.

28 The excise tax imposed by this article shall accrue from the  
29 date of sale or purchase of the gasoline, whichever accords with  
30 the method of reporting required by this article, or conforms  
31 with the election of the taxpayer in the case of distributors;  
32 and the penalties imposed by section thirteen of this article  
33 shall accrue from the date they become due and payable and  
34 such taxes and penalties shall be and remain a charge and lien  
35 upon the properties, both personal and real, of the person  
36 liable to pay such taxes and penalties, superior to any lien  
37 created after such taxes and penalties accrue. No title shall  
38 vest or be transferred as to any such property, except subject  
39 to the lien for such taxes and penalties, and no such property  
40 shall be transferred or delivered, in whole or in part, until af-  
41 ter payment to the tax commissioner is made of the amount  
42 of such taxes and penalties due.

*Sec. 22. Use of Tax for Roads and Road Bonds; Refunds.*

2 All taxes collected under the provisions of this article shall be  
3 paid into the state treasury and shall be used only for the pur-  
4 pose of the reconstruction, maintenance and repair of roads  
5 and highways, and for the payment of the interest and sinking  
6 fund on state bonds issued for road purposes.

7 Unless required for such bond requirements, one-fifth  
8 of the taxes collected under the provisions of this article  
9 shall until July one, one thousand nine hundred thirty-nine,  
10 be used for secondary roads.

11 Any moneys received by the state and required to be  
12 repaid shall be treated as moneys erroneously paid into the  
13 treasury, and refunds shall be made and be payable out of  
14 the same fund into which paid.

## CHAPTER 110

(Senate Bill No. 268—By Mr. Wiseman)

AN ACT to amend and reenact section twenty, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to the taxation of gasoline.

[Passed March 13, 1937; in effect ninety days from passage. Approved by the Governor.]

### Article 14. Gasoline Tax.

#### Section

#### 20. Refund of tax.

*Be it enacted by the Legislature of West Virginia:*

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

Section 20. *Refund of Tax.* Any person who shall buy, in  
2 quantities of twenty-five gallons or more at any one time, any  
3 gasoline as defined in this article, for the purpose of and the  
4 same is actually used for, operating and propelling tractors  
5 and gas engines used for agricultural purposes and thresh-  
6 ing machines, which gasoline shall have been previously in-  
7 cluded in the measure by which the excise tax imposed by this  
8 article is determined, shall be reimbursed and repaid a sum  
9 equal to the amount of such tax, upon presenting to the tax  
10 commissioner an affidavit accompanied by a ticket or invoice  
11 from the distributor or retail dealer, showing such purchase,  
12 which affidavit shall set forth the total amount of such  
13 gasoline purchased and used by such consumer, other than  
14 in motor vehicles operated in this state, and how used; and  
15 the tax commissioner upon the receipt of such affidavit and  
16 ticket or invoice shall cause to be refunded to such consumer  
17 such tax paid on gasoline purchased and used other than for  
18 motor vehicles as aforesaid: *Provided*, That the tax  
19 commissioner shall cause refund to be made under au-  
20 thority of this section only when application for refund, as  
21 herein provided, is filed with the tax commissioner, upon  
22 forms prepared and furnished by the tax commissioner,

23 within sixty days from the date of purchase or delivery of  
24 the gasoline: *Provided further*, That no refund shall be  
25 allowed under authority of this section on gasoline purchased  
26 and used for any purpose when the same shall be reused for  
27 the purpose of propelling motor vehicles.

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## CHAPTER 111

(House Bill No. 102—Originating in the House Committee on  
Taxation and Finance)

AN ACT to amend and reenact sections three, thirty, thirty-three and forty-two, article thirteen-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter eighty-nine, acts of the Legislature, regular session, one thousand nine hundred thirty-five, relating to personal net income tax.

[Passed March 12, 1937; in effect from passage. Approved by the Governor.]

### Article 13-a. Personal Net Income Tax.

#### Section

3. Tax on net income of residents.
30. Gain or loss from property sales.
33. Exemptions.
42. Reports of salaries by employers.

*Be it enacted by the Legislature of West Virginia:*

That sections three, thirty, thirty-three and forty-two, article thirteen-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter eighty-nine, acts of the Legislature, one thousand nine hundred thirty-five, be amended and reenacted to read as follows:

Section 3. *Tax on Net Income of Residents.* Every  
2 resident of this state annually shall pay upon his entire  
3 net income, after deducting exemptions provided in section  
4 thirty-three of this article, a tax computed on the following  
5 rates:

- 6 On the first one thousand dollars of net income or any  
7 part thereof, one per cent.
- 8 On the second one thousand dollars of net income or any  
9 part thereof, two per cent.
- 10 On the third one thousand dollars of net income or any  
11 part thereof, three per cent.
- 12 On all net income in excess of three thousand dollars, four  
13 per cent.

Sec. 30. *Gain or Loss from Property Sales.* The basis  
2 for determining the gain or loss from the sale or other dis-  
3 position of property, real, personal or mixed, shall be, in the  
4 case of property:

- 5 1. Acquired before January first, one thousand nine hun-  
6 dred thirty-five, the fair market price as of that date; and if  
7 acquired after January first, one thousand nine hundred  
8 thirty-five, the actual cost.
- 9 2. Included in the last preceding inventory used in de-  
10 termining net income in a return under this article, the in-  
11 ventory value.

12 The final distribution to the taxpayer of the assets of a  
13 corporation shall be treated as a sale of the stock or securities  
14 of the corporation owned by him, and the gain or loss shall  
15 be computed accordingly.

Sec. 33. *Exemptions.* There shall be deducted from net  
2 income the following exemptions:

- 3 1. In the case of a single individual, a personal exemption  
4 of one thousand dollars;
- 5 2. In the case of a head of the family or a married person  
6 living with husband or wife, a personal exemption of two  
7 thousand dollars. A husband and wife living together shall  
8 receive but one personal exemption. If such husband and  
9 wife make separate returns, the personal exemption may be  
10 taken by either or divided between them;
- 11 3. Three hundred dollars for each individual (other than  
12 husband and wife) dependent upon and receiving his chief  
13 support from the taxpayer, if such dependent individual is  
14 under eighteen years of age or is incapable of self-support  
15 because mentally or physically defective;
- 16 4. If the status of the taxpayer, insofar as it affects the



17 exemptions allowed by this section, changes during the tax  
18 year, such exemptions shall be apportioned, under rules and  
19 regulations prescribed by the tax commissioner.

Sec. 42. *Reports of Salaries by Employers.* In order  
2 to aid in the effective administration of this article and  
3 the procurement of complete returns, the tax commissioner,  
4 under such reasonable rules and regulations as are necessary,  
5 may require a person who pays during the calendar year,  
6 within this state, in excess of one thousand dollars to a single  
7 person or in excess of two thousand dollars to a married per-  
8 son actually living with husband or wife, as salary, com-  
9 pensation for personal services, or for fixed or determined  
10 gain, profit or income, to report every such payment and the  
11 name and address of the recipient, if known, to such tax com-  
12 missioner.

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## CHAPTER 112

(Senate Bill No. 90—By Mr. Paull, by request)

AN ACT to amend and reenact section four, article eleven, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter thirty-six, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, relating to inheritance and transfer taxes.

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[Passed March 8, 1937: in effect ninety days from passage. Approved by the Governor.]

### Article 11. Inheritance and Transfer Taxes.

#### Section

#### 4. Exemptions.

*Be it enacted by the Legislature of West Virginia:*

That section four, article eleven, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter thirty-six, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 4. *Exemptions* (a) All property transferred to the state or to any county, school district, or municipal corporation thereof for public purposes shall be exempt from taxation under this article.

(b) No transfer of less than one hundred dollars shall be taxable under this article. For this purpose all transfers from a decedent to the same transferee shall be treated as a unit.

(c) Property transferred to a widow of a deceased person shall be allowed exemptions from taxes under this article as follows: Transfers not in excess of fifteen thousand dollars shall be entirely exempt; transfers in excess of fifteen thousand dollars up to and not exceeding twenty-five thousand dollars shall have an exemption determined by subtracting from fifteen thousand dollars, the difference between fifteen thousand dollars and the amount of the transfer; there shall be no exemption in the case of a transfer in excess of twenty-five thousand dollars.

(d) Property transferred to any person within the classes described in subdivision (a) of section two, other than a wife, shall be allowed exemption from taxes under this article as follows: Transfers not in excess of five thousand dollars shall be entirely exempt; transfers in excess of five thousand dollars up to and not exceeding ten thousand dollars shall have an exemption determined by subtracting from five thousand dollars the difference between five thousand dollars and the amount of the transfer; transfers in excess of ten thousand dollars shall be allowed no exemption.

The decedents of any child referred to in subdivision (a) of section two shall be allowed the exemption of the person they represent per stirpes and not per capita.

(e) There shall be exempt from taxation under this article all property transferred to a person or corporation, in trust or for use solely for educational, literary, scientific, religious or charitable purposes: *Provided, however,* That the property so transferred for the purpose herein mentioned and the rentals, profits and proceeds thereof, are used exclusively in this state.

## CHAPTER 113

(Senate Bill No. 128—By Mr. Paull, by request)

AN ACT to amend and reenact section ten, article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by section ten, chapter thirty-seven, acts of the Legislature, regular session, one thousand nine hundred thirty-three, relating to listing of property of public utilities for the purpose of taxation.

(Passed March 12, 1937; in effect ninety days from passage. Approved by the Governor.)

### Article 3. Assessments Generally.

#### Section

10. Failure to list property, etc.; collection of penalties and forfeitures.

*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, as amended by section ten, chapter thirty-seven, acts of the Legislature, regular session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 10. *Failure to List Property, Etc.; Collection of Penalties and Forfeitures.* If any person, firm or corporation, including public service corporations whose duty it is by law to list any real estate or personal property for taxation, shall refuse to furnish a proper list thereof or refuse to furnish a list within the time required by law, or to make such oath as required by this chapter; or if any person, firm or corporation, including public service corporations, shall refuse to answer or shall answer falsely any question asked by the assessor or by the tax commissioner, or shall fail or refuse to deliver any statement required by law, he or it shall forfeit not less than twenty-five nor more than one hundred dollars, and shall be denied all remedy provided by law for the correction of any assessment made by the assessor or by the board of public works. If any person, firm or corporation, including public service corporations, required by law to make return of prop-

erty for taxation, whether such return is to be made to the assessor, the board of public works, or any other assessing officer or body, fails to return a true list of all property which should be assessed in this state, including money, notes, bonds, bills and accounts receivable, stocks and any other intangible personal property, such person, firm or corporation, in addition to all other penalties provided by law, shall forfeit five per cent of the value of the property not returned and not otherwise taxed in this state. A forfeiture as to all property aforesaid may be enforced for any such default occurring in any year not exceeding five prior to the time the same is discovered, but no liability to penalty or forfeiture as to moneys, notes, bonds, bills and accounts receivable, stocks and other intangible personal property arising prior to the first day of January, nineteen hundred thirty-three, shall be enforceable on behalf of the state or of any of its subdivisions. Each failure to make a true return as herein required shall constitute a separate offense, and a forfeiture shall apply to each of them, but all such forfeitures, to which the same person, firm or corporation is liable, shall be enforced in one proceeding against such person, firm or corporation, or against the estate of any deceased person, and shall not exceed twenty-five per cent of the value of the property not returned. The state tax commissioner shall collect such forfeitures without suit, but if unable so to do, shall instruct the prosecuting attorney of the county in which the defaulting taxpayer resides or has its principal office, or in which such property should have been returned for taxation, to enforce collection. It shall thereupon be the duty of such prosecuting attorney to institute and prosecute proceedings in the name of the state of West Virginia against the defaulting taxpayer, or, in case of a decedent, against his personal representative, in the circuit court upon motion, whereof the defendant shall have at least twenty days' notice. Either party shall have the right to have the issue tried by jury, and the state, as well as the defendant, shall have the right to an appeal. Ten per cent of the amount collected and an attorney's fee of ten dollars to be taxed as a part of the cost shall be collected and paid over by the prosecuting attorney to the sheriff of the county and by him credited to the general county fund. No special counsel shall be

58 employed to institute or conduct such suits. Any prosecut-  
59 ing attorney failing or refusing to perform the duties re-  
60 quired of him by this section shall forfeit the sum of one  
61 hundred dollars to be recovered against him by the state  
62 tax commissioner in the name of the state of West Vir-  
63 ginia upon twenty days' notice by motion in any court  
64 having jurisdiction. The amount collected in any such suit  
65 after deducting ten per cent as aforesaid, or the entire sum  
66 if collected by the tax commissioner without suit, shall be  
67 paid over to the sheriff of the proper county and his receipt  
68 taken therefor. The sheriff shall apportion such fund among  
69 the state, county, district, school district, and municipalities  
70 which would have been entitled to the taxes upon such prop-  
71 erty if it had been assessed, in proportion to the rates of  
72 taxation for each such levying unit for the year in which  
73 the judgment was obtained bears to the sum of the rates  
74 for all. When the list of property returned by the appraisers  
75 of the estate of any deceased person shows an amount greater  
76 than the last assessment list of such deceased person next  
77 preceding the appraisal of his estate, it shall be prima facie  
78 evidence that such deceased person returned an imperfect  
79 list of his property: *Provided, however,* That any person  
80 liable for the tax of his personal representative, may always  
81 be permitted to prove by competent evidence that the dis-  
82 crepancy between such assessment list and the appraisal  
83 of the estate is caused by a difference of valuation returned  
84 by the assessor and that made by the appraisers of the  
85 same property or by property acquired after assessment,  
86 or that any property enumerated in the appraisers' list had  
87 been otherwise listed for taxation, or that it was not liable for  
88 taxation. Any judgment recovered under this section shall  
89 be a lien, from the time of the service of the notice, upon all  
90 real estate and personal property of such defaulting taxpayer,  
91 owned at the time or subsequently acquired, in preference to  
92 any other lien.

## CHAPTER 114

(Senate Bill No. 152—By Mr. Howard)

AN ACT to amend and reenact section one, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to businesses requiring a state license.

[Passed March 13, 1937; in effect April 15, 1937. Approved by the Governor.]

### Article 12. License Taxes.

#### Section

1. Businesses requiring license.

*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, as amended, be amended and reenacted to read as follows:

- Section 1. *Businesses Requiring License.* No person without a state license therefor, shall
- (a) Keep a hotel, eating house, or restaurant; or
  - (b) Keep, for public use or resort, a bowling alley, pool table, billiard table, bagatelle table, or any table of like kind; or
  - (c) Sell at wholesale or retail patent or proprietary medicines in incorporated cities and towns; or
  - (d) Exhibit any circus, menagerie, circus and menagerie combined, theatrical performance, street or other carnival, or public show, to which admission is obtained for money or reward, except for the benefit or under the auspices of a volunteer fire department; or
  - (e) Run or operate, for profit, a merry-go-round, or roller coaster, scenic railway, or like device, or keep for public use or resort, a shooting gallery, or a skating rink; or run or operate a cane rack, doll baby rack, knife rack, striking machine, jingle board, punch board, artful dodger, candy wheel, or other scheme or device by which merchandise or other things of value are disposed of by game of chance, or like device, or human laundry device, or dip device; or

- 22 (f) Act as a hawker or peddler; but bona fide farmers  
23 vending farm products shall not be required to have a  
24 license; or
- 25 (g) Act as auctioneer; or
- 26 (h) Practice the business of real estate agent, stock-  
27 broker, or other broker, by buying or selling for others,  
28 stocks, securities, or any other property for a commission  
29 or reward; or
- 30 (i) Practice the business of money broker, buying or sell-  
31 ing undercurrent or depreciated money or funds, or exchang-  
32 ing one kind of money or funds for another, for benefit or  
33 reward; or
- 34 (j) Practice the business of pawnbroker by lending money  
35 or other things for profit, for or on account of personal  
36 property deposited with the lender in pledge; or
- 37 (k) Sell, or barter, or offer, or expose for sale or barter,  
38 any patent right; or
- 39 (l) Sell, offer, or expose for sale, to merchants, trad-  
40 ing stamps, premium stamps or certificates of like nature  
41 or character, or undertake with merchants to redeem such  
42 stamps or certificates in money or goods; or
- 43 (m) Being a traveling agent, canvasser or salesman, or  
44 itinerant vendor, sell any sewing machines, pianos, organs,  
45 victrolas, phonographs, talking machines, or similar musical  
46 instruments, or, sell or contract to sell any books, maps,  
47 prints, pamphlets, and periodicals, except such books, pamph-  
48 lets that be of a religious or ethical nature, whether manu-  
49 factured within or without the state; or
- 50 (n) Sell, offer or expose for sale, or solicit, or receive  
51 orders for manufactured tobacco, snuff, cigars, cigarettes, or  
52 other preparations of tobacco, or cigarette paper or wrapper,  
53 at wholesale or retail; or
- 54 (o) Carry on the business of junk dealer, or act as agent,  
55 solicitor, canvasser, or salesman, for any junk dealer; or
- 56 (p) Sell pistols, revolvers, or weapons of like kind; or
- 57 (q) Maintain or occupy any house boat, or like structure  
58 or vessel, upon or along the bed, banks or shores of any  
59 navigable stream; or
- 60 (r) Maintain any slot machine, or other automatic device,  
61 which, for the same profit or reward, in each case and with-  
62 out any violation of the law, furnishes music, or exhibits

63 pictures, or provides facilities for weighing, or supplies any  
64 merchandise or other thing or renders any service; but no  
65 slot machine or other automatic device with respect to  
66 which, or its operation, service, or supplies, there is any  
67 element of chance (being a gaming table, within the mean-  
68 ing of section one, article ten, chapter sixty-one of the code)  
69 shall be protected by any license; or

70 (s) Being a corporation, heretofore or hereafter chartered  
71 under the laws of this state, whether its principal place of  
72 business or chief works be within or without the state, do,  
73 or attempt to do, any business by virtue of its charter or  
74 certificate of incorporation; or

75 (t) Being a corporation chartered or organized under  
76 the laws of any other state or country, hold property or  
77 transact business in this state; or being a corporation, hold  
78 more than ten thousand acres of land in this state; or

79 (u) Solicit, carry on or practice the business of a  
80 collection agency, or association, whether it be a person,  
81 firm or corporation; or

82 (v) Keep or maintain a public park, admission to which  
83 is obtained for money or reward; or

84 (w) Carry on the business of a labor agency; or

85 (x) Manufacture, sell or distribute, either at retail or  
86 wholesale, any and all preparations of every kind, character  
87 or nature, such as are prepared, mixed and sold at soda  
88 fountains, and all such preparations as bevo, pablo, milo.  
89 moxie, ginger ale, near beer, coca cola, pop, and all other  
90 preparations of like nature and character commonly known  
91 as soft drinks; or

92 (y) Keep or maintain, for public use or resort, a taxi  
93 cab stand or any place of like character.

94 Nothing in this article contained, and no license or pay-  
95 ment under the provisions hereof, shall be taken to legalize  
96 any act which otherwise may be in violation of law, or  
97 exempt any person from any penalty prescribed for such  
98 violation.



## CHAPTER 115

(House Bill No. 319—By Mr. LaFon)

AN ACT to amend article two, chapter two of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section to be designated section twelve, relating to headings of acts of the Legislature.

[Passed March 8, 1937; in effect from passage. Approved by the Governor.]

### Article 2. Legal Holidays; Construction of Statutes; Definitions.

#### Section

12. Headings, etc., not part of act.

*Be it enacted by the Legislature of West Virginia:*

That article two, chapter two of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new section twelve as follows:

Section 12. *Headings, Et Cetera, Not Part of Act.* The  
2 chapter, article or section headings, headlines or headnotes  
3 of any act of the Legislature, whether in the act at the time  
4 of passage or inserted after passage by the Clerk of the House  
5 of Delegates in editing and compiling the acts of the Legis-  
6 lature, shall be construed as mere catchwords and shall not  
7 be deemed or taken to be titles of such chapters, articles or  
8 sections, or as any part of the act.

## CHAPTER 116

(Senate Bill No. 126—By Mr. Paull, by request)

AN ACT to amend and reenact section seven, article two, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to annual meetings of assessors.

[Passed March 12, 1937; in effect ninety days from passage. Approved by the Governor.]

### Article 2. Assessors.

#### Section

#### 7. State and local meetings.

*Be it enacted by the Legislature of West Virginia:*

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

Section 7. *State and Local Meetings.* There shall be an annual meeting of the assessors, which meeting the assessors of the several counties of the state shall attend. The date and place of such meeting shall be fixed by the tax commissioner and due notice thereof shall be given to the assessors of the state. The tax commissioner shall prepare a program of matters pertaining to assessments and work of the assessors to be discussed at such meeting and he shall attend and be ex officio chairman of the same. The meeting shall continue for a period of two days. The actual necessary expense incurred by any assessor in attendance at such meeting shall be paid out of the county treasury of the county of the assessor so attending. Before such payment, however, the assessor shall file an itemized statement, which shall be sworn to, of his actual and necessary expenses, with the clerk of the county court.

In addition to the meeting hereinbefore provided for, there shall be at least two meetings of each assessor and his deputies between the first day of the assessment year and the twentieth day of June, of the current year, at such time and place as the assessor shall designate, of which meeting all

21 deputies shall have notice, for the purpose of securing uni-  
22 form valuation of property, both real and personal, through-  
23 out the entire county, according to the true and actual value.  
24 The last meeting shall be held after the work of listing prop-  
25 erty has been completed, at which meeting all the lists shall  
26 be thoroughly gone over, and, if found to be erroneous, either  
27 in the amount of property, real or personal, assessed to any  
28 person, firm or corporation, or in the value given to any item  
29 of property by the taxpayer shall be revised and corrected by  
30 placing on such list the omitted property and giving to it, as  
31 well as to any property that has been listed, but which has  
32 been incorrectly valued, the true and actual value thereof  
33 according to the rule prescribed by law and by omitting  
34 property improperly listed.

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## CHAPTER 117

(House Bill No. 70—By Mr. Fite, by request)

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

[Passed February 12, 1937; in effect from passage. Approved by the Governor.]

### Article 2. Official and Other Bonds.

#### Section

1. When official bonds to be given.

*Be it enacted by the Legislature of West Virginia:*

That section one, 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 1. *When Official Bonds to be Given.* Any person
- 2 appointed or elected to any office or position in this state
  - 3 who is required by any statute to enter into or give bond,

4 unless otherwise provided, shall give his official bond within  
5 sixty days after he has been appointed or duly declared  
6 elected; but if at the time of his appointment or election he  
7 shall be absent from the state, circuit, county or district for  
8 which he is appointed or chosen, he shall give such bond  
9 within sixty days after notice of his appointment or election.  
10 If no term of the court or other tribunal authorized to take  
11 and approve such bond shall be held within sixty days after  
12 the appointment or declaration of the election of an officer  
13 required by law to give bond and qualify before such court  
14 or tribunal, or after the person, if absent from the state,  
15 county or district, is notified of his appointment or election,  
16 he shall give bond at the first term of such court or other  
17 tribunal next thereafter held: *Provided*, That the state  
18 executive officers shall qualify on or before the first Monday  
19 after the second Wednesday of January next after their  
20 election: *Provided further*, That any person appointed or  
21 elected to fill a vacancy in any office shall give such bond  
22 within ten days after notice of such appointment or election,  
23 if the court or other tribunal authorized to take and approve  
24 such bond shall sit within said period; otherwise, at the first  
25 sitting of such court or other tribunal after notice of such  
26 appointment or election. No person shall enter into or dis-  
27 charge any of the duties of his office until he shall have given  
28 the bond required of him by law.

## CHAPTER 118

(Senate Bill No. 251—By Mr. Hodges, Mr. President, by request)

AN ACT to amend and reenact sections four and six, article two; and section nine, article three; all of chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to the issuance and sale of refunding bonds by counties, districts, municipalities and other political divisions.

[Passed March 8, 1937; in effect ninety days from passage. Approved by the Governor.]

### Article

2. Refunding Bonds.
3. State Sinking Fund Commission.

*Be it enacted by the Legislature of West Virginia:*

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

### Article 2. Refunding Bonds.

#### Section

4. Disposition of bonds; cancellation of original bonds.
6. Issuance without election or publication.

Section 4. *Disposition of Bonds; Cancellation of Original Bonds.* The governing body of the political sub-division issuing bonds under this article shall first offer the bonds to the secretary of the state for purchase by any of the governmental agencies of the state authorized by law to purchase such bonds, in accordance with the provisions of section nine, article three of this chapter. If the state does not purchase any or all of the bonds so offered, the governing body may sell the same or any part thereof and collect the proceeds, or such bonds may be delivered to the holder or holders of the bonds to be refunded in exchange therefor.

It is the intention of this article to authorize political divisions, to issue bonds for the purpose of refunding outstanding bonds without thereby contracting any additional indebtedness, and it shall be conditional upon the delivery of

16 any refunding bonds that a like principal amount of the bonds  
17 to be refunded be cancelled and paid simultaneously with  
18 the issuance and delivery of such refunding bonds.

Sec. 6. *Issuance Without Election or Publication.* The issu-  
2 ance and sale of exchange bonds in this article authorized  
3 may be had without an election or publication of any notice.

### Article 3. State Sinking Fund Commission.

#### Section

9. Offer of bonds to commission; prior right of board of public works to purchase.

Sec. 9. *Offer of Bonds to Commission; Prior Right of Board of Public Works to Purchase.* Every governing body of a political division issuing bonds under the authority of this chapter, including refunding bonds issued under the provisions of article two of this chapter, shall offer the same in writing to the state sinking fund commission prior to advertising the same, and the state sinking fund commission shall, within ten days after receiving such offer, accept the same and purchase such bonds or any portion of the same at par and accrued interest or, reject such offer: *Provided, however,* That nothing in this article shall prohibit the state board of public works from purchasing bonds as an investment of the workmen's compensation fund as provided by the workmen's compensation act. The offer to and the acceptance by the state sinking fund commission shall be subject to the right of the board of public works to first purchase.

## CHAPTER 119

(Senate Bill No. 228—By Mr. Paull, by request)

AN ACT validating, ratifying, approving and confirming bonds and other instruments or obligations heretofore issued, and validating, ratifying, approving and confirming certain proceedings heretofore taken, by public bodies of this state for public works projects.

[Passed March 10, 1937; in effect ninety days from passage. Approved by the Governor.]

### Section

1. How act cited.
2. Definitions.
3. Prior bond issues validated.
4. Prior proceedings for pending bond issues validated.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *How Act Cited.* This act may be cited as “the  
2 one thousand nine hundred thirty-seven validating act.”

Sec. 2. *Definitions.* The following terms, wherever used or  
2 referred to in this act, shall have the following meaning:

3 The term “public body” shall mean any city, town or  
4 county or the state acting through the West Virginia board  
5 of control.

6 The term “bonds” shall mean bonds, notes, warrants, de-  
7 bentures, certificates of indebtedness, temporary bonds, tem-  
8 porary notes, interim receipts, interim certificates and all  
9 instruments or obligations evidencing or representing indebt-  
10 edness, or evidencing or representing the borrowing of money,  
11 or evidencing or representing a charge, lien or encumbrance  
12 on specific revenues, income or property of a public body,  
13 including all instruments or obligations payable from a spe-  
14 cial fund.

Sec. 3. *Prior Bond Issues Validated.* All bonds heretofore  
2 issued for the purpose of financing or aiding in the financing  
3 of any work, undertaking or project by any public body to  
4 which any loan or grant has heretofore been made by the  
5 United States of America through the federal emergency ad-  
6 ministrator of public works for the purpose of financing or

7 aiding in the financing of such work, undertaking or project,  
8 including all proceedings for the authorization and issuance  
9 of such bonds, and the sale, execution and delivery thereof, are  
10 hereby validated, ratified, approved and confirmed, notwith-  
11 standing any lack of power (other than constitutional) of such  
12 public body, or the governing board or commission or officers  
13 thereof, to authorize and issue such bonds, or to sell, execute  
14 or deliver the same, and notwithstanding any defects or irregu-  
15 larities (other than constitutional) in such proceedings, in-  
16 cluding the publication of ordinances or resolutions, the hold-  
17 ing of meetings to hear protests pursuant to such publication,  
18 the description of the work, undertaking or project in such or-  
19 dinances or resolutions, the location of such work, undertaking  
20 or project, whether within or without the limits of the state,  
21 or in the sale, execution or delivery of such bonds, and not-  
22 withstanding that the members of such governing body or  
23 commission or officers may not have been elected, appointed  
24 or qualified for the offices they purported to hold; and such  
25 bonds are and shall be binding, legal, valid and enforceable  
26 obligations of such public body.

Sec. 4. *Prior Proceedings for Pending Bond Issues Validat-*  
2 *ed.* All proceedings, which have been taken prior to the  
3 date this act takes effect, for the purpose of financing or aid-  
4 ing in the financing of any work, undertaking or project by  
5 any public body to which any loan or grant is under contract  
6 to be made by the United States of America through the fed-  
7 eral emergency administrator of public works for the purpose  
8 of financing, or aiding in the financing, of such work, under-  
9 taking or project, including all proceedings for the author-  
10 ization and issuance of bonds, and for the sale, execution and  
11 delivery thereof, are hereby validated, ratified, approved, and  
12 confirmed, notwithstanding any lack of power (other than con-  
13 stitutional) of such public body or the governing body or  
14 commission or officers thereof, to authorize and issue such  
15 bonds, or to sell, execute or deliver the same, and notwithstand-  
16 ing any defects or irregularities (other than constitutional) in  
17 such proceedings, including the publication of ordinances or  
18 resolutions, the holding of meetings to hear protests pursuant  
19 to such publication, the description of the work, undertaking  
20 or project in such ordinances or resolutions, the location of



- 21 such work, undertaking or project, whether within or without  
22 the limits of the state, and notwithstanding that the members  
23 of such governing body may not have been elected, appointed  
24 or qualified for the office they purported to hold.

## CHAPTER 120

(Senate Bill No. 229—By Mr. Paull, by request)

AN ACT to authorize and regulate the issuance of bonds for the purpose of refinancing, or of refinancing and improving, revenue-producing works, undertakings, and projects by cities, towns, counties, the state acting through the West Virginia board of control, the state and agencies thereof having power to issue revenue obligations, and to provide for the payment of such bonds.

[Passed March 10, 1937; in effect ninety days from passage. Approved by the Governor.]

### Section

1. How act cited.
2. Definitions.
3. Purpose of refunding bonds.
4. Resolution by governing body for issuance.
5. Form of bonds; negotiability.
6. Validity.
7. Sale or exchange.
8. Security for payment; prior issues not impaired.
9. Payable solely from revenues of enterprise.
10. Tax exempt; exceptions.
11. Fiscal agent.
12. Duties of public body and officers as to bonds and rights of bondholders.
13. Provisions in resolution authorizing bonds.
14. Receivership upon default; termination.
15. Suits by bondholders.
16. Act complete authority for refunding bonds.
17. Provisions severable.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *How Act Cited.* This act may be cited as "The  
2 revenue bond refinancing act of one thousand nine hundred  
3 thirty-seven."

Sec. 2. *Definitions.* The following terms wherever used or  
2 referred to in this act shall have the following meaning, unless

3 a different meaning plainly appears from the context:

4 The term "public body" shall mean any city, town, or  
5 county, the state acting through the West Virginia board  
6 of control, or other agencies thereof having power to issue  
7 revenue obligations.

8 The term "governing body" shall mean board, council or  
9 other body having power to borrow money on behalf of a  
10 public body.

11 The term "law" shall mean any act or statute, general,  
12 special or local, of this state, including, without being lim-  
13 ited to, the charter of any public body.

14 The term "enterprise" shall mean any work, undertaking,  
15 or project which the public body is or may hereafter be  
16 authorized to construct and from which the public body has  
17 heretofore derived or may hereafter derive revenues, for the  
18 refinancing, or the refinancing and improving of which enter-  
19 prise, refunding bonds are issued under this act, and such  
20 enterprise shall include all improvements, betterments, ex-  
21 tensions and replacements thereto, and all appurtenances,  
22 facilities, lands, rights in land, water rights, franchises, and  
23 structures in connection therewith or incidental thereto.

24 The term "federal agency" shall include the United States  
25 of America, the president of the United States of America,  
26 the federal emergency administrator of public works, recon-  
27 struction finance corporation, or any agency, instrumentality  
28 or corporation of the United States of America, which has  
29 heretofore been or may hereafter be designated or created  
30 by or pursuant to any act or acts or joint resolution or  
31 joint resolutions of the congress of the United States of  
32 America, or which may be owned or controlled, directly or  
33 indirectly, by the United States of America.

34 The term "improving" shall mean reconstructing, replac-  
35 ing, extending, repairing, bettering, equipping, developing,  
36 embellishing or improving; or any one or more, or all of the  
37 foregoing.

38 The term "refundng bonds" shall mean notes, bonds, cer-  
39 tificates or other obligations of a public body issued pursuant  
40 to this act, or pursuant to any other law, as supplemented by,  
41 or in conjunction with this act.

42 The term "refinancing" shall mean funding, refunding,  
43 paying or discharging, by means of refunding bonds or the

44 proceeds received from the sale thereof, all or any part of  
45 any notes, bonds, or other obligations heretofore or here-  
46 after issued to finance or to aid in financing the acquisition,  
47 construction or improving of an enterprise and payable  
48 solely from all or any part of the revenues thereof, includ-  
49 ing interest thereon in arrears or about to become due,  
50 whether or not represented by coupons or interest cer-  
51 tificates.

52 The term "revenues" shall mean all fees, tolls, rates,  
53 rentals and charges to be levied and collected in connection  
54 with and all other income and receipts of whatever kind  
55 or character derived by the public body from the operation  
56 of any enterprise or arising from any enterprise.

57 The term "holder of bonds" or "bondholder" or any  
58 similar term shall mean any person who shall be the bearer  
59 of any outstanding refunding bond or refunding bonds  
60 registered to bearer or not registered, or the registered  
61 owner of any such outstanding bond or bonds which shall  
62 at the time be registered other than to bearer.

63 Words importing the singular number shall include the  
64 plural number in each case and vice versa, and words im-  
65 porting persons shall include firms and corporations.

Sec. 3. *Purpose of Refunding Bonds.* Any public body  
2 shall have power and is hereby authorized to refinance, or to  
3 refinance and improve, any enterprise, and for such purpose  
4 or purposes to borrow money and issue refunding bonds from  
5 time to time.

Sec. 4. *Resolution by Governing Body for Issuance.* The  
2 refunding bonds shall be authorized by resolution or resolu-  
3 tions of the governing body of the public body. Such resolu-  
4 tion or resolutions may be adopted at a regular or special  
5 meeting, and at the same meeting at which they are intro-  
6 duced, by a majority of all the members of the governing  
7 body then in office. Such resolution or resolutions shall take  
8 effect immediately upon the adoption thereof. No other pro-  
9 ceedings or procedure of any character whatever shall be re-  
10 quired for the issuance of refunding bonds by the public body.

Sec. 5. *Form of Bonds; Negotiability.* The refunding bonds  
2 may be issued in one or more series, may bear such date or

3 dates, may mature at such time or times not exceeding the  
4 period of usefulness of the enterprise, as determined by the  
5 governing body in its discretion, not in any event exceeding  
6 forty years from their respective dates; may bear interest at  
7 such rate or rates not exceeding the maximum rate of inter-  
8 est borne by the notes, bonds, or other obligations refinanced  
9 thereby; may be in such denomination or denominations, may  
10 be in such form either coupon or registered, may carry such  
11 registration and conversion privileges, may be executed in  
12 such manner, may be payable in such medium of payment, at  
13 such place or places, may be subject to such terms of re-  
14 demption, with or without a premium, may be declared or be-  
15 come due before the maturity date thereof, may provide for  
16 the replacement of mutilated, destroyed, stolen, or lost bonds,  
17 may be authenticated in such manner and upon compliance  
18 with such conditions; and may contain such other terms and  
19 covenants, as may be provided by resolution or resolutions  
20 of the governing body of the public body. Notwithstanding  
21 the form or tenor thereof, and in the absence of an express  
22 recital on the face thereof that the bond is non-negotiable,  
23 all refunding bonds shall at all times be, and shall be treated  
24 as, negotiable instruments for all purposes.

Sec. 6. *Validity.* Refunding bonds bearing the signatures  
2 of officers of the public body in office on the date of the sign-  
3 ing thereof shall be valid and binding obligations of the pub-  
4 lic body for all purposes, notwithstanding that before the de-  
5 livery thereof any or all the persons whose signatures appear  
6 thereon shall have ceased to be officers of the public body,  
7 the same as if such persons had continued to be officers  
8 of the public body until after the delivery thereof. The  
9 validity of the authorization and issuance of the refunding  
10 bonds shall not be dependent on or affected in any way  
11 by proceedings taken for the improving of any enterprise,  
12 for the refinancing and improving of which the refund-  
13 ing bonds are to be issued, or by contracts made in con-  
14 nection with the improving of any such enterprise. Any  
15 resolution authorizing refunding bonds may provide that any  
16 such refunding bond may contain a recital that such re-  
17 funding bond is issued pursuant to this act, and any re-  
18 funding bond containing such recital under authority of any

19 such resolution shall be conclusively deemed to be valid and  
20 to have been issued in conformity with the provisions of this  
21 act.

Sec. 7. *Sale or Exchange.* The refunding bonds may be sold  
2 or exchanged in installments at different times, or an entire  
3 issue or series may be sold or exchanged at one time. Any  
4 issue or series of refunding bonds may be exchanged in part  
5 or sold in part in installments at different times or at one time.  
6 The refunding bonds may be sold or exchanged at any time on,  
7 before, or after the maturity of any of the outstanding notes,  
8 bonds, certificates or other obligations to be refinanced  
9 thereby.

10 If the governing body determines to exchange any refund-  
11 ing bonds, such refunding bonds may be exchanged privately  
12 for and in payment and discharge of any of the outstand-  
13 ing notes, bonds or other obligations of the public body  
14 issued to finance or to aid in financing the acquisition, the  
15 construction, the improving, the refinancing, or the improving  
16 and refinancing, of an enterprise. The refunding bonds  
17 may be exchanged for a like or greater principal amount  
18 of such notes, bonds or other obligations of the public body,  
19 except that the principal amount of the refunding bonds  
20 may exceed the principal amount of such outstanding notes,  
21 bonds, or other obligations to the extent necessary or advis-  
22 able, in the discretion of the governing body, to fund interest  
23 in arrears or about to become due. The holder or holders  
24 of such outstanding notes, bonds, or other obligations need  
25 not pay accrued interest on the refunding bonds to be de-  
26 livered in exchange therefor if, and to the extent that  
27 interest is due or accrued and unpaid on such outstanding  
28 notes, bonds, or other obligations to be surrendered.

29 If the governing body determines to sell any refunding  
30 bonds, such refunding bonds shall be sold at not less than  
31 par at public or private sale in such manner and upon such  
32 terms as the governing body shall deem best for the interests  
33 of the public body.

Sec. 8. *Security for Payment; Prior Issues Not Impaired.*

2 The refunding bonds shall be special obligations of the public  
3 body and shall be payable from and secured by a lien upon

4 the revenues of the enterprise, as shall be more fully de-  
5 scribed in the resolution or resolutions of the governing body  
6 authorizing the issuance of the refunding bonds, having due  
7 regard to the cost of operation and maintenance of the enter-  
8 prise and the amount or proportion, if any, of the revenues of  
9 the enterprise previously pledged, and any public body shall  
10 have power by resolution of its governing body to pledge for  
11 the security of the refunding bonds a fixed amount without  
12 regard to any fixed proportion of the gross revenues of the en-  
13 terprise.

14 As additional security for any issue of refunding bonds  
15 hereunder, or any part thereof, any public body shall have  
16 power, and is hereby authorized to, by resolution of its gov-  
17 erning body, confer upon the holders of the refunding bonds  
18 all rights, powers and remedies which said holders would be  
19 entitled to if they were the owners and had possession of the  
20 notes, bonds or other obligations for the refinancing of which  
21 such refunding bonds shall have been issued, including, but  
22 not limited to, the preservation of the lien of such notes, bonds  
23 or other obligations without extinguishment, impairment or  
24 diminution thereof. In the event any public body exercises the  
25 power conferred by this paragraph, each refunding bond shall  
26 contain a recital to the effect that the holder thereof has been  
27 granted the additional security provided by this paragraph  
28 and each note, bond, certificate or other obligation of the pub-  
29 lic body to be refinanced by any such refunding bonds, shall be  
30 kept intact and shall not be cancelled or destroyed until the re-  
31 funding bonds, and interest thereon, have been finally paid  
32 and discharged, but shall be stamped with a legend to the  
33 effect that such note, bond, certificate or other obligation has  
34 been refunded pursuant to the revenue bond refinancing act  
35 of one thousand nine hundred thirty-seven.

36 All refunding bonds of the same issue shall be equally  
37 and ratably secured, without priority by reason of number,  
38 date of bonds, of sale, of execution or of delivery, by a  
39 lien upon the revenues of the enterprise in accordance with  
40 the provisions of this section and the resolution or resolu-  
41 tions authorizing the issuance of such refunding bonds.

42 Nothing in this section or in any other section of this  
43 act shall be deemed in any way to alter the terms of any  
44 agreements made with the holders of any outstanding notes,  
45 bonds, or other obligations of the public body, or to authorize  
46 the public body to alter the terms of any such agreements,  
47 or to impair, or to authorize the public body to impair,  
48 the rights and remedies of any creditors of the public body.

49 Nothing in this section or in any other section of this  
50 act shall be deemed in any way to authorize any public  
51 body to do anything in any manner or for any purpose  
52 which would result in the creation or incurring of a debt  
53 or indebtedness or the issuance of any instrument which  
54 would constitute a bond or debt within the meaning of  
55 any provision, limitation, or restriction of the constitution  
56 relating to the creation or incurring of a debt or indebtedness  
57 or the issuance of an instrument constituting a bond or a debt.

Sec. 9. *Payable Solely From Revenues of Enterprise.* No  
2 recourse shall be had for the payment of the refunding bonds,  
3 or interest thereon, or any part thereof, against the general  
4 fund of any public body, nor shall the credit or taxing power  
5 of any public body be deemed to be pledged thereto.

6 The refunding bonds, and interest thereon, shall not be a  
7 debt of the public body, nor a charge, lien or encumbrance,  
8 legal or equitable, upon any property of the public body, nor  
9 upon any income, receipts, or revenues of the public body  
10 other than such of the revenues of the enterprise as shall  
11 have been pledged to the payment thereof, and every re-  
12 funding bond shall recite in substance that said bond, in-  
13 cluding interest thereon, is payable solely from the revenues  
14 pledged to the payment thereof and that the public body  
15 is under no obligation to pay the same, except from said  
16 revenues.

Sec. 10. *Tax Exempt; Exceptions.* The refunding bonds  
2 and the income therefrom shall be exempt from taxation, ex-  
3 cept inheritance, estate and transfer taxes.

Sec. 11. *Fiscal Agent.* Any public body shall have power,  
2 in connection with the issuance of refunding bonds, to appoint  
3 a fiscal agent, to provide for the powers, duties and functions  
4 and compensations of such fiscal agent, to limit the liabilities

5 of such fiscal agent, to prescribe a method for the resignation,  
6 removal, merger or consolidation of such fiscal agent and  
7 the appointment of a successor fiscal agent and the transfer  
8 of rights and properties to such successor fiscal agent.

Sec. 12. *Duties of Public Body and Officers as to Bonds and*  
2 *Rights of Bondholders.* In order that the payment of the re-  
3 funding bonds, and interest thereon, shall be adequately se-  
4 cured, any public body issuing refunding bonds pursuant to  
5 this act and the proper officers, agents and employees thereof,  
6 are hereby directed, and it shall be the mandatory duty of such  
7 public body and such officers, agents and employees under this  
8 act, and it shall further be of the essence of the contract of  
9 such public body with the bondholders, at all times:

10 To pay or cause to be paid punctually the principal of  
11 every refunding bond, and the interest thereon, on the date  
12 or dates and at the place or places and in the manner  
13 and out of the funds mentioned in such refunding bonds  
14 and in the coupons thereto appertaining and in accordance  
15 with the resolution authorizing their issuance;

16 To operate the enterprise in an efficient and economical  
17 manner and to establish, levy, maintain and collect such  
18 fees, tolls, rentals, rates and other charges in connection  
19 therewith as may be necessary or proper, which said fees,  
20 tolls, rates, rentals and other charges shall be at least  
21 sufficient, after making due and reasonable allowances for con-  
22 tingencies and for a margin of error in the estimates, to pay  
23 all current expenses of operation, and maintenance of such  
24 enterprise; to pay the interest on and principal of the re-  
25 funding bonds as the same shall become due and payable;  
26 to comply in all respects with the terms of the resolution or  
27 resolutions authorizing the issuance of refunding bonds or  
28 any other contract or agreement with the holders of the re-  
29 funding bonds; and to meet any other obligations of the pub-  
30 lic body which are charges, liens, or encumbrances upon the  
31 revenues of such enterprise;

32 To operate, maintain, preserve and keep, or cause to be  
33 operated, maintained, preserved and kept, the enterprise  
34 and every part and parcel thereof, in good repair, working  
35 order and condition;

36 To preserve and protect the security of the refunding



37 bonds and the rights of the holders thereof, and to war-  
38 rant and defend such rights against all claims and demands of  
39 all persons whomsoever;

40 To pay and discharge, or cause to be paid or discharged,  
41 any and all lawful claims for labor, materials and supplies,  
42 which, if unpaid, might by law become a lien or charge  
43 upon the revenues or any part thereof, prior or superior  
44 to the lien of the refunding bonds, or which might impair  
45 the security of the refunding bonds, to the end that the  
46 priority and security of the refunding bonds shall be fully  
47 preserved and protected;

48 To hold in trust the revenues pledged to the payment of  
49 the refunding bonds for the benefit of the holders of the  
50 refunding bonds and to apply such revenues only as pro-  
51 vided by the resolution or resolutions authorizing the  
52 issuance of the refunding bonds, or, if such resolution or  
53 resolutions shall thereafter be modified in the manner pro-  
54 vided therein or herein, only as provided in such resolution  
55 or resolutions as modified;

56 To keep proper books of record and accounts of the  
57 enterprise (separate from all other records and accounts)  
58 in which complete and correct entries shall be made of all  
59 transactions relating to the enterprise or any part thereof,  
60 and which, together with all other books and papers of the  
61 public body, shall at all times be subject to the inspection  
62 of the holder or holders of not less than ten per cent of the  
63 refunding bonds then outstanding, or his or their represen-  
64 tatives duly authorized in writing.

65 None of the foregoing duties shall be construed to re-  
66 quire the expenditure in any manner or for any purpose  
67 by the public body of any funds other than revenues received  
68 or receivable from the enterprise.

2 Sec. 13. *Provisions in Resolution Authorizing Bonds.* The  
3 governing body of any public body shall have power, in ad-  
4 dition to the other powers conferred by this act, to insert pro-  
5 visions in any resolution authorizing the issuance of refund-  
6 ing bonds, which shall be a part of the contract with the hold-  
7 ers of the refunding bonds, as to:

7 Limitations on the purpose to which the proceeds of sale  
8 of any issue of refunding bonds, or any notes, bonds or

9 other obligations then or thereafter to be issued to finance the  
10 improving of the enterprise, may be applied;

11 Limitations on the issuance and on the lien of additional  
12 refunding bonds, or additional notes, bonds or other obliga-  
13 tions to finance the improving of the enterprise which are  
14 secured by or payable from the revenues of such enterprise;

15 Limitations on the right of the public body or its governing  
16 body to restrict and regulate the use of the enterprise;

17 The amount and kind of insurance to be maintained on  
18 the enterprise, and the use and disposition of insurance  
19 moneys;

20 Pledging all or any part of the revenues of the enter-  
21 prise to which its rights then exists or the right to which may  
22 thereafter come into existence;

23 Covenanting against pledging all or any part of the  
24 revenues of the enterprise to which its right then exists  
25 or the right to which may thereafter come into existence;

26 Events of default and terms and conditions upon which  
27 any or all of the refunding bonds shall become or may be de-  
28 clared due before maturity, and as to the terms and con-  
29 ditions upon which such declaration and its consequences may  
30 be waived;

31 The rights, liabilities, powers and duties arising upon the  
32 breach by it of any covenants, conditions or obligations;

33 The vesting in a trustee or trustees the right to enforce any  
34 covenants made to secure, to pay, or in relation to the re-  
35 funding bonds, as to the powers and duties of such trustee  
36 or trustees, and the limitation of liabilities thereof, and as  
37 to the terms and conditions upon which the holders of the  
38 refunding bonds or any proportion or percentage of them  
39 may enforce any covenants made under this act or duties  
40 imposed hereby;

41 A procedure by which the terms of any resolution author-  
42 izing refunding bonds, or any other contract with bond-  
43 holders, including but not limited to an indenture of trust or  
44 similar instrument, may be amended or abrogated, and as to  
45 the amount of refunding bonds the holders of which must con-  
46 sent thereto, and the manner in which such consent may be  
47 given;

48 The execution of all instruments necessary or convenient  
49 in the exercise of the powers granted by this act or in

50 the performance of the duties of the public body and the  
51 officers, agents and employees thereof;

52 Refraining from pledging or in any manner whatever  
53 claiming or taking the benefit or advantage of any stay or  
54 extension law whenever enacted, or at any time hereafter in  
55 force, which may affect the duties or covenants of the public  
56 body in relation to the refunding bonds, or the performance  
57 thereof, or the lien of such refunding bonds;

58 The purchase out of any funds available therefor, in-  
59 cluding, but not limited to, the proceeds of refunding  
60 bonds, of any outstanding notes, bonds or obligations, in-  
61 cluding, but not limited to, refunding bonds, and the price  
62 or prices at which, and the manner in which, such purchases  
63 may be made;

64 Any other acts and things as may be necessary or con-  
65 venient or desirable in order to secure the refunding bonds,  
66 or as may tend to make the refunding bonds more market-  
67 able;

68 The manner of collecting the fees, tolls, rates, rentals  
69 or other charges for the services, facilities or commodities  
70 of the enterprise, and the combining in one bill of the fees,  
71 tolls, rates, rentals or other charges for the services,  
72 facilities or commodities of the enterprise with the fees,  
73 tolls, rates, rentals or charges for other services, facilities  
74 or commodities afforded by the public body; and

75 The discontinuance of the services, facilities or commodi-  
76 ties of the enterprise as well as any other services, facilities  
77 or commodities afforded by the public body, in the event  
78 that the fees, tolls, rates, rentals or other charges for the  
79 services, facilities or commodities of the enterprise are not  
80 paid.

81 Nothing in this section shall be construed to authorize any  
82 public body to make any covenants, to perform any act or to  
83 do anything which shall require the expenditure in any manner  
84 or for any purposes by the public body of any funds other  
85 than revenues received or receivable from the enterprise.

Sec. 14. *Receivership Upon Default; Termination.* In the  
2 event that the public body shall default in the payment of the  
3 principal or interest on any of the refunding bonds after  
4 the same shall become due, whether at maturity or upon call

5 for redemption, and such default shall continue for a period  
6 of thirty days, or in the event that the public body or the  
7 governing body or officers, agents or employees thereof shall  
8 fail or refuse to comply with the provisions of this act, or shall  
9 default in any agreement made with the holders of the refund-  
10 ing bonds, any holder or holders of refunding bonds, or  
11 trustee therefor, shall have the right to apply in an appropri-  
12 ate judicial proceeding to the circuit court, or any court of  
13 competent jurisdiction, for the appointment of a receiver of  
14 the enterprise, whether or not all refunding bonds have been  
15 declared due and payable and whether or not such holder, or  
16 trustee therefor, is seeking or has sought to enforce any other  
17 right, or exercise any remedy in connection with such refund-  
18 ing bonds. Upon such application the circuit court may ap-  
19 point, and if the application is made by the holders of twenty-  
20 five per cent in principal amount of such refunding bonds  
21 then outstanding, or any trustee for holders of such refunding  
22 bonds in such principal amount, shall appoint a receiver of  
23 the enterprise.

24 The receiver so appointed shall forthwith, directly or by  
25 his agents and attorneys, enter into and upon and take  
26 possession of the enterprise and each and every part there-  
27 of and may exclude the public body, its governing body,  
28 officers, agents, and employees and all persons claiming un-  
29 der them, wholly therefrom and shall have, hold, use,  
30 operate, manage and control the same and each and every  
31 part thereof, and, in the name of the public body or other-  
32 wise, as the receiver shall deem best, shall exercise all the  
33 rights and powers of the public body with respect to the  
34 enterprise as the public body itself might do. Such receiver  
35 shall maintain, restore, insure and keep insured, the enter-  
36 prise, and from time to time shall make all such necessary  
37 or proper repairs which to such receiver shall seem expedi-  
38 ent, and shall establish, levy, maintain and collect such  
39 fees, tolls, rentals, and other charges in connection with the  
40 enterprise as such receiver shall deem necessary or proper  
41 and reasonable, and shall collect and receive all revenues  
42 and shall deposit the same in a separate account and apply  
43 such revenues so collected and received in such manner as  
44 the court shall direct.

45 Whenever all that is due upon the refunding bonds, and

46 interest thereon, and upon any other notes, bonds or other  
47 obligations, and interest thereon, having a charge, lien or  
48 encumbrance on the revenues of the enterprise and under  
49 any of the terms of any covenants or agreements with bond-  
50 holders shall have been paid or deposited as provided there-  
51 in, and all defaults shall have been cured and made good,  
52 the court may, in its discretion, and after such notice and  
53 hearing as it deems reasonable and proper, direct the re-  
54 ceiver to surrender possession of the enterprise to the  
55 public body, but the same right of the holders of the re-  
56 funding bonds to secure the appointment of a receiver shall  
57 exist upon any subsequent default, as hereinabove pro-  
58 vided.

59 Such receiver shall, in the performance of the powers  
60 hereinabove conferred upon him, act under the direction and  
61 supervision of the court making such appointment, and  
62 shall at all times be subject to the orders and decrees of  
63 such court and may be removed thereby. Nothing herein  
64 contained shall limit or restrict the jurisdiction of such  
65 court to enter such other and further orders and decrees  
66 as such court may deem necessary or appropriate for the  
67 exercise by the receiver of any functions specifically set  
68 forth herein.

69 Notwithstanding anything in this section to the contrary,  
70 said receiver shall have no power to sell, assign, mortgage  
71 or otherwise dispose of any assets of whatever kind or char-  
72 acter belonging to the municipality and useful for the enter-  
73 prise, but the authority of any such receiver shall be limited  
74 to the operation and maintenance of the enterprise and no  
75 court shall have jurisdiction to enter any order or decree  
76 requiring or permitting said receiver to sell, mortgage, or  
77 otherwise dispose of any such assets.

Sec. 15. *Suits by Bondholders.* Subject to any contractual  
2 limitations binding upon the holders of any issue of refund-  
3 ing bonds, or the trustee therefor, including, but not limited  
4 to, the restriction of the exercise of any remedy to a specified  
5 proportion or percentage of such holders, any holder of re-  
6 funding bonds, or trustee therefor, shall have the right and  
7 power for the equal benefit and protection of all holders of re-  
8 funding bonds similarly situated;

9 By mandamus or other suit, action or proceeding at law

10 or in equity to enforce his rights against the public body  
11 and its governing body and any of its officers, agents and  
12 employees, and to require and compel such public body  
13 or such governing body or any such officers, agents or em-  
14 ployees to perform and carry out its and their duties and  
15 obligations under this act and its and their covenants and  
16 agreements with bondholders;

17 By action or suit in equity to require the public body  
18 and the governing body thereof to account as if they were  
19 the trustee of an express trust;

20 By action or suit in equity to enjoin any acts or things  
21 which may be unlawful or in violation of the rights of the  
22 bondholders;

23 To bring suit upon the refunding bonds.

24 No remedy conferred by this act upon any holder of  
25 refunding bonds, or any trustee therefor, is intended to be  
26 exclusive of any other remedy, but each such remedy is  
27 cumulative and in addition to every other remedy and may  
28 be exercised without exhausting and without regard to any  
29 other remedy conferred by this act or by any other law.  
30 No waiver of any default or breach of duty or contract,  
31 whether by any holder of refunding bonds, or any trustee  
32 therefor, shall extend to or shall affect any subsequent de-  
33 fault or breach of duty or contract or shall impair any  
34 rights or remedies thereon. No delay or omission of any  
35 bondholder or any trustee therefor, to exercise any right  
36 or power accruing upon any default, shall impair any such  
37 right or power, nor shall be construed to be a waiver of any  
38 such default or acquiescence therein. Every substantive right  
39 and every remedy, conferred upon the holders of refunding  
40 bonds, may be enforced and exercised from time to time and  
41 as often as may be deemed expedient. In case any suit,  
42 action or proceeding to enforce any right or exercise any  
43 remedy shall be brought or taken and then discontinued  
44 or abandoned, or shall be determined adversely to the holder  
45 of the refunding bonds, or any trustee therefor, then and in  
46 every such case the public body and such holder, or such  
47 trustee, shall be restored to their former positions and rights  
48 and remedies as if no such suit, action or proceeding had been  
49 brought or taken.

2        *Sec. 16. Act Complete Authority for Refunding Bonds.* This  
3 act constitutes full and complete authority for the issuance of  
4 refunding bonds. No procedure or proceedings, publications,  
5 notices, consents, approvals, orders, acts or things by any gov-  
6 erning body of any public body, or any board, officer, com-  
7 mission, department, agency, or instrumentality of the state  
8 or any public body shall be required to issue any refunding  
9 bonds or to do any act or perform any thing under this act,  
10 except as may be prescribed in this act. The powers conferred  
11 by this act shall be in addition and supplemental to, and not  
12 in substitution for, and the limitations imposed by this act  
13 shall not affect the powers conferred by any other law. This  
act is remedial in nature and shall be liberally construed.

2        *Sec. 17. Provisions Severable.* If any section, clause, sent-  
3 ence, paragraph, part or provision of this act shall be found  
4 invalid by any court, it shall be conclusively presumed that  
5 this act would have been passed by the Legislature without  
6 such invalid section, clause, sentence, paragraph, part or pro-  
7 visiou, and the act as a whole shall not be declared invalid by  
8 reason of the fact that one or more sections, clauses, sentences,  
9 paragraphs, parts or provisions may be found invalid by any  
court.

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## CHAPTER 121

(House Bill No. 83—By Mr. Van Sickler)

AN ACT to amend and reenact sections two, seven and fourteen, article four, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, relating to the practice of dentistry.

[Passed March 2, 1937; in effect ninety days from passage. Became a law without the approval of the Governor.]

### Article 4. Dentists and Dental Hygienists.

#### Section

2. Who deemed practitioner of dentistry; limitations of article.
7. Refusal to issue, suspension or revocation of license; grounds.
14. Prerequisites to practice of dental hygiene.

*Be it enacted by the Legislature of West Virginia:*

That sections two, seven and fourteen, article four, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-

one, relating to the practice of dentistry, be amended and reenacted to read as follows :

Section 2. *Who Deemed Practitioner of Dentistry; Limitations of Article.* Any person shall be regarded as practicing dentistry within the meaning of this article, who shall diagnose or profess to diagnose or treat or profess to treat, any of the diseases or malformations or lesions of the oral cavity, teeth, gums, or maxillary bones, or shall prepare or fill cavities in human teeth, correct malposition of teeth or jaws or supply artificial teeth as substitutes for natural teeth, or administer anaesthetics, general or local, in connection with any of said work, or perform any other work included in the curricula of recognized dental colleges. To open an office for the practice of dentistry, or to announce to the public in any way a readiness to do any act defined herein as the practice of dentistry, shall be construed as engaging in the practice of dentistry within the meaning of this article: *Provided, however,* That this section .

(1) Shall not apply to a duly licensed physician or surgeon in the practice of his profession when rendering dental relief in emergency cases, unless he undertakes to reproduce or reproduces lost parts of the human teeth, or to restore or replace lost or missing teeth in the human mouth.

(2) Shall not apply to the construction, alteration, or repair of bridges, crowns, dentures, or other prosthetic or orthodontic appliances when the casts or impressions for such work have been made or taken by a licensed dentist: *Provided, however,* That a written authorization signed by a licensed dentist must accompany the order for such work or such work must be performed in the office of a licensed dentist under his direct and personal supervision: *And provided further,* That such prosthetic or orthodontic appliances shall not be advertised or sold, directly or indirectly, to the public by the dental technician or dental laboratory either as principal or agent. The burden of providing either such written authorization, or proof of direct and personal supervision, shall be upon the person charged with the violation of this act.

(3) Shall not apply to students enrolled in and regularly attending any dental college recognized by the state board of dental examiners, provided their acts are done in said dental college and under the direct and personal supervision of their instructor.



40 (4) Shall not apply to licensed or registered dentists of  
41 another state temporarily operating a clinic under the aus-  
42 pices of a duly organized and reputable dental college or  
43 reputable dental society, or to one lecturing before a reputable  
44 society composed exclusively of dentists.

45 (5) Shall not apply to licensed dental hygienists in the  
46 performance of their duties as otherwise provided by law.

47 (6) Shall not apply to the practice of dentistry by den-  
48 tists whose practice is confined exclusively to the service of  
49 the United States Army, the United States Navy, the United  
50 States Public Health Service, or the United States Veteran's  
51 Bureau, or any other authorized United States government  
52 agency or bureau.

Sec 7. *Refusal to Issue, Suspension or Revocation of Li-*  
2 *cence; Grounds.* The state board of dental examiners may re-  
3 fuse to issue a license to practice dentistry or dental hygiene  
4 in this state, or after issuance may suspend or revoke the  
5 same, for any of the following causes:

6 (1) The presentation to the board of any diploma, license or  
7 certificate illegally or fraudulently obtained, or one obtained  
8 from an institution which is not reputable, or one obtained  
9 from an unrecognized or irregular institution or state board.

10 (2) Be guilty of gross ignorance or gross inefficiency in  
11 his profession.

12 (3) Conviction of a felony; and a certified copy of the  
13 record of the court of conviction shall be sufficient proof of  
14 such conviction.

15 (4) Be guilty of unprofessional conduct. The following  
16 acts or any of them shall be conclusively presumed to be un-  
17 professional conduct:

18 (a) Be guilty of any fraud or deception.

19 (b) The commission of a criminal operation or conviction  
20 of a crime involving moral turpitude.

21 (c) Chronic or persistent inebriety or addiction to nar-  
22 cotics or drugs.

23 (d) Be guilty of the violation of any professional confi-  
24 dence or be guilty of disclosing any professional secret.

25 (e) Be grossly immoral.

26 (f) Be guilty of employing what are known as "cappers"  
27 or "steerers" to obtain business.

- 28 (g) The obtaining of any fee by fraud or misrepresenta-  
29 tion.
- 30 (h) Employ directly or indirectly, or direct or permit  
31 any suspended or unlicensed person so employed, to perform  
32 operations of any kind or to treat lesions of the human teeth  
33 or jaws or correct malimposed formations thereof.
- 34 (i) Practice, or offer or undertake to practice, dentistry  
35 under any firm name or trade name or under any name other  
36 than his own true name: *Provided*, That any licensee may  
37 practice under a firm name or partnership name containing  
38 nothing but the surname of every member of such firm or  
39 partnership.
- 40 (j) Professional connection or association with, or lending  
41 his name to another, for the illegal practice of dentistry, or  
42 professional connection or association with any person, firm,  
43 or corporation, holding himself, themselves, or itself out in  
44 any manner contrary to this act.
- 45 (k) Make use of any advertising relating to the use of  
46 any drug or medicine of unknown formula.
- 47 (l) Advertise to practice dentistry or perform any opera-  
48 tion thereunder without causing pain.
- 49 (m) Advertise professional superiority or the perform-  
50 ance of professional services in a superior manner.
- 51 (n) Advertise prices charged for professional service.
- 52 (o) Advertise by means of large display, flickering, or  
53 glaring light signs, or contain as a part thereof the repre-  
54 sentation of a tooth, teeth, or bridge work, or any portion  
55 of the human head.
- 56 (p) Employ or make use of advertising solicitors or free  
57 publicity press agents.
- 58 (q) Advertise to guarantee any dental service.
- 59 (r) Advertise in any manner calculated to, or tending to,  
60 deceive or mislead the public: *Provided*, That such licensee  
61 may announce, by way of a professional card containing not  
62 more than his name, title, degree, office location, office hours,  
63 business telephone number, and residence address and tele-  
64 phone number, if desired, and if he limits his practice to a  
65 specialty he may announce it, but such card shall not be

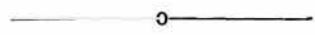
66 greater in any case than sixteen inches by twenty-two inches  
67 in size, and such information may be inserted in public print  
68 when not more than eight newspaper columns in width and  
69 twenty-five inches in depth; and he may announce his change  
70 of place of business, absence from, or return to, business in  
71 the same manner, and issue appointment cards to his patients,  
72 when the information thereon is limited to matter pertaining  
73 to the time and place of appointment and that permitted on  
74 the professional card, and he may display his name, title,  
75 and degree upon the windows or doors of his office and by a  
76 door plate or name plate or office directory when the infor-  
77 mation is limited to not more than that contained on the  
78 professional card, but the name, title and degree of the  
79 licensee shall not be displayed on said doors, windows, door  
80 plates, and name plates or office directory in lettering greater  
81 in height than seven inches.

82 The term advertising, as used in this section, shall be con-  
83 strued to include the use of radio or any loud speaking device  
84 or any other similar method or agency.

85 This entire section is passed in the interest of the public  
86 health, safety and welfare and its provisions shall be liberally  
87 construed to carry out its object and purpose. Each and  
88 every provision of this section is hereby declared to be inde-  
89 pendent and severable, and should any portion or provision  
90 or provisions of this section be held unconstitutional or for  
91 any other reason invalid, the remaining portion or portions,  
92 or provision or provisions shall not be thereby affected.

Sec. 14. *Prerequisites to Practice of Dental Hygiene.* No  
2 person, who has not been licensed as a dental hygienist in  
3 this state on or before the first day of September, one thou-  
4 sand nine hundred thirty-seven, shall practice as a dental  
5 hygienist in this state until he has passed an examination  
6 given by the West Virginia Board of Dental Examiners under  
7 such rules and regulations as it may formulate. The fee for  
8 the examination shall be ten dollars and any applicant failing  
9 to pass it shall be entitled to one re-examination without fur-  
10 ther costs. The fee for every re-examination after the first

11 shall be five dollars. The board of dental examiners shall issue  
12 licenses to practice dental hygiene in this state to those who  
13 have passed such examination or re-examination, as the case  
14 may be: *Provided, however,* That no person shall be entitled  
15 to such dental license unless he be: (a) at least eighteen years  
16 of age, (b) of good moral character, (c) a graduate of a class  
17 "A" high school or its equivalent, and (d) be either a gradu-  
18 ate of a training school for dental hygienists, which school  
19 requires for graduation or any degree the completion of a  
20 course of study covering a period of not less than two years  
21 of at least nine months each of actual continuous attendance  
22 and gives a suitable course covering the subject of dental  
23 hygiene, or be a graduate of any training school for dental  
24 hygienists approved by the American Dental Association.



## CHAPTER 122

(Senate Bill No. 188—By Mr. Howard, by request)

AN ACT to amend and reenact section fourteen, article two, chap-  
ter fifty-four of the code of West Virginia, one thousand nine  
hundred thirty-one, relating to entry on land by corporate  
body politic.

[Passed March 12, 1937; in effect from passage. Became a law without the  
approval of the Governor.]

### Article 2. Procedure for Condemnation.

#### Section

14. Condemnation by state or its political subdivision.

*Be it enacted by the Legislature of West Virginia:*

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

Section 14. *Condemnation by State or its Political Sub-*  
2 *divisions.* If the applicant be the state of West Virginia, or  
3 any political subdivision thereof, on filing its petition as  
4 authorized in this article, and if the court or judge is satis-  
5 fied that the purpose for which the land or property is sought  
6 to be condemned is a public use for which private property  
7 may be appropriated on compensating the owner, the court or  
8 judge shall, at the request of the applicant, make an order per-  
9 mitting the applicant at once to enter upon, take possession,  
10 appropriate and use the land sought to be condemned for the  
11 purposes stated in the petition. The revenues applicable to the  
12 payment of any damages or compensation to which the owner  
13 is entitled, and which shall be awarded or assessed in his fa-  
14 vor, shall be deemed sufficient security and to have been  
15 pledged for such payment, and no bond or further security  
16 shall be required of the applicant.

17 If the applicant shall enter upon or take possession of prop-  
18 erty under the authority of this section, and shall do any work  
19 thereon and injure such land or property, it shall not be en-  
20 titled, without the consent of the defendant, to abandon the  
21 proceedings for the condemnation thereof, but such proceed-  
22 ings shall proceed to final award or judgment after a reason-  
23 able time has elapsed for completion of the work upon the  
24 particular property so entered upon and taken possession  
25 of, and the applicant shall pay to the owner of the land the  
26 amount of compensation and damages as finally determined  
27 in such proceedings.

## CHAPTER 123

(House Bill No. 104—By Mr. Speaker, Mr. Thomas)

AN ACT to protect trade-mark owners, producers, distributors and the general public against injurious and uneconomic practices in the distribution of competitive commodities bearing a distinguishing trade-mark, brand or name, through the use of voluntary contracts establishing minimum resale prices and providing for refusal to sell unless such minimum resale prices are observed.

[Passed February 19, 1937; in effect ninety days from passage. Approved by the Governor.]

### Section

1. Definition of terms.
2. Lawful contracts fixing minimum resale price.
3. Acts violating resale price restriction.
4. Who may establish minimum resale price.
5. To what resales contract does not apply.
6. When offer of sale below fixed price actionable.
7. When act does not apply.
8. Provisions severable.
9. Inconsistent acts repealed.
10. How act cited.

*Be it enacted by the Legislature of West Virginia:*

- Section 1. *Definition of Terms.* The following terms, as used in this act, are hereby defined as follows:
- (a) "Commodity" means any subject of commerce.
  - (b) "Producer" means any grower, baker, maker, manufacturer, bottler, packer, converter or processor.
  - (c) "Wholesaler" means any person selling a commodity other than a producer or retailer.
  - (d) "Retailer" means any person selling a commodity to consumers for use.
  - (e) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a business trust or any unincorporated organization.

Sec. 2. *Lawful Contracts Fixing Minimum Resale Price.* No contract relating to the sale or resale of a commodity which bears, or the label or container of which bears, the trade-mark,

4 brand, or name of the producer or distributor of such com-  
5 modity and which commodity is in free and open competition  
6 with commodities of the same general class produced or dis-  
7 tributed by others shall be deemed in violation of any law of  
8 the state of West Virginia by reason of any of the following  
9 provisions which may be contained in such contract:

10 (a) That the buyer will not resell such commodity at less  
11 than the minimum price stipulated by the seller.

12 (b) That the buyer will require of any dealer to whom  
13 he may resell such commodity an agreement that he will not,  
14 in turn, resell at less than the minimum price stipulated by  
15 the seller.

16 (c) That the seller will not sell such commodity:

17 (1) to any wholesaler, unless such wholesaler will agree  
18 not to resell the same to any retailer unless the retailer will  
19 in turn agree not to resell the same except to consumers for  
20 use and at not less than the stipulated minimum price, and  
21 such wholesaler will likewise agree not to resell the same to  
22 any other wholesaler unless such other wholesaler will make  
23 the same agreement with any wholesaler or retailer to whom  
24 he may resell; or

25 (2) to any retailer, unless the retailer will agree not to  
26 resell the same except to consumers for use and at not less  
27 than the stipulated minimum price.

2 *Sec. 3. Acts Violating Resale Price Restriction.* For the pur-  
3 pose of preventing evasion of the resale price restrictions im-  
4 posed in respect to any commodity, by any contract entered  
5 into pursuant to the provisions of this act (except to the ex-  
6 tent authorized by the said contract):

7 (a) The offering or giving of any article of value in con-  
8 nection with the sale of such commodity;

9 (b) The offering or the making of any concession of any  
10 kind whatsoever (whether by the giving of coupons or other-  
11 wise) in connection with any such sale; or

12 (c) The sale or offering for sale of such commodity in  
13 combination with any other commodity, shall be deemed a  
14 violation of such resale price restriction, for which the  
15 remedies prescribed by section six of this act shall be avail-  
16 able.

*Sec. 4. Who May Establish Minimum Resale Price.* No mini-

2 mum resale price shall be established for any commodity, un-  
3 der any contract entered into pursuant to the provisions of  
4 this act, by any person other than the owner of the trade-  
5 mark, brand or name used in connection with such commod-  
6 ity or by a distributor specifically authorized to establish said  
7 price by the owner of such trade-mark, brand or name.

Sec. 5. *To What Resales Contract Does Not Apply.* No con-  
2 tract containing any of the provisions enumerated in section  
3 two of this act shall be deemed to preclude the resale of any  
4 commodity covered thereby without reference to such con-  
5 tract in the following cases:

6 (a) In closing out the owner's stock for the bona fide pur-  
7 pose of discontinuing dealing in any such commodity and  
8 plain notice of the fact is given to the public: *Provided*, That  
9 the owner of such stock shall give to the producer or dis-  
10 tributor of such commodity prompt and reasonable notice in  
11 writing of his intention to close out said stock, and an oppor-  
12 tunity to purchase such stock at the original invoice price,  
13 plus any transportation, storage or other legitimate or regu-  
14 lar costs.

15 (b) When the trade-mark, brand or name is removed or  
16 wholly obliterated from the commodity and is not used or di-  
17 rectly or indirectly referred to in the advertisement or sale  
18 thereof;

19 (c) When the goods are altered, second-hand, damaged, de-  
20 faced, or deteriorated and plain notice of the fact is given to  
21 the public in the advertisement and sale thereof, such notice  
22 to be conspicuously displayed in all advertisements and to be  
23 affixed to the commodity;

24 (d) But nothing contained in this article shall apply to sales  
25 by executors, administrators, receivers or assignees under a  
26 voluntary assignment for the benefit of creditors, trustees in  
27 bankruptcy or by any one acting under judicial process.

Sec. 6. *When Offer of Sale Below Fixed Price Actionable.*  
2 Wilfully and knowingly advertising, offering for sale or sell-  
3 ing any commodity at less than the price stipulated in any  
4 contract entered into pursuant to the provisions of this act,  
5 whether the person so advertising, offering for sale or selling  
6 is or is not a party to such contract, is unfair competition and  
7 is actionable at the suit of any person damaged thereby.



Sec. 7. *When Act Does Not Apply.* This act shall not apply  
2 to any contract or agreement between or among producers,  
3 except as provided in subdivision (c) of section two of this  
4 act, or between or among wholesalers or between or among  
5 retailers as to sale or resale prices.

Sec. 8. *Provisions Severable.* If any provision of this act,  
2 or the application thereof to any person or circumstance, is  
3 held invalid, the remainder of the act, and the application  
4 of such provisions to other persons or circumstances, shall  
5 not be affected thereby.

Sec. 9. *Inconsistent Acts Repealed.* All acts or parts of acts  
2 inconsistent herewith are hereby repealed to the extent of such  
3 inconsistency.

Sec. 10. *How Act Cited.* This act may be known and cited  
2 as the "Fair Trade Act."

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## CHAPTER 124

(House Bill No. 307—By Mr. Martin)

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AN ACT to amend and reenact section six, article one, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to the issuance of licenses for marriage, and to provide for the filing and recordation of applications therefor, and making it a misdemeanor for any person to make a false entry as to the date of filing such applications.

[Passed March 13, 1937; in effect ninety days from passage. Became a law without the approval of the Governor.]

### Article 1. Marriage.

#### Section

6. Application for and issuance of marriage license.

*Be it enacted by the Legislature of West Virginia:*

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

Section 6. *Application for and Issuance of Marriage License.* Every license for a marriage shall be issued by the clerk of the county court of the county in which the female to be married usually resides: *Provided, however,* That such license shall be issued not sooner than three days after the filing with said clerk of a written application therefor. The day upon which such application is filed shall be counted as the first day, but two full days shall elapse after the day of such filing before the license shall be issued: *Provided further,* That in cases of emergency or extraordinary circumstances a judge of the circuit court for the county in which such application is filed may direct the clerk, by order duly entered in the circuit court clerk's office of the said county, to issue such license at any time before the expiration of said three days. The entry of such order shall be conclusive evidence of such emergency, or extraordinary circumstances, and such order need not recite the existence, character or nature of such emergency, or extraordinary circumstances. In the absence or incapacity to act of the judge of the circuit court of the county in which said application is filed, such direction to the clerk may be by the judge of any judicial circuit adjoining the circuit in which such county is situate. Such application for a marriage license shall contain a statement of the full names of both parties, their respective ages and their places of birth and residence. It shall be signed by one or the other of the parties to the contemplated marriage and shall be verified by such party to be true to the best of his or her knowledge and belief, and shall be recorded in the register of marriages provided for in section eleven of this article, and the date of its filing shall be noted in said register, which notation or a certified copy thereof shall be legal evidence of the facts therein stated. Any person making a false entry as to the date of such filing shall be guilty of a misdemeanor and, upon conviction, shall be fined not to exceed one hundred dollars, and, in the discretion of the court trying the case, may, in addition thereto, be confined in the county jail for not exceeding three months.

## CHAPTER 125

(House Bill No. 196—By Mr. Erhard)

AN ACT to amend and reenact sections seven and eight, article eight, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, relating to the certificate to practice optometry, and to further amend said article and chapter by the addition of a new section thereto numbered section ten, relating to the prevention of the unlawful practice of optometry.

[Passed February 26, 1937; in effect ninety days from passage. Became a law without the approval of the Governor.]

### Article 8. Optometrists.

#### Section

7. Annual renewal of registration; restoration of expired certificate.
8. Refusal to issue, suspension or revocation of certificate; false and deceptive advertising.
10. Unlawful practice of optometry; penalties.

*Be it enacted by the Legislature of West Virginia:*

That sections seven and eight, article eight, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted, and that said article and chapter be amended by the addition thereto of section ten, all to read as follows:

Section 7. *Annual Renewal of Registration; Restoration of Expired Certificate.* Every registered optometrist who desires to continue in active practice or service shall, annually, on or before the first day of August, of each year, renew his certificate of registration and pay an annual renewal fee of ten dollars. Every certificate of registration which has not been renewed during the month of August in any one year shall expire on the first day of September of that year. A registered optometrist whose certificate of registration has expired may have the same restored only upon payment of the required renewal fee. Any registered optometrist who retires from the practice of optometry for more

13 than five years may renew his certificate of registration upon  
14 payment of all lapsed renewal fees: *Provided*, That the re-  
15 newal fees payable on or before the first day of August, one  
16 thousand nine hundred thirty-seven, shall be for one and one-  
17 fourth years.

Sec. 8. *Refusal to Issue, Suspension or Revocation of Cer-*  
2 *tificate; False and Deceptive Advertising.* The board may  
3 either refuse to issue, or may refuse to renew, or may sus-  
4 pend or revoke any certificate of registration for any one,  
5 or any combination, of the following causes: Conviction of  
6 a felony, as shown by a certified copy of the record of the  
7 court wherein such conviction was had, the obtaining of, or  
8 the attempt to obtain, a certificate of registration, or prac-  
9 tice in the profession of optometry, or money, or any other  
10 thing of value, by fraudulent misrepresentation, gross mal-  
11 practice, continued practice by a person knowingly having  
12 an infectious disease, habitual drunkenness, or addiction to  
13 the use of morphine, cocaine, or other habit-forming drugs;  
14 advertising, practicing, or attempting to practice under a  
15 name other than one's own; advertising by means of know-  
16 ingly false or deceptive statements. All advertising, whether  
17 by means of newspapers, or in any manner, whatsoever, of  
18 the following statements, or statements of similar import,  
19 that are "false and deceptive" within the meaning of this act,  
20 shall be prohibited. False and deceptive advertising shall be  
21 prohibited in the following: (a) Advertising of complete  
22 glasses, that is to say, lenses and frames or mountings, at a  
23 stated price, either alone or in conjunction with professional  
24 services; (b) advertising "free examination of eyes," or  
25 "free consultation," or "free advice," or words of similar im-  
26 port and meaning; (c) advertising frames or mountings for  
27 glasses, which advertisement does not accurately describe the  
28 same in all its component parts, (all such advertisements  
29 shall state clearly, in type equal in size to the price figures  
30 given, that such price does not include cost of lenses, or pro-  
31 fessional services in examining the eyes), and, (d) advertis-  
32 ing a particular sum or sums of money required as a "down"  
33 or cash payment, or any definite amount or amounts of fu-  
34 ture payments, or when the same shall be paid: *Provided*,  
35 That nothing herein contained shall be construed so as to

36 prohibit the advertising of free examinations for school chil-  
37 dren or for any charitable organization.

Sec. 10. *Unlawful Practice of Optometry; Penalties.* Any  
2 corporation or voluntary association shall not practice, or  
3 assume to practice, or in any manner to hold itself out to the  
4 public as being entitled to practice the profession of optom-  
5 etry, or advertise the title of optometrist in such manner as  
6 to convey the impression to the public that it is entitled to  
7 practice optometry, or furnish optometric advice and serv-  
8 ices, or advertise that, either alone or together with or by  
9 or through any person, whether a duly registered and licensed  
10 optometrist or not, it has, owns, conducts or maintains an  
11 office or place for the practice of optometry. Any duly reg-  
12 istered and licensed optometrist shall not associate himself  
13 with any corporation or voluntary association for the prac-  
14 tice of optometry, or in any manner practice such profes-  
15 sion, on a salary or commission basis, for any such corpora-  
16 tion or voluntary association. Any corporation or voluntary  
17 association violating any of the provisions of this section, or  
18 any officer, trustee, director, agent, or employee of such cor-  
19 poration or voluntary association who, either directly or in-  
20 directly, engages in any of the acts herein prohibited, or as-  
21 sists such corporation or voluntary association to do such  
22 prohibited acts, shall be guilty of a misdemeanor, and upon  
23 conviction thereof shall be fined not less than one hundred  
24 nor more than one thousand dollars. The fact that any such  
25 officer, trustee, director, agent or employee shall be a duly  
26 registered and licensed optometrist shall not be held to per-  
27 mit or allow any such corporation or voluntary association  
28 to do the acts prohibited herein, nor shall such fact be a de-  
29 fense upon the trial of any of the persons hereinbefore men-  
30 tioned for a violation of this section. Any duly registered  
31 and licensed optometrist who shall violate the provisions of  
32 this section shall be guilty of a misdemeanor, and upon con-  
33 viction thereof shall be fined not less than ten dollars nor  
34 more than twenty-five dollars, and each and every day such  
35 violation continues shall constitute a separate offense; and in  
36 addition to the foregoing penalties, such offending optome-  
37 trist shall have his license to practice suspended for a period  
38 of one year, by the court in which such conviction is had:

39 *Provided*, That this section shall not apply to a partnership  
40 of two or more duly registered and licensed optometrists who  
41 practice under their own names.

42 No person, registered under this act, or any individual,  
43 firm or corporation engaged in the sale of merchandise of any  
44 description who maintains or operates, or who allows to be  
45 maintained or operated in connection with said merchandise  
46 business, an optometric department, or who rents or sub-  
47 leases to any person or persons for the purpose of engaging  
48 in the practice of optometry therein, any part of premises in  
49 which such person, persons, firm or corporation is engaged  
50 in mercantile business, shall publish or circulate, or print  
51 or cause to be printed by any means whatsoever, any adver-  
52 tisement or notice of the optometric department maintained,  
53 operated or conducted in said establishment or place of busi-  
54 ness, in which said advertisement or notice appears, any un-  
55 truthful, or misleading statement, or anything calculated or  
56 intended to mislead or deceive the public or any individual.  
57 Any person violating this provision shall be guilty of a  
58 misdemeanor, and, upon conviction thereof shall be fined not  
59 less than fifty nor more than five hundred dollars, and each  
60 and every day such violation continues shall constitute a  
61 separate offense.

## CHAPTER 126

(Senate Bill No. 91—By Mr. Fleming)

AN ACT to amend article three, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto section forty-five-a, relating to breaking pipe lines and stealing therefrom.

[Passed March 6, 1937; in effect from passage. Approved by the Governor.]

### Article 3. Crimes Against Property.

#### Section

45-a. Unlawful opening of pipes or pipe lines; penalties.

*Be it enacted by the Legislature of West Virginia:*

That article three, chapter sixty-one of the code of West Vir-

ginia, one thousand nine hundred thirty-one, be amended by adding thereto a new section, to be known as section forty-five-a, to read as follows:

Section 45-a. *Unlawful Opening of Pipes or Pipe Lines;*

2 *Penalties.* Every person who, with intent to injure, or for  
3 the purpose of destroying, injuring, impairing, breaking,  
4 damaging or unlawfully opening, or of taking, stealing, and  
5 carrying away, or of permitting or causing to escape on the  
6 ground or into the air, any of the contents thereof, shall open,  
7 or cause to be opened, in any manner, any pipe or pipes or  
8 line of pipe or pipes or any tank, receptacle or container  
9 connected therewith, containing or used and useful in trans-  
10 porting or storing petroleum, crude or refined, gasoline, gas  
11 (natural, casinghead or manufactured), or any of the by-  
12 products of petroleum or gas, either liquid or gaseous, belong-  
13 ing to another, without such other's consent, shall be guilty of  
14 a misdemeanor, and upon conviction thereof, shall be punished  
15 by confinement in the county jail not less than two nor more  
16 than twelve months, and in addition thereto, in the discretion  
17 of the court, may be fined not exceeding three hundred dollars.  
18 Every person, upon conviction for the second or any subse-  
19 quent offense under this section shall be guilty of a felony  
20 and shall be confined in the penitentiary of this state not  
21 less than one nor more than three years. Justices of the  
22 peace shall have concurrent jurisdiction with the circuit,  
23 criminal or intermediate courts to enforce the misdemeanor  
24 penalties prescribed by this section.

## CHAPTER 127

(Senate Bill No. 107—By Mr. Belknap)

AN ACT to regulate the business of buying, leasing, selling, and managing real estate for others; requiring a license and the payment of a fee to engage in such business; providing penalties for violation of such regulations; and creating the West Virginia real estate commission.

[Passed March 13, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Section

1. The West Virginia real estate commission created; members; organization; expenditures.
2. Definitions.
3. Brokers and salesmen's licenses.
4. Transactions not included in act.
5. Issuance, refusal or cancellation of license.
6. What application for license to show.
7. Bond of nonresident applicant; auditor to accept service of process.
8. License fees.
9. Expiration of license; revocation of broker's license suspends salesman's license.
10. Suspension or revocation of license.
11. Penalty for violation of act.
12. Inconsistent acts repealed; rights of municipalities not affected.
13. Provisions severable.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *The West Virginia Real Estate Commission Created; Members; Organization; Expenditures.* There shall be a commission known as "The West Virginia Real Estate Commission," which shall be a corporation, and, as such, may sue and be sued, contract and be contracted with, and shall have a common seal. The commission shall consist of three members who shall be appointed by the governor by and with the advice and consent of the senate. Each member of the board shall be a citizen of the United States and a resident of this state and shall have been engaged in the real estate business for a period of at least five years immediately prior to his appointment. One member shall be appointed for a term of two years, and one for a term of three years, and one for a term of four years, and subsequent appointments shall be for terms of four years.



15 Any appointment to fill a vacancy shall be for the unexpired  
16 term. Members shall serve until their respective terms expire  
17 and until their successors have been appointed, unless sooner  
18 removed. Not more than two members of such commission shall  
19 belong to the same political party.

20 No member shall be a candidate for or hold any other  
21 public office or be a member of any political committee while  
22 acting as such commissioner. In case any commissioner be  
23 a candidate for or hold any other public office or be a mem-  
24 ber of any political committee, his office as a commissioner  
25 shall *ipso facto* be vacated.

26 The governor shall designate one member of the commis-  
27 sion as the chairman thereof, and the members shall choose  
28 one of the members thereof as secretary. Two members of  
29 the commission shall constitute a quorum for the conduct of  
30 official business. The members of the commission shall not  
31 receive any salary, excepting that they shall be paid the sum  
32 of ten dollars for each day actually spent in the work of  
33 the commission, and they shall each receive their actual and  
34 necessary expenses incurred in such work. The commission  
35 may employ such clerical and other help as may be neces-  
36 sary for the conduct of the duties of the commission, which  
37 shall be paid for out of the fund hereby created. All fees  
38 and charges collected by the commission under the pro-  
39 visions of this act shall be paid into a special fund for the  
40 purpose of this act, and all expenditures of the commission  
41 shall be paid therefrom. The amount paid to or expended  
42 by the commission in any fiscal year shall not exceed the  
43 revenues derived under the provisions of this act as herein-  
44 after provided.

Sec. 2. *Definitions.* The term "real estate business" as used  
2 in this act shall mean the performing or attempting to perform  
3 or the holding out to perform any of the things usually done  
4 by a real estate broker or a real estate salesman as herein-  
5 after defined.

6 The term "person" as used in this act shall mean any in-  
7 dividual, firm, partnership, association, or corporation.

8 The term "real estate broker" as used in this act shall  
9 mean a person who, for compensation or consideration, sells,  
10 buys, negotiates the purchase or sale, exchanges, leases,

11 rents, or manages any real estate or any improvement on  
12 real estate, or who offers, advertises, or holds himself out to  
13 do any of such things for another or others.

14 The term "real estate salesman" as used in this act shall  
15 mean any person who, for compensation or consideration, is  
16 employed either directly or indirectly by a real estate broker  
17 to engage in the real estate business or to do any of the  
18 things set out herein in the definition of the term "real  
19 estate broker".

Sec. 3. *Broker's and Salesmen's Licenses.* It shall be un-  
2 lawful for any person to act as a real estate broker or as a real  
3 estate salesman or to engage in the real estate business with-  
4 out a license issued by the West Virginia real estate commis-  
5 sion. No license shall be issued to a real estate broker unless  
6 every employee who acts for such broker as a salesman shall  
7 secure a license as a real estate salesman. However, if such  
8 broker be a partnership, association, or corporation, then every  
9 bona fide member of such partnership or association and every  
10 officer of such corporation shall be licensed as a real estate  
11 salesman when and after said broker shall have been granted  
12 a broker's license.

Sec. 4. *Transactions Not Included in Act.* The provisions  
2 of this act shall not apply to any person, or to the employees  
3 of any person, who as owner or lessor, shall engage in the  
4 real estate business with reference to property owned or leased  
5 by him, where such acts are performed in the regular course  
6 of, or as an incident to, the management of such property and  
7 improvements thereon; nor shall the provisions of this act  
8 apply to persons acting as attorney in fact, under a duly  
9 executed power of attorney from the owner authorizing the  
10 final consummation by performance of any contract for the  
11 selling, leasing or exchange of real estate, nor shall this act be  
12 construed to include in any way the services rendered by an  
13 attorney at law in the performance of his duties as such at-  
14 torney at law; nor shall it be held to include, while acting as  
15 such, a receiver, trustee in bankruptcy, administrator or  
16 executor, or any person selling real estate under order of any  
17 court, nor to include a trustee acting under a trust agreement,  
18 deed of trust, or will, nor the regular salaried employees  
19 thereof.

2        *Sec. 5. Issuance, Refusal or Cancellation of License.* Licenses  
3 shall be issued by the commission, in such form as it may de-  
4 termine, to applicants who are found to be of good character  
5 and to be competent to carry on the business for which the  
6 license is sought.

7        Upon receipt of any application for a license in the form re-  
8 quired by the commission and accompanied by the required  
9 fee, the commission shall consider the same as soon as practic-  
10 able. If the commission shall consider it proper that an appli-  
11 cant be granted a license, the same shall be issued.

12        The commission is empowered to refuse to grant a license to  
13 any applicant, or to refuse to renew any license, or to cancel  
14 and withdraw any license issued by it, for violation of any pro-  
15 visions of this act, or for any reasonable cause appearing to  
16 the commission.

17        If the commission is of opinion to refuse to issue a license  
18 that has been applied for, or to refuse to renew a license, or to  
19 cancel and withdraw a license, it shall, before any such refusal  
20 or cancellation is finally acted upon, notify the applicant or  
21 licensee affected of its opinion and contemplated action, and  
22 shall give to him an opportunity to appear before the commis-  
23 sion and be heard in connection therewith. Such hearings shall  
24 be held under such reasonable rules and regulations as the  
25 commission may make and provide.

26        The commission may make and enforce rules regarding  
27 transactions between licensees and the commission and require  
28 reports as to matters of employment of or by licensees and  
29 changes of address of licensees and kindred matters.

30        The commission may issue duplicate licenses under such  
31 rules as it may make with regard thereto and upon the pay-  
ment of a fee of one dollar.

2        *Sec. 6. What Application for License to Show.* Every ap-  
3 plicant for a real estate broker's license shall apply therefor in  
4 writing upon blanks prepared or furnished by the commission.  
5 Such application shall be accompanied by the recommendation  
6 of at least two citizens who are real estate owners and who are  
7 not related to the applicant, who have owned real estate for  
8 a period of one year or more in the county or city in which  
9 said applicant resides, or has his place of business, which  
recommendation shall certify that the applicant bears a good

10 reputation for honesty, truthfulness, fair dealing and com-  
11 petency, and recommending that a license be granted to the  
12 applicant; but no recommendation shall be required for the  
13 renewal of a license after being once issued.

14 Every applicant for a broker's license shall state the name  
15 of the person with whom he will be associated in the real  
16 estate business, and the location of the place or places for  
17 which said license is desired, and set forth the period of time,  
18 if any, for which said applicant has been engaged in the real  
19 estate business.

20 Every applicant for a license shall furnish a sworn state-  
21 ment setting forth his present business and residential ad-  
22 dresses, a complete list of all former places and firms where he  
23 may have resided or been engaged in business for a period of  
24 sixty days or more, during the last five years, accounting for  
25 such entire period, and the length of such residence, together  
26 with the name and address of at least one real estate owner  
27 in each of said counties or cities where he may have resided  
28 or have been engaged in business.

29 Every applicant for a salesman's license shall, in addition  
30 to the requirements of this section, also set forth the period  
31 of time, if any, during which he has been engaged in the real  
32 estate business, stating the name and address of his last em-  
33 ployer, and the name and the place of business of the person  
34 then employing him, or into whose service he is about to en-  
35 ter. The application shall be accompanied by a written state-  
36 ment by the broker in whose service he is about to enter, stat-  
37 ing that in his opinion the applicant is honest, truthful, and  
38 of good reputation, and recommending that the license be  
39 granted to the applicant.

40 Every application for a license, under the provisions of  
41 this act, shall be accompanied by the license fee herein pre-  
42 scribed. In the event that the commission does not issue the  
43 license, the fee shall be returned to the applicant.

44 The commission may require such other proof as shall be  
45 deemed desirable and in the public interest, regarding the  
46 honesty, truthfulness, integrity, and competency of the ap-  
47 plicant. The commission is expressly vested with the power  
48 and authority to make and enforce any and all such reason-  
49 able rules and regulations connected with the application

50 for any license as shall be deemed necessary to administer  
51 and enforce the provisions of this act.

Sec. 7. *Bond of Nonresident Applicant; Auditor to Accept*  
2 *Service of Process.* Before a license as a real estate broker shall  
3 be issued to any person who does not have his principal place  
4 of business in the state of West Virginia, he shall file with the  
5 commission a bond in the penalty of two thousand dollars, in  
6 form and with security to be approved by the commission, and  
7 conditioned so as to be for the benefit of and to indemnify any  
8 person in the state who may have any cause of action against  
9 the principal in such bond growing out of a real estate transac-  
10 tion with such principal. And unless such nonresident appli-  
11 cant shall be a corporation organized or domesticated in the  
12 state, he shall file with the auditor of the state a power of at-  
13 torney authorizing the auditor to accept service of legal pro-  
14 cess for him in the same manner as service may be accepted  
15 for West Virginia corporations.

16 Before a license as a real estate salesman shall be issued  
17 to any person who is not a bona fide resident of the state,  
18 whether he be an employee of a resident or a nonresident real  
19 estate broker, such applicant shall file with the commission a  
20 bond such as is herein required to be filed by a nonresident  
21 broker, and he shall also file a power of attorney with the  
22 auditor such as is herein required to be filed by a nonresident  
23 broker.

Sec. 8. *License Fees.* The original fee and annual re-  
2 newal fee for each real estate broker's license shall be fifty  
3 dollars, if such licensee's place of business is located in a city  
4 having a population of seven thousand five hundred or more.  
5 The original fee and annual renewal fee for each real estate  
6 broker's license shall be ten dollars, if such licensee's place  
7 of business is located in a town having a population of less  
8 than seven thousand five hundred.

9 The original fee and annual renewal fee for each real  
10 estate salesman's license shall be twenty-five dollars if such  
11 licensee's place of business is located in a city having a  
12 population of seven thousand five hundred or more. The  
13 original fee and annual renewal fee for each real estate  
14 salesman's license shall be five dollars, if such licensee's place

15 of business is located in a town having a population of less  
16 than seven thousand five hundred.

2       Sec. 9. *Expiration of License; Revocation of Broker's*  
3 *License Suspends Salesman's License.* Every license shall ex-  
4 pire on the thirty-first day of December of each year. The  
5 commission shall issue a new license for each ensuing year, in  
6 the absence of any reason which might warrant the refusal of  
7 the granting of a license, upon receipt of the annual fee there-  
8 for, as herein required. The revocation of a broker's license  
9 shall automatically suspend every real estate salesman's  
10 license granted to any person by virtue of his employment by  
11 the broker whose license has been revoked, pending a change  
12 of employer and the issuance of a new license. Such new license  
13 shall be issued without charge, if granted during the same  
year in which original license was granted.

2       Sec. 10. *Suspension or Revocation of License.* The commis-  
3 sion may, upon its own motion, and shall, upon the verified  
4 complaint in writing of any person, investigate the actions of  
5 any real estate broker or real estate salesman, or any person  
6 who shall assume to act in either capacity within this state, and  
7 shall have the power to suspend or to revoke any license issued  
8 by the commission that has been fraudulently procured, or  
9 when the licensee, in the course of his licensed business, has  
10 done or is doing any one or more of the following things:  
11       (a) Made any substantial misrepresentation;  
12       (b) Made any false representation of a character likely to  
13       influence, persuade, or induce;  
14       (c) Pursued a continued and flagrant course of misrepre-  
15       sentation, or made false representations through agents or  
16       salesmen or advertising or otherwise;  
17       (d) Acted for more than one party in a transaction with-  
18       out the knowledge of all parties for whom he acts;  
19       (e) Accepted a commission or valuable consideration as a  
20       real estate salesman for the performance of any of the acts  
21       specified in this act, from any person, except his employer,  
22       who must be a licensed real estate broker;  
23       (f) Represented or attempted to represent a real estate  
24       broker other than the employer, without the express knowl-  
edge and consent of the employer;

25 (g) Failed, within a reasonable time, to account for or to  
26 remit any moneys coming into his possession which belong  
27 to others;

28 (h) Been unworthy or incompetent to act as a real estate  
29 broker or salesman in such manner as to safeguard the interest  
30 of the public;

31 (i) Paid a commission or valuable consideration to any  
32 persons for acts or services performed in violation of this  
33 act;

34 (j) Conducted himself in any manner constituting im-  
35 proper, fraudulent, or dishonest dealing.

Sec. 11. *Penalty for Violation of Act.* Any person who shall  
2 engage in the real estate business as defined by this act, with-  
3 out a license, or who shall violate any other provision of this  
4 act, shall be guilty of a misdemeanor, punishable upon con-  
5 viction by a fine of not less than one hundred dollars nor  
6 more than one thousand dollars, or by imprisonment for a  
7 term not to exceed six months, or both.

Sec. 12. *Inconsistent Acts Repealed; Rights of Municipalities Not Affected.* All acts or parts of acts, including licensing  
2 acts, inconsistent with this act are hereby repealed. But noth-  
3 ing herein contained shall affect any right that municipalities  
4 may now or hereafter have to tax, license, or regulate persons  
5 engaged in the real estate business.

Sec. 13. *Provisions Severable.* The various provisions of  
2 this act shall be construed as separable and several, and should  
3 any of the provisions or parts thereof be construed or held un-  
4 constitutional, or for any other reason invalid, the remaining  
5 provisions shall not be affected thereby, and shall be and re-  
6 main in full force and effect.

## CHAPTER 128

(Senate Com. Sub. for Senate Bill No. 64—Originating in the  
Committee on Redistricting)

AN ACT to amend and reenact section one, article two, chapter one of the code of West Virginia, one thousand nine hundred thirty-one, apportioning the membership in the state senate of West Virginia.

[Passed March 11, 1937; in effect ninety days from passage. Approved by the  
Governor.]

### Article 2. Apportionment of Representation.

#### Section

##### 1. Senatorial districts.

*Be it enacted by the Legislature of West Virginia:*

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

- Section 1. *Senatorial Districts.* The state shall consist of
- 2 sixteen senatorial districts as follows:
  - 3 The counties of Brooke, Hancock and Ohio shall constitute
  - 4 the first senatorial district;
  - 5 The counties of Marshall, Tyler and Wetzel shall con-
  - 6 stitute the second senatorial district;
  - 7 The counties of Calhoun, Gilmer, Pleasants, Ritchie, Wirt
  - 8 and Wood shall constitute the third senatorial district;
  - 9 The counties of Clay, Jackson, Mason, Putnam and Roane
  - 10 shall constitute the fourth senatorial district;
  - 11 The counties of Cabell and Wayne shall constitute the fifth
  - 12 senatorial district;
  - 13 The counties of McDowell and Mingo shall constitute the
  - 14 sixth senatorial district;
  - 15 The counties of Boone, Lincoln and Logan shall constitute
  - 16 the seventh senatorial district;
  - 17 The county of Kanawha shall constitute the eighth sena-
  - 18 torial district;
  - 19 The counties of Raleigh and Wyoming shall constitute the
  - 20 ninth senatorial district;



21 The counties of Mercer, Monroe and Summers shall con-  
22 stitute the tenth senatorial district;

23 The counties of Fayette and Greenbrier shall constitute the  
24 eleventh senatorial district;

25 The counties of Braxton, Nicholas, Pendleton, Pocahontas,  
26 Randolph and Webster shall constitute the twelfth senatorial  
27 district;

28 The counties of Doddridge, Harrison and Lewis shall con-  
29 stitute the thirteenth senatorial district;

30 The counties of Marion, Monongalia and Taylor shall con-  
31 stitute the fourteenth senatorial district;

32 The counties of Barbour, Grant, Preston, Tucker and Up-  
33 shur shall constitute the fifteenth senatorial district;

34 The counties of Berkeley, Hampshire, Hardy, Jefferson,  
35 Mineral and Morgan shall constitute the sixteenth senatorial  
36 district.

37 Each of the said districts shall have two senators, and, re-  
38 gardless of the changes in district lines made by this act, the  
39 senators elected at the last general election shall continue to  
40 hold their seats as members of the senate for the term for  
41 which each thereof, respectively, was elected.

42 The first, second, third, fourth, fifth, tenth, eleventh, thir-  
43 teenth, fourteenth, fifteenth and sixteenth districts as herein  
44 designated shall, at the general election to be held in the year  
45 one thousand nine hundred thirty-eight, and biennially there-  
46 after, elect one senator for a term of four years.

47 At the general election to be held in the year one thousand  
48 nine hundred thirty-eight there shall be two senators elected  
49 in each of the sixth, eighth and ninth senatorial districts, as  
50 herein designated, one of whom from each district shall be  
51 nominated and elected for a term of two years and one of whom  
52 shall be elected for a term of four years and biennially there-  
53 after one senator shall be elected in each of the senatorial dis-  
54 tricts for a term of four years.

55 There shall be held no election for senator in the seventh and  
56 twelfth senatorial districts as herein designated, until the gen-  
57 eral election held in the year one thousand nine hundred forty.  
58 at which time there shall be elected from the said seventh and  
59 twelfth senatorial districts, as herein designated, two senators,  
60 one of whom shall be nominated and elected for a term of two

61 years and the other nominated and elected for a term of four  
62 years, and biennially thereafter one senator shall be elected  
63 in the said districts for a term of four years.

64 All acts, or parts of acts, in conflict with this act, or with  
65 any part thereof, are hereby repealed.

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## CHAPTER 129

(House Bill No. 277—By Mr. Evans)

AN ACT to amend and reenact section four, article three, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to compulsory vaccination and providing for compulsory immunization for smallpox and diphtheria before entering school.

[Passed March 13, 1937; in effect ninety days from passage. Approved by the Governor.]

### Article 3. Prevention and Control of Communicable and Infectious Diseases.

#### Section

4. Compulsory immunization of school children; offenses; penalties.

*Be it enacted by the Legislature of West Virginia:*

That, due to the increase of smallpox in the United States in the past few years and the large number of deaths from diphtheria and for the protection of the health of the people of this state, it is declared necessary that section four, article three, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 4. *Compulsory Immunization of School Children; Offenses; Penalties.* All children entering school for the first time in this state shall be or shall have been successfully immunized against smallpox and diphtheria. Any person who cannot give satisfactory proof of having been immunized previously or a certificate from a reputable physician showing that a successful immunization for either or both smallpox and diphtheria is impossible or improper or sufficient reason why

9 either or both immunizations should not be done, shall be im-  
 10 munized for both smallpox and diphtheria within the first  
 11 month of attendance at school. No child or person shall be ad-  
 12 mitted or received in any of the public schools of the state af-  
 13 ter the first month of attendance at school until he or she has  
 14 been successfully immunized as hereinafter provided, or pro-  
 15 duces a certificate from a reputable physician showing that a  
 16 successful immunization for both smallpox and diphtheria has  
 17 been done or is impossible or improper or other sufficient  
 18 reason why such immunizations have not been done. The  
 19 teacher of such pupils entering school for the first time shall  
 20 ascertain whether or not said pupils have been immunized  
 21 against both smallpox and diphtheria and shall report to the  
 22 county health officer all pupils who have not been immunized.  
 23 It shall be the duty of the health officer in counties having a  
 24 full-time health officer to see that children who have not been  
 25 immunized before entering school be immunized during the  
 26 first month.

27 In counties where there is no full-time health officer or dis-  
 28 trict health officer, the county court or municipal council  
 29 shall appoint competent physicians to do the immunizations  
 30 and fix their compensation. The expense incurred in carrying  
 31 into effect the provision of this section shall be deemed a part  
 32 of the expense of the county, city, town or village as the case  
 33 may be, and shall be charged and paid in the same manner  
 34 as other expenses. County health departments shall furnish  
 35 the biologicals for this immunization free of charge.

36 Health officers and physicians who shall do this immuni-  
 37 zation work shall give to all persons and children a certificate  
 38 free of charge showing that they have been successfully im-  
 39 munized against smallpox and diphtheria, or he may give the  
 40 certificate to any person or child whom he knows to have  
 41 been successfully immunized against smallpox and diphtheria.  
 42 If any physician shall give any person a false certificate of  
 43 immunization against either smallpox or diphtheria, he shall  
 44 be guilty of a misdemeanor and upon conviction he shall be  
 45 fined not less than twenty-five nor more than one hundred  
 46 dollars.

47 Any parent or guardian who refuses to permit their child  
 48 to be immunized against smallpox or diphtheria, who cannot  
 49 give satisfactory proof that the child or person has been im-

50 munized against smallpox and diphtheria previously or a  
51 certificate from a reputable physician showing that a success-  
52 ful immunization for either or both is impossible or improper  
53 or sufficient reason why either or both immunizations should  
54 not be done, shall be guilty of a misdemeanor, and, except as  
55 herein otherwise provided, shall be punished by a fine of not  
56 less than ten nor more than fifty dollars for each offense.

## CHAPTER 130

(House Bill No. 273—By Mr. Pyles)

AN ACT to amend article eleven, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter six, acts of the Legislature, regular session, one thousand nine hundred thirty-three, by adding thereto sections eleven, twelve, thirteen, fourteen and fifteen, relating to abatement of stream pollution by the state water commission.

[Passed March 12, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Article 11. State Water Commission.

#### Section

11. Compliance with final order of commission; methods of raising funds by a municipality.
12. How construction and operation of municipal plants, etc., governed.
13. When proceedings to comply must begin; penalty.
14. Extension of time for compliance; penalty for noncompliance.
15. Construction of act; inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

That article eleven, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter six, acts of the Legislature, regular session, one thousand nine hundred thirty-three, be amended by adding thereto new sections eleven, twelve, thirteen, fourteen and fifteen, to read as follows:

Section 11. *Compliance With Final Order of Commission; Methods of Raising Funds by a Municipality.* Any person, corporation, municipal corporation, partnership or legal entity, upon whom a final order of the state water commission as herein provided is served, which order shall not have been set aside by a court of competent jurisdiction upon complaint filed as herein provided or upon whom a final order is served as modified to conform with a judgment of such court directing modification, shall, within thirty days after receipt of such order, or after judgment affirming such order is entered, take steps for the acquisition or construction of such plants, machinery or works, or for such repair, alteration or extension of existing plants, machinery or works, as may be necessary for the disposition or treatment of the organic or inorganic matter which is causing or contributing to, or is about to cause or contribute to, a polluted condition of such water or waters, or shall take such other steps as may be necessary to comply with said final order of the state water commission. If the offender be a municipal corporation, the cost of acquisition, construction, repair, alteration or extension of the necessary plant, machinery or works, or taking such other steps as may be necessary to comply with said order, shall be paid out of funds on hand available for such purpose, or out of the general funds of such municipal corporation, not otherwise appropriated; or if there be not sufficient funds on hand or unappropriated, then the necessary funds shall be raised by issuance of bonds, such bond issue to be subject to the approval of the state sinking fund commission and the attorney general of the state of West Virginia.

If the estimated cost of the steps necessary to be taken by such municipal corporation to comply with such final order of the state water commission, is such that the bond issue necessary to finance such project would not raise the total outstanding bonded indebtedness of such municipal corporation, in excess of the constitutional limit imposed upon such indebtedness by the constitution of this state, then and in that event the necessary bonds may be issued as a direct obligation of such municipal corporation, and retired by a general tax levy to be levied against all property within the limit of such municipal corporation listed and assessed for taxation. If the amount of such bonds necessary to be issued

41 would raise the total outstanding bonded indebtedness of  
42 such municipal corporation above said constitutional limita-  
43 tion on such indebtedness, or if such municipal corporation  
44 by its governing body shall determine against the issuance of  
45 direct obligation bonds, then such municipal corporation  
46 shall issue revenue bonds and provide for the retirement  
47 thereof in the same manner and subject to the same condi-  
48 tions as provided for the issuance and retirement of bonds in  
49 chapter twenty-five, acts of the Legislature, first extraordi-  
50 nary session, one thousand nine hundred thirty-three, entitled  
51 "An act to authorize municipal corporations and/or sanitary  
52 districts to construct, own, equip, operate, maintain and ap-  
53 prove works for the collection and/or treatment, purification  
54 and disposal of sewerage; to authorize charges against own-  
55 ers of premises for the use of such works and to provide for  
56 the collection of same; to authorize municipal corporations  
57 and/or sanitary districts to issue revenue bonds payable solely  
58 from the revenues of such works and to make such bonds  
59 exempt from taxation; to authorize contracts for the use of  
60 such works by other municipal corporations and political sub-  
61 divisions, and charges against owners of premises therein  
62 served thereby and a lien against such premises": *Provided,*  
63 *however,* That the provisions of section six of the above-  
64 mentioned act, allowing objections to be filed with the gov-  
65 erning body, and providing that a written protest of thirty  
66 per cent or more of the owners of real estate shall require  
67 a four-fifths vote of the governing body for issuance of said  
68 revenue bonds, shall not apply to bond issues proposed by  
69 any municipal corporation to comply with the final order  
70 issued by the state water commission, under the authority of  
71 this act, and such objections or submission of written pro-  
72 test shall not be authorized, nor shall the same, if had, oper-  
73 ate to justify or excuse failure to comply with such final  
74 order of the state water commission.

75 The funds made available by the issuance of either direct  
76 obligation bonds or revenue bonds as herein provided, shall  
77 constitute a "sanitary fund", and shall be used for no other  
78 purpose than for carrying out such order or orders of the  
79 state water commission; no public money so raised shall be

80 expended by any municipal corporation for any purpose  
81 enumerated in this act, unless such expenditure and the  
82 amount thereof has been approved by the state water com-  
83 mission.

Sec. 12. *How Construction and Operation of Municipal  
2 Plants, Etc., Governed.* The construction, acquisition, improve-  
3 ment, equipment, custody, operation, repair and maintenance  
4 of any plants, machinery or works by any municipal corpor-  
5 ation, in compliance with a final order of the state water com-  
6 mission, as herein provided, other than the financing thereof,  
7 and the rights, powers, and duties, of such municipal corpor-  
8 ation and the respective officers and departments thereof,  
9 whether the same shall be financed by the issuance of revenue  
10 or direct obligation bonds, shall be governed by the provisions  
11 of said chapter twenty-five, acts of the Legislature, first ex-  
12 traordinary session, one thousand nine hundred thirty-three.

Sec. 13. *When Proceedings to Comply Must Begin; Penalty.*  
2 It shall be the duty of each individual offender and of each  
3 member of a partnership, and of each member of the govern-  
4 ing body of a municipal corporation, and of each member of  
5 the board of directors or other governing body of a private  
6 corporation, association or other legal entity, against whom a  
7 final order has been issued, as herein provided, to begin appro-  
8 priate action or proceedings to comply with such order, with-  
9 in thirty days from the receipt thereof, if no action has been  
10 commenced in the circuit court of the county where such vio-  
11 lation is alleged to exist to set aside or vacate such order, as  
12 provided in this act, or, in case such action has been brought,  
13 within thirty days from the date of judgment affirming such  
14 order, or from the date of the receipt of such order, as modi-  
15 fied in conformity with the judgment of such court. Failure of  
16 the governing body in the case of a municipal corporation, or  
17 of the board of directors or any other governing body of any  
18 private corporation, association or other legal entity, to provide  
19 for the financing and construction of such works as may be nec-  
20 essary to carry out said order by appropriate ordinance or  
21 resolution, shall constitute failure to begin appropriate action  
22 or proceedings to comply with such order, as above provided.  
23 Any individual offender, or member of a partnership, or any of-  
24 ficer or member of the board of directors of a private corpor-

25 ation, association, or other legal entity, or any mayor, council-  
26 man or member of sanitary board as provided for in said chap-  
27 ter twenty-five, acts of the Legislature, first extraordinary ses-  
28 sion, one thousand nine hundred thirty-three, of any municipi-  
29 pal corporation, who fails or refuses to discharge any duty  
30 imposed upon him by this act or by such final order of the  
31 state water commission, or any duty imposed upon him by  
32 reason of any ordinance of the governing body of any municipi-  
33 pal corporation, or resolution of the board of directors or  
34 other governing body of any private corporation, association  
35 or other legal entity, pursuant to this act or to such final or-  
36 der, shall be deemed guilty of a misdemeanor, and upon con-  
37 viction thereof shall be fined in any sum of not less than  
38 twenty-five dollars, nor more than one hundred dollars, to  
39 which may be added imprisonment in the county jail for any  
40 period not to exceed ninety days. Each day that such fail-  
41 ure or refusal to discharge such duties continues, shall be and  
42 constitute a separate and additional offense for the purposes  
43 of this section.

2       Sec. 14. *Extension of Time for Compliance; Penalty for*  
3 *Noncompliance.* The state water commission shall have the au-  
4 thority, in its discretion, to extend the time fixed in any final  
5 order issued by it, within which any offender is ordered to  
6 correct or abate a condition of pollution of any water or  
7 waters, upon written petition filed with such commission not  
8 less than thirty days prior to the time fixed in such order, when  
9 it shall appear that a good faith effort to comply with said or-  
10 der is being made, and that it shall be impossible for such of-  
11 fender to complete the project of work undertaken within the  
12 time so fixed. Any person, corporation, municipal corpora-  
13 tion, partnership, association or other legal entity, who shall  
14 fail or refuse to correct or abate such polluted condition in  
15 compliance with such order within the time fixed or within  
16 the time additionally granted as herein provided, shall be sub-  
17 ject to a penalty of one hundred dollars for each day that such  
18 polluted condition continues to exist after the time so fixed, or  
19 additionally granted, which may be recovered in a civil suit  
20 brought in the name of the state of West Virginia and which  
21 penalty shall be in addition to the penalty provided in section  
22 thirteen of this act. It shall be the duty of the attorney gen-  
eral to prosecute all actions for penalties under this section,



23 and all penalties so recovered shall be paid into the common  
24 school fund of the state. The penalties accruing for any two or  
25 more days under the provisions of this section may be re-  
26 covered in one complaint and may be joined in one paragraph  
27 of said complaint.

Sec. 15. *Construction of Act; Inconsistent Acts Repealed.*

2 Being for the public health, safety and welfare, this act shall  
3 be liberally construed to effectuate the purposes thereof, and  
4 all existing laws or parts of laws of this state inconsistent with  
5 this act are hereby repealed.

## CHAPTER 131

(Senate Bill No. 15—By Mr. Barnhart)

AN ACT to amend and reenact section three, article five, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to assignment of wages.

[Passed March 4, 1937; in effect ninety days from passage. Approved by the Governor.]

### Article 5. Wages.

#### Section

3. Payment of wages by employers, other than railroads; assignment of wages.

*Be it enacted by the Legislature of West Virginia:*

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

Section 3. *Payment of Wages by Employers, Other Than Railroads; Assignment of Wages.* Every person, firm or cor-

3 poration doing business in this state, except railroad com-  
4 panies as provided in section one of this article, shall settle  
5 with its employees at least once in every two weeks, unless oth-  
6 erwise provided by special agreement, and pay them the  
7 amount due them for their work or services in lawful money  
8 of the United States, or by the cash order as described and re-  
9 quired in the next succeeding section of this article: *Provided,*  
10 *however,* That if, at any time of payment, any employee shall  
11 be absent from his regular place of labor and shall not receive  
12 his wages through a duly authorized representative, he shall  
13 be entitled to such payment at any time thereafter upon de-  
14 mand upon the proper paymaster at the place where such  
15 wages are usually paid and where the next pay is due.

16 Nothing herein contained shall affect the right of an em-  
17 ployee to assign part of his claim against his employer except  
18 as hereafter provided.

19 No assignment of or order for future wages shall be valid  
20 for a period exceeding one year from the date of such assign-  
21 ment or order. Such assignment or order shall be acknowl-  
22 edged by the party making the same before a notary public or  
23 other officer authorized to take acknowledgements, and such  
24 order or assignment shall specify thereon the total amount due  
25 and collectible by virtue of the same and three-fourths of the  
26 periodical earnings or wages of the assignor shall at all times  
27 be exempt from such assignment or order and no assignment  
28 or order shall be valid which does not so state upon its face:  
29 *And provided further,* That no such order or assignment shall  
30 be valid unless the written acceptance of the employer of the  
31 assignor to the making thereof, is endorsed thereon: *Provided*  
32 *further,* That nothing herein contained shall be construed  
33 as affecting the right of employer and employee to agree be-  
34 tween themselves as to deductions to be made from the payroll  
35 of employees.

36 The provisions of this section shall be construed as sever-  
37 able, and should any paragraph, sentence, or clause be held  
38 void or invalid, the remaining provisions shall not be affected  
39 thereby.

## CHAPTER 132

(House Bill No. 108—By Mr. Doring)

AN ACT to amend and reenact chapter ninety-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, relating to the rate of wages to be paid to workmen and mechanics employed in construction of public improvements.

[Passed February 12, 1937; in effect from passage. Approved by the Governor.]

### Section

1. Definitions of words and phrases.
2. Fair minimum rate of wages on public improvements defined.
3. Contract to require contractor to pay not less than fixed minimum wage.
4. Wage rates to be kept posted.
5. Penalty for violations by contractor; action by employee paid less than minimum wage.
6. Provisions of act severable; inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

That chapter ninety-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, be amended and reenacted to read as follows:

- Section 1. *Definitions of Words and Phrases.* The term
- 2 "public authority," as used in this act, shall mean any officer,
  - 3 board or commission of the state of West Virginia, or any
  - 4 political subdivision thereof, authorized by law to enter into
  - 5 a contract for the construction of a public improvement.
  - 6 The term "construction," as used in this act, shall mean any
  - 7 construction, reconstruction, improvement, enlargement or
  - 8 repair of any public improvement. The term "public im-
  - 9 provement," as used in this act, shall include all buildings,
  - 10 roads, streets, alleys, sewers, ditches, sewage disposal plants,
  - 11 waterworks, and all other structures or works constructed by
  - 12 the state of West Virginia or any political subdivision thereof.
  - 13 The term "locality," as used in this act, shall mean the
  - 14 county wherein the physical work upon any public improve-
  - 15 ment is being performed.

Sec. 2. *Fair Minimum Rate of Wages on Public Improvements Defined.* Any public authority authorized to contract for a public improvement, shall, before advertising for bids for the construction thereof, fix and determine a fair minimum rate of wages to be paid by the successful bidder to the employees in the various branches or classes of the work, to be performed. The "fair minimum rate of wages," for the intents and purposes of this act, shall be the rate of wage paid in the locality as hereinbefore defined to the majority of workmen, laborers or mechanics in the same trade or occupation. In the event that it be determined that there is not a majority in the same trade or occupation paid at the same rate, then the rate paid to the greater number in such trade or occupation shall be the minimum rate, provided such greater number constitutes at least forty per cent of the laborers, workmen or mechanics engaged in such trade or occupation; in the event that there is less than forty per cent of the laborers, workmen or mechanics engaged in the same trade or occupation in the same locality paid the same rate, then the average rate paid such laborers, workmen or mechanics in the same trade or occupation shall be the minimum rate. The minimum rate of wages so fixed shall be printed on the bidding blanks.

Sec. 3. *Contract to Require Contractor to Pay Not Less Than Fixed Minimum Wage.* In all cases where any public authority shall fix a fair minimum rate or rates of wages as herein provided, the contract executed between the public authority and the successful bidder shall contain a provision requiring the successful bidder and all his subcontractors to pay a rate or rates of wages which shall not be less than the minimum rate or rates of wages so fixed. It shall be the duty of the successful bidder and all his subcontractors to strictly comply with such provisions of the contract.

Sec. 4. *Wage Rates to be Kept Posted.* A clearly legible statement of all minimum wage rates to be paid the several classes of labor employed on the work shall be kept posted in a prominent and easily accessible place at the site of the work.

Sec. 5. *Penalty for Violations of Act by Contractor; Action by Employee Paid Less than Minimum Wage.* Any contractor or subcontractor who shall violate the wage provisions of such contract, or who shall suffer, permit or require any employee to work for less than the minimum rate of wages so fixed, shall be fined not less than fifty dollars nor more than five hundred dollars. Any employee upon any public improvement who is paid less than the fixed minimum rate of wages applicable thereto may recover from the contractor or subcontractor the difference between the fixed minimum rate of wages and the amount paid to him, and in addition thereto a penalty equal in amount to such difference.

Sec. 6. *Provisions of Act Severable; Inconsistent Acts Repealed.* Each section of this act and every part thereof is hereby declared to be an independent section or part of a section, and if any section, subsection, sentence, clause or phrase of this act shall for any reason be held unconstitutional, the validity of the remaining phrases, clauses, sentences, subsections, and sections of this act shall not be affected thereby.

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

## CHAPTER 133

(Senate Bill No. 43—By Mr. Shahan)

AN ACT to provide compensation for Herman J. Poling for his services as prosecuting attorney of Barbour county for the period of March to November, inclusive, one thousand nine hundred thirty-five.

[Passed February 15, 1937; in effect from passage. Approved by the Governor.]

### Section

1. Barbour county court authorized to pay Herman J. Poling for services as prosecuting attorney.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Barbour County Court Authorized to Pay Her-*

2 man J. Poling for Services as Prosecuting Attorney. The  
 3 county court of Barbour county is authorized to pay the sum  
 4 of twelve hundred dollars to Herman J. Poling for his ser-  
 5 vices as prosecuting attorney of said county for the period  
 6 from March to November, inclusive, one thousand nine hun-  
 7 dred thirty-five.

## CHAPTER 134

(Senate Bill No. 7—By Mr. Belknap)

AN ACT to permit the county court of Braxton County, with the consent of the holders of certificates of indebtedness, to postpone the payment of such certificates, and to employ and use the levy therefor along with any surplus in said fund, existing or arising, in the construction of additions, repairs and reconditioning of the county courthouse and jail.

[Passed January 29, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Section

1. Braxton county court authorized to postpone payment of certificates of indebtedness.
2. Expenditure of contractual debt levies on courthouse and jail.
3. When levies to be laid for payment of certificates of indebtedness.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Braxton County Court Authorized to Postpone Payment of Certificates of Indebtedness.* The county court of Braxton county, by and with the consent of the holders of the certificates of indebtedness issued by said court, dated January first, one thousand nine hundred thirty-five, and payable June first, one thousand nine hundred thirty-seven, under the provisions of chapter sixty-four, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, is hereby authorized and empowered to postpone the payment of such certificates until the first of June, one thousand nine hundred forty, and interest shall be

12 paid thereon at the rate provided for therein from the due  
13 date thereof until payment.

Sec. 2. *Expenditure of Contractual Debt Levies on Court-*  
2 *house and Jail.* The said county court of Braxton county is  
3 hereby authorized and empowered to expend the amount  
4 levied by it for the fiscal year ending June thirty, one thou-  
5 sand nine hundred thirty-seven, for contractual debt pur-  
6 poses, together with any other moneys now in the contractual  
7 debt fund derived from other sources, in providing for addi-  
8 tions and repairs to the courthouse and jail of said county ;  
9 and such moneys may be so expended in conjunction with any  
10 moneys allocated in aid of such purposes by the government  
11 of the United States, or any agency established by it, or in-  
12 dependently thereof.

Sec. 3. *When Levies to be Laid for Payment of Certificates*  
2 *of Indebtedness.* The said county court of Braxton county  
3 shall make provision for the payment of the certificates of in-  
4 debtedness, the payment of which may be postponed under  
5 the provisions of this act, by levies for the fiscal year ending  
6 June thirty, one thousand nine hundred forty.

7 All acts or parts of acts in conflict herewith are hereby  
8 repealed.

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## CHAPTER 135

(House Bill No. 220—By Mr. Bobbitt)

AN ACT authorizing the county court of Clay County to pay  
Wilma Pugh the sum of two hundred fifty dollars for services  
rendered by her to the prosecuting attorney of Clay County.

[Passed March 6, 1937; in effect from passage. Became a law without the  
approval of the Governor.]

**Section**

1. Clay county court authorized to pay Wilma Pugh for services to  
prosecuting attorney.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Clay County Court Authorized to Pay Wilma*

2 *Pugh for Services Rendered to Prosecuting Attorney.* The  
3 county court of Clay County is hereby authorized to pay  
4 to Wilma Pugh the sum of two hundred fifty dollars for  
5 services rendered to the prosecuting attorney of Clay  
6 County, for two and one-half months' services, from Sep-  
7 tember first, one thousand nine hundred thirty-six, to Novem-  
8 ber fifteenth, one thousand nine hundred thirty-six, inclusive;  
9 at the rate of one hundred dollars per month.

## CHAPTER 136

(House Bill No. 436—By Mr. Bobbitt)

AN ACT to authorize the county court of Clay County to pay to J. B. Wheeler, ex-sheriff of Clay County, extra expense authorized by a former county court of Clay County.

[Passed March 12, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Section

1. Clay county court authorized to pay certain expenses of J. B. Wheeler, former sheriff.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Clay County Court Authorized to Pay Certain Expenses of J. B. Wheeler, Former Sheriff.* The county court of Clay County, West Virginia, is hereby authorized to pay to J. B. Wheeler of Clay, West Virginia, former sheriff of said Clay County for the term expiring January first, one thousand nine hundred thirty-three, the sum of three hundred dollars, to cover his extra expense while in office, authorized by the county court of Clay County then in office, but never paid to him.



## CHAPTER 137

(Senate Bill No. 165—By Mr. Smith)

AN ACT to authorize and empower the city of Fairmont to sell and furnish water to corporations and persons within the county of Marion.

[Passed February 19, 1937; in effect from passage. Approved by the Governor.]

### Section

1. City of Fairmont authorized to furnish water to users outside city.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *City of Fairmont Authorized to Furnish Water to Users Outside City.* The city of Fairmont, Marion county, West Virginia, is hereby authorized and empowered to sell and furnish water, from its municipally owned water works system, to corporations and persons within the county of Marion: *Provided, however,* That in no event shall such power and authority be exercised in any town or city, outside the city of Fairmont, in Marion county, which owns or operates its own water works, unless with the consent of such town or city: *Provided further,* Such power and authority shall not be exercised outside the corporate limits of the city of Fairmont in any area which is adequately served by an existing water system, whether such be privately or municipally owned or operated.

## CHAPTER 138

(House Bill No. 340—By Mr. Bush)

AN ACT authorizing the county court of Gilmer County, West Virginia, to transfer the balance in the contractual debt fund (not bonded) of said county, to the general county fund of said county.

[Passed March 8, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Section

1. Gilmer county court authorized to transfer contractual debt fund, not bonded.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Gilmer County Court Authorized to Transfer Contractual Debt Fund, Not Bonded.* The county court of Gilmer County, West Virginia, is hereby authorized and empowered to transfer the balance remaining in the contractual debt fund (not bonded) of said Gilmer County to the general county fund of said Gilmer County: *Provided, however,* That no such transfer shall be made unless and until the contractual debts for which such funds were raised by levy shall have been fully paid and discharged.

## CHAPTER 139

(House Bill No. 244—By Mr. Hussion)

AN ACT authorizing the city of Grafton, West Virginia, a municipal corporation, to acquire and hold lands and buildings for a hospital; to lease with an option to purchase the same, and to borrow funds from the public works administration or other federal governmental agency authorized to make loans, or any bank or financial institution, or any individual or persons, for the purpose of constructing, equipping and maintaining a hos-

\* Amended by chapter 140, acts of this session.

pital; to issue such bonds, or other evidences of indebtedness as may be required by such federal governmental agency, bank or financial institution, individual or persons making such loan; to pledge a sufficient amount of revenue, within the constitutional limitation, to pay the principal and interest on said bonds within a period not to exceed thirty years; to pledge such real estate and buildings for the payment of such bonds and interest, and to promulgate such ordinances as may be necessary for the construction, equipping and maintaining of such hospital.

[Passed February 25, 1937; in effect from passage. Became a law without the approval of the Governor.]

#### Section

1. City of Grafton authorized to enter into contract, etc., for construction of hospital.
2. Option to purchase hospital; lease or rental.
3. Levy to pay rentals.
4. City may acquire real estate for and construct hospital; revenue bonds for cost.
5. Enforcement of statutory lien of bondholders.
6. Bonds; form; retirement; temporary.
7. Limitations as to debt.
8. Act additional and supplementary to other powers of city.
9. Act to be liberally construed.
10. Increased levies; election.
11. Provisions of act severable.

#### *Be it enacted by the Legislature of West Virginia:*

Section 1. *City of Grafton Authorized to Enter Into Contract, Etc., for Construction of Hospital.* The city of Grafton is hereby authorized and empowered to acquire real estate and to convey real estate and to enter into a contract, or lease, or both, with the United States government, through the public works administration, or any federal governmental agency authorized to make or enter into such contract, or lease, or with any bank or financial institution, or with any individual or persons, for the erection, construction, equipment, leasing and renting of a hospital.

Sec. 2. *Option to Purchase Hospital; Lease or Rental.* Said city of Grafton is also authorized and empowered to enter into an option to purchase such hospital and real estate and to provide for the payment of a yearly rental for such by said city; and to contract with the United States

6 government, through the public works administration, or any  
7 federal governmental agency, or any bank or financial in-  
8 stitution, or any individual or persons, to the end that said  
9 government, or any of its agencies, or agents thereunto  
10 duly authorized, or bank or financial institution, or in-  
11 dividual or persons, may for and on behalf of the city of  
12 Grafton, build, erect, construct, equip or furnish upon said  
13 property any such hospital; and to contract with said govern-  
14 ment, or any federal governmental agency, or bank or finan-  
15 cial institution, or individual or persons, for the lease, or  
16 rental, of said building, or buildings, with the privilege and  
17 authority of renewing said lease from year to year, for any  
18 period of years, not exceeding thirty, with the right to pur-  
19 chase said building, or buildings, and real estate, on which  
20 the same is, or are, situated, and to apply toward the pur-  
21 chase price thereof any and all rentals paid to said govern-  
22 ment, or agency, or bank, or financial institution, or indi-  
23 vidual, or persons, under the provisions of this act; and the  
24 said city of Grafton shall pay to the said United States gov-  
25 ernment, or any federal governmental agency, or bank or  
26 financial institution, or individual or persons, said yearly  
27 rental, or rentals, for the use and occupancy of said building,  
28 or buildings, if and when the same are constructed, which  
29 said yearly rental, or rentals, in the aggregate, shall not ex-  
30 ceed the total amount and the interest thereon expended by  
31 said government, or federal governmental agency, or bank or  
32 financial institution, or individual or persons, on said project,  
33 or projects, and the said yearly rentals shall be paid out of  
34 levies laid within the constitutional debt limitations; and to  
35 do any and all other things lawfully required by said United  
36 States government, or any federal governmental agency, or  
37 bank or financial institution, or individual or persons, which  
38 are necessary and proper to effectuate the purpose of this  
39 act.

Sec. 3. *Levy to Pay Rentals.* The said city of Grafton shall  
2 levy and collect annually an amount sufficient to pay said  
3 rental, or rentals, for that particular year for the purposes  
4 aforesaid in the manner and form as is provided by law.

Sec. 4. *City May Acquire Real Estate for and Construct*  
2 *Hospital; Revenue Bonds for Cost.* The city of Grafton is

3 likewise authorized and empowered to acquire real estate for,  
4 construct, equip, furnish and maintain a hospital, and to bor-  
5 row funds from the United States government, through the  
6 public works administration or other federal governmental  
7 agency authorized to make loans, or any bank or financial in-  
8 stitution authorized by law to make loans, or any individual or  
9 persons, for the purpose of building, constructing, furnishing  
10 and equipping said hospital, and for the purpose of acquiring  
11 real estate therefor, and shall have the right to acquire by pur-  
12 chase, condemnation, gift or otherwise, real estate on which to  
13 build the same, within the discretion of the commission of the  
14 city of Grafton. Said city is authorized and empowered to issue  
15 bonds for the purpose of paying the cost of such real estate,  
16 building, furnishing and equipment, and to pledge a sufficient  
17 amount of revenue within the constitutional limitations and  
18 within the limitations as provided by general law, to pay the  
19 principal of said bonds and the interest thereon, within a  
20 period not to exceed thirty years. Said city of Grafton is  
21 further authorized and empowered to do and perform any  
22 and all acts and make all contracts necessary to effectuate  
23 the general purpose of this act, including the acquisition, by  
24 original grant, gift, condemnation, or other lawful means of  
25 real estate, and of all necessary permits, easements and other  
26 rights in real estate, and title to and possession thereof, or to  
27 make such purchase and acquisition with the money bor-  
28 rowed, as provided in this act.

29 Said city shall have authority, and is empowered to make  
30 such contracts, agreements and covenants between it and the  
31 United States government, the public works administration,  
32 or other federal governmental agency, or bank or financial  
33 institution, or individual or persons, for the loan of such  
34 funds to said city of Grafton, and securing payment thereof  
35 as it may be able to effectuate, subject only to this limitation,  
36 that the bonds issued, or given as security thereof, shall be  
37 payable out of the levies now provided for by general law  
38 and by this act; to be levied by said city of Grafton in and  
39 for said city; to acquire needed real estate, to construct, equip,  
40 furnish and maintain such hospital, and to make and enter  
41 into such contracts, and to do and perform such acts as may  
42 be necessary for the construction, equipment, operation and  
43 maintenance of the same, subject to such burdens, restric-

44 tions and encumbrances as it may be necessary to incur and  
45 bear, in securing such bonds and such real estate, construc-  
46 tion, equipment and maintenance.

47 Bonds issued hereunder shall be exempt from taxation by  
48 the state of West Virginia, or any county therein, or any  
49 district or municipality thereof.

Sec. 5. *Enforcement of Statutory Lien of Bondholders.*

2 There shall be and there is hereby created a statutory mort-  
3 gage lien upon the said real estate, buildings and property so  
4 acquired, constructed or built from the proceeds of bonds au-  
5 thorized to be issued under this act, which shall exist in favor  
6 of the holder of said bonds, and each of them, and to and  
7 in favor of the holder of the interest coupons attached to  
8 said bonds, and such hospital, and the real estate so acquired  
9 and used for and in connection therewith shall remain sub-  
10 ject to such statutory mortgage lien until payment in full of  
11 the principal and interest of said bonds. Any holder of bonds  
12 issued under the provisions of this act, or the holder of any  
13 coupons representing interest accrued thereon, may, either  
14 at law or in equity, enforce the statutory mortgage lien here-  
15 by created and conferred, and may, by proper suit, compel  
16 the performance of the duties of the officials of the said city  
17 set forth in this act. If there be default in the payment of  
18 the principal of or interest upon any of said bonds, any court  
19 having jurisdiction in any proper action may appoint a re-  
20 ceiver to administer said property on behalf of the said city  
21 with power to charge and collect rents or income sufficient  
22 to provide for the payment of said bonds and interest there-  
23 on, and for the payment of the operating expenses, and to  
24 apply the income, rents or other revenue in conformity with  
25 this act and the order providing for the issuance of said  
26 bonds.

Sec. 6. *Bonds; Form; Retirement; Temporary.* The  
2 said city, after issuing bonds under the provisions of this  
3 act, shall thereafter, so long as any such bonds remain  
4 outstanding, operate and maintain said hospital, so as to  
5 provide revenues sufficient to pay all operating costs, provide  
6 a sinking fund for and to retire the bonds and pay the in-  
7 terest thereon as the same may become due. The amounts,  
8 as and when so set apart by said city, shall be remitted to

9 the state sinking fund commission at least thirty days pre-  
10 vious to the time interest or principal payments become due,  
11 to be retained and paid out by said commission consistent  
12 with the provisions of this act and with the order pursuant  
13 to which such bonds have been issued. The state sinking  
14 fund commission is hereby authorized to act as fiscal agent  
15 for the administration of such sinking fund under any order  
16 passed pursuant to the provisions of this act, and shall in-  
17 vest all sinking funds, as provided by general law. Bonds  
18 issued under the provisions of this act are hereby declared  
19 to be and to have all the qualities of negotiable instruments.  
20 Such bonds shall bear interest at not more than six per cent  
21 per annum, payable semi-annually, and shall mature at any  
22 time fixed by the city of Grafton, in not more than thirty  
23 years from their date, and may be made redeemable at the  
24 option of the said city, at such price and under such terms  
25 and conditions as said city may fix, by its order, prior to  
26 the issuance of such bonds. Bonds issued hereunder shall  
27 be payable at the office of the state treasurer, or some bank  
28 in the city of New York.

29 In case any of the officers whose signatures appear on the  
30 bonds or coupons shall cease to be such officers before the  
31 delivery of such bonds, such signatures shall, nevertheless,  
32 be valid and sufficient for all purposes, the same as if they  
33 had remained in office until such delivery. The commis-  
34 sion of the city of Grafton shall, by order entered prior to  
35 the issuance of said bonds, fix the denominations, times and  
36 places of payment of such bonds, the principal and interest  
37 of which shall be payable in lawful money of the United  
38 States of America. The proceeds of such bonds shall be used  
39 solely for the payment of the cost of land, buildings, furni-  
40 ture and equipment thereon, and shall be checked out by the  
41 said city under such restrictions as are contained in the or-  
42 der providing for the issuance of said bonds. If the pro-  
43 ceeds of bonds issued for any hospital shall exceed the cost  
44 thereof, the surplus shall be paid into the fund herein pro-  
45 vided for the payment of principal and interest upon such  
46 bonds. Such fund may be used for the purchase or redemp-  
47 tion of any of the outstanding bonds payable from such fund  
48 at the market price, but at not exceeding the price at which  
49 any of such bonds shall in the same year be redeemable, as

50 fixed by the city of Grafton in its said order, and all bonds  
51 redeemed or purchased shall forthwith be cancelled, and  
52 shall not again be issued.

53 Prior to the preparation of definitive bonds, the said city  
54 may, under like restrictions, issue temporary bonds, or in-  
55 terim certificates, with or without coupons, exchangeable for  
56 definitive bonds upon the issuance of the latter. Such bonds  
57 may be issued without any other proceedings or the hap-  
58 pening of any other conditions or things than those proceed-  
59 ings, conditions and things which are specified and required  
60 by this act.

Sec. 7. *Limitations as to Debt.* Nothing in this act con-  
2 tained shall be so construed or interpreted as to authorize  
3 or permit said city of Grafton to incur a debt for and on  
4 behalf of said city, of any kind or nature contrary to the  
5 provisions of the constitution of the state in relation to debt.

Sec. 8. *Act Additional and Supplementary to Other Powers*  
2 *of City.* This act shall be deemed to provide an additional and  
3 alternative method for the doing of the things authorized  
4 hereby, and shall be regarded as supplementary and additional  
5 to powers conferred by other laws and by the charter of the  
6 city of Grafton.

Sec. 9. *Act to Be Liberally Construed.* This act, being  
2 necessary for the health, welfare and requirements of the  
3 public of the city of Grafton, it shall be liberally construed  
4 to effectuate the purpose thereof.

Sec. 10. *Increased Levies; Election.* Notwithstanding  
2 the provisions of general law, the city of Grafton, authorized  
3 by this act to issue bonds, may become indebted for the pur-  
4 poses in this act authorized, to an amount, including all other  
5 indebtedness, up to but not exceeding five per cent of the  
6 value of the taxable property in such city, as shown by the  
7 last assessment thereof for state and county purposes next  
8 prior to the authorization of such bonds, subject to the levy  
9 limitations as provided in the constitution. For the purpose of  
10 effectuating the provisions and purposes of this act and for  
11 the purpose of obtaining revenue to pay said bonds and their



12 interest, or for the purpose of redeeming said bonds in whole  
13 or in part, the city of Grafton may, and is authorized to in-  
14 crease the levies on each class of property, not to exceed fifty  
15 per cent of the rates authorized in section ten, article eight,  
16 chapter sixty-seven, acts of the Legislature, second extraor-  
17 dinary session, one thousand nine hundred thirty-three, not  
18 to exceed three years, and may submit to the voters of the  
19 city the question of authorizing such increase, not to exceed  
20 three years, at the same time and as a part of the scheme  
21 to issue said bonds and provide for the payment thereof.  
22 Such increase of levies shall not continue for more than three  
23 years without resubmission to the voters, but the question  
24 of future levy increases for such purposes may be again sub-  
25 mitted to the voters.

26 Upon the questions of issuance of such bonds, providing  
27 for the payment thereof, the increase of said levies, at least  
28 sixty per cent of the votes cast shall be in favor thereof, as  
29 provided by general law.

Sec. 11. *Provisions of Act Severable.* The provisions of  
2 this act are separable and not matters of mutual essential in-  
3 ducement, and it is the intention to confer the whole or any  
4 part of the powers herein provided for, and if any of the sec-  
5 tions, or provisions, or parts thereof, are for any reason  
6 illegal, it is the intention that the remaining sections and pro-  
7 visions, or parts thereof, shall remain in full force and effect,  
8 and the provisions of this act shall be supplemental to pro-  
9 visions of existing law.

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## CHAPTER 140

(House Bill No. 468—By Mr. Hussion)

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AN ACT to amend and reenact section ten of an act of the Legis-  
lature of West Virginia, regular session, one thousand nine  
hundred thirty-seven, known and designated as house bill  
number two hundred forty-four, relating to the city of Grafton

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\* Amending chapter 139, acts of this session.

issuing bonds and increasing levies for the purpose of constructing, equipping and maintaining a municipal hospital.

[Passed March 10, 1937; in effect from passage. Became a law without the approval of the Governor.]

**Section**

10. Increased levies; election.

*Be it enacted by the Legislature of West Virginia:*

That section ten of an act of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-seven, known and designated as house bill number two hundred forty-four, be amended and reenacted to read as follows:

Section 10. *Increased Levies; Election.* Notwithstanding  
2 the provisions of general law, the city of Grafton, authorized  
3 by this act to issue bonds, may become indebted for the pur-  
4 poses of this act authorized, to an amount, including all other  
5 indebtedness, up to but not exceeding five per cent of the  
6 value of the taxable property in such city, as shown by the  
7 last assessment thereof for state and county purposes next  
8 prior to the authorization of such bonds, subject to the levy  
9 limitations as provided in the constitution. For the purpose  
10 of effectuating the provisions and purposes of this act and  
11 for the purpose of obtaining revenue to pay said bonds and  
12 their interest, or for the purpose of redeeming said bonds in  
13 whole or in part, the city of Grafton may, and is authorized  
14 to increase the levies on each class of property, not to exceed  
15 fifty per cent of the rates authorized in section fourteen,  
16 article eight, chapter sixty-seven, acts of the Legislature, sec-  
17 ond extraordinary session, one thousand nine hundred thirty-  
18 three, not to exceed three years, and may submit to the voters  
19 of the city the question of authorizing such increase, not to  
20 exceed three years, at the same time and as a part of the  
21 scheme to issue said bonds and provide for the payment  
22 thereof. Such increase of levies shall not continue for more  
23 than three years without resubmission to the voters, but the  
24 question of future levy increases for such purposes may be  
25 again submitted to the voters.

26 Upon the questions of issuance of such bonds, providing for  
27 the payment thereof, the increase of said levies, at least sixty  
28 per cent of the votes cast shall be in favor thereof, as pro-  
29 vided by general law.

## CHAPTER 141

(House Bill No. 304—By Mr. Jennings, by request)

AN ACT to amend and reenact chapter sixty-seven, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-three, and to authorize the county court of Harrison County, West Virginia, to transfer all the unexpended balance of the special fund, known as the courthouse fund, to the general county fund of the said county, and providing for the use thereof.

[Passed March 4, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Section

1. Harrison county court authorized to transfer courthouse fund.

*Be it enacted by the Legislature of West Virginia:*

That chapter sixty-seven, acts of the Legislature, regular session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 1. *Harrison County Court Authorized to Transfer Courthouse Fund.* The county court of Harrison County, West Virginia, is hereby authorized and empowered to transfer all the unexpended balance of the special fund, known as the courthouse fund, derived by levies authorized by chapter one hundred thirty, acts of the Legislature of West Virginia, regular session, one thousand nine hundred twenty-seven, as amended and reenacted by chapter one hundred twenty-seven, acts of the Legislature of West Virginia, regular session, one thousand nine hundred twenty-nine, to the general county fund of the said county, and to use the same for general county purposes.

## CHAPTER 142

(House Bill No. 305—By Mr. Jennings, by request)

AN ACT to authorize the county court of Harrison County, West

Virginia, to transfer all the unexpended balance of a fund known as the county contractual debt fund, derived by levies authorized by section ten, chapter sixty-nine, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, to the general county fund, and providing for the use thereof.

[Passed March 8, 1937; in effect from passage. Became a law without the approval of the Governor.]

**Section**

1. Harrison county court authorized to transfer and expend county contractual debt fund.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Harrison County Court Authorized to Transfer and Expend County Contractual Debt Fund.* The county court is hereby authorized and empowered to transfer all the unexpended balance of a fund known as the county contractual debt fund, derived by levies authorized by section ten, chapter sixty-nine, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, to the general county fund of the said county, and to use such money so transferred for general county purposes: *Provided, however,* That if there are any outstanding obligations against the said county contractual debt fund, an amount sufficient to pay said outstanding obligations shall be retained in said county contractual debt fund and only the balance above such amount of said fund may be transferred to the general county fund.

## CHAPTER 143

(Senate Bill No. 24—By Mr. Barnhart)

AN ACT to amend and reenact section eleven, chapter twenty-five, acts of the Legislature of West Virginia, one thousand

nine hundred seven, relating to the time for holding terms of the Intermediate Court of Kanawha County, West Virginia.

[Passed February 8, 1937; in effect from passage. Approved by the Governor.]

Section.

11. Terms of intermediate court of Kanawha county.

*Be it enacted by the Legislature of West Virginia:*

That section eleven, chapter twenty-five, acts of the Legislature of West Virginia, one thousand nine hundred seven, be amended and reenacted to read as follows:

Section 11. *Terms of Intermediate Court of Kanawha County.* There shall be four terms of said court held in each year, commencing on the second Monday in January, the first Monday in April, the second Monday in June and the first Monday in September. Adjourned and special terms of said court may be called and held as provided for special and adjourned terms of the circuit court.

## CHAPTER 144

(House Bill No. 31—By Mr. Stephens)

AN ACT to relieve M. H. Hix, clerk of the circuit, common pleas and intermediate courts of Kanawha county, West Virginia, from all personal liability for the payment of certain sums of money paid him, or his predecessor, as costs, and deposited by him, or his predecessor, in the Peoples Exchange Bank of Charleston, West Virginia.

[Passed February 25, 1937; in effect from passage. Became a law without the approval of the Governor.]

Section

1. M. H. Hix, clerk of Kanawha county circuit court, relieved of liability for certain fees collected.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *M. H. Hix, Clerk of Kanawha County Circuit Court, Relieved of Liability for Certain Fees Collected.* That

3 M. H. Hix, clerk of the circuit, common pleas and inter-  
4 mediate courts of Kanawha county, West Virginia, be and he  
5 is hereby relieved from all personal liability for the payment  
6 of any money advanced as costs of litigation now or hereto-  
7 fore pending in the circuit, common pleas and intermediate  
8 courts of Kanawha county, West Virginia, and by the said M.  
9 H. Hix, or his predecessor, deposited in the Peoples Exchange  
10 Bank, of Charleston, West Virginia, which said bank closed  
11 during the year one thousand nine hundred thirty-three.

## CHAPTER 145

(House Bill No. 32—By Mr. Stephens)

AN ACT to relieve J. M. Slack, former clerk of the county court of Kanawha county, from all personal liability for the payment of certain sums of money paid him as costs and deposited by him in the Peoples Exchange Bank and the Security Bank and Trust Company, of Charleston, West Virginia.

[Passed February 25, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Section

1. Relieving J. M. Slack of personal liability for certain fees collected by him as clerk of Kanawha county court.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Relieving J. M. Slack of Personal Liability for Certain Fees Collected by Him as Clerk of Kanawha County Court.* That J. M. Slack, former clerk of the county court of Kanawha county, West Virginia, be and he is hereby relieved from all personal liability for the payment of any money received by him as fees as clerk of the county court of Kanawha county, West Virginia, and by the said Slack deposited in the Peoples Exchange Bank and the Security Bank and Trust Company, of Charleston, West Virginia, which said banks closed during the year one thousand nine hundred thirty-three.

## CHAPTER 146

(House Bill No. 131—By Mr. Stephens)

AN ACT authorizing the county court of Kanawha county to provide compensation for George Dudley, a former deputy sheriff of Kanawha county, wounded while in the performance of his duty as deputy sheriff.

[Passed March 6, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Section

1. Kanawha county court authorized to pay compensation to George Dudley.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Kanawha County Court Authorized to Pay Compensation to George Dudley.* That the county court of Kanawha county be authorized and empowered to pay to George Dudley, a former deputy sheriff of Kanawha county, the sum of two hundred fifty dollars in cash, and to make provision in its annual budget, each year, during the remainder of the life of said Dudley, beginning with the budget for the fiscal year one thousand nine hundred thirty-seven and thirty-eight, and to appropriate for each fiscal year thereafter, during the life of the said Dudley, the sum of nine hundred sixty dollars annually, to be paid monthly by the county court of Kanawha county, to the said George Dudley, in monthly installments of eighty dollars per month, as compensation to the said George Dudley for injuries sustained, while transporting a dangerous criminal from the Kanawha county jail to the West Virginia state penitentiary at Moundsville, when attacked and severely wounded by outlaws.

## CHAPTER 147

(House Bill No. 337—By Mr. Calvert, by request)

AN ACT to authorize the board of education of the county of Kanawha to settle the claim of Thomas C. Halstead.

[Passed March 13, 1937; in effect from passage. Became a law without the approval of the Governor.]

**Section**

1. Kanawha county board of education authorized to make settlement with Thomas C. Halstead.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Kanawha County Board of Education Authorized to Make Settlement With Thomas C. Halstead.* The board of education of the county of Kanawha is hereby authorized and empowered, at its discretion, to compromise and settle the claim of Thomas C. Halstead for damages by reason of personal injuries alleged to have been sustained by him on account of the alleged negligent operation of a school bus in Cabin Creek district of Kanawha County, West Virginia.

## CHAPTER 148

(House Bill No. 386—By Mr. Brotherton)

AN ACT to authorize the county court of Kanawha county to expend funds for the construction and maintenance of the Four-H camp in Kanawha County.

[Passed March 13, 1937; in effect from passage. Became a law without the approval of the Governor.]

**Section**

1. Kanawha county court authorized to expend funds for Four-H camp.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Kanawha County Court Authorized to Expend Funds for Four-H Camp.* The county court of Kanawha



- 3 county may expend annually from the general county fund a  
4 sum not to exceed fifteen thousand dollars for the construc-  
5 tion and maintenance of the Kanawha County Four-H camp.

## CHAPTER 149

(House Bill No. 341—By Mr. Isaacs)

AN ACT to authorize the board of education of Lincoln County to set aside and expend a part of the levies which it is now authorized by law to lay for school purposes, to be used for the construction of foot-bridges across and over the rivers, creeks and other streams of the county, in aid of the transportation of, or in otherwise facilitating pupils in going to and from school.

[Passed March 12, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Section

1. Lincoln county board of education authorized to use levies for construction of foot-bridges.
2. Board may expend funds for foot-bridges.
3. Board may acquire lands for bridges.

*Be it enacted by the Legislature of West Virginia:*

That the board of education of the county of Lincoln, may, in aid of its transportation of pupils to and from public schools, and in otherwise facilitating the attendance of pupils at any school, at which they are entitled to attend, do and perform acts and deeds as follows:

- Section 1. *Lincoln County Board of Education Authorized to Use Levies for Construction of Foot-Bridges.* Whenever the board of education of the county of Lincoln shall determine that it is for the best interests of the pupils attending any school, and for the board of education in transporting pupils to and from any such school, said board shall have the right, if exercised at the time of making estimates and the laying of levies for school purposes as provided by law, to set aside and appropriate from the amount which may be raised from the whole of the levies which the board may be

11 now or hereafter authorized to lay for school purposes, an  
 12 amount equal to such sum as might be raised by a levy of  
 13 seven cents on each one hundred dollars' valuation of the tax-  
 14 able property of said county, for the purpose of constructing  
 15 foot-bridges across any river, creek or other stream.

Sec. 2. *Board May Expend Funds for Foot-Bridges.* When  
 2 funds are set aside as provided in section one of this act,  
 3 the board of education may expend same for the construction  
 4 of foot-bridges over and across rivers, creeks and other  
 5 streams, for the accommodation of pupils attending schools.

Sec. 3. *Board May Acquire Lands for Bridges.* The board  
 2 of education shall have the right to acquire, by gift, pur-  
 3 chase or other voluntary method, or by condemnation in the  
 4 manner prescribed by law, lands, easements, and all other  
 5 properties necessary for the construction of bridges and ap-  
 6 proaches thereto, as herein provided.

7 All acts and parts of acts inconsistent with the provisions  
 8 of this act are hereby repealed.

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## CHAPTER 150

(House Bill No. 130—By Mr. Wright)

AN ACT transferring to the credit of the building and main-  
 tenance fund of the board of education of the county of Mer-  
 cer all unused funds collected for the retirement of school  
 bonds for the several magisterial districts of said county.

[Passed February 23, 1937; in effect from passage. Became a law without the  
 approval of the Governor.]

**Section**

1. Transfer of Mercer county magisterial district school funds.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Transfer of Mercer County Magisterial District  
 2 School Funds.* The sheriff of Mercer county is authorized  
 3 and directed to transfer to the credit of the building and  
 4 maintenance fund of the board of education of the county of

5 Mercer all funds collected in any magisterial district of Mer-  
6 cer County for the retirement of school bonds of that district  
7 and remaining after all such bonds shall have been retired.  
8 Said fund shall be used in the same manner as other funds  
9 now to the credit of, or which may hereafter be placed to the  
10 credit of, the building and maintenance fund of the board  
11 of education of the county of Mercer, but such funds hereby  
12 authorized and directed to be transferred shall be expended  
13 in the respective magisterial districts from which such funds  
14 were collected.

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## CHAPTER 151

(House Bill No. 464—By Mr. Neal)

AN ACT providing financial relief for the county court of Nicholas County; enabling such court to lay a larger levy than the limits now prescribed for levies by county courts for current purposes in order to maintain the basic and indispensable functions of said county; prescribing further limits for such current county levy; finding as a matter of fact that such county cannot maintain the basic and indispensable functions of government within present limitations for current levies on the various classes of property; prescribing the method whereby such additional levies may be made, and authorizing the laying of the same, and prescribing further maximum limits on the various classes of property for the laying of such county levy for current purposes.

[Passed March 12, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Section

1. Overdraft in general county fund of Nicholas county.
2. Finding of facts by county court; posting.
3. County court authorized to lay additional levy.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Overdraft in General County Fund of Nicholas*

2 *County.* It is hereby found and ascertained as a matter of  
3 fact that the county court of Nicholas County has been com-  
4 pelled to levy the maximum present authorized levy for cur-  
5 rent purposes on all classes of property in the fiscal year  
6 commencing on the first day of July, one thousand nine hun-  
7 dred thirty-three, the first day of July, one thousand nine  
8 hundred thirty-four, and the first day of July, one thousand  
9 nine hundred thirty-five, in order to maintain the basic and  
10 indispensable functions of government for which county  
11 courts have prior to such years imposed the levies; and has  
12 further been compelled to overdraft upon the general county  
13 fund of said county for which such levy was made, in order  
14 to maintain such basic and indispensable functions of govern-  
15 ment.

*Sec. 2. Finding of Facts by County Court; Posting.*

2 The said county court of Nicholas County is therefore hereby  
3 authorized and empowered on or before the thirtieth day of  
4 June, one thousand nine hundred thirty-seven, to ascertain  
5 and find as a matter of fact the total amount of such over-  
6 drafts for each of said three fiscal years, and in such case the  
7 court shall further find by as accurate an estimate as can  
8 reasonably be made under the circumstances, the probable  
9 amount of overdraft for the fiscal year beginning the first  
10 day of July, one thousand nine hundred thirty-six; and such  
11 court shall also at such time further find the probable amount  
12 of additional funds required yearly for the proper carry-  
13 ing into effect of the recently enacted legislation known as  
14 the "Public Assistance Act"; and the court at such time shall  
15 also further find as a matter of fact that the minimum amount  
16 of levy for current county purposes, including the retirement  
17 of such overdraft during the three succeeding fiscal years, and  
18 the additional amount necessary for the proper carrying into  
19 effect of such "Public Assistance Act", shall be required in  
20 the future for the maintenance of the basic and indispensable  
21 functions of government; which findings shall be entered of  
22 record by said court and a copy of which findings shall be  
23 posted at the front door of said courthouse of said county  
24 within three days after the date thereof.

*Sec. 3. County Court Authorized to Lay Additional Levy.*

2 Said county court of Nicholas County shall, at its session on the

3 first Tuesday in August of each fiscal year thereafter, change  
4 and correct such finding of fact if they ascertain that the same  
5 needs to be corrected in order to accord with facts at such  
6 time ascertained and existing; and such court is hereby au-  
7 thorized and empowered at such session to lay a levy for  
8 current county purposes in the manner now provided by law.  
9 And said court is hereby further authorized and empowered at  
10 such session to lay an additional levy for current county pur-  
11 poses, to be known as "additional county levy", which ad-  
12 ditional county levy shall be supplemental to the county cur-  
13 rent levy and the sum of the two levies shall not exceed the  
14 respective amounts ascertained by such findings of fact for  
15 the respective classes of property: *Provided, however,* That in  
16 no case shall the sum of both levies on class I property ex-  
17 ceed eleven and twenty-five one-hundredths; on class II prop-  
18 erty exceed twenty-two and five-tenths cents; and on classes  
19 III and IV property exceed forty-five cents.  
20 The relief provided for in this act shall be cumulative, and  
21 nothing in this act shall repeal any law now existing with  
22 respect to laying and collecting tax levies.

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## CHAPTER 152

(House Bill No. 285—By Mr. Bibb, by request)

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AN ACT providing financial relief for the county court of Raleigh County; enabling such court to lay a larger levy than the limits now prescribed for levies by county courts for current purposes in order to maintain the basic and indispensable functions of said county; prescribing further limits for such current county levy; finding as a matter of fact that such county cannot maintain the basic and indispensable functions of government within present limitations for current levies on the various classes of property; prescribing the method whereby such additional levies may be made and authorizing the laying of the same and prescribing further maximum

limits on the various classes of property for the laying of such county levy for current purposes.

[Passed March 3, 1937; in effect from passage. Became a law without the approval of the Governor.]

**Section**

1. Overdraft in general county fund of Raleigh county.
2. Finding of facts by county court; posting.
3. County court authorized to lay county levy.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Overdraft in General County Fund of Raleigh County.* It is hereby found and ascertained as a matter of fact that the county court of Raleigh County has been compelled to levy the maximum present authorized levy for current purposes on all classes of property in the fiscal years commencing on the first day of July, one thousand nine hundred thirty-three, the first day of July, one thousand nine hundred thirty-four, and the first day of July, one thousand nine hundred thirty-five, in order to maintain the basic and indispensable functions of government for which county courts have prior to such years imposed the levies; and has further been compelled to overdraft upon the general county fund of said county for which such levy was made, in order to maintain such basic and indispensable functions of government.

Sec. 2. *Finding of Facts by County Court; Posting.* The said county court of Raleigh County is therefore hereby authorized and empowered on or before the thirtieth day of June, one thousand nine hundred thirty-seven, to ascertain and find as a matter of fact the total amount of such overdrafts for each of said three fiscal years, and in such case the court shall further find by as accurate an estimate as can reasonably be made under the circumstances; the probable amount of overdraft for the fiscal year beginning the first day of July, one thousand nine hundred thirty-six; and such court shall also at such time further find the probable amount of additional funds required yearly for the proper

13 carrying into effect of the recently enacted legislation known  
14 as the "Public Welfare Law of 1936"; and the court at such  
15 time shall also further find as a matter of fact that the mini-  
16 mum amount of levy for current county purposes, including  
17 the retirement of such overdraft during the three succeeding  
18 fiscal years, and the additional amount necessary for the  
19 proper carrying into effect of such "Public Welfare Law of  
20 1936"; shall be required in the future for the maintenance of  
21 the basic and indispensable functions of government; which  
22 findings shall be entered of record by said court and a copy of  
23 which findings shall be posted at the front door of said court-  
24 house of said county within three days after the date thereof.

Sec. 3. *County Court Authorized to Lay Additional Levy.*

2 Said county court of Raleigh county shall, after said find-  
3 ings of fact have been made, at its session on the first Tues-  
4 day in August of the fiscal years of one thousand nine hun-  
5 dred thirty-seven, one thousand nine hundred thirty-eight and  
6 one thousand nine hundred thirty-nine, change and correct  
7 such finding of fact, if they ascertain that the same needs to  
8 be corrected in order to accord with facts at such times ascer-  
9 tained and existing; and such court, in addition to the levies  
10 prescribed by section ten, article eight, chapter eleven of the  
11 code of West Virginia, one thousand nine hundred thirty-  
12 one, as amended by the acts of the Legislature of West Vir-  
13 ginia, second extraordinary session, one thousand nine hun-  
14 dred thirty three, is hereby further authorized and em-  
15 powered, at the session and adjourned session prescribed by  
16 said section of the code, and in the same manner set forth in  
17 said section for the laying of the levies therein prescribed, to  
18 lay an additional levy for current county purposes to be  
19 known as "additional county levy" on each class of property  
20 in the county or its sub-divisions, according to the last assess-  
21 ment, which additional county levy shall be supplemental to  
22 the current county levy authorized under said section ten, and  
23 the sum of the two levies shall not exceed the respective  
24 amounts ascertained by such finding of fact for the respect-  
25 ive classes of property: *Provided, however,* That in no case  
26 shall the sum of both levies per hundred dollars' assessed  
27 valuation on Class I property exceed eleven and twenty-five  
28 one hundredths cents; on Class II property exceed twenty-two

29 and five tenths cents; and on Classes III and IV property ex-  
30 ceed forty-five cents.

31 The relief provided for in this act shall be cumulative and  
32 nothing in this act shall repeal any law now existing with  
33 respect to laying or collecting tax levies.

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## CHAPTER 153

(House Bill No. 433—By Mr. Bosworth)

AN ACT to authorize and empower the county court of Randolph  
County to transfer unexpended balances in the general county  
road fund to the general county fund of said county.

[Passed March 10, 1937; in effect from passage. Became a law without the  
approval of the Governor.]

### Section

1. Randolph county court authorized to transfer funds.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Randolph County Court Authorized to Trans-*  
2 *fer Funds.* The county court of Randolph County is hereby  
3 authorized and empowered to transfer the unexpended bal-  
4 ances in the general county road fund of said county remain-  
5 ing and not needed for the payment and satisfaction of all  
6 claims and expenses against said fund, to the general county  
7 fund of said county.

8 All acts or parts of acts inconsistent herewith are hereby  
9 repealed, insofar as they may apply to Randolph County.

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## CHAPTER 154

(House Bill No. 325—By Mr. Morton)

AN ACT to permit the county court of Webster County, with the  
consent of the holders of certificates of indebtedness, to post-  
pone the payment of such certificates; and to employ and use



the levy therefor, along with any surplus in said fund, existing or arising in the construction of additions, repairs and reconditioning of the county courthouse of Webster County.

[Passed March 5, 1937; in effect from passage. Became a law without the approval of the Governor.]

**Section**

1. Webster county court authorized to postpone payment of certificates of indebtedness.
2. Expenditure of contractual debt levies on courthouse and jail.
3. When levies laid for payment of certificates of indebtedness; inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Webster County Court Authorized to Postpone Payment of Certificates of Indebtedness.* The county court of Webster County, by and with the consent of the holders of the certificates of indebtedness issued by said court, dated January first, one thousand nine hundred thirty-five, and payable June first, one thousand nine hundred thirty-seven, under the provisions of chapter sixty-four, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, is hereby authorized and empowered to postpone the payment of such certificates of indebtedness until the first day of June, one thousand nine hundred forty, and interest shall be paid thereon at the rate provided for therein from the date due thereof until payment.

Sec. 2. *Expenditure of Contractual Debt Levies on Courthouse and Jail.* The said county court of Webster County is hereby authorized and empowered to expend the amount levied by it for the fiscal year ending June thirty, one thousand nine hundred thirty-seven, for contractual debt purposes, together with any money and balances now in the contractual debt fund derived from other sources, in providing for additions, reconstruction and repairs to the courthouse of the said county; and such moneys may be so expended in conjunction with any moneys allocated in aid of such purposes by the government of the United States, or any agency established by it, or independently thereof.

Sec. 3. *When Levies Laid for Payment of Certificates of Indebtedness; Inconsistent Acts Repealed.* The said county court of Webster County shall make provision for the pay-

4 ment of the certificates of indebtedness, the payment of which  
5 may be postponed under the provisions of this act, by levies  
6 for the fiscal year ending June thirty, one thousand nine  
7 hundred forty.

8 All acts or parts of acts inconsistent or in conflict herewith  
9 are hereby repealed.

## CHAPTER 155

(House Bill No. 395—By Mr. Morton)

AN ACT providing financial relief for the county court of Webster County; enabling such court to lay a larger levy than the limits now prescribed for levies by county courts for current purposes in order to maintain the basic and indispensable functions of said county; prescribing further limits for such current county levy; finding as a matter of fact that such county cannot maintain the basic and indispensable functions of government within present limitations for current levies on the various classes of property; prescribing the method whereby such additional levies may be made, and authorizing the laying of the same and prescribing further maximum limits on the various classes of property for the laying of such county levy for current purposes.

[Passed March 12, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Section

1. Overdraft in general county fund of Webster county.
2. Finding of facts by county court; posting.
3. County court authorized to lay additional levy.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Overdraft in General County Fund of Webster County.* It is hereby found and ascertained as a matter of fact that the county court of Webster County has been compelled to levy the maximum present authorized levy for current purposes on all classes of property in the fiscal year commencing on the first day of July, one thousand nine hundred thirty-three, the first day of July, one thousand nine hundred thirty-four, and the first day of July, one thousand nine hundred thirty-five, in order to maintain the basic and indispen-

10 sable functions of government for which county courts have  
11 prior to such years imposed the levies; and has further been  
12 compelled to overdraft upon the general county fund of said  
13 county for which such levy was made, in order to maintain  
14 such basic and indispensable functions of government.

Sec. 2. *Finding of Facts by County Court; Posting.*

2 The said county court of Webster County is therefore hereby  
3 authorized and empowered on or before the thirtieth day of  
4 June, one thousand nine hundred thirty-seven, to ascertain  
5 and find as a matter of fact the total amount of such  
6 overdrafts for each of said three fiscal years, and in such  
7 case the court shall further find by as accurate an estimate  
8 as can reasonably be made under the circumstances, the  
9 probable amount of overdraft for the fiscal year beginning  
10 the first day of July, one thousand nine hundred thirty-six;  
11 and such court shall also at such time further find the prob-  
12 able amount of additional funds required yearly for the  
13 proper carrying into effect of the recently enacted legisla-  
14 tion known as the "Public Assistance Act"; and the court  
15 at such time shall also further find as a matter of fact that  
16 the minimum amount of levy for current county purposes,  
17 including the retirement of such overdraft during the three  
18 succeeding fiscal years, and the additional amount necessary  
19 for the proper carrying into effect of such "Public Assistance  
20 Act", shall be required in the future for the maintenance of  
21 the basic and indispensable functions of government; which  
22 findings shall be entered of record by said court and a copy  
23 of which findings shall be posted at the front door of said  
24 courthouse of said county within three days after the date  
25 thereof.

Sec. 3. *County Court Authorized to Lay Additional Levy.*

2 Said county court of Webster County shall, at its session on  
3 the first Tuesday in August of each fiscal year thereafter,  
4 change and correct such finding of fact if they ascertain that  
5 the same needs to be corrected in order to accord with facts at  
6 such time ascertained and existing; and such court is hereby  
7 authorized and empowered at such session to lay a levy for  
8 current county purposes in the manner now provided by law.  
9 And said court is hereby further authorized and empowered

10 at such session to lay an additional levy for current county  
11 purposes, to be known as "additional county levy", which  
12 additional county levy shall be supplemental to the county  
13 current levy and the sum of the two levies shall not exceed  
14 the respective amounts ascertained by such finding of fact  
15 for the respective classes of property: *Provided, however,*  
16 That in no case shall the sum of both levies on class I prop-  
17 erty exceed eleven and twenty-five one-hundredths; on class  
18 II property exceed twenty-two and five-tenths cents; and on  
19 class III and IV property exceed forty-five cents.

20 The relief provided for in this act shall be cumulative, and  
21 nothing in this act shall repeal any law now existing with  
22 respect to laying and collecting tax levies.

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## CHAPTER 156

(Senate Bill No. 93—By Mr. Snyder, by request)

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AN ACT to amend and reenact sections three, seven and ten, chapter one hundred eleven, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, relating to the Wetzel county hospital.

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[Passed March 13, 1937; in effect from passage. Became a law without the approval of the Governor.]

**Section**

3. Revenue bonds to pay cost of Wetzel county hospital.
7. Lease of hospital.
10. Board of visitors.

*Be it enacted by the Legislature of West Virginia:*

That sections three, seven and ten, chapter one hundred eleven, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

- Section 3. *Revenue Bonds to Pay Cost of Wetzel County Hospital.* The county court of Wetzel county may pay the cost as defined by sections one to eleven, inclusive, of this act, of such hospital, out of the proceeds of such revenue bonds of

5 the county as are hereinafter set forth. The said county court  
6 of Wetzel county is authorized to issue revenue bonds of the  
7 county, by a resolution of the county court of such county  
8 which shall recite an estimate by said county court of such  
9 cost, the principal and interest of which bonds shall be payable  
10 solely from the special fund herein provided for such pay-  
11 ment. All such bonds shall have and are hereby declared to  
12 have all the qualities of negotiable instruments under the law  
13 merchant. Such bonds shall bear interest, at not more than six  
14 per cent per annum, and shall mature in not more than thirty  
15 years from their date or dates, and may be made redeemable  
16 at the option of the county court, to be exercised by the county  
17 court at such price and under such terms and conditions as the  
18 county court may fix prior to the issuance of such bonds.  
19 The county court shall determine the form of such bonds,  
20 including coupons to be attached thereto to evidence the  
21 right of interest payments, which bonds shall be signed  
22 by the president of the county court, under the seal of  
23 the county court of Wetzel county attested by the clerk  
24 of the county court, and the coupons attached thereto shall  
25 bear the facsimile signature of the president of the county  
26 court. In case any of the officials whose signatures appear  
27 on the bonds or coupons shall cease to be such officers  
28 before the delivery of such bonds, such signatures shall  
29 nevertheless be valid and sufficient for all purposes the  
30 same as if they had remained in office until such delivery.  
31 The county court shall fix the denominations of such bonds,  
32 the principal and interest of which shall be payable at  
33 the office of the clerk of the county court of Wetzel county,  
34 West Virginia, at New Martinsville, West Virginia, either  
35 in lawful money or in gold coin of the United States of  
36 America, of or equal to the then current standard of weight  
37 and fineness, as may be determined by said county court.  
38 Such bonds shall be exempt from taxation by the state  
39 of West Virginia, or any county, school district or municipi-  
40 pality therein. The county court may provide for the  
41 registration of such bonds in the name of the owner as to  
42 principal alone and as to both principal and interest under  
43 such terms and conditions as the county court may  
44 determine. The county court of Wetzel county is author-  
45 ized to enter into such agreements and/or contracts as it

46 may determine to be for the best interests of the county  
47 with the reconstruction finance corporation, the public  
48 works administration or other federal governmental agencies  
49 authorized to purchase said bonds or to make loans upon  
50 the same, for the purpose of selling and/or pledging said  
51 revenue bonds to secure and/or borrow funds from the  
52 said federal governmental agency, in any event not to  
53 exceed the sum of eighty thousand dollars, however. Said  
54 revenue bonds shall not be negotiated, pledged or sold at  
55 a price lower than a price which computed to maturity  
56 upon the standard tables of bond values will show a net  
57 return of not more than six per cent per annum to the holder  
58 or purchaser upon the amount paid, pledged or advanced  
59 therefor.

60 The proceeds of such bonds or the loan secured thereby  
61 shall be used solely for the payment of the costs of such  
62 hospital and the maintenance thereof, and shall be checked  
63 out by the president of the county court and the clerk  
64 of the county court and under such further restrictions,  
65 if any, as the county court or the federal governmental  
66 agency may provide. If the proceeds of such bonds, by  
67 error or otherwise, shall be less than the cost of such  
68 hospital, additional bonds may in like manner be issued  
69 to provide the amount of such deficit, and shall be deemed  
70 to be of the issue and shall be entitled to payment from  
71 the same fund, without preference or priority of the bonds  
72 first issued for the said hospital. If the proceeds of the  
73 bonds issued for such hospital shall exceed the cost thereof,  
74 the surplus shall be paid into the fund hereinafter pro-  
75 vided for payment of the principal and interest of said  
76 bonds. Such fund may be used for the purchase of any  
77 of the outstanding bonds payable from such fund at the  
78 market price, but not exceeding the price, if any, at which  
79 such bonds shall in the same year be redeemable, and all  
80 bonds redeemed or purchased shall forthwith be cancelled  
81 and shall not again be issued.

82 Prior to the preparation of definitive bonds, the county  
83 court may under like restrictions issue temporary bonds  
84 with or without coupons, exchangeable for definitive bonds  
85 upon the issuance of the latter. Such revenue bonds may

86 be issued without any other proceedings or the happening  
87 of any other conditions and things than those proceedings,  
88 conditions and things which are specified and required by  
89 this act or by the constitution of the state.

Sec. 7. *Lease of Hospital.* The county court of Wetzel county  
2 shall have the power, unless otherwise so stipulated against by  
3 any agreement or contract entered into with any federal gov-  
4 ernmental agency which shall agree to buy or lend funds on  
5 the revenue bonds herein provided for, to lease the said  
6 hospital, property and equipment to any association for  
7 hospital purposes, maintaining control, however, over the  
8 operation of the same during the life of the revenue bonds,  
9 and only, however, upon such terms as will be satisfactory  
10 and sufficient to retire the revenue bonds, including both  
11 principal and interest thereon, in manner and form as pro-  
12 vided herein in this act.

Sec. 10. *Board of Visitors.* The county court of Wetzel  
2 county is authorized and empowered to appoint a board of  
3 visitors, which shall consist of nineteen members or less in its  
4 discretion. This board of visitors shall be authorized and em-  
5 powered to control, manage and operate the hospital, subject,  
6 however, to the other provision of this act, and subject to the  
7 authority of the county court, but shall not affect the man-  
8 agement of said hospital by the board of visitors of the hospital  
9 association to which said property is leased and may be  
10 hereafter leased, except so far as may be necessary to  
11 protect and preserve the legal rights of the county court  
12 of Wetzel county in respect to said lease and said hospital.  
13 The rights of the lessee of said hospital to its use, occupancy  
14 and management shall not be affected in any particular unless  
15 and until the said hospital association shall fail to comply  
16 with its contract of lease in the payment of the rental  
17 therein provided or that may be hereafter provided.

## CHAPTER 157

(Senate Bill No. 313—By Mr. Galbraith)

AN ACT to amend and reenact chapter one hundred eighteen, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, relating to the appointment of a board of trustees of the Ohio county public library, and to the ownership, management and operation of the Ohio county public library.

[Passed March 12, 1937; in effect from passage. Became a law without the approval of the Governor.]

### Section

1. Board of trustees of Ohio county public library.
2. Prior appointments to board confirmed; appointment and removal of members.
3. Title and management vested in trustees.
4. Annual levy expended for use of library; disbursements; use of income.

*Be it enacted by the Legislature of West Virginia:*

That chapter one hundred eighteen, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 1. *Board of Trustees of Ohio County Public Library.* Title to the public library of the city of Wheeling heretofore owned and operated by the independent school district of said city, is hereby vested in a board of trustees to be known as the "Board of Trustees of the Ohio County Public Library," which board is hereby created. Said board is hereby made a body corporate and by that name may sue and be sued, plead and be impleaded, contract and be contracted with. Said board shall consist of five citizens of the county of Ohio, and shall be appointed in the manner hereinafter set out and shall serve without compensation, and shall hold no remunerative political office, either state, county or municipal; no member of the board shall be eligible to appointment to any remunerative office or position under the jurisdiction of said board, and not more than three of the members shall belong to the same political party, and at least two of the members shall be women.



2       *Sec. 2. Prior Appointments to Board Confirmed; Appoint-*  
3 *ment und Removal of Members.* The appointment of members  
4 of the said board heretofore made under the provisions of sec-  
5 tion two, chapter one hundred eighteen, acts of the Legislature,  
6 first extraordinary session, one thousand nine hundred thirty-  
7 three, is hereby ratified, approved and confirmed, and the  
8 persons appointed as such members shall continue to hold of-  
9 fice for the respective terms for which they were appointed.  
10 The acts of such board as such, heretofore made, are hereby  
11 ratified, approved and confirmed. The respective successors  
12 of said members shall be appointed by the clerk of the circuit  
13 court of Ohio county for a term of five years each, excepting  
14 that any person appointed to fill a vacancy occurring before  
15 the expiration of the term vacated, shall serve only for the un-  
16 expired term, and the members shall be eligible for reappoint-  
17 ment: *Provided, however,* That any vacancy created, except  
18 by the expiration of a term, shall be filled by the said board  
19 of trustees. The said board shall annually elect from among  
20 its members a chairman and a secretary-treasurer, who shall  
21 hold office for one year and be eligible for reelection, and an-  
22 nually thereafter said board shall organize by the election of a  
23 chairman and secretary-treasurer. Members of the board may  
24 be removed from office in the same manner as provided for the  
25 removal of county officers under section seven, article six, chap-  
26 ter six of the code of West Virginia, one thousand nine hun-  
dred thirty-one.

2       *Sec. 3. Title and Management Vested in Trustees.* Title to  
3 said library property, including real estate, equipment, books,  
4 and all other property of whatsoever nature is hereby vested  
5 as of July first, one thousand nine hundred thirty-three, in  
6 said board of trustees and their successors. Said board shall  
7 have all and sole power necessary, convenient and advisable  
8 for the proper operation, equipment and management of said  
9 library, and any and all other public libraries or branch li-  
10 braries established or acquired by the said board, either by  
11 gift or purchase, and shall make such rules and regulations as  
it shall deem expedient for the care and management thereof.

2       *Sec. 4. Annual Levy Expended for Use of Library; Dis-*  
3 *bursements; Use of Income.* In order to provide for the main-  
tenance and operation of said public library and any and all

4 branches thereof, the board of education of Ohio county shall  
5 levy annually not to exceed three cents, upon request by the  
6 said board of trustees, on each one hundred dollars of the as-  
7 sessed valuation of property within the limits of Ohio county,  
8 according to the last assessment thereof for state and county  
9 purposes. The proceeds of this levy will be for the exclusive  
10 use of said public library or any branches thereof or any other  
11 public libraries acquired by purchase or otherwise by said  
12 board of trustees, and shall be disbursed only upon order of  
13 the said board of trustees, evidenced by warrants drawn on  
14 the sheriff of Ohio county, and signed by the chairman and  
15 secretary-treasurer of said board. Said levy shall be included  
16 within the limits and be a part of the levy or levies authorized  
17 by law to be laid by said board of education of Ohio county.

18 All income realized by the operation of said public library  
19 or other libraries or branches thereof, from the rental of books  
20 or otherwise, other than as proceeds of the levy hereinbefore  
21 mentioned, shall be paid directly to said board of trustees,  
22 and by it used in the purchase of new books for any public  
23 library or branch and for the maintenance and operation  
24 thereof in the discretion of said board.

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

# RESOLUTIONS

## HOUSE CONCURRENT RESOLUTION NO. 1

(BY MR. LAFON)

[Adopted January 13, 1937.]

Raising a joint committee to notify the Governor that the Legislature has assembled in regular session and has organized by the election of officers.

*Resolved by the House of Delegates, the Senate concurring therein:*

That a joint committee be appointed, three by the President of the Senate, and three by the Speaker of the House of Delegates, to wait upon His Excellency, the Governor, and inform him that the Legislature has assembled in regular session, has organized by the election of officers as required by the constitution, and is ready; with a quorum of each house present, to proceed with the business of the session, and is ready to receive any communication or message he may desire to present.

## HOUSE CONCURRENT RESOLUTION NO. 2

(BY MR. SPEAKER, MR. THOMAS)

[Adopted January 13, 1937.]

Concerning the great and unfortunate sorrow visited upon Governor H. G. Kump.

WHEREAS, His Excellency, the Governor of West Virginia, has silently borne a tremendous burden of sorrow throughout the past months, through the mortal and prolonged illness of his beloved daughter, Elizabeth, this personal grief adding greatly to the Executive's already strenuous task of an honest and fearless guidance of state affairs; and

WHEREAS, The agonizing strain of suspense and anxiety; in the

final days of his administration, came at a crucial time and marred a period that should have closed flawlessly and in happy recollection; and

WHEREAS, The final stroke of adversity, in the death of Miss Elizabeth last Saturday, January 9, made the hour of most intense grief practically coincide with the closing hours of his honored office; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the Legislature of West Virginia hereby extends its sincere and heartfelt sympathy to its respected Executive, Governor H. G. Kump, in his extreme misfortune and sorrow; and, be it

*Further Resolved,* That we hereby commend the Governor for his admirable courage and unselfish devotion to duty in the face of personal worry and grief; and, be it

*Further Resolved,* That a copy of this resolution be transmitted to Governor Kump, and the action of the Legislature be reported to the press.

#### HOUSE CONCURRENT RESOLUTION NO. 4

(BY MR. LAFON)

[Adopted January 14, 1937.]

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 biennial message of His Excellency, the Governor.

#### HOUSE CONCURRENT RESOLUTION NO. 5

(BY MR. LAFON)

[Adopted January 22, 1937.]

Extending the time allowed the Board of Public Works for submitting the budget for the ensuing fiscal years.

WHEREAS, Under subsection B, section fifty-one, article six of the state constitution, the Board of Public Works shall submit to the Legislature within ten days after the convening thereof, unless such time shall be extended by the Legislature for the sessions at which the budget is to be submitted, two budgets, one for each of the ensuing fiscal years; and

WHEREAS, The Governor and the Board of Public Works have requested the President of the Senate and the Speaker of the House of Delegates, to request their respective bodies for an extension of the time within which the biennial budget bill shall be submitted to the Legislature; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the Legislature hereby extends the time in which the Board of Public Works shall submit the budget until February 2, 1937.

## HOUSE CONCURRENT RESOLUTION NO. 8

(BY MR. OLDHAM)

[Adopted January 29, 1937.]

Concerning parking space on the capitol grounds for automobiles of the members of the Legislature.

WHEREAS, The State Capitol Building is located at such distance from the hotels in the city of Charleston that many members of the Legislature find it not only convenient but necessary that they keep and maintain their automobiles in Charleston during the session of the Legislature; and

WHEREAS, The problem of parking their cars when attending the sessions of the Legislature creates an unusual hardship and inconvenience; and

WHEREAS, There is sufficient parking space upon the north side of the capitol building, between the two units, and within the capitol grounds for the parking of cars of members of the Legislature; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the parking space upon the capitol grounds situate on the north side of the state capitol building, between the two units, be and the same is hereby reserved for the parking of cars of members of the Legislature during this and all future sessions of the Legislature and the Superintendent of Capitol Buildings and Grounds is hereby directed to have erected proper signs reserving this space for parking of cars of members of the Legislature, and to take such steps as may be necessary to keep other cars from being parked upon the space so reserved; and, be it

*Further Resolved*, That the state road commission be requested to have made at its tag plant, proper tags to be attached to the cars of the members of the Legislature, and said tags shall be issued by the Clerks of the two houses to members of the Legislature only.

#### HOUSE CONCURRENT RESOLUTION NO. 9

(BY MR. BIBB)

[Adopted February 4, 1937.]

Providing for the appointment of a joint committee to consider the advisability and need for, and the cost of purchasing grounds and constructing a capitol office building.

*Resolved by the House of Delegates, the Senate concurring therein:*

That a joint committee of six members, to consist of three from the Senate, to be appointed by the President thereof, and three from the House of Delegates, to be appointed by the Speaker thereof, be raised to consider the advisability of the construction of an office building for the use of state departments, offices, boards and commissions, and the cost of construction and location of same. This committee shall report its findings together with its recommendations to the Legislature not later than February 20, 1937.

In obtaining the necessary facts and information to carry out the provisions of this resolution the committee is hereby authorized to use the services of such employees of the Senate and House of Delegates as may be assigned to it by the President and Speaker

of the respective houses. The committee is further empowered to call upon any of the departments of the state government for any information or service it may need: *Provided*, That the committee shall not incur any expense to the state or obligate the state or the Legislature in any manner whatsoever.

## HOUSE CONCURRENT RESOLUTION NO. 13

(BY MR. JONES, OF McDOWELL)

[Adopted February 8, 1937.]

Concerning the establishment of a Reserve Officers' Training Corps Unit at West Virginia State College.

WHEREAS, West Virginia State College at Institute, West Virginia, as a land-grant college, is required by law to offer military training as a part of its curriculum and is eligible for the establishment of a Reserve Officers' Training Corps unit at the college under the provisions of army regulations; and

WHEREAS, The aforesaid college has made formal application to the Adjutant General of the United States Army for the establishment of a senior unit of the Reserve Officers' Training Corps at the college; and

WHEREAS, The said application was made with the authorization and approval of the West Virginia State Board of Education, the official governing board of the college, as required by army regulations; and

WHEREAS, The aforesaid application is now on file in the office of the Adjutant General of the United States Army, pending available funds and personnel for the establishment of additional units; and

WHEREAS, The proposal to establish a Reserve Officers' Training Corps Unit at the aforesaid college has the support of civic organizations in the State of West Virginia; viz., the West Virginia State Congress of Parents and Teachers, the West Virginia High School Principals' Conference, and the American Legion, Department of West Virginia, as evidenced in each case by formal resolutions to that effect; and

WHEREAS, The establishment of the aforesaid Reserve Officers' Training Corps Unit at the aforesaid college will make available to Negro youth of the State of West Virginia a valuable type of civic training, for the benefit of the State and of the United States, not now available to them; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the application of West Virginia State College for the establishment of a senior unit of the Reserve Officers' Training Corps at said college be and is hereby heartily endorsed; and, be it

*Further Resolved,* That the Honorable Matthew M. Neely and the Honorable Rush D. Holt, United States Senators from West Virginia, and the Honorable Robert L. Ramsey, the Honorable Jennings Randolph, the Honorable Andrew Edmiston, the Honorable George W. Johnson, the Honorable John Kee, and the Honorable Joe L. Smith, our members of the House of Representatives, each be requested and urged to use every honorable means to secure the establishment of the aforesaid unit and to present this resolution in support of such establishment to the Adjutant General of the United States Army, to the Honorable Secretary of War, and to the Honorable Franklin D. Roosevelt, President of the United States.

#### HOUSE CONCURRENT RESOLUTION NO. 14

(BY MR. RUSSEK)

[Adopted February 5, 1937.]

Inviting His Excellency, the Governor, to address a joint assembly of the Legislature.

*Resolved by the House of Delegates, the Senate concurring therein:*

That His Excellency, the Governor, be and he is hereby invited to address a joint assembly of the Legislature at 3:00 o'clock P. M., Monday, February 8, 1937.



## HOUSE CONCURRENT RESOLUTION NO. 15

(BY MR. LAFON)

[Adopted February 8, 1937.]

Providing for a joint assembly.

WHEREAS, Under House Concurrent Resolution No. 14, adopted February 5, 1937, His Excellency, the Governor, was invited to address a joint assembly of the Legislature at 3:00 o'clock P. M. today; and

WHEREAS, His Excellency, the Governor, has informed the President of the Senate and the Speaker of the House of Delegates that he desires to address a joint assembly at 3:00 o'clock P. M. today; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the Legislature meet in joint assembly in the hall of the House of Delegates at 3:00 o'clock P. M. today to hear the address of His Excellency, the Governor; and, be it

*Further Resolved,* That the President of the Senate appoint three members of that body and that the Speaker of the House of Delegates appoint three members of that body as a committee to wait upon His Excellency, the Governor, and escort him to the hall of the House of Delegates at 3:00 o'clock P. M. this day.

## HOUSE CONCURRENT RESOLUTION NO. 18

(BY MR. SPEAKER, MR. THOMAS)

[Adopted February 12, 1937.]

Deploing the death of the Honorable Ben H. Butcher, a member of the House of Delegates.

WHEREAS, This body has learned with unfeigned sorrow of the death of the Honorable Ben H. Butcher, late a Delegate from the County of Wood, which occurred this afternoon, February 12, 1937, at a Charleston hospital, resulting from pneumonia; and

WHEREAS, The deceased was an eminent lawyer, statesman, fra-

ternalist and a learned, conscientious and worthy public official; and

WHEREAS, This former distinguished Delegate enjoyed the distinction of being the oldest member of this Legislature, and furthermore, as a member of the Fourteenth Legislature, he had the further distinction of being the youngest member; and

WHEREAS, This distinguished West Virginian, in addition to serving as a member of the Fourteenth, Fortieth, Forty-first, Forty-second and Forty-third Legislatures of this state, also served as a member of both houses of the Colorado Legislature, and as District Attorney for the Ninth Judicial District of that state; and

WHEREAS, Due to his rare knowledge and sympathy with mankind, together with his ability for leadership, and due to his tolerance, tactfulness, fairness and honesty, the deceased was loved by all who knew him, and was an outstanding and valuable public official; and

WHEREAS, Because of the ability and loyalty with which the deceased discharged the duties of public office, as well as his natural desire to do all the good he could for others, the people of this state have suffered the loss of a true friend; and

WHEREAS, He was an outstanding leader of the Democratic party, and loved and respected by members of all political groups; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the members of the Legislature of West Virginia here assembled, realizing the great and irreparable loss sustained in the passing of this distinguished member of the House of Delegates, hereby extend the deepest and most profound sympathy of the Legislature to the members of the family of the deceased in their bereavement; and, be it

*Further Resolved,* That out of respect to the memory of the deceased that the Sergeants-at-Arms of the two houses have the flags lowered to half-mast until after the funeral; and, be it

*Further Resolved,* That the President of the Senate appoint a committee of five and the Speaker of the House of Delegates appoint a committee of ten to attend the funeral, and that appro-

priate floral emblems be procured by the Clerks of the two houses, in the usual manner, and sent to the late home of the deceased; and, be it

*Further Resolved*, That during this session of the Legislature the presiding officers of the two houses shall fix a time and place for holding of joint memorial services, at which time members will be permitted to pay further tribute to the memory of the deceased; and, be it

*Further Resolved*, That as a further mark of respect upon the adoption of this resolution, the Legislature adjourn until 2:00 o'clock P. M. Monday, February 15, 1937.

## HOUSE CONCURRENT RESOLUTION NO. 20

(BY MR. SKINNER)

[Adopted February 15, 1937.]

Concerning the death of the Honorable John L. Wever, the Delegate from the County of Berkeley.

WHEREAS, Again the Legislature learns with genuine and profound sorrow of the death of another of its members, the Honorable John L. Wever, late a Delegate from the County of Berkeley, who departed this life on Sunday, February 14, 1937; and

WHEREAS, The deceased, a son of the late C. A. Wever, a former member of the House of Delegates, was serving his first term as a member of the Legislature, and had during this session demonstrated his desire and ability to conscientiously and faithfully serve the people of the state as a worthy and capable legislator; and

WHEREAS, This late member has always been active and interested in political and public affairs; and

WHEREAS, As a clerk in the Martinsburg post office for a number of years he rendered efficient and courteous service, and for a number of years had been a valuable and skillful machinist in the Baltimore and Ohio railroad shops at Martinsburg; and

WHEREAS, During the short time that the deceased had served as a member of the House of Delegates he had made many warm friends; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the members of the Legislature here assembled hereby express their deepest sorrow for the loss of this fellow member, and extend to his widow and family the heartfelt sympathy of the members of this Legislature in their bereavement; and, be it

*Further Resolved,* That out of respect to the memory of the deceased that the flags over the capitol be lowered to half-mast until after the funeral; and, be it

*Further Resolved,* That the President of the Senate appoint a committee of five members of that body, and that the Speaker of the House of Delegates appoint a committee of ten, which shall include himself, to attend the funeral of the deceased, and that appropriate floral emblems be procured by the Clerks of the two Houses, in the usual manner, and sent to the late home of the deceased; and, be it

*Further Resolved,* That during this session of the Legislature the presiding officers of the two Houses fix a time for holding joint memorial services, at which time further tribute may be paid to the memory of the deceased Delegate; and, be it

*Further Resolved,* That as a further mark of respect upon the adoption of this resolution the two Houses recess for fifteen minutes, and that when the two Houses adjourn on Tuesday, February 16th, they adjourn until 2:00 o'clock P. M., Thursday, February 18th.

HOUSE CONCURRENT RESOLUTION NO. 21

(BY MR. TAYLOR, OF FAYETTE, AND MR. BRICE)

[Adopted February 15, 1937.]

Relating to the death of Mr. Robert H. Horner.

WHEREAS, Death on Monday morning, February 15, 1937, ended the earthly career of Mr. Robert H. Horner, late a reporter and political writer for the Charleston Daily Mail; and

WHEREAS, The newspaper career of the deceased has been worthy and illustrious, and in all his reporting and writing he has always been painstaking and cautious in presenting only true facts, always

displaying a high degree of professional ethics, and always holding the public good foremost; and

WHEREAS, For many years Mr. Horner has been an accredited member of the press, reporting the proceedings in both the Senate and House of Delegates in this state for the past sixteen years; and

WHEREAS, Mr. Horner was fair and impartial in chronicling the proceedings of these bodies, a man of high honor and standing in the newspaper profession, loved and admired for the manly manner in which he portrayed men and measures; and

WHEREAS, The newspaper profession has lost a man of high ideals and splendid character in his death and the members of the Senate and House of Delegates have lost a friend and confidant; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That we receive the news of the death of Mr. Horner with unfeigned sorrow and that our deep sympathies be extended to his widow and children; and, be it

*Further Resolved,* That appropriate floral emblems be procured by the Clerks of the two Houses, in the usual manner, and sent to the late home of the deceased; and, be it

*Further Resolved,* That a copy of this resolution, duly attested by the presiding officers of each House and the clerks thereof, be transmitted to Mrs. Horner and the four sons who are left to mourn their loss.

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## HOUSE CONCURRENT RESOLUTION NO. 22

(BY MR. VAN SICKLER)

[Adopted February 26, 1937.]

Relating to the one hundred sixtieth anniversary of the organization of Greenbrier County.

WHEREAS, It has come to the attention of the Legislature that plans are under way for a suitable and appropriate celebration in the year one thousand nine hundred thirty-eight, of the one hundred sixtieth anniversary of the organization of Greenbrier

County, which, at the time of its establishment by law in 1778, comprised in whole or in part the present counties of Braxton, Calhoun, Clay, Fayette, Jackson, Kanawha, Mason, Monroe, Nicholas, Pocahontas, Putnam, Roane, Summers, Webster, Wirt and Wood; and

WHEREAS, Said celebration is being promoted and sponsored by a patriotic and responsible group of citizens of said Greenbrier County, in association with others from the vast territory embraced in its original boundary; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the laudable and praiseworthy undertaking referred to in the preamble hereof be, and the same is hereby given the approval of this Legislature; that official recognition of said anniversary by the state is hereby granted; and that the citizens generally be requested to participate in such commemoration of the founding of one of the country's most important subdivisions of early history.

### HOUSE CONCURRENT RESOLUTION NO. 23

(BY MR. RIGHTER)

[Adopted March 1, 1937.]

Requesting editors of National Geographic Magazine to give story and picturization of natural beauty and resources of West Virginia.

WHEREAS, A publication known as the National Geographic Magazine is devoted to the description in words and pictures of places of beauty and distinction throughout the world; and

WHEREAS, The state of West Virginia yields to no section in its boast of scenic beauty; and

WHEREAS, It is growing in its industrial importance and has many fine plants; and

WHEREAS, It leads all states in the production of bituminous coal; and

WHEREAS, It is important from a standpoint of information as

well as economics that the state become better known to industrial leaders and the traveling public; and

WHEREAS, The aforementioned publication has a wide circulation throughout the nation; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the editors of the National Geographic Magazine be asked to send descriptive writers and cameramen to West Virginia for a detailed story and picturization of our state's natural beauty and resources to be given to the nation at large; and, be it

*Further Resolved,* That the Governor appoint a committee to confer with the Honorable Gilbert Grosvenor, editor of the National Geographic, as to the edition on West Virginia, said committee to serve without compensation.

## HOUSE CONCURRENT RESOLUTION NO. 25

(BY MR. HODSON)

[Adopted March 4, 1937.]

Concerning state printing.

WHEREAS, The International Allied Printing Trades Association and its subsidiary councils in the state of West Virginia have been recognized as a conservative and stabilizing influence in this state; and

WHEREAS, The Legislature of the state of West Virginia recognizes that the above-named organizations have in the past provided competent and efficient men and women to carry out the state printing without the loss of time and its resultant loss of money to the state; and

WHEREAS, The ideals of the above organizations are above reproach and have in the past shown themselves to be worthy of merit; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the Board of Public Works, or other officers of the state empowered by law to let contracts for printing, are urged by the Legislature to have placed on such printing the label of the "International Allied Printing Trades Association", or its subordinate councils.

### HOUSE CONCURRENT RESOLUTION NO. 28

(BY MESSRS. SHINN, RIFTER, JAMES AND JENNINGS)

[Adopted March 4, 1937.]

Concerning the death of the Honorable Roy R. Hornor, a member of the advisory board of the State Road Commission.

WHEREAS, The Legislature has today received the sad news of the death of the Honorable Roy R. Hornor, of Clarksburg, West Virginia; and

WHEREAS, He was a distinguished citizen of our state, an engineer and metallurgist of outstanding ability; was well known as a capable and active head in many progressive movements, with which he was identified; and

WHEREAS, He served his state faithfully and ably, as a member of the advisory board of the State Road Commission; and

WHEREAS, By reason of his rare knowledge, he was called upon to serve in many other important posts, including projects in South Africa, Central America, Mexico and British Columbia; and

WHEREAS, Since June, 1935, he has served as president of the Upper Monongahela Valley Association, a group formed to develop the area embraced in the valley; and

WHEREAS, During the World War he served his country with distinction as an officer in the U. S. Engineers; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That this Legislature deplores the death of this distinguished citizen and recognizes his passing as a distinct loss to the entire state; and, be it



*Further Resolved.* That the sympathy of the two houses of the Legislature is extended to his surviving relatives, to whom the clerks of the two houses are directed to send copies of this resolution.

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HOUSE CONCURRENT RESOLUTION NO. 30

(BY MR. BIBB)

[Adopted March 9, 1937.]

Relating to the one hundredth anniversary of the incorporation of the City of Beckley, Raleigh County, West Virginia.

WHEREAS, It has come to the attention of the Legislature that plans are under way for a suitable and appropriate celebration in the year one thousand nine hundred thirty-eight, of the one hundredth anniversary of the incorporation of the City of Beckley, Raleigh County, West Virginia; and

WHEREAS, Said celebration is being promoted and sponsored by the Beckley Chamber of Commerce and the citizens of the City of Beckley with others from the surrounding territory; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the laudable and praiseworthy undertaking referred to in the preamble hereof be, and the same is hereby given the approval of this Legislature; that official recognition of said anniversary by the state is hereby granted; and that the citizens generally be requested to participate in such commemoration of the founding of one of the state's oldest and fastest-growing cities in the heart of one of the greatest soft coal sections of the United States.

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HOUSE CONCURRENT RESOLUTION NO. 31

(BY MR. HUSSION)

[Adopted March 8, 1937.]

Granting permission to introduce a bill relating to the city of Grafton issuing bonds and increasing levies for the purpose of construction, equipping and maintaining a municipal hospital.

*Resolved by the Legislature of West Virginia, two-thirds of all the members of each House present and voting concurring therein:*

That permission is hereby granted to introduce a bill with the following title:

“A Bill to amend and reenact section ten of an act of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-seven, known and designated as house bill number two hundred forty-four, relating to the city of Grafton issuing bonds and increasing levies for the purpose of constructing, equipping and maintaining a municipal hospital.”

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HOUSE CONCURRENT RESOLUTION NO. 32

(BY MR. LAFON)

[Adopted March 8, 1937.]

Granting permission to introduce a bill relating to funds of the public service commission.

*Resolved by the Legislature of West Virginia, two-thirds of all the members of each House present and voting concurring therein:*

That permission is hereby granted to introduce a bill with the following title:

“A Bill to amend and reenact section three of an act of the Legislature, regular session, one thousand nine hundred thirty-seven, known and designated as house bill number one hundred eighty-two, relating to the use and disposition of certain funds of the public service commission.”

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HOUSE CONCURRENT RESOLUTION NO. 34

(BY MR. SHORES)

[Adopted March 10, 1937.]

Granting permission to introduce a bill relating to bridges.

*Resolved by the Legislature of West Virginia, two-thirds of all the members of each House present and voting concurring therein:*

That permission is hereby granted to introduce a bill with the following title:

“A Bill to amend and reenact section twenty-six, article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter forty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, relating to bridges.”

### HOUSE CONCURRENT RESOLUTION NO. 35

(BY MESSRS. JENNINGS AND SHINN)

[Adopted March 13, 1937.]

Extending the appreciation of the Legislature to Colonel P. D. Shingleton for his services as Superintendent of the Department of Public Safety.

WHEREAS, It has come to the attention of the Legislature that the Honorable P. D. Shingleton has resigned as Superintendent of the Department of Public Safety; and

WHEREAS, It is the belief of the Legislature that the said Colonel P. D. Shingleton has been an exceptionally able, trustworthy and honest public servant, especially fitted for the post which he has recently relinquished; and

WHEREAS, The Legislature realizes that His Excellency, the Governor, does not have an easy task in selecting a successor to the said Colonel P. D. Shingleton as Superintendent of the Department of Public Safety; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the Legislature of West Virginia hereby expresses its appreciation for the outstanding administration of the said Colonel P. D. Shingleton; and, be it

*Further Resolved*, That the Legislature feels that it is the consensus of opinion of the Legislature that the resignation of Colonel P. D. Shingleton is a distinct and irreparable loss to the state of West Virginia; and, be it

*Further Resolved*, That in appreciation for the splendid services rendered as Superintendent of the Department of Public Safety, and of the high esteem in which Colonel Shingleton has been held by the public, that the Legislature of West Virginia hereby regrets the loss of the services of this distinguished public servant; and, be it

*Further Resolved*, That a copy of this resolution be transmitted by the Clerk of the House of Delegates to the Honorable P. D. Shingleton with the request that he reconsider his action in resigning as Superintendent of the Department of Public Safety and remain in the service of the state of West Virginia.

#### HOUSE CONCURRENT RESOLUTION NO. 37

(BY MR. STROUSS)

(Originating in the Committee on Rules)

[Adopted March 13, 1937.]

Authorizing the printing and distribution of the acts of the Legislature, regular session, one thousand nine hundred thirty-seven.

*Resolved by the House of Delegates, the Senate concurring therein:*

That under authority of section thirteen, article one, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, the Clerk of the House of Delegates is hereby directed to have printed by the public printer four thousand advanced copies of the acts of this session of the Legislature, headnoted in accordance with the form and style of headnoting used in the code of West Virginia, one thousand nine hundred thirty-one, 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, circuit, criminal and intermediate courts, and the county officials.

The public printer shall print and deliver said advance copies as soon as possible after the adjournment of this session. The Clerk of the Senate shall be furnished sufficient copies to forward by mail or express ten of said copies to each member of the State

Senate, and the Clerk of the House of Delegates shall forward by mail or express ten copies of said acts to each member of the House of Delegates as soon as the same are printed and available for distribution. The Clerk of the House of Delegates shall also furnish one copy to each of the state officials, judges of the Supreme Court of Appeals, circuit, criminal, common pleas and intermediate courts of this state, and shall forward to the county clerk of each county sufficient copies to furnish one copy to each county office; the remainder, if any, shall be delivered to the superintendent of public printing for distribution by him.

The Clerks of the two Houses are also authorized and directed to have printed in signature form for advance sheets, any general law which they may deem to be of sufficient importance to be issued and distributed in this form.

To pay postage or expressage on said advance copies, the sum of three hundred dollars is hereby directed to be paid by the Auditor from the Contingent Fund of the House of Delegates upon proper warrants of the Clerk of the House of Delegates, and the sum of one hundred fifty dollars out of the Contingent Fund of the Senate upon proper warrants of the Clerk of the Senate.

For the work required in printing and distributing advanced copies of the acts and for the proofreading, indexing and printing the bound volumes of the acts of this session of the Legislature, the time of the Clerk of the House of Delegates and the following assistants is extended for the time herein set out, at the same per diem as paid during this regular session of the Legislature; to-wit:

The Clerk, stenographer to the Clerk, one senior and two assistant clerks, the Journal clerk, the Journal stenographer, the supervisor of printing, seven clerks, four proofreaders and one stenographer is extended for sixty days.

The Clerk of the House of Delegates shall draw his warrants upon the Auditor in favor of the persons appointed under authority of the foregoing provisions of this resolution, and entitled to per diem, for consecutive days until such time as their services cease, and the Auditor shall honor and pay such warrants when presented and charge same to the Contingent Fund of the House of Delegates.

For assisting in the preparation and printing of said acts, the time of the Clerk of the Senate at twenty dollars per diem, two assistant clerks at twelve dollars per diem each, one Journal stenographer at nine dollars per diem, and four printing clerks at eight dollars per diem each, respectively, is extended for sixty days, and the time of two printing clerks at eight dollars per diem each, respectively, is extended for thirty days.

The Clerk of the Senate shall draw his warrants in favor of the persons appointed under authority of this resolution on the part of the Senate, for consecutive days until such time as their services cease, and the Auditor shall honor and pay such warrants when presented and charge same to the Contingent Fund of the Senate.

The President of the Senate and the Speaker of the House of Delegates shall have authority to remove any person given an extension of per diem under authority of this resolution, except elective officers of the Senate and the House of Delegates, on the part of their respective bodies, and to appoint another in his place, or to fill any vacancy that may occur.

### HOUSE CONCURRENT RESOLUTION NO. 38

(BY MR. STROUSS)

[Adopted March 13, 1937.]

Raising a joint committee to notify His Excellency, the Governor, that the Legislature is ready to adjourn *sine die*.

*Resolved by the House of Delegates, the Senate concurring therein:*

That a joint committee of six, consisting of three 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 to notify His Excellency, the Governor, that the Legislature has completed its labors, is ready to adjourn *sine die*, and inquire of him if he has any further communication to make to the Legislature.

## HOUSE JOINT RESOLUTION NO. 3

(BY MR. SPEAKER, MR. THOMAS)

[Adopted February 16, 1937.]

Proposing an amendment to the constitution of the state, amending section six, article eleven thereof, relating to the creation, organization, and regulation of banking institutions.

*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 six, article eleven of the constitution of the state be amended to read as follows:

Section 6. The Legislature may provide by general law for the creation, organization, and regulation of banking institutions.

## HOUSE RESOLUTION NO. 1

(BY MR. PAUL)

(Originating in the Committee on Rules)

[Adopted January 13, 1937.]

Adopting rules for the House of Delegates.

*Resolved by the House of Delegates:*

That the rules of the House of Delegates for the extraordinary session beginning December 14 and ending December 16, 1936, are hereby adopted as the rules to govern proceedings of this session of the Legislature.

## HOUSE RESOLUTION NO. 2

(BY MR. TAYLOR, OF FAYETTE)

[Adopted January 13, 1937.]

Election of Speaker and other officers of the House of Delegates.

WHEREAS, On December 14, 1936, His Excellency, the Governor, by proclamation convened the Legislature of West Virginia in ex-

traordinary session at the Capitol in the City of Charleston, to enter upon and consider the matters set forth in said proclamation; and

WHEREAS, In pursuance to such proclamation members of the House of Delegates assembled in the hall of the House of Delegates at the Capitol in the City of Charleston on Monday, December 14, 1936; and

WHEREAS, The House of Delegates was called to order at 2:00 o'clock P. M. on Monday, December 14, 1936, by John S. Hall, Clerk of the House of Delegates; and

WHEREAS, Said John S. Hall called the Honorable Ben H. Butcher of the county of Wood, the oldest member present, to preside until the election of a Speaker; and

WHEREAS, The Secretary of the State transmitted and delivered to the Clerk of the House of Delegates a list of persons appearing to have been elected as members of the House of Delegates on the 3rd day of November, 1936; and

WHEREAS, All the persons whose names appear on such list transmitted by the Secretary of the State appeared on said 14th day of December, 1936, in the hall of the House of Delegates, and qualified by taking and subscribing to the several oaths of office prescribed by section sixteen, article six of the Constitution, except Lee L. Foster, a Delegate-elect from the county of McDowell, and Robert Morris, the Delegate-elect from the county of Ritchie; and

WHEREAS, Upon a call of the roll on said 14th day of December, 1936, ninety-two members answered to their names; and

WHEREAS, There being a quorum present, the presiding officer announced the next order of business being the election of a Speaker, whereupon, W. T. Brotherton nominated James Kay Thomas of the County of Kanawha, and Orren L. Jones nominated Kenneth S. Kurtz of the County of Lewis; and

WHEREAS, On motion of Mr. Kurtz, James Kay Thomas was elected Speaker by the unanimous vote of all the members present, and was declared elected Speaker by the presiding officer; and

WHEREAS, Said James Kay Thomas on the 14th day of December, 1936, in the hall of the House of Delegates, took the oath of



office prescribed by law to be taken by the Speaker, and was escorted to the chair and entered upon his duties as Speaker; and

WHEREAS, The House of Delegates at said session on the 14th day of December, 1936, proceeded to complete its organization by the election of John S. Hall as Clerk; Harry Holswade as Sergeant-at-Arms, and Clark Neal as Doorkeeper; therefore, be it

*Resolved by the House of Delegates:*

That James Kay Thomas of the County of Kanawha, be, and he is hereby elected and declared to be the Speaker of the House of Delegates; and, be it

*Further Resolved,* That John S. Hall, be, and he is hereby elected and declared to be the Clerk of the House of Delegates; and, be it

*Further Resolved,* That Harry Holswade and Clark Neal, be, and they are hereby elected and declared to be Sergeant-at-Arms and Doorkeeper, respectively, of the House of Delegates.

### HOUSE RESOLUTION NO. 3

(BY MR. MORTON)

[Adopted January 13, 1937.]

Raising a committee to inform the Senate that the House of Delegates is organized.

*Resolved by the House of Delegates:*

That the Speaker appoint a committee of three to inform the Senate that the House of Delegates has assembled, with a quorum present, has organized by the election of the Honorable James Kay Thomas as Speaker, and the Honorable John S. Hall as Clerk, and is ready to proceed with the business of the session.

### HOUSE RESOLUTION NO. 4

(BY MR. BROTHERTON)

[Adopted January 13, 1937.]

Providing for the appointment of a delegation to attend the Third General Assembly at Washington, D. C.

WHEREAS, The Third General Assembly will be held at the May-

flower Hotel, Washington, D. C., Thursday, Friday, Saturday, and Sunday, January 21-24, 1937, to deliberate upon important interstate problems requiring cooperative action by the states with each other, and with the federal government; and

WHEREAS, To such Third General Assembly will report the following Interstate Commissions and National Associations:

Interstate Commission on Conflicting Taxation, Tax Revision Council, Interstate Commission on Crime, Interstate Commission on Social Security, Interstate Commission on the Delaware River Basin, Interstate Commission on Council Development, Interstate Commission on Conservation, American Legislators' Association, National Association of Attorneys General and National Association of Secretaries of State; and

WHEREAS, The aforesaid affiliates of the Council of State Governments are ready to present tangible recommendations, some in the form of model legislative measures, based on their studies during the interim since the Assembly of 1935; and

WHEREAS, The Third General Assembly offers an opportunity through section meetings for the consideration by the delegates of other matters requiring cooperative action; and

WHEREAS, It is believed that substantial benefits would result from this state's representation at the Third General Assembly, and that such Assembly offers a means of surmounting obvious difficulties arising in governmental activities due to the absence of facilities for conference between governmental units; and

WHEREAS, The House of Delegates of this state is invited to send delegates to this Assembly, which delegation shall be entitled to one vote; therefore, be it

*Resolved by the House of Delegates:*

That the Speaker is hereby authorized and instructed to appoint three members of the House of Delegates as a delegation to the Third General Assembly, which convenes in Washington, D. C., on January 21, 1937. Such delegation shall be and is hereby instructed to return to this body and report the definite recommendations of the Third General Assembly. Such delegation shall be without power to commit the House of Delegates to action; and, be it

*Further Resolved*, That the said delegation be entitled to reimbursement for its reasonable expenses out of the contingent fund of the House of Delegates upon proper warrants of the Clerk; and, be it

*Further Resolved*, That the Clerk of the House of Delegates immediately notify the Council of State Governments, Drexel Avenue and Fifty-Eighth Street, Chicago, Illinois, of the appointment of such delegation.

### HOUSE RESOLUTION NO. 5

(BY MR. OLDFHAM)

[Adopted January 13, 1937.]

Authorizing the Clerk to compile and publish a Legislative Manual.

*Resolved by the House of Delegates:*

That the Clerk is hereby authorized to compile and have printed, without delay, a Legislative Manual containing the rules of the Senate and the House of Delegates, the joint rules of the Senate and the House of Delegates, and such other matter and material as he may deem to be useful and convenient for members of the Legislature.

### HOUSE RESOLUTION NO. 6

(BY MR. PORTER)

[Adopted January 14, 1937.]

Authorizing the Clerk to draw his warrants upon the Auditor for mileage for members of the House of Delegates.

*Resolved by the House of Delegates:*

That the Clerk is hereby authorized and directed to draw his warrants upon the Auditor for mileage of members for this session of the Legislature in the amounts herein set out:

<i>Name</i>	<i>Miles</i>	<i>Amount</i>
J. O. Bailiff.....	200	\$20.00
Virgil M. Bias.....	52	5.20
H. D. Beeler.....	670	67.00

<i>Name</i>	<i>Miles</i>	<i>Amount</i>
T. E. Bibb.....	160	16.00
Clarence B. Bishoff.....	444	44.40
W. C. Bobbitt.....	100	10.00
John W. Bosworth.....	332	33.20
Malcolm T. Brice.....	534	53.40
W. Carson Browning.....	144	14.40
Emmett J. Bush.....	180	18.00
Ben H. Butcher.....	160	16.00
Carl Calvert.....	30	3.00
B. O. Cresap.....	564	56.40
Delbert C. Daugherty.....	160	16.00
Fred L. Doringar.....	440	44.00
George W. Dye.....	160	16.00
Lloyd Erhard.....	484	48.40
George Evans.....	418	41.80
Robert L. Eye.....	868	86.80
Lewis E. Fite.....	454	45.40
O. C. Flint.....	160	16.00
Lee L. Foster.....	444	44.40
Wm. Taylor George, Jr.....	390	39.00
A. T. Gordon.....	102	10.20
Geo. H. Gunnoe.....	104	10.40
Jno. W. Haldren.....	470	47.00
Wm. H. Havercamp.....	534	53.40
Chas. Heath.....	544	54.40
Ermil D. Hodson.....	160	16.00
Grover C. Hunter.....	160	16.00
William J. Hussion.....	400	40.00
Greely Isaacs.....	90	9.00
Howard J. James.....	320	32.00
Wm. Bryan Jennings.....	312	31.20
Roy F. Jimison.....	64	6.40
Fleming A. Jones.....	420	42.00
Orren L. Jones.....	400	40.00
W. D. Keister.....	104	10.40
C. C. Kingsbury.....	152	15.20
Kenneth S. Kurtz.....	234	23.40
William M. LaFon.....	258	25.80
W. A. Light.....	470	47.00

## HOUSE RESOLUTIONS

587

<i>Name</i>	<i>Miles</i>	<i>Amount</i>
Claude R. Linger.....	230	23.00
Wm. J. Long.....	618	61.80
James O. Marcum.....	120	12.00
A. M. Martin.....	84	8.40
R. L. Matthews.....	54	5.40
E. M. McConihay.....	28	2.80
Robert L. McCoy.....	440	44.00
June McElwee.....	304	30.40
T. H. McKinley.....	160	16.00
Forrest L. McNeer.....	210	21.00
George Miley.....	540	54.00
William T. Milleson.....	570	57.00
Robert Morris.....	236	23.60
E. H. Morton.....	230	23.00
Melvin C. Muntzing.....	840	84.00
J. A. Neal.....	212	21.20
George W. Oldham.....	534	53.40
Chas. F. Ong.....	80	8.00
Hugh Paul.....	144	14.40
Harry R. Pauley.....	418	41.80
Lester Perry.....	144	14.40
J. B. Porter.....	104	10.40
J. C. Powell.....	342	34.20
John W. Pyles.....	500	50.00
Edgar E. Righter.....	320	32.00
Stephen J. Russek.....	534	53.40
Mark Russell.....	250	25.00
Lorentz See.....	320	32.00
Fred L. Shinn.....	320	32.00
H. G. Shores.....	592	59.20
John B. Sydenstricker.....	274	27.40
Jno. C. Skinner.....	900	90.00
Harold D. Slaven.....	450	45.00
S. L. Smith.....	268	26.80
John Storm.....	544	54.40
Junius Strouss.....	450	45.00
Claud V. Swann.....	104	10.40
J. Alfred Taylor.....	110	11.00
Glenn Taylor.....	250	25.00

<i>Name</i>	<i>Miles</i>	<i>Amount</i>
Alex Tinsley.....	98	9.80
Ashby L. Thomas.....	440	44.00
Harry L. Van Sickler.....	274	27.40
Mrs. Nell W. Walker.....	124	12.40
Jason T. Weissenburger.....	114	11.40
John L. Wever.....	908	90.80
E. E. White.....	72	7.20
H. Dennis Wright.....	470	47.00

*Provided further*, That the Auditor shall honor said warrants for mileage and charge same to the "mileage for members' fund" of the House of Delegates in advance of the appropriation for the purposes.

#### HOUSE RESOLUTION NO. 7

(BY MR. NEAL)

[Adopted January 14, 1937.]

Providing for a mailing list for House Journals.

*Resolved by the House of Delegates:*

That the Clerk of the House of Delegates is authorized to have mailed from the House document room, copies of the daily Journals of the House to lists of persons to be furnished to the Clerk by the members of the House of Delegates; ten names may be submitted by each member of the House of Delegates, and the expense of such mailing, including postage, shall be paid by the Auditor out of the contingent fund of the House of Delegates, in advance of the appropriation therefor, upon proper warrants of the Clerk; and, be it

*Further Resolved*, That the Clerk is authorized to mail copies of bills to persons requesting same.

#### HOUSE RESOLUTION NO. 8

(BY MR. PAUL)

[Adopted January 15, 1937.]

Authorizing payment for services rendered preliminary to the opening of this session.

*Resolved by the House of Delegates:*

That the Clerk is hereby directed to draw his warrants upon the Auditor in favor of the following persons in the amounts herein set out, for services rendered the House of Delegates, preliminary to the convening of the Legislature:

Roy Chambers.....	\$30.00
Homer Burley.....	30.00
Alexander Garred.....	20.00
Joe Canterbury.....	40.00
Dennis Gilmore.....	40.00
Jack Thomas.....	50.00

All of said amounts to be paid out of the "per diem of officers and attaches fund of the House of Delegates."

## HOUSE RESOLUTION NO. 9

(BY MR. MUNTZING)

[Adopted January 21, 1937.]

Authorizing the Clerk to obtain a copy of the code of West Virginia for each member of the House of Delegates.

*Resolved by the House of Delegates:*

That the Clerk is hereby authorized and directed to obtain a copy of the code of West Virginia for each member of the House of Delegates, said codes to be paid for from the contingent fund of the House of Delegates, in advance of the appropriation for the purpose.

## HOUSE RESOLUTION NO. 10

(BY MR. JIMISON)

[Adopted January 21, 1937.]

Concerning the honesty, integrity and ability of the Honorable D. Homer Stephenson as a citizen and public official.

WHEREAS, The Honorable D. Homer Stephenson, a native of the state of West Virginia, has, since youth been an industrious, thrifty

and public-spirited citizen, whose reputation for honesty and integrity is well known throughout West Virginia; and

WHEREAS, He has served as Sheriff of the Counties of Clay and Kanawha, and as a member of the House of Delegates from Clay County; and

WHEREAS, In all these public offices he established an enviable record for honesty and efficiency as a public official; and

WHEREAS, As Sheriff of Kanawha County he so capably administered the affairs of that office that his administration is considered one of the most outstanding in the history of the county, and he has been praised by members of both political parties for the fair and capable handling of the affairs of this office; and

WHEREAS, He has served his party with honor and distinction, always contributing liberally of his time and means; and

WHEREAS, When the West Virginia Liquor Control Commission was created he was appointed its first Chairman, and worked hard and conscientiously in inaugurating and establishing the new system; and

WHEREAS, For reasons which have never been made public, the Governor of West Virginia removed the said D. Homer Stephenson as Chairman of the Liquor Control Commission; and

WHEREAS, Since the removal of the said D. Homer Stephenson as Chairman of the Liquor Control Commission, a thorough audit of the Commission's funds has been made by the Tax Commissioner, and a complete inventory taken of all its stock and property, and the affairs of the Commission were found to be in excellent condition; therefore, be it

*Resolved by the House of Delegates:*

That due to the splendid public record of the said D. Homer Stephenson, as well as to his reputation for honesty and good character, this body hereby expresses its complete confidence in the honesty, integrity and character of the Honorable D. Homer Stephenson.



## HOUSE RESOLUTION NO. 11

(BY MRS. WALKER)

[Adopted January 25, 1937.]

Requesting members, officers and employees of the House of Delegates to contribute to the American Red Cross.

WHEREAS, Due to the devastating flood in this and other states, property and life are being endangered and many West Virginia families are now homeless, cold and destitute; and

WHEREAS, The American Red Cross is making every effort to relieve suffering in the flooded regions and in so doing is seriously in need of funds to carry on its relief work; therefore, be it

*Resolved by the House of Delegates:*

That unless they have already contributed to the American Red Cross, each member contribute the sum of five dollars and that each officer and employee contribute the sum of one dollar to the Charleston chapter of the American Red Cross; and, be it

*Further Resolved,* That the Speaker designate some member of the House of Delegates as a committee to contact the members, officers and employees, and receive their contributions.

## HOUSE RESOLUTION NO. 12

(BY MR. JIMISON)

[Adopted January 25, 1937.]

Concerning the death of Mr. J. W. Calvert.

WHEREAS, Mr. J. W. Calvert, of Chelyan, Kanawha County, father of the Honorable Carl C. Calvert, a member of this body, has recently departed this life; and

WHEREAS, The late J. W. Calvert was one of the pioneer settlers of Cabin Creek District; and

WHEREAS, He was always interested in public affairs and was a useful, public-spirited citizen; and

WHEREAS, For a number of years the late Mr. Calvert served as

a member of the Board of Education of Cabin Creek District and diligently and conscientiously strived for the improvement of the schools of Kanawha County ; therefore, be it

*Resolved by the House of Delegates:*

That this body regrets the passing of this valuable and public-spirited citizen and hereby extends its sympathies to the bereaved family and friends; and, be it

*Further Resolved,* That the Clerk send a copy of this resolution to the widow of the deceased.

### HOUSE RESOLUTION NO. 13

(BY MR. RUSSEK)

[Adopted January 25, 1937.]

Authorizing the payment of expenses of the committee to attend the funeral of Miss Elizabeth Kump.

WHEREAS, Prior to the convening of this session, Miss Elizabeth Kump, daughter of former Governor H. G. Kump, died, and the Speaker appointed Messrs. Strauss, Russek, Martin and Beeler as members of a committee from the House of Delegates to attend the funeral services; and

WHEREAS, Messrs. Russek, Strauss and Beeler attended the funeral services at Elkins and incurred certain expenses in so doing; therefore, be it

*Resolved by the House of Delegates:*

That the Clerk is hereby authorized to draw his warrants upon the Auditor, payable from the Contingent Fund of the House of Delegates, in advance of the appropriation for the purpose, in the following amounts to the members of the committee who attended said funeral:

Stephen J. Russek.....	\$38.60
Junius M. Strauss.....	20.61
Harvey D. Beeler.....	34.20

## HOUSE RESOLUTION NO. 14

(By MR. RUSSEK)

[Adopted January 25, 1937.]

Concerning the honesty, integrity and ability of the Honorable John B. Wilson as a citizen and public official.

WHEREAS, The Honorable John B. Wilson, a native of the state of West Virginia, has, since youth, been an industrious, thrifty and public-spirited citizen, whose reputation for honesty and integrity is well known throughout West Virginia; and

WHEREAS, He has served as a member of the House of Delegates from Ohio County; and

WHEREAS, He has established an enviable record for honesty and efficiency as a public official; and

WHEREAS, He has served his party with honor and distinction; and

WHEREAS, When the West Virginia Liquor Control Commission was created, he was appointed as a member thereof and worked hard and conscientiously in inaugurating and establishing a new system; and

WHEREAS, For reasons which have never been made public, the Governor of West Virginia removed the said John B. Wilson as a member of the Liquor Control Commission; and

WHEREAS, Since the removal of the said John B. Wilson as a member of the Liquor Commission, a thorough audit of the Commission's funds has been made by the Tax Commissioner, and a complete inventory taken of all its stock and property, and the affairs of the Commission were found to be in excellent condition; therefore, be it

*Resolved by the House of Delegates:*

That due to the splendid record of said John B. Wilson, as well as his reputation for honesty and good character, this body hereby expresses its complete confidence in the honesty, integrity and character of the said Honorable John B. Wilson.

## HOUSE RESOLUTION NO. 15

(BY MR. RUSSEK)

[Adopted January 26, 1937.]

Memorializing Congress to appropriate funds for a survey in connection with flood conditions of the Ohio Valley.

WHEREAS, The Ohio Valley is now being visited by another flood disaster, which might have been averted to a marked degree by the completion of a comprehensive system of source stream control reservoirs, as has been previously proposed by various organizations in the Ohio Valley; and

WHEREAS, The present flow has caused damage to the extent of at least two hundred million dollars in the Ohio Valley; and

WHEREAS, About two hundred lives were lost in the flood of one thousand nine hundred thirty-six, thousands upon thousands were rendered homeless; and sickness, suffering, disease tell a more powerful story than any that might be calculated in terms of the dollar mark; and

WHEREAS, A comprehensive system of source stream control reservoirs could have been built for a sum not to exceed two hundred million dollars; therefore, be it

*Resolved by the House of Delegates:*

That the members of this West Virginia legislative body, request that without further delay the following measures be carried out by proper action, and appropriations by the Congress of the United States, to-wit:

That an appropriation of sufficient funds be made by Congress to permit the board of army engineers to make a comprehensive and detailed survey of the thirty-nine reservoirs, their equivalent, or such a number of these reservoirs as have not been previously surveyed by the board; which reservoirs were included in survey report number 308, plan number four, eighteenth Congress, second session, as the plan for the ultimate development in the Ohio Valley east of Cincinnati; and, be it

*Further Resolved,* That it is the estimate of this membership that should these thirty-nine reservoirs, their equivalent or a major

portion of them be constructed, material damage and loss of life resulting from future floods in the Ohio Valley would be greatly reduced; and, be it

*Further Resolved*, That copies of this resolution be transmitted, respectively, to President Franklin D. Roosevelt, the two West Virginia members of the United States Senate, the six members of the House of Representatives from West Virginia, and the President of the Senate of West Virginia.

### HOUSE RESOLUTION NO. 16

(BY MR. STROUSS)

(Originating in the Committee on Rules)

[Adopted January 26, 1937.]

Authorizing the appointment of attaches for the House of Delegates for this session of the Legislature.

*Resolved by the House of Delegates:*

That the Speaker of the House of Delegates be, and he is hereby authorized to appoint for the House of Delegates, the following attaches and other employees to receive the per diems as herein provided, during this session of the Legislature:

(1) For the Clerk's office the following:

Two record clerks at seven dollars per day;

Two roll call clerks at seven dollars per day;

Ten proofreaders at eight dollars per day;

Eight copyholders at seven dollars per day;

One supervisor of printing at ten dollars per day;

One assistant clerk at ten dollars per day;

One clerk and one assistant clerk to the Committee on Enrolled Bills at eight and seven dollars per day, respectively;

One messenger at six dollars per day;

Two stenographers at eight dollars per day ;

One Journal clerk at twelve dollars per day ;

One Journal stenographer at ten dollars per day.

(2) For other offices and positions, the following :

One Chaplain at seven dollars per day ;

One clerk, one assistant clerk and one stenographer to the Committee on Taxation and Finance at twelve, nine and eight dollars per day, respectively ;

One clerk, one assistant clerk and one stenographer to the Committee on the Judiciary at twelve, nine and eight dollars per day, respectively ;

One clerk at ten dollars per day, and one assistant clerk and one stenographer at eight dollars each per day, to the Committee on Education ;

One clerk at ten dollars per day, one assistant clerk and one stenographer at eight dollars each per day, to the Committee on Roads ;

Ten committee clerks, to be assigned by the Speaker, at eight dollars per day each ;

One clerk to the minority at ten dollars per day ;

One supervisor of stenographers at ten dollars per day ;

Twenty-five stenographers at eight dollars per day ;

Five typists at seven dollars per day ;

One chief Journal room clerk at eight dollars per day ;

Twelve assistant Journal room clerks at seven dollars per day ;

One chief mailing clerk at eight dollars per day :

Eight assistant mailing clerks at seven dollars per day ;

Five pages at six dollars per day ;

One messenger to the Speaker at six dollars per day ;

Six assistants to the Sergeant-at-Arms at seven dollars per day;

One clerk to the Sergeant-at-Arms at ten dollars per day;

One stenographer to the Sergeant-at-Arms at eight dollars per day;

Eight assistant doorkeepers at seven dollars per day each;

One mimeograph supervisor at eight dollars per day;

Two assistants to the mimeograph supervisor at seven dollars per day;

One custodian of offices and property at six dollars per day;

One chief men's cloak room attendant at six dollars per day;

Two men's cloak room attendants at five dollars per day each;

One night watchman at seven dollars per day; and, be it

*Further Resolved*, That the secretary and stenographer to the Speaker, as provided for by the rules of the House, shall receive twelve and ten dollars, respectively; and that the secretary and stenographer to the Clerk as provided for by the rules, shall receive ten and twelve dollars, respectively; and, be it

*Further Resolved*, That the Clerk of the House shall receive twenty dollars per day; that the Sergeant-at-Arms and Doorkeeper shall each receive ten dollars per day; and that of the three assistant clerks provided for by section nine, article one, chapter four of the code, one senior assistant shall receive twelve dollars per day and the other two assistants shall receive ten dollars each per day; and, be it

*Further Resolved*, That all of the appointments made under authority of this resolution shall be certified to the Auditor and Treasurer by the Clerk, and the Clerk is hereby authorized to draw his warrants or requisitions upon the Auditor in favor of the persons so appointed and the Auditor shall honor and pay such warrants when presented and charge same to the "per diem of officers

and attaches'' fund of the House of Delegates. The Clerk shall draw his warrants in favor of officers, attaches and other employees, for consecutive days from the date of the opening of this session, at the per diems herein set out, until such time as their services shall cease. The Speaker may remove any attache or employee and appoint another in his or her place, and he shall require each of said attaches or employees to perform such duties as shall be assigned him or her, and is hereby given authority to dispense with the service of any attache or attaches for any such time or number of days as their services shall not be needed during the session and they shall not be paid for such time, nor shall other persons be appointed in their places for any such time as they may be suspended when not needed; and, be it

*Further Resolved*, That the Speaker is hereby authorized to assign attaches and employees to such positions and duties as he may deem proper to secure the most efficient and expeditious work during the session of the Legislature.

#### HOUSE RESOLUTION NO. 17

(BY MR. LAFON)

(Originating in the Committee on Rules)

[Adopted January 26, 1937.]

Relating to the appointment of assistant janitors.

WHEREAS, Lawrence M. Cunningham, Superintendent of Capitol Building and Grounds, under authority of section twenty-two, article one, chapter four of the code of West Virginia, has designated nine assistant janitors for the janitor work of the House of Delegates during this session of the Legislature; therefore, be it

*Resolved by the House of Delegates:*

That the per diem of said assistant janitors is fixed at five dollars, and that of the said Lawrence M. Cunningham is fixed at two dollars, as the House of Delegates' one-half of his per diem. Said per diem shall be paid from the Contingent Fund of the House of Delegates, in advance of the appropriation for the purpose, upon proper warrants.



## HOUSE RESOLUTION NO. 19

(BY MR. DORINGER)

[Adopted January 29, 1937.]

Authorizing payment of expenses of delegate to Interstate Commission on Crime.

WHEREAS, The Interstate Commission on Crime held its annual meeting at Boston, Massachusetts, August 21 and 22, 1936; and

WHEREAS, The Honorable Fred L. Doringe, a member of the Interstate Commission, attended said meeting and incurred certain expenses; therefore, be it

*Resolved by the House of Delegates:*

That the Clerk is hereby authorized to draw his warrant upon the Auditor in favor of Mr. Doringe in the amount of ninety-one dollars and eighty-one cents, payable from the contingent fund of the House of Delegates, in advance of the appropriation for the purpose, for necessary traveling expenses in attending said meeting of the Interstate Commission on Crime.

## HOUSE RESOLUTION NO. 21

(BY MESSRS. RUSSEK AND BROTHERTON)

[Adopted February 4, 1937.]

Authorizing payment of expenses of two delegates to Third General Assembly at Washington, D. C.

WHEREAS, The Third General Assembly held its conference January 21-24, 1937, at the Mayflower Hotel in Washington, D. C.; to deliberate on important interstate problems requiring cooperative action by the states with each other, and with the federal government; and

WHEREAS, The Honorable W. T. Brotherton and the Honorable Stephen J. Russek were appointed as a delegation from the West Virginia House of Delegates to the Third General Assembly, attended said meeting and incurred certain expenses; therefore, be it

*Resolved by the House of Delegates:*

That the Clerk is hereby authorized to draw his warrants upon

the Auditor in favor of Mr. Brotherton and Mr. Russek in the amount of seventy-five dollars each, payable from the contingent fund of the House of Delegates, in advance of the appropriation for the purpose, for necessary traveling expenses in attending said meeting of the Third General Assembly.

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HOUSE RESOLUTION NO. 23

(BY MR. LAFON)

(Originating in the Committee on Rules)

[Adopted February 3, 1937.]

Amending the rules of the House of Delegates.

*Resolved by the House of Delegates:*

That Rule No. 69 of the House of Delegates be amended to read as follows:

69. Local bills shall be placed upon a special calendar to be known as the Local Bill Calendar, and on Friday of each week, after the ninth order of business is passed, shall be taken up and disposed of before any other business is acted upon: *Provided*, That this rule shall not prohibit the consideration of local bills at such times as the House may determine after the last Friday within the constitutional duration of regular sessions of the Legislature.

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HOUSE RESOLUTION NO. 24

(BY MR. RUSSEK)

[Adopted February 8, 1937.]

Deploring the illness of the Honorable Ben H. Butcher, and instructing the dispatch of a floral tribute.

WHEREAS, The Honorable Ben H. Butcher, a Delegate from the County of Wood, the oldest member of the House of Delegates at this session of the Legislature, and who has the distinction of having been the youngest member of the fourteenth Legislature of this state; and

WHEREAS, This venerable Delegate has the further distinction of

having served in both the House and Senate of the Legislature of Colorado, having served that state capably, as well as extending long and able service to his home state of West Virginia; and

WHEREAS, This distinguished member from Wood County now lies stricken ill in the McMillan Hospital in the city of Charleston, where he is a pneumonia victim at this hour; therefore, be it

*Resolved by the House of Delegates:*

That the House of Delegates hereby extends its sincere sympathy and regards to this beloved member, with the hope that he may speedily recover from his illness; and, be it

*Further Resolved,* That a floral tribute, selected by a committee of three, to be designated by the Speaker of the House of Delegates, be sent to Mr. Butcher at his bedside; and, be it

*Further Resolved,* That a copy of this resolution be transmitted to Delegate Ben H. Butcher.

## HOUSE RESOLUTION NO. 25

(BY MR. WRIGHT)

[Adopted February 8, 1937.]

Deploring the illness of the Honorable W. A. Light, and instructing the dispatch of a floral tribute.

WHEREAS, The Honorable W. A. Light, Mayor of the City of Bluefield, West Virginia, and a Delegate from the County of Mercer, is ill and confined to his hotel room, a victim of pneumonia; therefore, be it

*Resolved by the House of Delegates:*

That the House of Delegates hereby extends its sincere sympathy and regrets to the Honorable W. A. Light, in his illness; and, be it

*Further Resolved,* That a floral tribute, selected by a committee of three designated by the Speaker of the House of Delegates, be sent to Mr. Light at his bedside; and, be it

*Further Resolved,* That a copy of this resolution be transmitted to Delegate W. A. Light.

## HOUSE RESOLUTION NO. 28

(BY MR. SPEAKER, MR. THOMAS)

(Originating in the Committee on Rules)

[Adopted February 16, 1937.]

Authorizing the Committee on Rules to arrange a special calendar.

*Resolved by the House of Delegates:*

That effective Monday, March 1, 1937, the Committee on Rules shall arrange a special daily calendar, to be known as the special calendar, and until the calendar so arranged is disposed of, nothing on the regular House calendar shall be considered or take precedence over said special calendar: *Provided*, That the special calendar shall not interfere with consideration of the local calendar on Friday of each week.

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HOUSE RESOLUTION NO. 29

(BY MR. BROWNING)

[Adopted February 24, 1937.]

Raising a special committee to investigate the advisability and cost of installing a loud speaker system in the House of Delegates.

*Resolved by the House of Delegates:*

That the Speaker be and is hereby authorized to appoint a special committee of three to investigate the advisability and cost of installing a voice amplifying system in the chamber of the House of Delegates,

And the Speaker shall be further empowered to assign to such committee, upon request, a clerk from among the attaches of the House of Delegates.

Said committee shall make its investigation and report to this body as soon as practicable, but not later than the first day of March, 1937.

## HOUSE RESOLUTION NO. 30

(BY MR. LAFON)

[Adopted February 18, 1937.]

Authorizing payment of expenses of House members of the committee raised under H. C. R. No. 20.

*Resolved by the House of Delegates:*

That the Clerk of the House of Delegates is hereby authorized to draw his warrants upon the Auditor for the actual expenses of the members of the committee raised under H. C. R. No. 20, payable out of the Contingent Fund of the House of Delegates, in advance of the appropriation for the purpose.

## HOUSE RESOLUTION NO. 31

(BY MR. SPEAKER, MR. THOMAS)

[Adopted February 23, 1937.]

Deploring the death of Major Joseph E. Chilton.

*Resolved by the House of Delegates:*

That in the death of Major Joseph E. Chilton, which occurred at his home at St. Albans, Kanawha County, on February 21, the State of West Virginia has suffered the loss of one of her most distinguished citizens; one who stood in the very front rank of the legal profession for the many years during which he was actively engaged in the practice of the profession; who contributed largely to the development of the natural resources of this state and to her material advancement and up-building; who for half a century, as a mere private citizen and without official obligation or connection, gave freely and in generous measure of his time and talents in counseling and advising in the structure and stabilizing of our state laws, and in keeping them abreast with the growing demands incident to the progress and development he had aided to launch; one whose daily walk and conversation was such as to endear him to all with whom he came in contact; gracious in his demeanor, strong in his own convictions, but most tolerant of the views of others; ever considerate and self-effacing; generous almost to the extent of criminal self-neglect; of whom it was often

said he never felt happy with a dollar in his pocket when his friend needed it, or there was distress to be alleviated within the length of his cable-tow; one of nature's true noblemen—loved, honored and respected by all—it is with sincere sorrow and regret that we note his passing and contemplate the distinct and irreparable loss thus sustained by his state, his county and community, and by the many individual members of this House who knew and loved him; and, be it

*Further Resolved*, That as a further tribute to his memory this House now stand in recess for five minutes.

### HOUSE RESOLUTION NO. 32

(BY MR. BROTHERTON)

[Adopted February 24, 1937.]

Concerning a banquet in honor of the Speaker.

WHEREAS, The House of Delegates is presided over by a fair, able and courteous Speaker; and

WHEREAS, During this session of the Legislature, the Speaker has been most accommodating and has extended to the members of the House every consideration and favor in his power; and

WHEREAS, Tuesday, February 23, 1937, was the birthday of the Speaker; and

WHEREAS, As an indication of the high regard the members of the House have for the Speaker and as a token of their appreciation of his many acts of kindness, as well as in celebration of his birthday, the members of the House of Delegates have arranged a banquet in honor of the distinguished and capable Speaker, which banquet will be held at the Kanawha Hotel at 6:30 o'clock P. M., Thursday evening, February 25; and

WHEREAS, The Governor, the United States Senators and members of the House of Representatives from this state, and other distinguished guests have been invited to attend this banquet; therefore, be it

*Resolved by the House of Delegates:*

That the Honorable Speaker is hereby notified of this event in

his honor and respectfully invited to attend the banquet on Thursday night of this week.

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HOUSE RESOLUTION NO. 34

(BY MR. DORINGER)

[Adopted February 25, 1937.]

Authorizing the Auditor and Treasurer to pay salaries of certain members of the House of Delegates.

WHEREAS, The Governor has appointed Joseph D. Fry, Hedgesville, Berkeley County, West Virginia, to fill the vacancy caused by the death of the Honorable John L. Wever; and

WHEREAS, The Governor has appointed A. D. Prunty, Parkersburg, Wood County, West Virginia, to fill the vacancy caused by the death of the Honorable Ben H. Butcher; and

WHEREAS, Messrs. Fry and Prunty have qualified as members of the House of Delegates, by taking and subscribing to the several oaths of office prescribed by section sixteen, article six of the Constitution of this State; therefore, be it

*Resolved by the House of Delegates:*

That upon the warrants of the Clerk the Auditor and Treasurer are hereby authorized to pay the Honorable Joseph D. Fry and the Honorable A. D. Prunty, the sum of five hundred dollars each, as salary for the year one thousand nine hundred thirty-seven, in advance of the appropriation for the purpose.

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HOUSE RESOLUTION NO. 35

(BY MR. DORINGER)

[Adopted February 25, 1937.]

Authorizing the Clerk to draw warrants upon the Auditor for mileage of the Honorable Joseph D. Fry and for the Doorkeeper.

*Resolved by the House of Delegates:*

That the Clerk is hereby authorized and directed to draw his

warrant upon the Auditor in the amount of ninety-two dollars and eighty cents for mileage of the Honorable Joseph D. Fry, a member of the House of Delegates, appointed to fill the vacancy caused by the death of the Honorable John L. Wever; and, be it

*Further Resolved*, That the Clerk is also authorized and directed to draw his warrant upon the Auditor in the amount of twenty-one dollars and twenty cents for mileage of Clark Neal, Doorkeeper of the House of Delegates.

### HOUSE RESOLUTION NO. 37

(BY MR. DORINGER)

[Adopted March 2, 1937.]

Raising a committee to investigate and report upon certain phases of the administration of the Department of Public Assistance.

WHEREAS, Since the establishment of the Department of Public Assistance there have been considerable dissension and complaint with reference to the appointment of county directors; and

WHEREAS, There have been numerous unsatisfactory reports from various counties relative to investigations and action upon applications for old age pensions; and

WHEREAS, The Department of Public Assistance has employed a number of out of state residents; and

WHEREAS, Many persons believe that unusual and unreasonable qualifications were required of applicants for positions with the department; therefore, be it

*Resolved by the House of Delegates:*

That the Speaker appoint a committee of five members of this body to investigate the charges herein contained and such other matters pertaining to the administration and operation of the Department of Public Assistance as the committee may deem pertinent, said committee to report its findings and recommendations to the House of Delegates before the adjournment of this regular session of the Legislature.



## HOUSE RESOLUTION NO. 38

(BY MR. STORM)

[Adopted March 8, 1937.]

Providing for markers on state route number two, showing location of the mound in Marshall County.

WHEREAS, The largest and most noted prehistoric mound in North America is located in Marshall County, this state; and

WHEREAS, Said mound is located within two hundred feet of state route No. 2; and

WHEREAS, It is one of the wonders of North America, and of great historical value and significance, and should be properly marked and easily found by the traveling public; therefore, be it

*Resolved by the House of Delegates:*

That the State Road Commission shall provide and furnish not less than forty proper and suitable markers on and along state route No. 2, in said county of Marshall, clearly and plainly showing the location of said mound.

## HOUSE RESOLUTION NO. 40

(BY MR. LAFON)

(Originating in the Committee on Rules)

[Adopted March 9, 1937.]

Amending the rules of the House of Delegates, relating to the introduction of a bill.

*Resolved by the House of Delegates:*

That a new rule to be numbered ninety-four-a be adopted, to read as follows:

94-a. A bill may be introduced bearing the names of not more than two members, as joint sponsors of the bill.

## HOUSE RESOLUTION NO. 41

(BY MR. DORINGER)

(Originating in the Committee on Rules)

[Adopted March 13, 1937.]

Providing for the printing of corrected Journals and Bills of the House of Delegates for this session of the Legislature and for the completion of the work of the session.

*Resolved by the House of Delegates:*

That for the purpose of completing the work of this session in arranging and filing of all bills, resolutions and other official papers in the Clerk's office, and for indexing and proofreading of the corrected Journals and Bills of the House of Delegates and printing thereof, the time of the Clerk, stenographer to the Clerk, Journal clerk, Journal stenographer, one senior and three assistant clerks, one supervisor of printing, two clerks, one stenographer, and three proofreaders is extended for ninety days; the time of the clerk and stenographer to the Committee on the Judiciary is extended for ten days; the time of the clerk and stenographer to the Committee on Taxation and Finance is extended for ten days; the time of the clerk to the Committee on Enrolled Bills is extended for ten days; the time of six stenographers is extended for ten days; the time of four janitors is extended for five days; the time of two janitors is extended for thirty days; the time of the chief Journal room clerk is extended for thirty days, and three assistant Journal room clerks is extended for ten days; the time of one mailing clerk and three assistant mailing clerks is extended for ten days; the time of the supervisor of stenographers is extended for ten days; the time of the secretary and stenographer to the Speaker is extended for ninety days; and, be it

*Further Resolved,* That for the purpose of arranging the offices and committee rooms and performing the other duties of his office the time of the Sergeant-at-Arms is extended for thirty days, four assistant Sergeants-at-Arms is extended for seven days, one assistant Sergeant-at-Arms is extended for ten days, and the clerk to the Sergeant-at-Arms is extended for thirty days; and, be it

*Further Resolved,* That the per diem of the persons given ex-

tensions in this resolution, shall be the same as that paid for the same positions during this regular session of the Legislature.

The Clerk shall draw his warrants upon the Auditor in favor of the persons entitled to per diems under this resolution, for consecutive days until such time as their services cease, and the Auditor shall honor and pay such warrants when presented and charge same to the Contingent Fund of the House of Delegates.

The Speaker shall have authority to remove any person given an extension of per diem under authority of this resolution, except elective officers of the House of Delegates, and to appoint another in his place or to fill any vacancy that may occur.

#### HOUSE RESOLUTION NO. 42

(BY MR. HUNTER)

[Adopted March 13, 1937.]

Notifying the Senate that the House of Delegates is ready to adjourn *sine die*.

*Resolved by the House of Delegates:*

That a committee of three be appointed by the Speaker to notify the Senate that the House of Delegates has completed its labors and is ready to adjourn *sine die*.

## SENATE CONCURRENT RESOLUTION NO. 1

(By MR. HOWARD)

[Adopted January 13, 1937.]

Concerning the death of the mother of Senator Dan B. Fleming.

WHEREAS, The Senate has learned with genuine regret of the death of the mother of Senator Dan B. Fleming of the Third District; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That the sympathy of the members of the House of Delegates and the Senate, and their respective staffs, is extended to Senator Fleming and to the other members of the family; and

That a suitable floral tribute be sent to the family as a token of this sentiment; and

That a copy of this resolution be sent by the Clerk of the Senate to the family.

## SENATE CONCURRENT RESOLUTION NO. 2

(By MR. MOLER)

[Adopted January 13, 1937.]

Concerning the death of the Honorable M. O. Rouss.

WHEREAS, On the seventh day of January, one thousand nine hundred thirty-seven, the Honorable M. O. Rouss, a member of the Senate of West Virginia from the Fifteenth Senatorial District, died at his home in Jefferson County; and

WHEREAS, Senator Rouss, in his service to his county as a member of the House of Delegates and his district as Senator, had shown himself to be a wise statesman and counsellor and by his unassuming manner, courtesy, geniality and consideration of the views of others had endeared himself to his colleagues in both legislative bodies; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That the state of West Virginia, in the death of Senator Rouss, has lost a public servant of proved ability and unquestioned probity and, be it

*Further Resolved*, That the Legislature deplores the death of Senator Rouss and extends its deepest sympathy to the members of his family in their bereavement; and, be it

*Further Resolved*, That the Clerk of the Senate is directed to send a copy of this resolution to the family of Senator Rouss.

### SENATE CONCURRENT RESOLUTION NO. 3

(By MR. CANTERBURY)

[Adopted January 13, 1937.]

Relating to joint rules of the Senate and House of Delegates.

*Resolved by the Senate, the House of Delegates 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-five, are hereby adopted and shall govern the proceedings of this session.

### SENATE CONCURRENT RESOLUTION NO. 4

(By MR. BELKNAP)

[Adopted January 13, 1937.]

Relating to the payment by the Auditor of mileage and contingent and other expenses of this 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 the Clerk of the House of Delegates, to pay the mileage of the members of the Senate and the House of Delegates; bills incurred and services furnished to the Legislature for this session, including contingent expenses; the per diem of the officers and attaches of the Senate and House of Delegates; and for the legislative printing of this session; as the accounts for same may become due.

## SENATE CONCURRENT RESOLUTION NO. 6

(By MR. BARNHART)

[Adopted January 15, 1937.]

Relating to legislative recess.

*Resolved by the Senate, the House of Delegates concurring therein:*

That when adjournment is taken by the respective houses of the Legislature at the close of this day's session, such adjournment shall be until Thursday, January twenty-first, one thousand nine hundred thirty-seven, at two o'clock, P. M.

## SENATE CONCURRENT RESOLUTION NO. 7

(By MR. PAULL)

[Adopted January 15, 1937.]

Postponing the date for the commencement of public legislative hearings on the subject of unemployment compensation.

WHEREAS, The date of January twenty, one thousand nine hundred thirty-seven, was fixed in Senate Concurrent Resolution Number four, extraordinary session of the Forty-third Legislature, December fourteen to sixteen, one thousand nine hundred thirty-six, as the time for the commencement of public legislative hearings on the subject of unemployment compensation; and

WHEREAS, Legislative recess is being taken on account of state and national inauguration dates; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That such date for the commencement of public legislative hearings on the subject of unemployment compensation is fixed for January twenty-fifth, one thousand nine hundred thirty-seven.

## SENATE CONCURRENT RESOLUTION NO. 8

(By MR. PAULL)

[Adopted January 21, 1937.]

Relating to public legislative hearings on Unemployment Compensation Act.

*Resolved by the Senate, the House of Delegates concurring therein:*

That the public legislative hearings on the subject of unemployment compensation as provided in Senate Concurrent Resolution No. 4, extraordinary session of the Forty-third Legislature and Senate Concurrent Resolution No. 7, regular session of the Forty-third Legislature, shall be held before a joint meeting of the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Delegates, in the Chamber of the House of Delegates, commencing January 25, 1937, at 7:30 o'clock, P. M.

## SENATE CONCURRENT RESOLUTION NO. 9

(By MR. BEACOM)

[Adopted January 27, 1937.]

Memorializing Congress to appropriate funds for a survey in connection with flood conditions in the Ohio Valley.

WHEREAS, The Ohio Valley is now being visited by another major flood disaster, the second of its proportions within a period of ten months; and

WHEREAS, These recent floods have caused damage to the extent of hundreds of millions of dollars in the Ohio Valley; and

WHEREAS, Scores of lives have been lost in these flood disasters, thousands have been rendered homeless, and widespread illness, suffering and disease have followed in their wake; and

WHEREAS, It is believed that a comprehensive system of source stream control can reduce, if not entirely eliminate, the major proportions of these disasters; and

WHEREAS, Such remedial steps, being of interstate nature and

requiring interstate cooperation, constitute a proper subject for primary action by the federal government; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That the Congress of the United States is requested, without further delay, to take such steps by appropriate legislation as will lead to the immediate projection and execution of a comprehensive plan to prevent a repetition of such major disasters, and that the attention of the Congress be called to report number three hundred and eight, plan number four, seventy-fourth Congress, second session, relating to this subject of source stream control; and, be it

*Further Resolved*, That copies of this resolution be transmitted, respectively, to Honorable Franklin D. Roosevelt, President of the United States, and to the members representing West Virginia in the Senate and in the House of Representatives of the Congress.

#### SENATE CONCURRENT RESOLUTION NO. 11

(By MR. SMITH)

(Originating in the Committee on Education)

[Adopted February 9, 1937.]

Requesting the state department of education to make an immediate survey of the flood-stricken area to ascertain the damage caused to school property and the personal property of teachers and students utilized in school activities.

WHEREAS, The recent flood has devastated many communities in the Ohio River valley areas of this state; and

WHEREAS, It is reported that school buildings and appurtenances, including the personal belongings of students and teachers in the form of books and other school supplies, have suffered damage or loss in an amount which cannot be ascertained on the basis of information now available; and

WHEREAS, The state and all its citizens are deeply sympathetic with the unprecedented situation which has prevailed in our flood-stricken areas; therefore, be it



*Resolved by the Senate, the House of Delegates concurring therein:*

That the state department of education is hereby requested to make a survey of the recent flood-stricken area for the purpose of making an estimate of the loss to school properties, including the property of teachers and students utilized in school activities, and make a report as expeditiously as possible to the Senate and House Committees on Education.

### SENATE CONCURRENT RESOLUTION NO. 13

(BY MR. FLEMING)

[Adopted March 10, 1937.]

Creating a New York World Fair Commission of the State of West Virginia.

WHEREAS, The City of New York plans to hold a World Fair in the year one thousand nine hundred thirty-nine, to be called "New York World Fair," in which a majority of the nations of the world and of the states of the United States will participate; and

WHEREAS, It is very desirable that this state participate in said fair and exhibit to the world and the other states of the Union its advantages and natural resources; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That a commission is hereby created, to be known as the "New York World Fair Commission of the State of West Virginia," to be composed of the Governor of West Virginia, chairman ex officio, the Commissioner of Agriculture, the President of the Senate, and the Speaker of the House of Delegates, with two 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 two citizens of the State of West Virginia, to be designated by the Governor. Said commission shall elect a chairman and a secretary, and may employ such clerical help as it deems necessary and such commission is fully empowered to arrange for the appropriate participation of the State of West Virginia in said fair; and, be it

*Further Resolved*, That the commission shall assemble, erect at said fair, maintain and return to the state after said fair closes, a suitable exhibit portraying the advantages of the state, its natural resources, scenic and 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 shall furnish materials, labor and such other assistance as the commission may request; and, be it

*Further Resolved*, That all expenditures in reference hereto shall be made on the approval of the Governor, 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 said fair; and, be it

*Further Resolved*, That there shall be appropriated by a supplemental budget bill, or by an amendment and supplement to the Budget Bill, out of any funds not otherwise appropriated, the sum of thirty-five thousand dollars, to cover the expenses of said commission in connection with said fair, 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. 15

(BY MR. SMITH)

(Originating in the Committee on Education)

[Adopted February 26, 1937.]

Requesting the two United States Senators and the members of the House of Representatives from West Virginia to secure federal funds to replace school property damaged in West Virginia by the recent floods in the Ohio Valley.

WHEREAS, In compliance with Senate Concurrent Resolution No. 11, the state board of education, in cooperation with the various county boards of education and county superintendents, has made a thorough survey and estimate of the damage done to school property and equipment of schools in the counties in the Ohio Valley of the State of West Virginia; and

WHEREAS, The state department of education has transmitted to the Legislature an itemized statement covering its investigation and survey, which shows the damages done to school property and equipment in the aforesaid region; and

WHEREAS, The total amount estimated by the state department of education and the various county boards and county superintendents of schools in the thirteen counties affected by the recent flood totals one hundred fifty-seven thousand, six hundred fifty-four dollars; and

WHEREAS, This amount of damage covers damages to library books, children's books, furniture and equipment, teachers' books and grounds and buildings; and

WHEREAS, The state and the various county boards of education do not have available funds to repair grounds and buildings and to replace equipment damaged and destroyed; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That the two United States Senators and the six members of the House of Representatives from West Virginia, in cooperation with the Governor of this state, are hereby respectfully requested to contact the proper federal agencies and make every effort to secure sufficient federal funds to replace school equipment destroyed, and to repair school buildings and grounds damaged in West Virginia by the recent flood in the Ohio Valley.

#### SENATE CONCURRENT RESOLUTION NO. 16

(By MR. HODGES, Mr. President)

[Adopted February 26, 1937.]

Expressing assent of the Legislature of the State of West Virginia to the provisions and purposes of the Bankhead-Jones Act of June twenty-nine, one thousand nine hundred thirty-five, (Public-No. 182-74th Congress).

WHEREAS, There has been enacted by the Senate and House of Representatives of the United States of America in Congress assembled, an act to provide for research into basic laws and princi-

ples relating to agriculture and to provide for the further development of cooperative agricultural extension work and the more complete endowment and support of land-grant colleges, approved June twenty-nine, one thousand nine hundred thirty-five (Public-No. 182-74th Congress); and

WHEREAS, The provisions of the act and the purpose of the grants of money authorized by the act are made subject to the legislative assent of the several states and territories; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That the assent of the Legislature of the State of West Virginia, required by the said act, be and the same is hereby given.

#### SENATE CONCURRENT RESOLUTION NO. 17

(By MR. HODGES, Mr. President)

[Adopted February 26, 1937.]

Raising a joint committee of the Senate and House of Delegates to study and report upon an enabling act to carry into effect the home rule amendment of the state constitution.

WHEREAS, An amendment to the state constitution, known as the home rule amendment, was approved by the voters of the state at the general election held on November six, one thousand nine hundred thirty-six, and

WHEREAS, Studies under legislative and executive direction have been in progress for some weeks looking to the preparation and submission to the Legislature of an act to give effect to the purposes of this amendment; and

WHEREAS, The broad scope of such bill and the large volume of legislative business now pending before the Legislature will not permit, within the time remaining during the regular session, proper consideration of this subject by any regular legislative committee; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That there is hereby raised a joint legislative committee con-

sisting of ten members, to be composed of the President of the Senate and four other members of the Senate, to be appointed by the President, and the Speaker of the House and four other members of the House, to be appointed by the Speaker, which said joint committee shall consider all studies made upon this subject and report a bill thereupon to the Legislature at the earliest possible moment prior to adjournment.

### SENATE CONCURRENT RESOLUTION NO. 18

(By MR. BARNHART).

[Adopted March 3, 1937.]

Concerning the program of President Franklin D. Roosevelt for the reorganization of the federal judiciary.

WHEREAS, The Honorable Franklin D. Roosevelt, President of the United States, has submitted to the national congress a proposal for the reorganization of the federal judiciary; and

WHEREAS, Said proposal is to provide assistance to the federal courts and prevent delay in the administration of justice, therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That the Legislature of West Virginia, hereby endorses and approves the efforts of the President of the United States to improve and strengthen the federal judiciary; and, be it

*Resolved Further,* That a copy of this resolution be forwarded to the President of the United States, and to each of the representatives in Congress from the State of West Virginia.

### SENATE CONCURRENT RESOLUTION NO. 19

(By MR. PELTER)

[Adopted March 12, 1937]

Creating an interim legislative committee for the purpose of studying and reporting to the Governor and to the Legislature its findings and recommendations relative to the legislative problems herein set forth.

WHEREAS, This regular session of the Legislature is now drawing to a close and for the lack of time there are a number of important legislative matters that will not be considered at this session; and

WHEREAS, His Excellency, the Governor, in his message to the Legislature on February 8, 1937, in discussing legislative problems said:

“ \* \* there are several additional matters of great importance that I believe can be handled best by careful interim study and preparation of legislation. Among these items are our election laws, including methods of remove our schools from partisan political influences; our judicial system, particularly as relating to inferior tribunals; a more modern system of parole and probation; an improved plan of state aid to schools looking to the more effective utilization of state and local revenues; tenure laws for public employees; a study of the needs and means of more effectively coordinating our state departments, particularly those relating to fiscal matters. In addition to these important subjects, our unemployment insurance and public assistance laws require study for improvement as to details. These laws are in their infancy and should be given an opportunity for thorough trial before any basic structural changes are made;” and

WHEREAS, There is need for more comprehensive study to provide text books for the public schools from public revenues; and

WHEREAS, It is apparent that the state of West Virginia must have additional office space for use of state departments, offices, boards and commissions; and

WHEREAS, There is a pressing need for legislation to provide for uniform assessment of property, real and personal in the state of West Virginia and

WHEREAS, There are many claims against the state of West Virginia and various governmental departments thereof, regularly submitted to the Committees on Claims and Grievances in both Houses of the Legislature, which involve unliquidated damages and which such committees have neither the time nor the proper facilities to consider and properly determine; and

WHEREAS, The establishment of a permanent Claims Commission

may be the best method of providing for a fair and just consideration of claims against the state; and

WHEREAS, Since the adoption of the Tax Limitation Amendment no legislation has been enacted to provide adequate revenue for the operation of municipal governments; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That an Interim Legislative Committee, to consist of twelve members of the Legislature, including the President of the Senate and five members of the Senate, to be appointed by the President thereof, and including the Speaker and five members of the House of Delegates, to be appointed by the Speaker thereof, is hereby created to study the subjects and questions set forth in the preamble of this resolution, including those subjects and matters mentioned by His Excellency, the Governor, in his address to the Legislature on February 8, 1937, and to make a report or reports to the Governor and to the Legislature prior to the convening of the next regular session of the Legislature, or at such times as in the opinion of the Governor may be best; and, be it

*Further Resolved*, That said interim committee is authorized and empowered to study and to investigate such other legislative subjects as the Governor shall recommend or as the committee may find necessary or desirable, and to report thereon in the manner above provided; and, be it

*Further Resolved*, That the committee shall have the power and is hereby authorized in making its report or reports to investigate and ascertain;

What state government activities could be consolidated, and under what department or state official they could be placed, to the end that economy and efficiency would result, both in the employment of personnel and in the occupancy of office space; and, be it

*Further Resolved*, That in obtaining the necessary information to carry out the spirit and intent of this resolution, the committee is empowered to call upon any of the departments of state government for any information or service it may need, to summon witnesses and to take testimony and to compel the production of such

papers, documents, etc., as the committee shall deem pertinent; and be it

*Further Resolved*, That the committee is authorized and empowered to employ such clerical, advisory and stenographic assistance as it may deem necessary and advisable; and, be it

*Further Resolved*, That said committee is hereby authorized to meet in the city of Charleston or elsewhere, as it may determine, the expenses of the members of the committee, and the per diem of such clerical, advisory and stenographic assistance as the committee may employ, to be fixed by the committee and paid equally from the contingent fund of the Senate and House of Delegates upon certificate of the chairman of said committee.

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SENATE CONCURRENT RESOLUTION NO. 20

(By MR. HAINES)

[Adopted March 9, 1937.]

Granting permission to introduce a bill relating to deeds of trust for agricultural loans.

*Resolved by the Legislature of West Virginia, two-thirds of all the members of each House present and voting concurring therein:*

That permission is hereby granted to introduce a bill with the following title:

“A Bill to amend and reenact sections one, four and seven, chapter one, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, and section one, chapter three of said acts, relating to deeds of trust for agricultural loans.”

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SENATE CONCURRENT RESOLUTION NO. 21

(By MR. JOHNSTON)

[Adopted March 10, 1937.]

Concerning the one hundredth anniversary of the foundation of Mercer County, West Virginia.



WHEREAS, The County of Mercer has planned a county-wide celebration of the one hundredth anniversary of its formation as a county, which occurred on March 17, 1837; and

WHEREAS, The governmental, civic, and business bodies and all other organizations of the county, and its citizenship as a whole, are whole-heartedly supporting this movement; and

WHEREAS, It is well to take note of past historical events of importance; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That the Legislature approve of this celebration and urges upon the citizens of the surrounding counties and of the state as a whole that they join with the citizenry of Mercer County in making the event a notable success.

#### SENATE CONCURRENT RESOLUTION NO. 22

(By MR. HAINES)

[Adopted March 12, 1937]

Endorsing the Sesqui-Centennial celebration of the invention of the steamboat by James Rumsey.

WHEREAS, on December 3, 1787, James Rumsey gave a public exhibition and successful demonstration of his steamboat on the Potomac at Shepherdstown in this state, before which time he had made experiments at the mouth of Sir John's Run in the present Morgan County, near Berkeley Springs, where he invented the steamboat; and

WHEREAS, George Washington gave James Rumsey priority in the invention of the steamboat, and James Madison and other men of prominence in the early history of the nation attested to the genius of Rumsey and the promise of his experiments; and

WHEREAS, The West Virginia Rumseyan Society, through its president, the Rt. Reverend W. L. Gravatt, and its executive secretary, Mrs. Anita Buchanan Speer, The Rumseyan Society of Jefferson County, and The Town of Bath Rumseyan Society of Morgan County, collaborating with other historical and patriotic or-

ganizations, are proposing further to commemorate the name and fame of James Rumsey by arranging a sesqui-centennial celebration of the success of his invention ; and

WHEREAS, The seventy-fifth birthday of the State of West Virginia will be on the twentieth day of June, one thousand nine hundred thirty-eight, and it is appropriate that special significance be given to that date; therefore, it it

*Resolved by the Senate, the House of Delegates concurring therein:*

That the Legislature of West Virginia hereby endorses the object and purposes of this celebration and it is the sense of the Legislature that it be given hearty public support.

### SENATE CONCURRENT RESOLUTION NO 23

(By MR. HODGES, Mr. President)

[Adopted March 11, 1937.]

Providing for a joint session of the Senate and House of Delegates for the purpose of a memorial service for Honorable Milton O. Rouss, deceased, former member of the State Senate from the Fifteenth District, and Honorable Ben H. Butcher, deceased, former Delegate from Wood County, and Honorable John L. Wever, deceased, former Delegate from Berkeley County.

*Resolved by the Senate, the House of Delegates concurring therein:*

That when adjournment is taken on this legislative day, it shall be until one o'clock P. M. on Friday, March twelfth, nineteen hundred thirty-seven, and

That the House and Senate shall convene in joint assembly at one-fifteen o'clock in the House of Delegates chamber on Friday, March twelfth, one thousand nine hundred thirty-seven, for the purpose of holding a service honoring the memories of Honorable Milton O. Rouss, deceased, former member of the Senate from the Fifteenth District, and Honorable Ben H. Butcher, deceased, former Delegate from Wood County, and Honorable John L. Wever, deceased, former delegate from Berkeley County, all mem-

bers of the Forty-third West Virginia Legislature, who have died since the first convening of the Legislature, and that the Speaker of the House of Delegates and the President of the Senate be appointed a joint committee of two to complete all arrangements for such service.

#### SENATE CONCURRENT RESOLUTION NO. 24

(By MR. HODGES, Mr. President)

[Adopted March 12, 1937]

Granting permission to introduce a bill authorizing the board of public works to provide for and maintain developments to the grounds of the state capitol.

*Resolved by the Legislature of West Virginia, two-thirds of all the members of each House present and voting concurring therein:*

That permission is hereby granted to introduce a bill with the following title:

“A Bill to authorize the board of public works to provide for and maintain developments upon and adjacent to the grounds of the state capitol, to the extent that moneys for the purpose may be appropriated; and to authorize the appointment of an advisory committee to advise with and assist the board in the preparation of plans for such development.”

#### SENATE CONCURRENT RESOLUTION NO. 25

(By MR. PAULL)

[Adopted March 13, 1937.]

Commending members of the press who have reported the proceedings of this session of the Legislature.

WHEREAS, The West Virginia Legislature, in regular session, has enacted numerous laws of great moment and importance to the citizens of this state; 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 Senate, the House of Delegates concurring therein:*

That the Legislature commends the members of the press for their untiring efforts to disseminate 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.

SENATE CONCURRENT RESOLUTION NO. 26

(By MR. FLEMING)

(Originating in the Committee on Rules)

[Adopted March 13, 1937.]

Authorizing the payment of expenses for services and supplies after the close of this session of the Legislature.

*Resolved by the Senate, the House of Delegates concurring therein:*

That the Legislature of West Virginia hereby authorizes the payment of expenses for services and supplies incurred after the close of this regular session of the Legislature, in completing the work of the session, and that the Auditor is hereby authorized and directed to honor and pay the warrants of the Clerk of the Senate and the Clerk of the House of Delegates, drawn in favor of persons for services performed or supplies furnished, as authorized by either separate or concurrent action of the two houses; and, be it

*Further Resolved,* That all extensions of per diem authorized by Senate Resolution No. 20 and Senate Resolution No. 21, and by House Resolution No. 41 for similar purposes, are hereby declared to be authorized by the Legislature and shall have the same force and effect as if they were incorporated herein.

## SENATE RESOLUTION NO. 1

(By MR. SMITH)

[Adopted January 13, 1937.]

Appointment of a committee to notify the House of Delegates that the Senate is organized.

*Resolved by the Senate:*

That the President of the Senate be and he is hereby authorized to appoint a committee of three to inform the House of Delegates that the Senate is organized by the election of Honorable Charles E. Hodges as President and Charles Lively as Clerk, and is ready to proceed with the business of the session.

## SENATE RESOLUTION NO. 2

(By MR. BARNHART)

[Adopted January 13, 1937.]

Adopting rules of the Senate.

*Resolved by the Senate:*

That the rules of the Senate, regular session, one thousand nine hundred thirty-five, be adopted as the rules of the Senate for this session.

## SENATE RESOLUTION NO. 3

(By MR. BEACOM)

[Adopted January 13, 1937.]

Relating to the mailing of journals and bills.

*Resolved by the Senate:*

That the Clerk of the Senate is authorized to have mailed from the Senate document room, copies of the bills and daily journals of the Senate to addresses to be furnished to the Clerk by the members of the Senate, twenty of which such addresses may be submitted by each member of the Senate, and that the expense of such mailing, including postage, be paid out of the contingent fund of the Senate by the Auditor, in advance of the appropriation therefor, under proper requisition drawn by the Clerk of the Senate.

## SENATE RESOLUTION NO. 4

(By MR. RANDOLPH)

[Adopted January 14, 1937.]

Providing for the appointment of a committee to represent the Senate of West Virginia on the Council of State Governments and to attend the Third Interstate Assembly of the Council of State Governments and the American Legislators' Association, at Washington, D. C.

WHEREAS, The Third Interstate Assembly has been called by the Council of State Governments and the American Legislators' Association to meet at Washington, D. C. on January 21, 22, and 23, 1937, to deliberate upon important interstate problems requiring co-operative action by the states with each other, and with the federal government; and

WHEREAS, Many governmental difficulties are aggravated by the lack of adequate facilities for conferences concerning them and it is apparent that substantial benefits will result from closer contacts between the legislative and administrative divisions of the federal government and the various state governments; and

WHEREAS, The Senate of West Virginia has been invited to send its delegates to this conference; therefore, be it

*Resolved by the Senate:*

That the President of the Senate is hereby authorized to appoint a committee of three of its members as a delegation to attend the Third Interstate Assembly, which convenes in Washington, D. C. on January 21, 1937, such delegation being without authority to commit the Senate to any action on the matters considered by the Assembly. The Clerk of the Senate is directed to notify the Secretary of the American Legislators' Association of the appointment of such committee.

The Clerk of the Senate upon certification to him by said delegation, through its chairman, shall draw his warrant upon the auditor, payable out of the contingent fund of the Senate, in an amount not to exceed the sum of two hundred twenty-five dollars for the expenses of said delegation in attending said Assembly.

## SENATE RESOLUTION NO. 5

(By MR. HODGES, Mr. President)

(Originating in the Committee on Rules)

[Adopted January 22, 1937.]

Authorizing the appointment of attaches.

*Resolved by the Senate:*

That the President of the Senate is authorized to make the following appointments, viz:

Seventeen Stenographers, at seven dollars per day each;

One Clerk to the Committee on the Judiciary, at ten dollars per day;

One Clerk to the Committee on Finance, at ten dollars per day;

Two Committee Clerks-at-Large, at ten dollars per day each;

One Secretary to the Minority, at twelve dollars per day;

One Secretary to the President, at twelve dollars per day;

One Clerk to the Minority Leader, at nine dollars per day;

One Clerk to the Sergeant-at-Arms, at eight dollars per day;

One Journal Room Supervisor, at eight dollars per day;

One Mail Clerk, at seven dollars per day;

One Addressograph Clerk, at seven dollars per day;

One Clerk on Enrolled Bills, at seven dollars per day;

Five Assistant Doorkeepers, at seven dollars per day each;

Two Assistant Sergeants-at-Arms, at seven dollars per day each;

One Bill Editor, at nine dollars per day;

One Chaplain, at five dollars per day;

Five Pages, at four dollars per day each.

*Resolved Further,* That the Clerk of the Senate is authorized to make the following appointments, viz:

Five Document Room Clerks, at seven dollars per day each;

Five Journal Room Clerks, at seven dollars per day each ;

One Assistant and Secretary to Clerk, at twelve dollars per day ;

One Journal Stenographer, at nine dollars per day ;

Five Assistant Clerks, at seven dollars per day each ;

Two Copyholders, at eight dollars per day each ;

Four Proofreaders, at eight dollars per day each.

*Resolved Further*, That the Sergeants-at-Arms shall receive ten dollars per day ; the Doorkeeper ten dollars per day ; and the Clerk twenty dollars per day.

The Clerk shall draw his warrants upon the Auditor in favor of the Officers and attaches herein appointed for consecutive days from the date of the opening of this session at the per diem herein set out, and the Auditor shall honor and pay such warrants in advance of the appropriation for the purpose, when presented, and charge same to the "per diem of the officers and attaches" fund of the Senate.

The President and the Clerk shall require said employees to perform the duties assigned to them, and they are authorized and directed to remove any of such employees whose work is not satisfactory and to appoint another in his place.

### SENATE RESOLUTION NO. 6

(By MR. HODGES, Mr. President)

(Originating in the Committee on Rules)

[Adopted January 22, 1937.]

Relating to the payment for services of attaches preparatory to convening of session.

*Resolved by the Senate:*

That the Clerk of the Senate is authorized to draw his warrants upon the Auditor in favor of the following named persons for the



amounts set opposite their names for services rendered preparatory to the convening of this regular session of the Legislature:

Fred D. Wolf, Sergeant-at-Arms .....	\$80.00
Bernard White, Janitor.....	20.00
Lindsey Fuller, Journal Room Clerk .....	7.00

### SENATE RESOLUTION NO. 7

(By MR. HODGES, Mr. President)

(Originating in the Committee on Rules)

[Adopted January 22, 1937.]

Relating to the appointment of assistant janitors.

WHEREAS, Lawrence M. Cunningham, Superintendent of Capitol building and grounds, under authority of section twenty-two, article one, chapter five of the code, has designated ten assistants for the janitor work of the Senate for this session; therefore, be it

*Resolved by the Senate:*

That the per diem of said assistant janitors is fixed at four dollars, and that of the said Lawrence M. Cunningham, is fixed at two dollars, as the Senate's one-half of his per diem.

### SENATE RESOLUTION NO. 8

(By MR. BARNHART)

[Adopted January 22, 1937.]

Concerning the honesty, integrity and ability of the Honorable D. Homer Stephenson as a citizen and public official.

WHEREAS, The Honorable D. Homer Stephenson, a native of the state of West Virginia, has, since youth been an industrious, thrifty and public spirited citizen, whose reputation for honesty and integrity is well known throughout West Virginia; and

WHEREAS, He has served as sheriff of the counties of Clay and Kanawha, and as a member of the House of Delegates from Clay County; and

WHEREAS, In all these public offices he established an enviable record for honesty and efficiency as a public official; and

WHEREAS, As sheriff of Kanawha County he so capably administered the affairs of that office that his administration is considered one of the most outstanding in the history of the county, and he has been praised by members of both political parties for the fair and capable handling of the affairs of this office; and

WHEREAS, He has served his party with honor and distinction, always contributing liberally of his time and means; and

WHEREAS, When the West Virginia Liquor Control Commission was created he was appointed its first Chairman, and worked hard and conscientiously in inaugurating and establishing the new system; and

WHEREAS, For reasons which have never been made public, the Governor of West Virginia removed the said D. Homer Stephenson as Chairman of the Liquor Control Commission; and

WHEREAS, Since the removal of the said D. Homer Stephenson as Chairman of the Liquor Control Commission, a thorough audit of the Commission's funds has been made by the Tax Commissioner, and a complete inventory taken of all its stock and property, and the affairs of the Commission were found to be in excellent condition; therefore, be it

*Resolved by the Senate:*

That due to the splendid public record of the said D. Homer Stephenson, as well as to his reputation for honesty and good character, this body hereby expresses its complete confidence in the honesty, integrity and character of the Honorable D. Homer Stephenson.

SENATE RESOLUTION NO. 9

(BY MR. PAULL)

[Adopted January 22, 1937.]

Concerning the honesty, integrity and ability of the Honorable John B. Wilson as a citizen and public official.

WHEREAS, The Honorable John B. Wilson, a native of the State of West Virginia, has, since youth, been an industrious, thrifty

and public spirited citizen, whose reputation for honesty and integrity is well known throughout West Virginia; and

WHEREAS, He has served as a member of the House of Delegates from Ohio County; and

WHEREAS, He has established an enviable record for honesty and efficiency as a public official; and

WHEREAS, He has served his party with honor and distinction; and

WHEREAS, When the West Virginia Liquor Control Commission was created, he was appointed as a member thereof and worked hard and conscientiously in inaugurating and establishing a new system; and

WHEREAS, For reasons which have never been made public, the Governor of West Virginia removed the said John B. Wilson as a member of the Liquor Control Commission; and

WHEREAS, Since the removal of the said John B. Wilson as a member of the Liquor Commission, a thorough audit of the Commission's funds has been made by the Tax Commissioner, and a complete inventory taken of all its stock and property, and the affairs of the Commission were found to be in excellent condition; therefore, be it

*Resolved by the Senate:*

That due to the splendid record of said John B. Wilson as well as his reputation for honesty and good character, this body hereby expresses its complete confidence in the honesty, integrity, and character of the said Honorable John B. Wilson.

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SENATE RESOLUTION NO. 10

(By MR. HODGES, Mr. President)

(Originating in the Committee on Rules)

[Adopted February 2, 1937.]

Providing for the payment of expenses of members attending funerals.

*Resolved by the Senate:*

That the Clerk of the Senate is hereby authorized to draw his warrants in the following amounts upon the Auditor, payable from

the contingent fund of the Senate, in favor of the following members who were appointed by the President to represent this body at the funeral services for Miss Elizabeth Kump and Senator M. O. Rouss:

A. L. Helmick.....	\$23.00
Byron B. Randolph.....	25.00
J. P. Beacom.....	15.00
D. Grove Moler.....	5.00
George W. Jackson.....	10.00
Fred C. Allen.....	15.00
E. Bunker Reynolds.....	18.00
G. O. Young.....	7.00

#### SENATE RESOLUTION NO. 11

(By MR. HODGES, Mr. President)

(Originating in the Committee on Rules)

[Adopted February 2, 1937.]

Relating to the payment for services performed at the beginning of the session.

*Resolved by the Senate:*

That the Clerk of the Senate is authorized to draw his warrant upon the Auditor in favor of G. B. Heare for \$105.00, for services rendered at the beginning of this regular session of the Legislature.

#### SENATE RESOLUTION NO. 14

(By MR. PAULL)

(Originating in the Committee on the Judiciary)

[Adopted February 25, 1937.]

Requesting the banking commissioner to make a study of the licensed small loan companies and business conducted by them and report to the Legislature.

WHEREAS, The regulation of the maximum charges allowed under loans made by licensees under article seven-a, chapter forty-seven of the code of West Virginia is a question of public importance; and

WHEREAS, The Legislature does not now have available sufficient data concerning the details of the business and earnings of licensees now doing business in the state to enable a proper study and consideration of the question; and

WHEREAS, The Legislature desires to have full and complete information concerning the number of borrowers and number of loans made annually by such licensees; therefore be it

*Resolved by the Senate:*

That the banking commissioner be requested to make exhaustive investigations and examinations of the business of each licensee under said article seven-a, chapter forty-seven of the code and report to the Legislature at its next session the results thereof; and be it

*Resolved Further,* That the banking commissioner be directed to include in his report to the Legislature detailed data concerning the capital, gross earnings, expenses, net income and costs of operation including the amount expended for advertising, the cost of business promotion and interest paid on borrowed funds of each of the licensees, the increase or decrease of said licensees during the past four years and such other information as he may deem relevant; and

*Resolved Further,* That the banking commissioner be directed to study the growth of the small loan business in the state of West Virginia and in his report to include information concerning the number of borrowers and the average amount of the loans made to the individual borrowers by each of said licensees; and

*Resolved Further,* That for the purpose of conducting such investigations and examinations the banking commissioner be authorized to exercise all of the powers invested in him under section ten, article seven-a, chapter forty-seven of the code as amended by acts of one thousand nine hundred thirty-three, chapter thirteen.

## SENATE RESOLUTION NO. 16

(By MR. HODGES, Mr. President)

(Originating in the Committee on Rules)

[Adopted February 26, 1937.]

Authorizing the Committee on Rules to arrange a special calendar.

*Resolved by the Senate:*

That from and after this legislative day, and for each legislative day until the end of the regular session of the Legislature, the Committee on Rules is hereby authorized to arrange a "special calendar" and, until the business of such special calendar is disposed of each day, no item on the regular calendar shall be considered or take precedence over any item on said special calendar, subject to the provisions of Senate Rule number sixty-seven.

## SENATE RESOLUTION NO. 17

(By MR. HODGES, Mr. President)

(Originating in the Committee on Rules)

[Adopted March 5, 1937.]

Providing for the payment of expenses of members attending funeral.

*Resolved by the Senate:*

That the Clerk of the Senate is hereby authorized to draw his warrants in the following amounts upon the Auditor, payable from the contingent fund of the Senate, in favor of the following members who were appointed by the President to represent this body at funeral services conducted for Honorable John L. Wever, member of the House of Delegates, at Martinsburg:

Clayton L. Haines.....	\$48.00
Frank A. Young.....	48.00
W. Broughton Johnston.....	48.00
D. Grover Moler.....	48.00
L. B. Snyder.....	48.00

SENATE RESOLUTION NO. 18

(By MR. FLEMING)

[Adopted March 9, 1937.]

Relating to the privileges of the floor.

*Resolved by the Senate:*

That from and after this date and until the close of the regular session of the Legislature, no person shall be allowed the privilege of the Senate floor while the Senate is in session except members of the House of Delegates and members of the Senate, officers and attaches of the House and Senate staffs, accredited members of the press, the governor, and the governor's private secretary.

SENATE RESOLUTION NO. 19

(By MR. PAULL)

(Originating in the Committee on Rules)

[Adopted March 13, 1937.]

Providing for the payment of expenses of members attending funeral.

*Resolved by the Senate:*

That the Clerk of the Senate is hereby authorized to draw his warrants in the following amounts upon the Auditor, payable from the contingent fund of the Senate, in favor of the following members who were appointed by the President to represent this body at the funeral services conducted for Honorable Ben H. Butcher, member of the House of Delegates, at Parkersburg:

Calvin N. Hall.....	\$20.00
Dan B. Fleming.....	20.00
John J. Pelter.....	20.00
Frank A. Young.....	20.00

## SENATE RESOLUTION NO. 20

(By MR. HODGES, Mr. President)

(Originating in the Committee on Rules)

[Adopted March 13, 1937.]

Janitor service after adjournment.

*Resolved by the Senate:*

That, in order that the work incident to the proper cleaning of the Senate part of the capitol preparatory to closing between sessions may be taken care of, the time of the assistant superintendent of capitol building and grounds, at a per diem of two dollars, and ten assistant janitors heretofore appointed at a per diem of four dollars, is hereby extended for five days each.

## SENATE RESOLUTION NO. 21

(By MR. HODGES, Mr. President)

(Originating in the Committee on Rules)

[Adopted March 13, 1937.]

Printing of the Journal and completing the work of the session.

*Resolved by the Senate:*

That in order to complete the work of the session in arranging and filing of all bills, resolutions, petitions and other official papers in the Clerk's office and document room, and to allow time for proofreading, printing and indexing the corrected Journal and arranging and printing its several appendices, and in printing and indexing the volume of Senate Bills, and in completing the work in the document and mailing rooms and in performing other services incident to the closing of this session of the Legislature, the per diem of the Clerk at twenty dollars and two assistant clerks at twelve dollars each, respectively, is extended for one hundred and twenty days; the journal stenographer at nine dollars per diem for ninety days; the secretary to the President at twelve dollars per diem for ninety days; the clerk to the Minority Leader at nine dollars per diem for thirty days; the clerk to the Sergeant-at-Arms at eight dollars per diem for ten days; one stenographer at



seven dollars per diem for ten days; one clerk at seven dollars per diem for fifteen days; one clerk at eight dollars per diem for ten days; one clerk on enrolled bills at seven dollars per diem for five days; sixteen stenographers at seven dollars per diem for five days each; the clerk of the Committee on the Judiciary, the clerk to the Committee on Finance, and two committee clerks-at-large at ten dollars per diem each for five days; one mail clerk, one addressograph clerk, five document room clerks and four journal room clerks at seven dollars per diem each, respectively, for five days; five assistant doorkeepers, two assistant sergeants-at-arms, and four assistant clerks at seven dollars per diem each, respectively, for five days; bill editor, at nine dollars per diem, for five days; five pages at four dollars per diem for five days each; one printing clerk at eight dollars per diem for ninety days, and three printing clerks at eight dollars per diem for ninety days each; the Sergeant-at-Arms at ten dollars per diem for ten days, and the Doorkeeper at ten dollars per diem for five days.

All extensions provided for herein shall begin at the end of this session of the Legislature.

The compensation of those designated hereunder shall be paid out of the contingent fund of the Senate for consecutive days upon proper requisition drawn by the Clerk of the Senate upon the Auditor.

## SENATE RESOLUTION NO. 22

(By MR. BARNHART)

(Originating in the Committee on Rules)

[Adopted March 13, 1937.]

Payment for stenographic services.

*Resolved by the Senate:*

That the Clerk of the Senate is authorized to draw his warrant upon the Auditor in favor of Grayce Cunningham, for stenographic services rendered the President of the Senate, in his official capacity, from January 1, 1937, to March 13, 1937, for one hundred and forty dollars, payable out of the contingent fund of the Senate.

## SENATE RESOLUTION NO 23

(By MR. HELMICK)

[Adopted March 13, 1937.]

Committee to notify House of Delegates.

*Resolved by the Senate:*

That a committee of three be appointed by the President of the Senate to notify the House of Delegates that the Senate is ready to adjourn *sine die*.

# INDEX

## ACTS

Regular Session, 1937

ACTS:	SEC.	PAGE.
Heading, etc. not part of Act.....	12	463

### ACTS AMENDED:

ACTS	CH.	ART.	SEC.	SESS.	PAGE
1907	25			Regular	(Terms intermediate court, Kanawha county) ... 539
1932	19			Ex.	(Salaries sheriffs, clerks and prosecuting attorneys).. 357
1933	3		5	Regular	(Board of the school fund) ..... 367
1933	4			Regular	(Interest on state and county deposits) ..... 82
1933	5	6	5	Regular	(Unlawful fishing) 166
1933	6			Regular	(Stream pollution) 514
1933	6			First Ex.	(Loans by banks) . 78
1933	8			First Ex.	(County superintendents) ... 160
1933	12			First Ex.	(West Virginia state college) ..... 411
1933	26	1, 9		First Ex.	(Municipal waterworks) ..... 231
1933	33	12	3, 12, 13, 20	First Ex.	(Business and occupation tax) ..... 434
1933	33	12-a	10, 10-a, 10-e	First Ex.	(Tax on carrier corporations) ..... 437
1933	37		10	Regular	(Listing public utility property for taxation) ..... 457
1933	40		1	First Ex.	(Traffic regulations on state roads) .... 350
1933	40		26	First Ex.	(Bridges part of state road system) 352
1933	40	2-a	18	First Ex.	(Sale of property of state road commission) . . . . . 391
1933	43			Second Ex.	(Duties and salaries county commissioner) ..... 129

## ACTS AMENDED (Continued):

ACTS	CH.	ART.	SEC.	SESS.	PAGE
1933	44			Second Ex.	(Powers of county courts) ..... 133
1933	49			Second Ex.	(Municipal water-works) ..... 231
1933	60		18	Regular	(Political activities of members of fire departments) ..... 235
1933	60	6	23	First Ex.	(Motor vehicle-licenses and plates) ..... 228
1933	67			Regular	(Transfer of funds, Harrison county) ..... 537
1933	111		3, 7, 10	Second Ex.	(Wetzel county hospital) ..... 554
1933	118			First Ex.	(Ohio county public library) ..... 558
1935	4, 5	4	4, 6	Regular	(Alcoholic liquors) 109
1935	4	6	4	Regular	(Alcoholic liquors) 109
1935	4	3	12	Regular	(Alcoholic liquors) 111
1935	4	6	9, 12, 13, 20, 21	Regular	(Alcoholic liquors) 111
1935	7		1, 4, 7	Regular	(Agricultural loans) ..... 150
1935	14			Regular	(Loans by banks) 78, 82
1935	28		28	Regular	(Department of Public Safety) ..... 377
1935	29			Regular	(Department of Public Safety) ..... 379
1935	36			Regular	(Witnesses in criminal proceedings) .. 178
1935	38			Regular	(Admission to bail) ..... 311
1935	42		2	Regular	(Terms of court, eleventh circuit) .. 117
1935	63			Regular	(Motor vehicle licenses and plates) 228
1935	65			Regular	(Motor vehicles, certificate of title) 202
1935	68		21, 24	Regular	(Bonds, municipal public works) ..... 236
1935	78			Regular	(Workmen's compensation) ..... 416
1935	81			Regular	(Board of the school fund) ..... 367
1935	86		2-c	Regular	(Business and occupation tax) ..... 433
1935	89			Regular	(Income tax) ..... 453

ACTS AMENDED (Continued):

ACTS	CH.	ART.	SEC.	SESS.	PAGE
1935	95			Regular	(Wages on public improvements) .... 521
1935	109		12	Regular	(Valuation public service corporation property)..... 125
1935	113		1, 2	Regular	(National housing act) ..... 77
1936	1			First Ex.	(Public assistance) ..... 327-333
1936	15			First Ex.	(Commission on interstate cooperation) ..... 172
1936	1	(1, 2, 5, 6, 7, 8, 10		Second Ex.	(Unemployment compensation) .... 393
1937	139		10	Regular	(Grafton municipal hospital) ..... 535

ACTS REPEALED:

1932	20			Ex.	(Salaries state officers and employees) ..... 353
1935	4	6	14	Regular	(Alcoholic liquors) 111
1935	86		2-f	Regular	(Tax on business of banking) ..... 92
1936	1	5, 6	8, 14-19	Second Ex.	(Unemployment compensation) .... 393

AGRICULTURE:

	SEC.	PAGE.
(See Fairs, Agricultural).....		148
(See Lime, Agricultural) .....		141
(See Loans, Agricultural) .....		150

ALCOHOLIC LIQUORS:

Agencies, hours and days may sell .....	12	112
Illegal possession .....	9	112
penalty .....	9	113
Intoxication, or drinking in public place .....	9	112
penalty .....	9	113
Permitted use by druggists.....	4	110
Purchase of, and sale by retail druggists .....	6	110
by wholesale druggists.....	4	109
Section repealed .....	14	114
State stores, hours and days may sell .....	12	112
Transportation of, into or through state .....	12	113
permits for .....	12	113
restrictions on .....	13	113
contraband vehicles .....	20	114
court procedure .....	21	114
unlawful, penalty .....	12	113

	SEC.	PAGE.
<b>ALIENS:</b>		
Hunting and fishing license .....	2-f, 3 (4)	168, 170
Unlawful to possess firearms.....	3	168
<b>APPRAISAL OF ESTATES OF DECEDENTS:</b>		
Appraisers		
appointment .....	14	316
compensation .....	14	317
duties .....	14	316
number .....	14	316
oath .....	14	316
Filing .....	14	317
made in duplicate .....	14	317
notes and bonds.....	14	317
when judgment on, barred.....	14	317
Personal representative, duty .....	14	317
penalty .....	14	318
Prima facie evidence of value of estate .....	14	317
<b>APPRAISERS:</b>		
(See Appraisalment) .....		316
<b>APPROPRIATIONS:</b>		
Congressional, when legislature not in session .....	94	385
Graves of Francis H. and Julia A. Pierpont.....	2	174
Memorial to confederate veterans.....	3	76
Public service commission, accumulated special fund .....	97	389
<b>APPROPRIATIONS (BUDGET BILL):</b>		
Act		
definition of words and phrases .....	2, 3	2
inconsistent acts suspended .....	26	74
provisions severable .....	27	74
purpose of .....	1	1
Adjutant general, state militia.....		47
Agricultural fairs and association awards.....		43
Athletic commission .....		49
Board of control .....		16
personnel classification by.....	11	69
service by, to director of budget .....	10	69
Board of public works		
appropriation to for sinking fund commission..	10	65
powers under act .....	1, 2	2, 67
contingent funds .....	9	65
division of statistics .....		367
duties .....		369
reports by .....		367
excess of collections .....	22	72
plans for expenditures submitted to ...	13, 14, 15	70, 71
reduction of appropriations .....	5, 6, 7, 8	68
salaries of state liquor stores personnel...		41
survey of collection of revenue .....	4	67

APPROPRIATIONS (BUDGET BILL) (Continued):	SEC.	PAGE.
system of accrual accounting .....	12	70
transfer of funds .....	23	73
transfer of personal property .....	20	72
Boards and committees		
accountants .....		49
architects .....		50
barbers and beauticians .....		32
dental examiners .....		49
embalmers and funeral directors .....		50
law examiners .....		49
nurses .....		49
optometry .....		49
osteopathy .....		49
pharmacy .....		49
professional engineers .....		50
veterinary .....		50
Bonded indebtedness, other than road .....	3	64
Bureau of aeronautics .....		50
Bureau of labor .....		37
Bureau of negro welfare and statistics .....		33
Capitol building and grounds .....		17, 52
Carrick's Ford Battlefield .....		46
Claims against the state and refunds		
gross sales taxes .....		54
inheritance, transfer and estate taxes .....		54
state road commission .....		55-63
Collections, excess .....	22	72
how expended .....	22	72
unlawful expenditure of .....	22	72
Conditional .....	1	6, 67
exceptions .....	1	67
Conservation commission .....		44
Clark-McNary .....		45
collections, deposit and expenditure .....		45
division of state parks .....		44
state forests .....		45
Contingent funds		
expenditure first approved by board .....	9	65
exceptions .....	9	65
Counties, districts and municipalities .....	12	65
Department of archives and history .....		52
Department of banking .....		39
Department of mines .....		37, 52
Department of public assistance .....		32
children of world war veterans .....		32
Department of public safety .....		77

APPROPRIATIONS (BUDGET BILL) (Continued):	SEC.	PAGE.
Director of the budget .....		17
appointment, term, and salary .....	9	69
classification of personnel by .....	11	69
exceptions .....	11	69
record of receipts and anticipated income.....	21	72
requisitions presented through .....	17	71
legislature excepted .....	17	71
services board of control to.....	10	69
Droop mountain battlefield commission .....		45
Educational institutions		
Bluefield state teachers' college .....		26
Colored deaf and blind .....		26
Concord state teachers' college .....		25
Deaf and blind .....		26, 73
Fairmont state teachers' college .....		24
Four-H camp for colored boys and girls .....		27
Glenville state teachers' college .....		24
Marshall college .....		23, 51
New River state college .....		25
Potomac state school .....		23
Shepherd state teachers' college .....		25
Storer college .....		26
West Liberty state teachers' college .....		24
West Virginia state college .....		25
West Virginia university .....		21
agricultural experiment station .....		22
agricultural, etc. extension .....		21
cooperation with Oglebay Institute .....		22
experiment farm—Kearneysville .....		22
extension division, county agents .....		22
4-H camp .....		22
forestry .....		23
Inwood apple packing plant .....		23
mining and industrial extension .....		21
personnel classification by board of governors .....	11	70
Reymann memorial farm .....		23
Erroneous payments into treasury .....	8	64
Executive departments		
Attorney general's office .....		17
Auditor's office .....		14
fire marshal .....		48
land department .....		14
securities department .....		40
Department of agriculture .....		43
Department of education .....		19
general school fund supplement .....		20, 51
state board of education .....		19
personnel classification by .....	11	70
rehabilitation division .....		19
vocational division .....		19



APPROPRIATIONS (BUDGET BILL) (Continued):	SEC.	PAGE
Department of health .....		31
Governor's office .....		12
custodial .....		13
emergency .....		13
pardon attorney .....		14
Secretary of state's office .....		17
Treasurer's office .....		15
Expenditure of, plans .....	13, 14, 15	70, 71
control of .....	21	72
limitations on .....	5, 16	71
maximum .....	6	3
method .....	4	3
requisitions .....	17	71
specific appropriations .....	18	71
General school fund		
balance .....	15	66
Geological survey .....		44
Grafton G. A. R. Post .....		46
Homes		
Aged and infirm colored .....		30
Children's .....		29
Colored children's .....		30, 53
Colored child's shelter .....		31
Davis child shelter .....		31
Florence Crittenden .....		29
Hospitals		
Fairmont emergency .....		34
Huntington state .....		34
Lakin state .....		34
McKendree emergency .....		34
Morris memorial .....		37
Spencer state .....		33
Training school .....		30
Welch emergency .....		35
Weston state .....		33, 51
Industrial schools		
boys' .....		27
death, etc., claims .....		27
colored boys' .....		28
colored girls' .....		28
girls' .....		28
Interstate cooperation, commission on .....		38
Judicial		
circuit courts .....		12
special judges .....		12, 52
criminal charges .....		12
state law library .....		12
supreme court of appeals .....		11

APPROPRIATIONS (BUDGET BILL) (Continued):	SEC.	PAGE.
Legislative		
House of Delegates .....		8
printing .....		11
Senate .....		7
Liquor control commission .....		41
Lump sum .....	19	72
Mailing department .....		18
Morgan Morgan Memorial .....		46
National Editorial association meeting .....		53
New York World Fair .....		53
Pierpont monument .....		46
Point Pleasant monument commission .....		45, 51
Printing, binding, and stationery .....	13	66
Public service commission .....		38
Purchasing department .....		18
Racing commission .....		41
Rumseyan society .....		45
Sanitariums		
Berkeley Springs .....		37, 52
Denmar .....		36, 73
Hopemont .....		35
Pinecrest .....		35, 73
Septimius Hall monument .....		46
Sinking fund commission .....		15
deficiencies .....	10	65
Sons of confederate veterans .....		46
Special revenue .....	4	64
Specific funds and collection accounts .....	7	64
Specific statutory appropriations .....	6	64
Spending units		
annual inventory by .....	25	74
duties .....	24	73
plan of expenditure, yearly .....	13	70
examination by board .....	14	70
request for allotment, quarterly .....	15	71
examination by board .....	15	71
State road commission .....		42
secondary roads .....		42
Tax commissioner's office		
accounting department .....		16
forfeitures and license fees, collection .....	11	65
gasoline department .....		16
general administration .....		16
revenue department .....		16, 50
Total .....	14	66
Transfer of items .....	23	73

APPROPRIATIONS (BUDGET BILL) (Continued):	SEC.	PAGE.
Tuberculosis		
(See Sanitariums)		
clinics .....		36
treatment .....		36
Unemployment compensation commission		
reemployment division .....		37
Unexpended, revival .....	5	64
Uniform state laws, commission for .....		53
Water commission .....		31
West Virginia foundation for crippled children ..		31, 73
West Virginia penitentiary .....		28
Workmen's compensation .....		40
silicosis fund .....		40
 ASSESSORS:		
(See Taxation) .....		457
Annual meetings, state and local .....	7	464
 ASSIGNMENT:		
(See Wages) .....		519
Benefit of all creditors, for		
acknowledgement .....	1	298
act, provisions severable .....	17	310
former, repealed .....	18	311
appraisers, appointment .....	3	300
fees .....	16	310
report by .....	3	300
assent of trustee endorsed on .....	1	299
assignor, duties of .....	14	309
first meeting of creditors .....	8	304
claims, filing and proof .....	6	301
compromise of .....	9	304
delinquent taxes .....	7	303
liens, proof or non-proof .....	7	303
waiver of .....	7	303
commissioner of accounts		
closing trusteeship .....	11	307
notice to surety on bond .....	11	307
disobedience of orders of .....	15	309
penalty .....	15	310
report of, to court .....	15	309
hearing on .....	15	309
powers and duties .....	11, 13	306, 308
compromise of claims .....	9	304
first meeting of creditors .....	8	304
removal of trustee .....	12	308
sales by trustees .....	9	304
reference of estate to .....	3, 12	299, 309
substitute trustee .....	12	309

ASSIGNMENT (Continued):	SEC.	PAGE.
report by .....	11	306
appeal from decision .....	11	306
corporations .....	1	299
unpaid capital stock .....	1	299
creditors		
first meeting .....	8	304
sales by trustee, powers of .....	9	304
substitute trustee .....	8	304
dividends .....	11	306
secured creditor .....	11	306
unclaimed .....	11	307
trustee		
assent to assignment .....	1	299
attorney for .....	16	310
fees .....	16	310
dividends .....	11	306
duties .....	12	307
fees and expenses .....	16	310
first meeting of creditors .....	8	304
notice by, to creditors .....	5	301
publication and mailing .....	5	301
oath and bond .....	2	299
powers .....	12	307
qualifications .....	12	307
removal .....	12	308
report to commissioner of accounts .....	10	305
notice of .....	10	306
sales by .....	9	304
notice of .....	9	304
schedule filed by .....	4	300
form .....	4	300
substitute .....	4, 12	300, 308
 ATTORNEY GENERAL:		
(See Corporations) .....		128
(See Department of Labor) .....		375
(See Interstate Cooperation) .....		173, 183
(See Municipal corporations) .....		247
(See Prosecuting attorneys) .....		320
(See Stream Pollution) .....		515, 518
(See Workmen's Compensation) .....		432
Appropriation for office of .....		17
Assistants to		
number and salary .....	3	365
special .....	3	365
Duties and powers		
as to prosecuting attorneys .....	2	364
as to state .....	2	363
Salary .....	2	353

	SEC.	PAGE.
<b>AUDITOR:</b>		
(See Board of the School Fund) .....		367
(See Corporations) .....		120, 127
(See Motor Vehicles) .....		198
(See Real Estate Commission) .....		507
(See Road Bonds) .....		334
(See Treasury, State) .....		392
Appropriation for office of .....		14, 48
Salary of .....		353
<b>BAIL:</b>		
Admission to .....	6	311
exceptions .....	6	311
procedure .....	6	312
<b>BANKS AND BANKING INSTITUTIONS:</b>		
(See National Housing Act) .....		77
County depositories		
interest rate on public money .....	5	82
Constitutional amendment concerning .....	1-6	84-87
Doing business entirely without state .....	45	88
Insolvent		
interest rate on state deposits in .....	32-b	92
Loans by		
collection of .....	18	81
extension or renewal .....	18	79
limitations on .....	18	79
to officer, director or employee .....	18	81
Reports by, to commissioner of banking .....	11	90
Securities purchased by, how carried on books .....	18	81
State depositories		
interest rate on state deposits in .....	5	83
Tax on business of, repealed .....	1	92
<b>BARBOUR COUNTY COURT:</b>		
Authorized to pay prosecuting attorney for services	1	523
<b>BEER, NONINTOXICATING</b>		
Act, how cited .....	1	94
administration, expense .....	19	108
amount .....	19	108
vested in tax commissioner .....	19	108
provisions severable .....	22	108
Brewer, defined .....	2	94
bond .....	5	95
license fee .....	2	95
nonresident, restrictions on .....	9, 10	98, 99
payment by, of barrel tax .....	6	96
reports by .....	6	96
records .....	8	97
resident, as distributor .....	10	99
Code repealed .....	21	108

BEER, NONINTOXICATING (Continued):	SEC.	PAGE.
Definitions .....	2	94
Distributor, defined .....	2	94
bond .....	5	95
license fee .....	12	95
payment by, of barrel tax .....	6	96
reports by .....	6	96
restrictions on .....	9, 10	98, 99
records of .....	8	97
License, state, required .....	3	94
amount .....	4	94
application for, form .....	12	100
additional information .....	12	101
penalty for false statement .....	13	104
time of filing .....	12	101
change of location .....	11	100
expiration .....	20	108
in one capacity only .....	10	99
not transferable .....	11	100
refusal, causes for .....	12	101
reissuance .....	16	106
revocation .....	15	105
appeal .....	15	105
time .....	15	106
hearing .....	15	105
continuance .....	15	105
place .....	15	106
selling after, penalty .....	15	105
when tax unpaid .....	7	97
Retailer, defined .....	2	94
bond .....	5	96
license fee .....	4	95
Tax		
administration expense paid from .....	19	108
barrel .....	6	96
amount .....	6	96
by whom paid .....	6	96
collection .....	7, 8	97
lien of .....	7	97
municipal .....	17	107
paid into state treasury .....	19	107
Tax Commissioner		
administration of act vested in .....	18	107
assistant and agents .....	18	107
compensation .....	18	107
powers .....	14	104
revocation of license by .....	15	105
Unlawful acts of licensee .....	13	102
penalty .....	13	104

	SEC.	PAGE.
<b>BERKELEY COUNTY:</b>		
Dip-net fishing in streams in .....		167
<b>BLIND PERSONS:</b>		
(See Public Assistance) .....		332
<b>BOARD OF CONTROL:</b>		
(See Appropriations) .....		69, 70
(See West Virginia University) .....		416
Appropriation for .....		16
Salaries .....		354
<b>BOARD OF DENTAL EXAMINERS:</b>		
(See Dentistry, Practice of) .....		487, 489
Appropriation for .....		49
<b>BOARD OF OPTOMETRY:</b>		
(See Optometry, Practice of) .....		498
Appropriation for .....		49
<b>BOARD OF PUBLIC WORKS:</b>		
(See Appropriations) .....		65, 67-73
(See Banks and Banking Institutions) .....		83
(See Board of the School Fund) .....		367
(See Bonds) .....		339, 468
(See Capitol Grounds) .....		369
(See Corporations) .....		125
(See West Virginia University) .....		415
<b>BOARD OF THE SCHOOL FUND:</b>		
Board .....	5	367
how constituted .....	5	368
investments by .....	5	368
organization of .....	5	368
powers .....	5	368
Fund .....		
investment of .....	5	368
separate .....	5	367
sources .....	5	367
<b>BONDS:</b>		
(See Municipal Corporations) .....		236
(See Road Bonds) .....		334
Official .....		
giving before taking office .....	1	466
time limit .....	1	466
extension of .....	1	466
state executive officers .....	1	466
Refunding, of political divisions .....		
authority to issue .....	4	467
conditional .....	4	467

BONDS (Continued):	SEC.	PAGE
election or publication not required.....	6	468
sale		
to board of public works .....	9	468
to secretary of state for the state.....	4	467
to state sinking fund commission .....	9	468
Revenue bonds, refinancing		
act, how cited .....	1	471
authority for refunding bonds .....	16	485
provisions severable .....	17	485
purpose .....	3	473
constitutional limitations .....	8	477
definitions of terms .....	2	471
fiscal agent .....	11	477
appointment and removal .....	11	477
powers and duties .....	11	477
form, interest rate, etc. ....	5, 8	473, 476
negotiability .....	5	474
payment of, from revenues .....	9, 13	474, 481
security for		
liens on revenues .....	8	475
additional .....	8	476
prior issue unimpaired .....	8	477
receiver, upon default .....	14	481
appointment .....	14	482
powers and duties .....	14	482
limitation on .....	14	482
termination .....	14	482
resolution for issuance of .....	4	473
immediate effect .....	4	473
procedure .....	4	473
provisions in .....	13	479
rights of bondholders .....	12	478
duty of public body .....	12	478
suits to enforce .....	15	483
cumulative remedy .....	15	484
sale or exchange .....	7	475
conditions .....	7	475
tax exempt .....	10	477
exceptions .....	10	477
validity .....	6	474
Validation of prior issues by public body		
act, how cited .....	1	469
definitions of words and phrases .....	2	469
loans or grants through federal emergency		
administrator of public works .....	3	469
contracts for .....	4	470



	Sec.	PAGE.
<b>BRAXTON COUNTY:</b>		
Certificates of indebtedness .....	1	524
levies for .....	3	525
payment postponed .....	1	524
Contractual debt levies .....	2	525
expenditure for courthouse and jail .....	2	525
Terms of circuit court .....	1-n	119
<b>BRIDGES:</b>		
(See Roads and Highways) .....		352
<b>BUDGET BILL:</b>		
(See Appropriations) .....		1
<b>BUDGET DIRECTOR:</b>		
(See Appropriations) .....		69, 71, 72
(See Interstate Cooperation) .....		173
<b>BUSINESS, OCCUPATION AND PRIVILEGE TAX:</b>		
Carrier corporations		
collection, by distraint .....	10-b	438
by suit in equity .....	10-b	438
lien of tax on .....	10	427
creation and release .....	10-a	438
recording .....	10-a	438
penalty for delinquency .....	10	437
payment, before dissolution or withdrawal .....	10-c	439
by contractors on public works .....	10-d	439
by fiduciary .....	10-e	439
personal liability .....	10-e	439
surtaxes .....	5-a	440
Exemptions, amount .....	3	434
businesses .....	3	435
Lien of, due and unpaid .....	12	435
collection, by suit .....	13, 20	435, 436
by distraint .....	20	436
compensation of sheriff .....	20	436
penalty for default .....	12	435
Payment by receiver .....	13	436
Surtaxes, amount .....	3-a	440
businesses exempt .....	3-a	440
Tangible property, selling		
amount .....	2-c	433
wholesaler or jobber .....	2-c	434
sales exempt .....	2-c	434
<b>CAPITOL GROUNDS, STATE:</b>		
Appropriation for .....		17, 52
Development of, by board of public works .....	1	369
advisory committee .....	2	369
expenses of members .....	2	370
appropriation for .....		17

		SEC.	PAGE	
<b>CIRCUIT CLERKS:</b>				
(See Elections) .....			164	
(See Salaries) .....			360	
<b>CIRCUIT COURTS:</b>				
Eleventh Circuit, terms .....		2	117	
Thirteenth Circuit, law clerk .....		1	118	
Fourteenth Circuit, terms .....		1-n	119	
Salaries of clerks .....		3, 4	360, 361	
<b>CLAY COUNTY:</b>				
Payment to Wilma Pugh authorized .....		1	525	
Payment to J. B. Wheeler, former sheriff, authorized .....		1	526	
Terms of circuit court .....		1-n	119	
<b>CLERK OF THE HOUSE OF DELEGATES:</b>				
(See Acts, Legislative) .....			463	
(See Municipal Corporations) .....			248, 250	
<b>COAL MINES:</b>				
(See Department of Labor) .....			375	
Explosives, hauling into .....		64	195	
firing shots .....		64	195	
preparation for .....		64	195	
Weighing coal before screening .....		75	196	
<b>CODE AMENDED:</b>				
CH.	ART.	SEC.		PAGE
1	2	1	(Senatorial districts) .....	510
2	2	12	(Heading of legislative acts).....	463
3	4	6-a	(Primary election fees) .....	162
3	7	20-a	(Election offenses by corporations....	165
5	1	7-13	(Interstate extradition) .....	181
5	3	2	(Duties of attorney general).....	363
5	3	3	(Assistants to attorney general).....	365
6	2	1	(Official bonds) .....	465
7	1	5	(Salaries of county commissioners) .	129
7	4	1	(Duties of prosecuting attorneys)....	319
7	6	5	(Interest on state and county deposits) .....	82
7	7	1-5	(Salaries sheriffs, clerks and prose- cuting attorneys) .....	357
7	7	6	(Assistants and stenographers to prosecuting attorneys) .....	321
8	6	9, 10, 14	(Municipal waterworks) .....	232
8	6	14-a	(Fees for municipal arrests) .....	293
8-a			(Municipal home rule) .....	238
9	3	3	(Public welfare law) .....	329
9	4		(County public health council) .....	326

CODE AMENDED (Continued):

CH.	ART.	SEC.		PAGE
9	5	17, 27, 34	(Public welfare law) .....	332, 333
9	6	2	(Public welfare law) .....	328
9	7	3	(Public welfare law) .....	329
9	7	3-a, 3-b, 3-c	(Public welfare law) .....	329
9	10	17-a	(Public welfare law) .....	331
11	2	7	(Annual meeting of assessors) .....	464
11	3	10	(Listing public utility property for taxation) .....	457
11	6	12	(Valuation public service corpor- ation property) .....	125
11	6	23	(Taxes, public service corporation property) .....	127
11	8	10-a	(Use of county debt levies for cur- rent expenses) .....	140
11	11	4	(Inheritance and transfer tax) .....	455
11	12	1	(Businesses requiring state licenses) .....	460
11	12-a	5-a	(Surtax on carrier corporations) .....	439
11	12-a	10	(Tax on carrier corporations) .....	437
11	13	{ 3, 3-a, 12, 13, 20	(Business and occupation tax) .....	434, 439
11	13-a	3, 30, 33, 42	(Income tax) .....	453
11	14	3, 22	(Gasoline tax) .....	450
11	14	20	(Refund gasoline tax) .....	452
11	15		(Consumers sales tax) .....	439
11	15		(Non-intoxicating beer) .....	93
12	1	5	(Interest on state and county de- posits) .....	82
13	2, 3	4, 6, 9	(Refunding bonds of political sub- divisions) .....	467
15	2	9	(Department of public safety) .....	379
15	2	28	(Department of public safety) .....	377
16	3	4	(Vaccination of school children) .....	512
16	7	7-11	(Pure food and drugs) .....	153
16	11	11-15	(Stream pollution) .....	514
17	2-a	8	(State road commissioner) .....	341
17	4	4, 19	(Roads and highways) .....	341
17	4	26	(Bridges on state roads) .....	352
17	5		(Convict road force) .....	344
17	7	1	(Motor vehicle certificate of title) .....	202
17	8	11	(Traffic regulations in passing street cars and buses) .....	197
17	8	31-a	(Traffic regulations on state roads) .....	350
17	15	1, 2, 4	(Convict road force) .....	344
17	19	13-a	(Motor vehicle transporting ex- plosives) .....	201
18	4	1-3, 10	(County superintendents) .....	160

## CODE AMENDED (Continued):

CH.	ART.	SEC.		PAGE
18	9	3-a	(Publication of financial statement by county board of education) ....	159
18	9	5	(Board of the school fund) .....	367
18	13	1	(West Virginia state college) .....	411
19	7	4-6	(State aid for fairs) .....	148
19	11	3-4	(Cream and butter) .....	145
20	6	5	(Unlawful methods of fishing) .....	166
20	7	(2-2g (3-3c (4-4b	(Hunting and fishing licenses) .....	167
21	1, 3		(State department of labor) .....	370
21	5	3	(Assignment of wages) .....	519
22	2	64, 65	(Explosives in coal mines) .....	194
22	2	75	(Weighing of coal) .....	196
23	2, 4, 5		(Workmen's compensation) .....	416
27	8	3, 6	(West Virginia training school).....	414
29	1	2	(State historian and archivist) .....	386
30	4	2, 7, 14	(Practice of dentistry) .....	485
30	7	5	(Registration and training of nurses)	295
30	7	9	(Illegal practice of nursing) .....	294
30	8	7, 8	(Practice of optometry) .....	497
31	1	69	(Voting by directors of corporations)	129
38	13		(Assignments for benefit of credit- ors) .....	297
44	1	14	(Appraisal of estates) .....	316
44	3	4	(Commissioners of accounts) .....	312
44	3	5	(Commissioners of accounts) .....	315
44	4	1	(Accounting by fiduciaries) .....	313
47	1	4, 20	(Weights and measures) .....	376
48	1	6	(Marriage licenses) .....	495
51	2	1-n	(Terms of court, fourteenth circuit)	119
54	2	14	(Condemnation by state or political subdivision) .....	490
56	3	31	(Process on non-resident motor ve- hicle operator) .....	198
57	3	1	(Competency of witnesses) .....	318
60	6	{9, 12, 13 {20, 21	(Alcoholic liquors) .....	111
60	3	12	(Alcoholic liquors) .....	111
61	3	45-a	(Stealing from pipe lines) .....	500
62	1	6	(Admission to bail) .....	311

## CODE REPEALED:

11	12	91-103	(Non-intoxicating beer) .....	93
11	13	2-f	(Tax on business of banking) .....	92
20	3	3	(Hunting and fishing licenses).....	167
28	5	9	(Convict road force) .....	350
38	1	14-18	(Assignment for benefit of creditors)	297

	SEC.	PAGE.
<b>COMMISSIONER OF ACCOUNTS:</b>		
Appraisements, duties .....	14	316
Disqualification .....	4	312
acting when disqualified, penalty .....	4	313
Inventories and appraisements returned to .....	1, 14	314, 316
compelling return .....	1	314
duties of commissioner .....	5	315
penalty for failure .....	5	315
<b>COMMISSIONER OF AGRICULTURE:</b>		
(See Eggs) .....		155
(See Fairs) .....		149
(See Lime) .....		141, 148
(See Milk) .....		148
Appropriation for office of .....		43
Salary .....		353
<b>COMMISSIONER OF BANKING:</b>		
(See Banks) .....		81, 88, 90
(See Corporations) .....		122
(See Senate Resolution No. 14) .....		634
Appropriation for office of .....		39
Salary .....		354
<b>CONDEMNATION:</b>		
By state or political subdivision .....	14	491
<b>CONFEDERATE MONUMENT:</b>		
Appropriation for, at Shepherdstown .....	1	76
how expended .....	1	76
<b>CONSERVATION COMMISSION:</b>		
(See Hunting and Fishing) .....		166, 167
Appropriation for .....		44
Salary of commissioner .....		354
<b>CONSTITUTION, STATE:</b>		
Proposed banking institution amendment .....	1	84
ballot .....	3	85
election .....	3	85
certificate of canvassers .....	4	85
governor to declare result .....	5	87
joint resolution proposing .....		581
name .....	2	84
publication .....	6	87
submitted to voters .....	1	84
<b>CONSUMERS SALES TAX:</b>		
Act, provisions severable .....	31	449
purpose of .....	1	441
tax commissioner to administer .....	28	449
information obtained, confidential .....	27	449

CONSUMERS SALES TAX (Continued):	Sec.	PAGE
preservation of returns .....	26	449
records of .....	26	449
rules and regulations .....	28	449
violations of, penalty .....	29	449
Accounting for, by retailers .....	4	443
total amount collected .....	5	443
Added to sale price .....	10	444
Amount .....	3	443
Businesses taxed .....	3	443
Definitions of words and phrases .....	2	441
Lien of .....	17	446
enforcement .....	18	447
Payment, by purchaser or consumer .....	4, 10	443, 444
by retailer to tax commissioner .....	16	446
penalty for failure .....	17	446
seller may not pay .....	11	445
penalty .....	11	445
Proceeds of, for use of free schools .....	30	449
Records of person liable for .....	23	448
non-residents .....	25	448
preservation .....	23	448
Returns .....	16	446
annual .....	21	447
other times .....	19	447
consolidated .....	22	448
incomplete, assessment of tax .....	24	448
penalty for delay .....	17	446
quarterly .....	20	447
Rules and regulations, by tax commissioner .....	12, 28	445, 449
by competing taxpayers .....	12	445
Sales, exempt .....	9	444
credit, time tax paid .....	13	445
defined .....	2 (4) (5)	442
not at retail, proof by seller .....	6	443
engaged in two businesses .....	14	445
separate books .....	14	445
to affiliates .....	15	446
Services, included in tax .....	8	444
defined .....	2 (11)	442
exceptions .....	8	444
 COOPERATIVE ASSOCIATIONS:		
(See Loans, Agricultural) .....		152
 CORPORATIONS:		
(See Elections) .....		165
Consolidation or merger		
foreign, with resident .....	63-a	124
real estate of .....	63-b	124

	SEC.	PAGE.
<b>CORPORATIONS (Continued):</b>		
resident .....	63	121
method .....	63	121
Director, voting by, when interested .....	69	129
quorum .....	69	129
License tax delinquent, payment .....	1	120
certificate of reinstatement .....	2	120
Public service		
appeal from valuation of property of		
to circuit court .....	12	125
to supreme court of appeals .....	12	127
<b>COUNTY BOARDS OF EDUCATION:</b>		
(See County Superintendent of Schools) .....		161
(See Financial Statements) .....		159
<b>COUNTY CLERKS:</b>		
(See Assignments) .....		298
(See Deeds of Trust) .....		152
(See Hunting and Fishing) .....		171
(See Marriage) .....		496
(See Municipal Corporations) .....		249, 250
(See Salaries) .....		359
<b>COUNTY COURTS:</b>		
(See Courthouses and Jails) .....		134
(See Municipal Corporations) .....		270, 276
(See Public Assistance) .....		324, 330
(For local acts, see particular county)		
Debt levies used by for current expenses .....	10-a	140
Duties and salaries of commissioners .....	5	130
Interest on county deposits .....	5	82
Leasing lands for gas, oil and minerals .....	4	132
<b>COUNTY SUPERINTENDENT' OF SCHOOLS:</b>		
Duties .....	10	161
Election .....	1	161
Health certificate .....	2	161
Qualifications .....	2	161
Removal .....	3	161
hearing .....	3	161
Term .....	1	161
<b>COURTHOUSES AND JAILS:</b>		
(See Braxton County) .....		525
(See Webster County) .....		551
Act		
construction .....	8	139
powers under, additional .....	7	139
provisions severable .....	10	139

COURTHOUSES AND JAILS (Continued):	SEC.	PAGE.
Construction, etc.		
bonds for cost of .....	3	135
form and payment .....	3	135
interest .....	5	137
lien of holders, enforcement .....	4	136
negotiable .....	5	137
proceeds, use of .....	5	137
tax exempt .....	3	136
temporary .....	5	138
indebtedness for .....	1	134
character of .....	6	138
limitation, on amount of .....	9	139
increase of levies .....	9	139
election .....	9	139
powers of county court .....	1-3, 5-6, 9	134-139
rental .....	1	134
levy for .....	2	135
 DEBT LEVIES, COUNTY:		
Used for current expenses .....	10-a	140
 DENTISTRY, PRACTICE OF:		
Act		
construction of .....	2	489
provisions severable .....	2	489
Dental hygiene, practice of		
examination .....	14	489
eligibility for .....	14	490
fees .....	14	489
Licenses		
refusal to issue, suspension or revocation		
grounds for .....	7	487
Practitioner, defined .....	2	486
exceptions .....	2	486
 DEPARTMENT OF ARCHIVES AND HISTORY:		
Appropriation for .....		27, 52
Opening and closing .....	2	387
State Historian and Archivist		
appointment .....	2	386
assistants .....	2	386
duties .....	2	386
publication by .....	2	386
report by, to governor .....	2	387
 DEPARTMENT OF HEALTH:		
(See Meat and Meat Products) .....		154
Appropriation for .....		31



DEPARTMENT OF LABOR:	SEC.	PAGE.
Commissioner of Labor		
appointment .....	2	370
assistants to, appointment .....	3	372
compensation .....	3	372
duties and powers .....	3	371
ex-officio commissioner of weights and measures	4	376
inspections by .....	3	371
upon complaint .....	3	371
yearly .....	3	371
powers as to witnesses, etc. ....	14	374
present, to continue .....	2	370
qualifications .....	2	370
salary .....	2, 14	370, 354
term .....	2	370
Employer		
accident, report of, by .....	1	373
protection of employees by .....	1	373
safety devices .....	1	373
records of, how kept .....	3	371
filing .....	3	371
inspection of .....	3	371
Steam boilers		
inspection of .....	7	374
by commissioner or inspector .....	7	374
by insurance company .....	7	374
filing report .....	7	374
permit to operate required .....	7	373
application for .....	7	373
exceptions .....	7	373
operating without, penalty .....	7	374
revocation .....	7	374
temporary .....	7	373
regulations for construction and operation	7	374
Violations of act .....	14	375
attorney general and prosecuting attorneys to		
prosecute .....	14	375
jurisdiction .....	14	375
penalties .....	14	375
Weights and measures .....	4, 20	376
commissioner of .....		376
deputies and inspectors .....	4	376
county and city sealers, records .....	20	376
reports by .....	20	376
DEPARTMENT OF MINES:		
(See Coal Mines) .....		195, 196
(See Workmen's Compensation) .....		418
Appropriation for .....		37, 52

	SEC.	PAGE.
<b>DEPARTMENT OF PUBLIC SAFETY:</b>		
(See Interstate Cooperation) .....		183
(See Motor Vehicles) .....		226
(See Municipal Corporations) .....		233
Equipment and supplies .....	9	380
property of state .....	9	381
provided by superintendent .....	9	381
uniforms, specifications .....	9	380
weapons, etc. ....	9	381
Housing and quarters for members .....	9	380
Local headquarters, maintenance .....	9	381
Pension fund		
board of, how constituted .....	28	377
payments from		
accounting system .....	28(h)	379
annuities, how paid .....	28(f)	379
future awards .....	28(g)	379
members, age and length of service.....	28(b)	377
amount of payments to .....	28(b)	377
permanent disability .....	28(c)	378
refunds to .....	28(e)	379
widows, children and dependent		
parents .....	28(d)	378
rules and regulations of .....	28	377
Radio broadcasting system		
act, jurisdiction of justice of the peace.....	9	384
provisions severable .....	10	384
establishment .....	1	382
government, regulations for .....	8	384
operation, superintendent responsible for.....	2	382
receiving sets		
sheriffs and municipalities .....	2	382
short wave sets, permits .....	5	383
exceptions .....	5	384
penalty, using without permit .....	5	384
stations		
location .....	1, 6	382,384
priority of calls to .....	4	383
staffs .....	6	384
use of .....	3	383
<b>DEPOSITORIES, STATE AND COUNTY:</b>		
(See Banks and Banking) .....		82, 83
<b>DRUGGISTS:</b>		
(See Alcoholic liquors) .....		109

EGGS:	SEC.	PAGE.
Candling .....	4	156
Cold storage or preserved .....	6	157
Enforcement of act .....	8	158
examinations .....	9	158
Grading tolerance .....	3	156
Inconsistent acts repealed .....	12	159
Invoice to show grade .....	7	157
Penalties for violations .....	10	158
Provisions severable .....	11	159
Standards for sale of .....	1	155
of interior quality .....	2	156
When unfit for food .....	5	156
ELECTIONS:		
Offenses by corporations .....	20-a	165
penalty .....	20-a	165
Primary, filing fees .....	6-a	163
to whom paid .....	6-a	164
use of .....	6-a	164
EMINENT DOMAIN, RIGHT OF:		
(See Municipal Corporations) .....		231
State or political subdivision		
petition for condemnation .....	14	491
bond not required .....	14	491
payment of damages .....	14	491
when abandonment not permitted .....	14	491
EMPLOYERS:		
(See Department of Labor) .....		371, 375
(See Elections) .....		165
(See Wages) .....		519, 521
(See Workmen's Compensation) .....		417
ETHYL ALCOHOL:		
Purchase and sale by retail and wholesale druggists .....	4, 6	109, 110
Use of, by druggists .....	4	111
EXPLOSIVES:		
(See Coal Mines) .....		195
(See Motor Vehicles) .....		201
EXTRADITION:		
(See Interstate Cooperation) .....		181
FAIRMONT, CITY OF:		
Authorized to furnish water to users outside city..	1	527
limitations .....	1	527

	SEC.	PAGE
<b>FAIRS, AGRICULTURAL:</b>		
Annual report to commissioner of agriculture.....	6	149
contents of .....	6	149
Commissioner of Agriculture to enforce act .....	5	149
to encourage state and Four-H fairs .....	4	149
Exhibits		
inspection and supervision .....	5	149
Premium list .....	5	149
report of, to commissioner of agriculture .....	5	149
State aid to .....	4	149
<b>FAIR TRADE ACT:</b>		
Citation of .....	10	495
Definitions of terms .....	1	492
Inconsistent acts repealed .....	9	495
Provisions severable .....	8	495
Resales		
minimum price		
contract fixing, lawful .....	2	492
acts violating .....	3	493
establishment .....	4	493
sale below, actionable .....	6	495
not covered by act .....	5	494
<b>FEDERAL FUNDS:</b>		
(See Unemployment Compensation) .....		401
Governor's authority, when legislature not in session	1	385
Powers of designated state agencies .....	2	385
Transfers of items of .....	3	385
<b>FIDUCIARIES:</b>		
Filing of inventories .....	1	314
appraisal as inventory .....	1	314
penalty for failure .....	1	314
with commissioner of accounts .....	1	314
contents .....	1	314
duplicates .....	1	314
summons to make return .....	1	314
failure to obey .....	1	314
report to circuit court .....	1	314
<b>FINANCIAL STATEMENTS:</b>		
Filing .....	3-a	159
Publication by county boards of education .....	3-a	159
contents .....	3-a	160
<b>FIRE DEPARTMENTS:</b>		
(See Municipal Corporations) .....		232, 235
<b>FISH, SHELL:</b>		
(See Meat and Meat Products) .....		153

	SEC.	PAGE
<b>FLOOD RELIEF:</b>		
(See Department of Public Assistance) .....		324
<b>FRESH PURSUIT:</b>		
(See Interstate Cooperation) .....		176
<b>GAME:</b>		
(See Meat and Meat Products) .....		153
<b>GASOLINE TAX:</b>		
Amount .....	3	450
reduction, when effective .....	3	450
By whom paid .....	3	451
Lien of .....	3	451
Measure of .....	3	450
Refund of .....	22, 20	451, 452
application for .....	20	452
when allowed .....	20	452
Uses of .....	22	451
allocation to secondary roads .....	22	451
When due .....	3	451
<b>GILMER COUNTY:</b>		
Terms of circuit court .....	1-n	119
Transfer of contractual debt fund to general county fund .....	1	528
<b>GOVERNOR:</b>		
(See Appropriations) .....	12, 20, 53, 69	
(See Attorney General) .....		363, 365
(See Board of the School Fund) .....		367
(See Capitol Grounds) .....		369
(See Constitutional Amendment) .....		87
(See Federal Funds) .....		385
(See Interstate Cooperation) .....		173, 174, 182, 192
(See Municipal Corporations) .....		279
(See Penitentiary) .....		366
(See Real Estate Commission) .....		502
(See Road Bonds) .....		335, 340
Appropriation for office of .....		12
Salary of .....		353
Salary of appointees .....	19	355
<b>GRAFTON, CITY OF:</b>		
Municipal hospital act		
additional and supplementary powers .....	8	534
construction of .....	9	534
provisions severable .....	11	535
construction of, authority for .....	1, 4	529, 530

	SEC.	PAGE
<b>GRAFTON, CITY OF (Continued):</b>		
increased levies for .....	10	534, 536
election .....	10	534, 536
limitation as to debt .....	7	534
rental .....	2	529
levy to pay .....	3	530
revenue bonds for cost .....	4	531
fiscal agent .....	6	533
form .....	6	532
interest rate .....	6	533
levy to pay .....	4	531
lien of bond holders .....	5	532
sinking fund for .....	6	532
tax exempt .....	4	532
temporary .....	6	534
<b>GREENBRIER COUNTY:</b>		
Terms of circuit court .....	2	118
<b>GROSS SALES TAX:</b>		
(See Banks) .....		92
(See Business, Occupation and Privilege Tax) .....		433-436
<b>HARRISON COUNTY:</b>		
Transfer of courthouse fund to general county fund .....	1	537
Transfer of contractual debt fund to general county fund .....	1	538
<b>HUNTING AND FISHING:</b>		
Badge .....	3-c	171
carrying and display .....	4-a	172
Licenses, classes and fees .....	2-a, 2-g	169, 170
age exemption .....	2	168
application for, to whom made .....	3	170
form .....	3-b	171
in person or by mail .....	3-a	170
verified .....	3-a	170
carrying and display .....	4-a	172
conditional .....	2	168
fees, use of .....	4-5	172
issuance .....	3-c	171
supplies furnished clerk .....	4	171
Unlawful methods .....	5	166
dipping and seining .....	5	167
<b>HUNTINGTON STATE HOSPITAL:</b>		
Appropriation for .....		34
Expenditure of surplus of collections .....	2	388
executive emergency fund .....	1	388
purpose .....	1	389

	SEC.	PAGE
IMMUNIZATION:		
(See School Children) .....		512
INCOME TAX:		
(See Personal Net Income Tax) .....		453
INHERITANCE AND TRANSFER TAX:		
Exemptions from .....	4	456
INSOLVENT DEBTOR:		
(See Assignment) .....		297
INTERSTATE COOPERATION:		
Commission on		
chairman .....	4	174
delegations and commissions .....	7	175
established .....	4	173
functions .....	6	174
governor's committee .....	3	173
house committee .....	2	173
members .....	4	173
names .....	8	175
provisions severable .....	9	176
senate committee .....	1	173
Extradition		
act, how cited .....	13	191
construction .....	13	191
inconsistent acts repealed .....	13	191
definitions .....	1	182
fugitive from another state .....	7-9	182-188
arrest on oath of credible person .....	9(d)	186
without warrant .....	9(e)	186
hearing .....	9(d)-9(g)	186, 187
confinement when passing through state...	9(c)	185
demand for .....	7	183
guilt or innocence of, not inquired into...	9(k)	188
warrant of governor .....	8(a)	184
bail, bond forfeited .....	9 (i)	187
renewal .....	9(h)	187
confinement under .....	9(c)	185
contents .....	8(b)	184
discharge .....	9(h)	187
execution of .....	8(d)	184
hearing on .....	9(a)	184
penalty for failure to hold .....	9(b)	185
recall .....	8(c)	184
when criminal prosecution against, pend-		
ing in this state .....	9 (j)	187
fugitive from this state		
application to governor .....	10(b)	188, 189

INTERSTATE COOPERATION (Continued):	SEC.	PAGE
form .....	10(b)	188, 189
party making .....	10(b)	189
verification .....	10(b)	189
costs		
complainant answerable for .....	12	191
payment by governor or county .....	12	191
demand by governor .....	10(a)	188
exemption from service of civil process....	11(a)	190
trial for other crimes .....	11(d)	191
waiver by accused, procedure .....	11(b)	190
state's powers or rights not waived .....	11(c)	190
Probation and parole		
act, how cited .....	3	194
provisions severable .....	2	194
compact with other states .....	1	192
form .....	1 (1)-1 (7)	192-194
Witnesses in criminal proceedings		
act, construction .....	5	181
how cited .....	6	181
inconsistent acts repealed .....	7	181
provisions severable .....	2	181
exemption, from arrest .....	2, 4	179, 180
from service of civil process .....	2, 4	179, 180
summoning from another state to this		
certificate for, form .....	3	180
failure to testify, penalty .....	3	180
length of attendance .....	3	180
tender of mileage and per diem .....	3	180
summoning from this state to another		
certificate for .....	2	178
as evidence .....	2	179
hearing on .....	2	179
forthwith .....	2	179
notice of, to witness .....	2	179
exemption, from arrest .....	2	179
from service to civil process .....	2	179
mileage and per diem .....	2	179
summons, when issued .....	2	179
failure to obey, penalty .....	2	180
 JEFFERSON COUNTY:		
Dip net fishing in streams in .....		167
 KANAWHA COUNTY:		
Board of Education, authorized to settle with Thos. C. Halstead .....	1	542
Circuit court clerk relieved of liability of certain fees collected .....	1	539



	SEC.	PAGE
<b>KANAWHA COUNTY (Continued):</b>		
County court		
authorized to compensate George Dudley, former deputy sheriff .....	1	541
authorized to construct and maintain 4-H camp clerk relieved of liability for certain fees collected .....	1	542
collected .....	1	540
Intermediate court, terms of .....	11	539
<b>LICENSE TAXES:</b>		
Businesses requiring state licenses .....	1	460
<b>LIME, AGRICULTURAL:</b>		
Certificate of registration .....	3	142
cancellation .....	3, 4	142, 143
expiration .....	3	142
fee .....	3	142
use of .....	3	142
required but once for any brand .....	5	143
statement to obtain .....	3	142
refusal to accept .....	4	142
Commissioner of Agriculture, powers .....	8	144
Defined .....	1	141
Samples, analysis .....	7	144
Statement attached to bag, etc. ....	2	141
analysis .....	2	142
lowering .....	4	143
cards to purchaser .....	6	143
Violations of act		
penalties .....	9	144
reports to prosecuting attorney .....	9	144
<b>LINCOLN COUNTY BOARD OF EDUCATION:</b>		
Foot bridges for school children .....	1	543
acquiring land for .....	3	544
authorized to use levies to construct .....	1	543
expenditures .....	2	544
<b>LOANS:</b>		
(See Banks and Banking Institutions) .....		79
(See National Housing Act) .....		76
Agricultural		
chattel deed of trust to secure .....	1	150
cooperative associations .....	1	152
fees for docketing and releasing .....	7	152
lien of .....	1	151
property covered by .....	4, 1	151, 152

MARRIAGE:	SEC.	PAGE
License for		
application		
filing .....	6	496
penalty for false entry of date .....	6	496
form .....	6	496
recordation .....	6	496
signing .....	6	496
verification .....	6	496
issuance .....	6	496
court order for, in emergencies .....	6	496
time .....	6	496
 MEAT AND MEAT PRODUCTS:		
Adulterated articles, destruction .....	10	154
Artificial coloring prohibited .....	8	154
Inconsistent acts repealed .....	11	154
Sale of, containing preservatives .....	7	153
penalty .....	7	153
State department of health to enforce act .....	9	155
 MERCER COUNTY:		
Transfer of magisterial districts school fund .....	1	544
expended in district in which collected .....	1	545
 MILK AND MILK PRODUCTS:		
Commissioner of agriculture to enforce article.....	4	148
Definitions or standards .....	3	145
Unlawful sales .....	3	145
penalty .....	4	148
 MONROE COUNTY:		
Terms of circuit court .....	2	118
 MOTOR VEHICLES:		
Certificate of registration		
duplicate, fee .....	23	229
Certificate of title .....	1	202
application for .....	1	202
form .....	1	202
numbering .....	1	202
verification .....	1	202
life of .....	1	202
tax on .....	1	202
amount .....	1	202
disposition and use of .....	1	202
exemptions from payment of .....	1	202, 203
re-title .....	1	204
Explosives, transportation by		
stopping at railroad crossing .....	13-a	201
penalty for failure .....	13-a	201

MOTOR VEHICLES (Continued):	SEC.	PAGE.
License plates .....	23	228
expiration .....	23	229
fees .....	23	228
loss or destruction of plates .....	31	229
surrender of plates .....	31	229
transfer of plates to heir or legatee .....	23	229
transfer of ownership of vehicle .....	31	229
fee .....	31	229
notice to state road commissioner .....	31	229
retention of plates .....	31	229
to licensed dealer .....	31	230
violations by .....	31	230
violation by owner or operator, penalty .....	31	230
Operators of, non-resident .....	31	198
act not retroactive .....	31(e)	200
actions by or against .....	31	198
bond of plaintiff .....	31(a)	199
service of process on auditor .....	31	198
cumulative .....	31(d)	200
fee, amount and disposition .....	31(b)	199
definitions .....	31(c)	199
Transporting persons and property for hire		
accounting system .....	5(d)	217
act, definitions .....	2	205
exemptions .....	3	206
inconsistent, repealed .....	3	227
provisions of, to govern .....	2	207
provisions severable .....	2	227
purposes .....	1	205
card, identification .....	4	222
display .....	4	222
form .....	4	222
operating without, unlawful .....	4	222
common carriers .....		207
certificate of convenience and necessity		
amendment .....	5(d)	209
hearing .....	5(d)	207
application for .....	5(a)	208
hearing on .....	5(a) (b)	208, 209
burden of proof on applicant .....	5(b)	209
assignment of .....	5(e)	209
necessary .....	5(a)	208
not a franchise or irrevocable .....	5(c)	209
revocation .....	5(d)	209
hearing on .....	5(d)	209
suspension .....	(5)d	209
public service commission, powers .....	3	207
rules and regulations .....	3-5(d)	208, 209

MOTOR VEHICLES (Continued):	SEC.	PAGE
rates, fares and charges .....	4	208
filing .....	4	208
rebate or refund prohibited .....	4	208
subject to public utility and common car-		
rier laws .....	1	207
complaints against .....	1	224
procedure on .....	1	224
contract carriers .....		209
permit .....	3	210
abandonment .....	3(e)	210
amendment .....	3(d)	210
application for .....	3	210
hearing on .....	3(a) (b)	210
assignment of .....	3(c)	210
not a franchise or irrevocable .....	3(c)	210
revocation .....	3(d)	210
hearing .....	3(d)	210
suspension .....	3(d)	210
provisions of act to govern .....	2	209
public service commission, powers .....	3-6	210, 211
rules and regulations .....	3(b), 4, 6	210, 211
rates, fares and charges		
filing .....	6	211
minimum .....	6	211
undue preference prohibited .....	5	211
facilities, etc. to be maintained .....	1	220
fees, disposition of .....	5(c), 6(d), 6(e)	217, 223, 224
license, special, amounts .....	6(a), 6(b)	222
insurance, liability and property damage .....	5(g)	218
merger or joint ownership .....	4	216
application for .....	4(b)	216
lawful .....	4(a)	216
void .....	4(c)	216
offenses, continuing .....	3	225
duties of peace officers .....	5	226
penalty .....	4	225
prosecution .....	5	226
second, penalty .....	4	226
permits issued prior to act .....	3	221
confirmation of .....	3	221
proof .....	3	221
holders of subject to act .....	3	221
practice and procedure, rules .....	5(a)	216
private carriers of property		
permit .....	3	212
abandonment .....	5	213
application for .....	3, 4	212
form .....	4	212

MOTOR VEHICLES (Continued):	SEC.	PAGE
assignment, surrender or revocation ..	5	212
revocation .....	5	213
hearing on .....	5	213
suspension .....	5	213
provisions of act to govern .....	1	212
public service commission, powers .....	2-5	212
public service commission		
appeal from action of .....	1	226
procedure .....	1	226
powers .....	1-5(a-j)	213-219
appointment of employees .....	5(b)	216
salaries, additional .....	6(d)	223
rates, schedules, etc. ....	1	213
change of .....	2	213
burden of proof on carrier .....	2	215
hearing on .....	2	213
notice of .....	2	213
suspending order .....	2	213
extension .....	2	215
filing .....	2	220
joint .....	3	215
records, falsifying, penalty .....	2	225
Traffic regulations		
hauling explosives .....	13-a	201
penalty .....	13-a	201
passing street cars and school buses .....	11	197
penalty .....	11	197
MUNICIPAL CORPORATIONS:		
(See Stream Pollution) .....		515
Arrest fee		
amount .....	14-a	294
disposition of .....	14-a	294
when to be taxed .....	14-a	294
Fire department		
civil service, when under		
political activity of members .....	18	235
dismissal for .....	18	235
pension fund .....		232, 259
administration of .....	10	233
maintenance .....	14	234
assessment on members .....	14	234
gift .....	14	234
tax levy .....	14	234
when laying of, discretionary .....	14	234
platoon system .....	9	233
assignment of members to .....	9	233
hours of service .....	9	233

MUNICIPAL CORPORATIONS (Continued):	SEC.	PAGE
when establishment required .....	9	233
exceptions .....	9	233
Home rule law		
act		
how cited .....	1	239
interpretation, legislative .....	2	239
purpose .....	1	239
references to code, construction .....	14	243
charter		
alternative provisions .....	17	250
amendment .....	1, 15	244, 249
copies certified .....	15	250
initiation .....	15	249
special elections .....	15	249
application of other general laws .....	11	242
certified copy to clerk of House of Delegates	13	248
draft of		
completion, authentication and filing...	10	247
public hearing on .....	9	247
submission to attorney general .....	8	249
effective date .....	13	248
election on .....	12	248
ballot .....	19	251
canvass .....	20	251
certificates .....	13	248
expense of .....	21	251
how conducted .....	20	251
officials .....	22	251
number .....	22	251
selection .....	22	251
existing amendment .....	10, 15	242, 249
superseded .....	14	249
framing, proceedings .....	1	245
election .....	3	245
ballot, form and instructions .....	3	245
canvass .....	3	245
charter board		
continuing body .....	11	249
election of .....	3	245
cumulative voting .....	6	246
nomination, number and		
qualifications .....	5	246
organization and powers .....	7-12	246-248
notice of, form and publication...	4	245
special .....	2	244
revision of .....	16	250
classifications .....	4	240
application of other laws to .....	5	241

MUNICIPAL CORPORATIONS (Continued):	SEC.	PAGE
population .....	4	240
how determined .....	6	241
prior .....	5	240
transitions from one to another .....	4	240
consolidation .....		268-277
annexation of unincorporated territory .....	20	275
boundary adjustments .....	25	277
election on .....	21, 23	275, 276
ballot, form .....	23	276
publication of notice .....	21	275
result, certifying .....	24	276
petition for .....	21	275
authority for, in same county .....	1	269
charter and ordinances .....	9	270
election, order of court for .....	3	269
ballot, form .....	5	269
certificates of results .....	6	269
endorsement by judge .....	7	270
filing .....	7	270
counting and canvassing .....	6	269
effective date .....	8	270
expense of .....	5	269
how conducted .....	4	269
interim between .....	4	269
petition for .....	2	268
in different counties .....	19	275
legal proceedings pending .....	18	275
officers, new, election of .....	12	272
of old municipalities .....	13	273
permits and licenses .....	17	234
resolution of governing bodies .....	2	268
succession to rights and properties .....	14	273
taxes and obligations, when merged.....	15	273
transfer of funds and property .....	16	274
wards and election districts .....	10, 11	271
commission on .....	11	271
report and certificate of .....	11	271
elections, regular .....	7	254
date .....	7	254
eligibility of voters .....	7	254
offenses and penalties .....	7	255
registration .....	7	254
form of government .....	1	252
plan I, mayor-council plan .....	2	253
plan II, strong-mayor plan .....	3	253
plan III, commission government .....	4	253
plan IV, manager plan .....	5	254
initiative, referendum and recall .....	8	255

MUNICIPAL CORPORATIONS (Continued):	SEC.	PAGE
ordinances .....	8(1) (2)	255
recall of elected officer .....	8(3)	255
ordinances .....	9	255
action required to be by, when .....	9	255
enactment, procedure .....	10	256
initiation by petition .....	8(1)	255
powers		
enumeration of general .....	7	241
exercise of, manner .....	8	242
existing status confirmed .....	9	242
general provisions .....	1, 2	257
levy provisions .....	13	243
lodging prisoners .....	12	243
miscellaneous .....	29	263
officers and employees .....	6	254
police officers, pursuit and arrest .....	12	243
special, class I and class II .....	32	264
specific, enumerated .....	3-31	257, 265
animals within limits of .....	16	260
articles unfit for human use .....	17	260
borrowing .....	9	267
building regulations, codes .....	19	260
construction and alteration .....	14	259
civil service .....	30	263
fire department .....	6	258
retirement pensions .....	11	259
franchises .....	26, 28	262, 263
garbage, etc. ....	18	260
inspection of private premises .....	13	259
limitation .....	13	259
intermunicipal contracts and agree- ments .....	31	263
licenses, regulatory .....	12	259
amounts .....	3	266
morals, safety and good order .....	3	257
nuisances and hazards, abatement .....	15	260
planning .....	24	261
police court .....	5	258
police department .....	4	258
retirement pensions .....	11	259
public health unit .....	9	258
public library .....	7	258
public property and improvements .....	25	261
public recreation .....	8	258
public utilities .....	26-28, 32	262-264
alienation of municipal .....	27	262
municipal ownership .....	26	262
purchase of franchises .....	26	262



MUNICIPAL CORPORATIONS (Continued):	SEC.	PAGE
shade trees, water courses and		
lowlands .....	22	261
signs, billboards and advertising .....	23	261
streets, opening .....	20	260
traffic, regulation of .....	21	261
zoning .....	24	261
violation of ordinances .....	12	243
penalties .....	12	243
maximum .....	12	243
prevention .....	12	243
purchasing, centralized .....	10	259
through state department .....	10	259
with other municipalities, etc. ....	10	259
taxation and finance .....		265-268
amusement tax .....	5	267
audits and accounts .....	10	268
borrowing power .....	9	267
capitation taxes .....	2	265
domestic animal tax .....	6	267
general property tax .....	1(1)	265
license and privilege taxes, amounts ..	3	266
motor vehicle operator's tax .....	4	267
municipal services, fees and charges ..	8	267
prior taxing powers, preservation .....	7	267
sidewalks, including curbing, cost .....	1 (2)	265
Police departments, paid		
act		
cities not affected by .....	22	293
election to determine if applies .....	22	293
failure to comply with provisions .....	15	291
inconsistent, repealed .....	20	292
offenses constituting misdemeanors under	16	291
penalties .....	17	291
provisions severable .....	19	292
appointing officer, defined .....	9	287
appointments and promotions in .....	1	279
application for, form .....	8	285
eligible list .....	7	285
appointments from .....	9	287
vacancy, when no list .....	10	287
examinations for .....	7	284
eligibility for .....	7	284
not required, when .....	18	291
notice of .....	7	285
physical .....	7, 12	285, 288
age limits .....	12	288
reappointment of former member .....	12	288
political or religious test prohibited...	14	290

MUNICIPAL CORPORATIONS (Continued):	SEC.	PAGE
refusal to examine or certify .....	8	285
hearing on .....	8	286
probationary period .....	6	283
removal, discharge, etc. ....	13	288
vacancy, filling by promotion .....	11	287
filling, when no eligible list .....	10	287
arrest fee .....	14-a	294
civil service commission		
appointment .....	2	279
vacancy .....	2	279
assistance from city officers .....	4	282
charges against .....	2	281
clerical and stenographic services to .....	3	282
cities included .....	2	279
clerk of .....	3	281
disqualifications .....	2	281
offices and supplies for .....	4	282
pension fund .....	10, 11	233, 259
arrest fee .....	14-a	294
political activity .....	2	281
powers and duties .....	5	282
president .....	2	280
qualifications .....	2	279
removal .....	2	279
petition for .....	2	280
rules and regulations .....	6, 7	279, 284
notice and printing of .....	6	280
political activity prohibited .....	21	292
Public works		
board to supervise .....	21	236
compensation .....	21	236
ordinance creating .....	21	236
powers .....	21	236
bond holders .....	24	237
enforcement of rights .....	24	237
receivership .....	24	237
leasing .....	21	237
ordinance .....	21	237
payment by lessor .....	21	237
receivership .....	24	237
lease terminated .....	24	238
Waterworks systems		
construction, limitation .....	9	231
eminent domain, right of .....	9	231
limitation .....	9	232
purpose .....	9	232
extension beyond corporate limits .....	1	231
limitation .....	1	232

	SEC.	PAGE
<b>NATIONAL HOUSING ACT:</b>		
Loans and advancements under		
by whom may be made .....	1(a)(b)	77
Notes and bonds secured under .....	2	78
investment in .....	2	78
use of, as collateral or reserve fund .....	2	78
<b>NEW YORK WORLD FAIR COMMISSION:</b>		
Appropriation for .....		53
Created .....		615
<b>NICHOLAS COUNTY:</b>		
Overdraft in general county fund .....	1	546
additional county levy .....	3	546
finding of facts concerning, by county court...	2, 3	546, 547
<b>NURSES AND NURSING:</b>		
Registered nurses .....	9	294
from another state .....	9	295
schools for .....	5	296
accredited, defined .....	5	296
requirements .....	5	296
advance credit to pupils .....	5	297
use of title of .....	9	294
<b>OHIO COUNTY PUBLIC LIBRARY:</b>		
Board of trustees created .....	1	558
appointment and removal .....	2	559
body corporate .....	1	558
members, number .....	1	558
qualifications .....	1	558
powers and duties .....	1, 3	558, 559
prior appointments to, confirmed .....	2	559
title to, vested in .....	1, 3	558, 559
Income, other than from levy, use of .....	4	560
Levy to maintain .....	4	559
amount of .....	4	560
use of .....	4	560
<b>OPTOMETRY, PRACTICE OF:</b>		
Certificate of registration		
annual renewal .....	7	497
fee .....	7	497
expiration .....	7	497
optometric department in stores .....	10	500
penalty for false advertising .....	10	500
refusal to issue, suspension or revocation.....	8, 10	498, 499
grounds for .....	8	498
unlawful, by corporation or voluntary		
association .....	10	499
penalty .....	10	499
by registered optometrist .....	10	499
penalty .....	10	499

	SEC.	PAGE
<b>PENITENTIARY, STATE:</b>		
Appropriation for .....		28
to relieve congested condition .....		29
how expended .....	1	366
Contracts for prison labor .....	12	350
Employment of convicts .....	12	349
Federal funds for .....	2	366
accepted and expended by governor .....	2	366
Warden		
(See convict road force) .....		345-350
salary .....	11	354
<b>PERSONAL NET INCOME TAX:</b>		
Amount .....	3	453
Distribution of assets of corporation .....	30	454
Exemptions .....	33	454
Gain or loss from property sales .....	30	454
Salaries, reports by employer .....	42	455
<b>PIERPONT, FRANCIS H.:</b>		
Appropriation to restore grave .....	1	75
how expended .....	2	75
<b>PIERPONT, JULIA A.:</b>		
Appropriation to restore grave .....	1	75
how expended .....	2	75
<b>PIPE LINES AND TANKS:</b>		
Unlawful opening .....	45-a	501
penalty .....	45-a	501
<b>POCAHONTAS COUNTY:</b>		
Terms of circuit court .....	2	117
<b>POLICE DEPARTMENTS:</b>		
(See Municipal Corporations) .....		232, 277, 293
<b>POULTRY:</b>		
(See Meat and Meat Products) .....		153
<b>PROBATION AND PAROLE:</b>		
(See Interstate Cooperation) .....		192
<b>PROSECUTING ATTORNEYS:</b>		
(See Attorney General) .....		364
(See Department of Labor) .....		375
(See Interstate Cooperation) .....		85, 188
(See Lime) .....		144
(See Motor Vehicles) .....		226
Assistants and stenographers for .....	6	321
number and salaries, by counties .....	6	321
payment, by county court .....	6	321
by principal .....	6	321

PROSECUTING ATTORNEYS ( <i>Continued</i> ):	SEC.	PAGE
Duties, generally .....	1	321
further, on request of attorney general .....	1	320
Salaries of .....		361
 <b>PUBLIC ASSISTANCE:</b>		
Blind persons, liens of grants to .....	34	332
County council		
default by, powers of director .....	15	327
support and management of infirmary .....	3-a, 3-b	330
County infirmaries		
joint, two or more counties .....	3	330
management .....	3	330
management by county council .....	3-b	330
support, contribution by county council .....	3-a	330
temporary assembly institutions .....	10-a	329
transfer of cases to other counties .....	3-c	330
Director of		
administration by, in default of compliance .....	15	327
special emergency grants .....	3	325
reports by county council .....	6	326
suspension of, by .....	7	326
General relief, defined .....	2	328
payments for, exempt from taxes .....	17	333
special grants .....	1	324
Grants of		
exempt from taxes and legal process .....	27	333
special emergency .....	1	324
application by county court for .....	2	324
duty of state board .....	4	325
notification of action on .....	5	325
conditioned on repayment .....	8	326
expiration of authority to make .....	9	326
suspension of payments under .....	7	326
Special fund		
created .....	17-a	331
purposes .....	17-a	331
State board, special emergency grants .....	4	325
Temporary assembly institutions .....	10-a	329
 <b>PUBLIC SERVICE COMMISSION:</b>		
(See Motor Vehicles) .....		204
(See Municipal corporations) .....		231
Appropriation for .....		38
unexpended balances .....	1	389
residue, disposition of .....	3	390
use of .....	2	390

	SEC.	PAGE
<b>PURE FOOD AND DRUGS:</b>		
(See Eggs) .....		155
(See Meat and Meat Products) .....		153
(See Milk and Milk Products) .....		145
<b>RAILROAD CROSSINGS:</b>		
(See Motor Vehicles) .....		201
<b>RALEIGH COUNTY:</b>		
Ovedraft in general county fund .....	1	548
additional county levy .....	3	549
findings of facts concerning, by county court .....	2, 3	548, 549
<b>RANDOLPH COUNTY COURT:</b>		
Transfer of general county road fund to general county fund .....	1	550
<b>REAL ESTATE COMMISSION, WEST VIRGINIA:</b>		
<b>Act</b>		
inconsistent acts repealed .....	12	509
municipalities not affected by .....	12	509
penalty for violating .....	11	509
provisions severable .....	13	509
transactions not included in .....	4	504
Clerical help for .....	1	503
payment of .....	1	503
Created .....	1	503
Definitions of terms .....	2	503
Fees and charges of, a special fund .....	1	503
expenditures from .....	1	503
not to exceed revenues .....	1	503
<b>Licenses</b>		
brokers .....	3	504
application for .....	6	505
form .....	6	505
cancellation of, suspends salesman's .....	9	508
non-resident .....	7	507
auditor to accept service of process ....	7	507
bond .....	7	507
duplicate, fee for .....	8	507
expiration .....	9	508
fees .....	8	507
issuance, refusal or cancellation .....	5	505
salesman's .....	3	504
application for .....	6	506
form .....	6	506
if broker a corporation, etc. ....	3	504
non-resident .....	7	507
auditor to accept service of process....	7	507
bond .....	7	507

REAL ESTATE COMMISSION, WEST VIRGINIA (Continued):

	SEC.	PAGE
revocation of brokers, suspends.....	9	508
renewal .....	9	508
suspension or revocation.....	5, 9, 10	505, 508
grounds .....	10	508
Members		
appointment .....	1	503
compensation .....	1	503
number .....	1	502
political activity.....	1	503
qualifications .....	1	502
terms .....	1	502
Organization .....	1	53
Quorum .....	1	503
REDISTRICTING:		
(See State Senate).....		150
RELIEF, GENERAL:		
(See Public Assistance).....		324, 327-329
RESOLUTIONS:		
House .....		581-609
House concurrent.....		561-580
House joint .....		581
Senate .....		627-640
Senate concurrent .....		610-626
ROAD BONDS, STATE:		
Amount .....	1	334
Auditor, as custodian.....	11	340
to list separately.....	5	338
Due dates.....	1	335
Expense of executing act.....	13	340
Form and denominations.....	3	336
Governor to issue.....	1	335
Interest		
coupon, form .....	4	337
payment of, dates.....	2	335
place of .....	2	335
rate .....	2	335
Interim certificates.....	12	340
Listing by auditor.....	5	338
Payment		
in lawful money of the United States.....	3, 4	337, 338
place of.....	2	335
tax levy for, when.....	7	339
Plates property of state.....	10	340
Purpose .....	1	324
Retirement of prior issue.....	1	325

ROAD BONDS, STATE (Continued):	Sec.	PAGE
Sale by governor.....	8	340
minimum price.....	8	340
proceeds to state road fund.....	8	340
Signing .....	4	338
Sinking fund for		
investment by sinking fund commission.....	6	339
payments from .....	6	339
separate account in treasury.....	6	338
sources .....	6	338
Tax exempt .....	2	336
Transfer of		
coupon bonds.....	2	335
fees .....	2	335
disposition of.....	2	335
preservation of exchanged bonds.....	2	335
registered .....	2	335
 ROADS AND HIGHWAYS:		
Bridges as part of system .....	26	352
designation of, by state road commissioner.....	26	352
maintenance .....	26	352
when connecting links.....	26	352
Contracts concerning (See State Road Commissioner)		341
Convict road force		
camps .....	4	346
classification of prisoners in.....	8	348
expense, paid by commissioner.....	9	348
medical inspection of.....	7	346
guards, superior and assistants .....	3	346
directed by warden.....	3	346
recall .....	3	346
wages .....	3	346
work hours.....	3	346
how constituted .....	1	345
prisoners .....	5	347
discharge at expiration of term.....	10	349
payment of expenses home.....	9	348
escape .....	5	347
penalty .....	5	347
housing, feeding and transportation.....	4	346
pay .....	3	346
return to penitentiary.....	6	347
trusties .....	6	347
work hours.....	3	346
state road commissioner may act by agents.....	11	349
work of convicts not employed in.....	12	349
Construction, repair, etc. of		
plans and specifications for, filed.....	19	343



ROADS AND HIGHWAYS ( <i>Continued</i> ).	SEC.	PAGE
prison labor, use of.....	19	344
sealed proposals for.....	19	344
certified check to accompany.....	19	344
Department of prison labor		
commissioner may set up.....	11	349
Traffic regulations.....	31-a	351
commissioner may promulgate.....	31-a	351
copies deposited with county clerk.....	31-a	351
official signs.....	31-a	351
printing and distribution of.....	31-a	351
violation of, penalty.....	31-a	351
 SALARIES:		
County officials		
circuit clerks.....	3	360
county clerks.....	2	359
county commissioners.....	5	130-132
joint clerks of circuit and county courts.....	4	361
prosecuting attorneys.....	5	361
assistants and stenographers to.....	6	321-323
how paid.....	6	321-323
sheriffs.....	1	358
when effective.....	5	363
Judges		
circuit courts, based on population.....	20	356
additional compensation from counties.....	20	356
inferior courts.....	21	356
supreme court of appeals.....	3	354
State officials		
act		
inconsistent, repealed.....	23, 24	357
provisions severable.....	24	357
appointive state officials.....	3-17	354, 355
assistants and employees, how fixed.....	19	355
governor and other elective state officials.....	1, 2	353
increases, when effective.....	18	355
how paid.....	18	355
 SCHOOL BUSES:		
(See Motor Vehicles).....		177
 SCHOOL CHILDREN:		
Compulsory immunization of		
against smallpox and diphtheria.....	4	513
appointment of physicians.....	4	513
biologicals for.....	4	513
entering school for first time.....	4	513
health officer, duty of.....	4	513
impossible or improper, physician's certificate..	4	513

	SEC.	PAGE
<b>SCHOOL CHILDREN (Continued):</b>		
refusal to permit.....	4	513
penalty .....	4	513
teacher, duty of.....	4	513
<b>SCHOOL FUND:</b>		
(See Board of the School Fund).....		367
<b>SECRETARY OF STATE:</b>		
(See Bonds) .....		467
(See Corporations).....		123, 128
(See Elections).....		164
(See Interstate Cooperation).....	178, 184, 188,	190
Appropriation for office of.....		17
Salary of.....		353
<b>SHERIFFS:</b>		
(See Department of Public Safety).....		382
(See Interstate Cooperation).....		189
(See Motor Vehicles).....		226
Salaries of.....	1	358
<b>SMALLPOX AND DIPHTHERIA:</b>		
Immunization of school children against.....		512
<b>STATE AID:</b>		
(See Fairs, Agricultural).....		148
<b>STATE LIQUOR CONTROL COMMISSION:</b>		
(See Alcoholic liquors).....		109, 111
Appropriation for .....		41
<b>STATE POLICE:</b>		
(See Department of Public Safety).....		377-392
<b>STATE ROAD COMMISSIONER:</b>		
(See Motor Vehicles).....		223, 229
(See Motor Vehicles—certificate of title).....		202
(See Roads and Highways).....		341, 351
(See Roads and Highways—Bridges).....		352
(See Roads and Highways—Convict Road Force)....		346
Assistants and employees .....	8	341
bond, when required .....	8	341
duties and salaries .....	8	341
removal .....	8	341
Contracts for road construction and material, powers	8	343
advertising of, when required.....	8	343
certified copies filed with county clerks, etc.....	8	343
sealed proposals.....	8	344
certified check to accompany.....	8	344
use of convict labor.....	8	344

	SEC.	PAGE
<b>STATE ROAD COMMISSIONER (Continued):</b>		
Department of prison labor		
commissioner may establish.....	11	349
Powers over roads, etc.....	4	342
Sale by, of property of commission.....	18	391
<b>STATE SENATE, REDISTRICTING:</b>		
Apportionment of representation.....	1	511
sixteen districts.....	1	511
counties composing.....	1	511, 512
elections.....	1	512
when held.....	1	512
present members to finish terms.....	1	512
two members in each.....	1	512
<b>STATE SINKING FUND COMMISSION:</b>		
(See Bonds).....		339, 468
(See Courthouses and Jails).....		137
(See Grafton, City of).....		533
(See Stream Pollution).....		515
Appropriation for.....		15
<b>STATE SUPERINTENDENT OF FREE SCHOOLS:</b>		
(See Board of the School Fund).....		367
(See County Superintendent).....		161
(See Financial Statements).....		160
Appropriation for office of.....		19
Salary of.....		353
<b>STATE TREASURER:</b>		
(See Board of the School Fund).....		367
(See Road Bonds).....		334
(See Treasury, State).....		392
Appropriation for office of.....		15
Salary of.....		353
<b>STATE WATER COMMISSION:</b>		
(See Stream Pollution).....		515
Appropriation for.....		31
<b>STEAM BOILERS:</b>		
(See Department of Labor).....		373
<b>STREAM POLLUTION, ABATEMENT OF:</b>		
Act		
attorney general, duty under.....	14	518
construction of.....	15	519
inconsistent acts repealed.....	15	519
Compliance with order of commission.....	11	515
municipalities.....	11	515
bonds for cost of.....	11	515
approval.....	11	515
direct obligations.....	11	515

STREAM POLLUTION, ABATEMENT OF (Continued):		SEC.	PAGE
levy for .....	11	515	
revenue .....	11	516	
sanitary fund.....	11	516	
expenditures from .....	11	517	
construction and operation of plants.....	12	517	
provisions of law governing.....	12	517	
proceedings for, beginning.....	13	517	
extension of time.....	14	518	
penalties for failure.....	13, 14	517, 518	
<b>STREET CARS:</b>			
(See Motor Vehicles).....			197
<b>SUMMERS COUNTY:</b>			
Terms of circuit court.....	2		118
<b>TAX COMMISSIONER:</b>			
(See Assessors).....			464
(See Business, Occupation and Privilege Tax).....		435,	437
(See Consumers Sales Tax) .....			441
(See Corporations).....			136
(See Debt Levies).....			140
(See Financial Statements).....			160
(See Gasoline Tax).....			452
(See Listing of Property for Taxation).....			345
(See Non-intoxicating Beer).....			93
(See Personal Net Income Tax).....			455
Appropriation for office of.....			16
Salary of.....			354
<b>TAXATION:</b>			
(See Banks) .....			92
(See Business, Occupation and Privilege Tax).....		433-	439
(See Consumers Sales Tax).....			439
(See Corporations).....			125
(See Gasoline Tax).....		450,	452
(See Inheritance and Transfer Tax) .....			455
(See Municipal Corporations).....		234,	265
(See Personal Net Income Tax).....			543
(See State License Taxes) .....			460
Listing of property for			
failure, penalty and forfeiture.....	10		457
deceased person.....	10		459
enforcement .....	10		458
duty of prosecuting attorney.....	10		458
fees .....	10		458
penalty for failure.....	10		459
payment to sheriff.....	10		459
apportionment .....	10		459

	SEC.	PAGE
<b>TREASURY, STATE:</b>		
Payments from .....	1	392
form of check .....	1	392
<b>UNEMPLOYMENT COMPENSATION:</b>		
Acceptance of federal aid .....	18	401
Claims		
determination by deputy .....	4	409
appeal from .....	8	410
notice of decision on .....	8	410
procedure regulations .....	2	409
director to furnish .....	2	409
display and distribution .....	2	409
by employer .....	2	409
referred to board .....	6	410
notice of decision .....	6	410
procedure .....	6	410
Definitions .....	3	394-398
Director of		
agreements by, concerning employees .....	6-a	400
defined .....	3	395
deputies .....	14	401
powers and duties .....	6	399
Divisions within department of .....	7	400
state employment service division .....	17	401
appointment of head and employees of .....	17	401
Employee benefits		
amount of		
partial unemployment .....	11	408
total unemployment .....	10	408
charged against employer .....	7	403
defined .....	3	394
disqualification for .....	4	407
effective date of act .....	4	411
method of charging .....	13	409
payment of, beginning .....	8	407
qualification for .....	1	406
extension of employment period .....	3	406
waiting period .....	2	406
ratio of .....	12	408
Employer		
accounts of, joint or separate .....	7	403
regulations for .....	7(1)	403
classification of .....	7(3)	404
contributions by, rate of .....	5	402
adjustment and refunds .....	19	405
auxiliary rates .....	12	405
decreased, merit rating .....	10	404

UNEMPLOYMENT COMPENSATION (Continued):	SEC.	PAGE
increased, merit rating.....	11	404
defined .....	3	395
payments by, beginning of.....	4	402
records of.....	4	411
voluntary coverage.....	3	402
Federal-state cooperation.....	17	401
Fund, deposit.....	9	410
clearing account.....	5	410
refunds from.....	5	410
insurance charge not payable from.....	9	411
Provisions of act severable.....	4	411
Public employment offices.....	18	401
(See, also Chapter 1, Acts 2nd Extraordinary Session, 1936)		
<b>WAGES:</b>		
Assignment of.....	3	520
acknowledgment of.....	3	520
validity, requisites.....	3	520
acceptance by employer.....	3	520
three-fourths of periodical wages exempt....	3	520
Deductions from, by agreement.....	3	520
Payment by employer.....	3	520
bi-monthly .....	3	520
exception .....	3	520
in lawful money or by cash order.....	3	520
Provisions of act severable.....	3	520
Rate of, on public improvements		
act, penalty for violation.....	5	523
inconsistent acts repealed.....	5	523
provisions severable.....	5	523
definitions of terms.....	1	521
minimum rate, defined.....	2	522
contract to require payment of.....	3	522
posting .....	4	522
printed on bidding blanks.....	2	522
<b>WARDEN OF THE PENITENTIARY:</b>		
(See Convict Road Force).....		345
Salary of.....		354
<b>WATERWORKS SYSTEMS:</b>		
(See Municipal Corporations).....		231
<b>WEBSTER COUNTY:</b>		
Certificates of indebtedness .....	1	551
levies for.....	3	551
payment postponed.....	1	551
Contractual debt levies expended on courthouse.....	2	551
Overdraft in general county fund.....	1	552

	Sec.	PAGE
<b>WEBSTER COUNTY (Continued):</b>		
additional county levy.....	3	553
findings of facts concerning, by county court....	2, 3	552
Terms of circuit court.....	2	119
<b>WEIGHING COAL:</b>		
(See Coal Mines).....		196
<b>WEIGHTS AND MEASURES:</b>		
(See Department of Labor).....		376
<b>WEST VIRGINIA STATE COLLEGE:</b>		
Appropriation for.....		25
Continuation and management.....	1	412
Four-H camp established under.....	1	412
appropriations for, expenditure.....	1	413
county buildings.....	1	413
site, board of control to secure.....	1	413
use of.....	1	413
<b>WEST VIRGINIA TRAINING SCHOOL:</b>		
Admission to.....	3	415
excluded persons.....	3	415
preference between classes.....	3	415
Appropriation for.....		30
Discharge or parole of inmates.....	6	415
<b>WEST VIRGINIA UNIVERSITY:</b>		
Appropriation for.....		21-23
Purchase of Hunt property.....	2	416
transfer of funds for.....	1	416
<b>WETZEL COUNTY HOSPITAL:</b>		
Board of visitors, powers.....	10	557
limitations on.....	10	557
Lease of.....	7	557
rights of lessee.....	10	557
Revenue bonds to pay cost of.....	3	554
form.....	3	555
interest rate.....	3	555
negotiable.....	3	555
proceeds of, use.....	3	556
registration.....	3	555
tax exempt.....	3	555
temporary.....	3	556
<b>WIFE OF STATE OFFICIAL:</b>		
When employment at public expense prohibited....	22	357
<b>WITNESSES:</b>		
(See Department of Labor).....		374
(See Interstate Cooperation).....		178
Competency of.....	1	318
transaction with deceased person or lunatic....	1	318

WORKMEN'S COMPENSATION:	SEC.	PAGE
Appeal board.....	2	429
appeals		
from decisions of.....	4	431
attorney general as counsel.....	4	432
costs of.....	4	432
parties to.....	4	431
bond of non-resident.....	4	431
petition for.....	4	431
action on.....	4	431
procedure.....	4	431
to, from action of commissioner.....	3	430
hearing on.....	3	430
notice of.....	3	430
procedure on.....	3	430
remanding to commissioner.....	3	430
appointment and removal.....	2	429
chairman.....	2	429
clerical services to.....	2	429
compensation.....	2	429
meetings.....	2	429
number.....	2	429
qualifications.....	2	429
rules of practice and procedure.....	2	429
approval by supreme court of appeals.....	2	430
terms.....	2	430
Attorney for claimant, fees.....	5	432
amount.....	5	433
contract for.....	5	432
payment from award.....	5	432
Classification of industries.....	4	419
expense of.....	4	419
premium rates.....	4	421
Commissioner's findings.....	1	428
appeal from.....	1	428
hearing on.....	1	428
notice of.....	1	428
place of.....	1	428
procedure.....	1	428
Compensation fund		
premiums.....	4	420
election not to pay or default.....	8	421
defenses not available.....	8	421
casual employers.....	8	422
fatal cases and permanent disability.....	4	420
rate.....	4	420
change in.....	4	420



WORKMEN'S COMPENSATION (Continued):	SEC.	PAGE
notification .....	4	421
readjustment .....	4	420
state, how paid.....	1	418
subscribers to, including state.....	1	417
account of.....	4	420
fatalities and permanent disability.....	4	420
defined .....	1	417
exclusions .....	1	418
voluntary .....	1	418
deposit by.....	1	418
foreign corporation.....	1	419
Disability and death benefits		
classification .....	6-e	424
computation .....	14	426
examination of claimant, expense.....	8	424
report .....	8	424
injury, self-inflicted, etc. ....	4	423
intentional, by employer.....	4	423
medical treatment, etc.....	3-b	423
non-resident alien beneficiary.....	15-a	427
periodical, commutation.....	17	427
amount .....	17	427
physical and vocational rehabilitation.....	3-b, 9	423, 425
rules and safety appliances.....	2	423
total permanent disability.....	9-a	425
charge and credit to subscriber.....	9-a	425
waiver of, by employee having physical impairment.....	9-b	426
method .....	9-b	426
Employee temporarily absent from state.....	1	419



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**ACTS**  
**AND**  
**RESOLUTIONS**  
**OF THE**  
**FORTY-SECOND**  
**LEGISLATURE**

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**FIRST EXTRAORDINARY SESSION**  
**JUNE 15 TO 20**  
**1936**

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# TABLE OF CONTENTS

## ACTS AND RESOLUTIONS

### GENERAL LAWS

CHAPTER	PAGE
1. Public Welfare Law (Social Security Act).....	1
<b>APPROPRIATIONS</b>	
2. Appropriation to Department of Public Assistance to carry into effect Public Welfare Law (Social Security Act).....	72
3. Appropriation to Auditor's Office for carrying into effect the delinquent tax redemption laws .....	73
4. Appropriation to Department of Labor for State Employment Service.....	74
5. Appropriation for expenses of extraordinary session of the Legislature .....	75
6. Appropriation for relief of the needy for remainder of fiscal year.....	78
7. Appropriation for construction, reconstruction and maintenance of public roads.....	79
8. Appropriations for certain state institutions in connection with federal grants-in-aid.....	80
9. Appropriation for vocational rehabilitation.....	81
<b>REDEMPTION AND SALE OF DELINQUENT REAL ESTATE</b>	
10. Time extended for redemption of real estate delinquent for the non-payment of taxes and purchased by the state .....	81
11. Time extended for sale of forfeited or escheated lands .....	83
<b>UNCLASSIFIED</b>	
1. Public Welfare Law (Social Security Act).....	1
12. County courts, district boards of education and municipalities may receive and expend federal grants-in-aid and expend local funds in connection therewith.....	84
13. When State Road Commissioner may exercise right of eminent domain.....	85
14. Transfer of funds of West Virginia Liquor Control Commission to state fund general revenue.....	87
15. West Virginia Commission on Interstate Cooperation created .....	88

## RESOLUTIONS

<b>HOUSE CONCURRENT RESOLUTIONS</b>	
NUMBER	PAGE
1. Raising a joint committee to notify the Governor that the Legislature had assembled.....	91
2. Providing for a joint assembly to hear an address by the Governor .....	91
3. Raising a Joint Committee on Beer Legislation .....	92
4. Concerning the one hundredth anniversary of the City of Wheeling .....	93
8. Authorizing payment of expenses after close of session.....	94
9. Raising a joint committee to notify the Governor that the Legislature was ready to adjourn <i>sine die</i> .....	94
 <b>HOUSE RESOLUTIONS</b> 	
1. Adoption of House Rules and authorizing the use of a voting machine.....	95
2. Raising a committee to inform Senate that House had assembled in extraordinary session.....	96
3. Concerning the death of the Honorable C. N. Proctor.....	97
4. Authorizing the printing of a Legislative Manual.....	97
5. Authorizing the appointment of attaches.....	98
6. Authorizing payment for services rendered prior to session	100
9. Requesting Board of Public Works to provide quarters for Liquor Control Commission .....	101
10. Directing the Auditor to request House members who resigned since receiving 1936 salary to return same to the State Treasury.....	101
12. Requesting the Clerk of the Senate to furnish members of the House with additional <i>Blue Books</i> .....	102
13. Granting David Lasser permission to address the House ...	102
14. Expressing appreciation and thanks for assistance rendered people of flood area in Upper Ohio Valley.....	103
15. Authorizing payment of salaries of certain House members	104
16. Authorizing payment of mileage to Doorkeeper.....	105
17. Authorizing printing and distribution of Acts, printing of House Journals, and extension of per diems to complete work of session.....	105
18. Authorizing the Clerk to mail members copy of corrected House Journal.....	107
19. Providing for selection and equipping of permanent offices for the Clerk.....	107
20. Raising a committee to notify the Senate that the House was ready to adjourn <i>sine die</i> .....	108

## RESOLUTIONS (Continued)

## SENATE CONCURRENT RESOLUTIONS

NUMBER	PAGE
1. Adopting joint rules for the Senate and House.....	108
2. Providing for payment of legislative expenses.....	109
3. Continuing Joint Committee on Social Security Legislation	109
6. Concerning the annual Ohio River Festival.....	110

## SENATE RESOLUTIONS

1. Raising a committee to notify House that Senate had assembled in extraordinary session .....	111
2. Adopting Senate Rules .....	112
3. Relating to appointment of assistant janitors.....	112
4. Providing for mailing of Journals and Bills.....	112
5. Expressing sympathy to the Honorable G. O. Young on account of illness .....	113
6. Authorizing payment for services rendered preparatory to opening of session .....	113
7. Authorizing the appointment of attaches.....	114
8. Extending per diems of officers and attaches to complete work of session.....	115
9. Authorizing payment for stenographic services rendered President of the Senate.....	117
10. Raising a committee to notify the House that the Senate was ready to adjourn <i>sine die</i> .....	117

# LIST OF MEMBERS AND OFFICERS OF THE LEGISLATURE OF WEST VIRGINIA

First Extraordinary Session, June 15 to June 20, 1936

## SENATE

### OFFICERS

*President*—CHARLES E. HODGES, Morgantown

*Clerk*—CHARLES LIVELY, Weston

*Sergeant-at-Arms*—FRED D. WOLFE, Ripley

*Doorkeeper*—G. W. TRIPLETT, Huntington

DISTRICT	MEMBERS	POST OFFICE
First	James Paull, Jr. (D)	Wellsburg
	*C. Lee Spillers (D)	Wheeling
Second	Harry Elbin (D)	Cameron
	*Frank A. Young (R)	Sistersville
Third	Dan B. Fleming (D)	St. Marys
	*Clinton L. Howard (D)	Parkersburg
Fourth	Ray E. Ritchie (R)	Ravenswood
	*L. O. Curtis (R)	Spencer
Fifth	J. T. Garrett (D)	Hurricane
	*J. Patrick Beacom (D)	Huntington
Sixth	C. Frank Millender (D)	Wayne
	*John H. Greene (D)	Williamson
Seventh	Grover C. Mitchell (D)	Union
	*O. C. Canterbury (D)	Beckley
Eighth	Luther R. Jones (D)	Madison
	*Alvin J. Barnhart (D)	Charleston
Ninth	Perry N. Wiseman (D)	Summersville
	*F. W. Tuckwiller (D)	Lewisburg
Tenth	C. W. Marsh (D)	Glenville
	*G. C. Belknap (D)	Gassaway
Eleventh	Earl H. Smith (D)	Fairmont
	*Chas. E. Hodges (D)	Morgantown
Twelfth	Louis A. Henderson (D)	West Union
	*Byron B. Randolph (D)	Clarksburg
Thirteenth	Lee J. Sandridge (D)	Philippi
	*G. O. Young (R)	Buckhannon
Fourteenth	A. L. Helmick (R)	Thomas
	*E. Bunker Reynolds (R)	Keyser
Fifteenth	J. E. Helsley (D)	Berkeley Springs
	*M. O. Rouss (D)	Charles Town

\* Holdover Senators, who will serve in the 1937 session.

Democrats	24
Republicans	6
Total	30



# STANDING COMMITTEES OF THE SENATE

## ON RULES

Messrs. Hodges (Mr. President) (*Chairman ex officio*), Jones, Fleming, Paull and Helmick.

## ON PRIVILEGES AND ELECTIONS

Messrs. Jones (*Chairman*), Sandridge, Howard, Garrett, Paull, Tuckwiller, Marsh, Reynolds and Young (of Upshur).

## ON THE JUDICIARY

Messrs. Paull (*Chairman*), Barnhart, Helsley, Spillers, Fleming, Beacom, Canterbury, Greene, Jones, Smith, Henderson, Belknap, Randolph, Marsh, Reynolds, Young (of Tyler), Curtis and Ritchie.

## ON FINANCE

Messrs. Jones (*Chairman*), Fleming, Wiseman, Tuckwiller, Smith, Henderson, Sandridge, Rouss, Paull, Elbin, Howard, Millender, Mitchell, Garrett, Marsh, Helmick, Reynolds and Young (of Upshur).

## ON EDUCATION

Messrs. Smith (*Chairman*), Paull, Elbin, Fleming, Wiseman, Barnhart, Garrett, Reynolds and Ritchie.

## ON COUNTIES AND MUNICIPAL CORPORATIONS

Messrs. Sandridge (*Chairman*), Jones, Spillers, Howard, Randolph, Greene, Marsh, Helmick and Young (of Tyler).

## ON ROADS AND NAVIGATION

Messrs. Henderson (*Chairman*), Mitchell, Paull, Elbin, Howard, Beacom, Millender, Canterbury, Barnhart, Wiseman, Tuckwiller, Belknap, Sandridge, Helsley, Marsh, Ritchie and Helmick.

## ON BANKS AND CORPORATIONS

Messrs. Wiseman (*Chairman*), Paull, Elbin, Howard, Greene, Henderson, Marsh, Young (of Tyler) and Young (of Upshur).

## ON PUBLIC BUILDINGS AND HUMANE INSTITUTIONS

Messrs. Tuckwiller (*Chairman*), Henderson, Elbin, Beacom, Millender, Mitchell, Barnhart, Belknap, Rouss, Helmick and Ritchie.

## ON THE PENITENTIARY

Messrs. Millender (*Chairman*), Spillers, Elbin, Belknap, Smith, Henderson, Jones, Helmick and Ritchie.

## ON RAILROADS

Messrs. Rouss (*Chairman*), Sandridge, Spillers, Howard, Garrett, Canterbury, Jones, Reynolds and Helmick.

## ON MILITIA

Messrs. Beacom (*Chairman*), Randolph, Tuckwiller, Smith, Canterbury, Helsley, Millender, Ritchie and Young (of Tyler).

## ON FEDERAL RELATIONS

Messrs. Belknap (*Chairman*), Millender, Barnhart, Wiseman, Sandridge, Rouss, Beacom, Curtis and Ritchie.

## ON INSURANCE

Messrs. Garrett (*Chairman*), Helsley, Mitchell, Barnhart, Henderson, Paull, Marsh, Ritchie and Young (of Upshur).

## ON AGRICULTURE

Messrs. Mitchell (*Chairman*), Tuckwiller, Millender, Garrett, Belknap, Rouss, Sandridge, Helmick and Curtis.

## ON MINES AND MINING

Messrs. Sandridge (*Chairman*), Canterbury, Smith, Wiseman, Jones, Millender, Beacom, Reynolds and Young (of Upshur).

## ON MEDICINE AND SANITATION

Messrs. Spillers (*Chairman*), Belknap, Elbin, Garrett, Canterbury, Henderson, Rouss, Reynolds and Young (of Upshur).

## ON LABOR

Messrs. Greene (*Chairman*), Jones, Spillers, Fleming, Garrett, Wiseman, Randolph, Reynolds and Curtis.

## ON CLAIMS AND GRIEVANCES

Messrs. Randolph (*Chairman*), Barnhart, Rouss, Paull, Fleming, Beacom, Millender, Helmick and Young (of Tyler).

---

**ON FORFEITED, DELINQUENT AND UNAPPROPRIATED LANDS**

Messrs. Elbin (*Chairman*), Howard, Greene, Barnhart, Belknap, Smith, Henderson, Reynolds and Young (of Upshur).

**ON PUBLIC PRINTING**

Messrs. Canterbury (*Chairman*), Beacom, Spillers, Fleming, Jones, Helsley, Smith, Young (of Tyler) and Curtis.

**ON PUBLIC LIBRARY**

Messrs. Helsley (*Chairman*), Sandridge, Smith, Tuckwiller, Canterbury, Greene, Howard, Reynolds and Young (of Upshur).

**TO EXAMINE THE CLERK'S OFFICE**

Messrs. Randolph (*Chairman*), Rouss and Garrett.

**ON TEMPERANCE**

Messrs. Garrett (*Chairman*), Fleming, Greene, Wiseman, Randolph, Helsley, Marsh, Reynolds and Curtis.

**ON FORESTRY AND CONSERVATION**

Messrs. Barnhart (*Chairman*), Mitchell, Paull, Beacom, Milleder, Tuckwiller, Randolph, Helsley, Reynolds and Young (of Upshur).

**ON REDISTRICTING**

Messrs. Fleming (*Chairman*), Jones, Spillers, Greene, Smith, Randolph, Sandridge, Helmick and Curtis.

**JOINT COMMITTEE ON ENROLLED BILLS ON THE PART OF THE SENATE**

Messrs. Howard (*Chairman*), Wiseman, Rouss, Greene and Reynolds.

**JOINT COMMITTEE ON JOINT RULES ON THE PART OF THE SENATE**

Messrs. Hodges (*President*), Jones and Helmick.

# House Of Delegates

## OFFICERS

*Speaker*—JOHN J. PELTER, Dehue

*Clerk*—JOHN S. HALL, Williamson

*Sergeant-at-Arms*—HAL DEPUE, Charleston

*Doorkeeper*—J. N. FINLEY, Chester

COUNTY	MEMBERS	POSTOFFICE	
Barbour	William Janes (R)	Philippi	
Berkeley	Charles R. Beard (R)	Martinsburg	
Boone	E. E. White (D)	Madison	
Braxton	Claude R. Linger (D)	Burnsville	
Brooke	Glen B. Wade (R)	Wellsburg	
Cabell	Joe G. Gentry (D)	Huntington	
	W. D. Keister (D)	Huntington	
	A. M. Martin (D)	Barboursville	
	George S. Wallace (D)	Huntington	
	William W. Roberts (D)	Huntington	
Calhoun	J. A. Morford (D)	Grantsville	
Clay	E. Ray Reed (R)	Clay	
Doddridge	Howard H. Jones (R)	Smithburg	
	Mrs. S. W. Price (D)	Scarbro	
Fayette	Mrs. Allie Dickerson Proctor (D)	Clifftop	
	Arnold M. Vickers (D)	Montgomery	
	Emmett O. Wiseman (D)	Fayetteville	
Gilmer	Paul H. Kidd (D)	Glennville	
Grant	Arch J. Welton (R)	Petersburg	
Greenbrier	W. H. Gum (D)	White Sul. Spgs.	
	Harry L. Van Sickler (D)	Lewisburg	
Hampshire	J. Burr Saville (D)	Romney	
Hancock	John W. Hertnick (R)	Weirton	
Hardy	J. D. Chipley (D)	Moorefield	
Harrison	Stanley C. Butler (D)	Wolf Summit	
	James L. Gaylord (D)	Clarksburg	
	Edgar E. Righter (D)	Shinnston, Rt. 2	
	Clifford R. Snider (D)	Clarksburg	
	Charles F. Ong (R)	Ripley	
Jackson	U. S. Martin (D)	Shepherdstown	
Jefferson	John E. Amos (D)	Charleston	
Kanawha	W. T. (Suey) Brotherton (D)	Charleston	
	Carl C. Calvert (D)	Chelyan	
	J. Hornor Davis, II (D)	Charleston	
	Ernest K. James (D)	Charleston	
	Roy F. Jimison (D)	Kayford	
	Howard Kuhn (D)	Charleston	
	James Kay Thomas (D)	Charleston	
	Harvey A. Hall (R)	Weston	
	Lewis	Watson Adkins (D)	Hart
	Lincoln	Hugh Paul (D)	Logan
Logan	John J. Pelter (D)	Dehue	
	Paul C. Winter (D)	Chapmanville	
Marion	Fred L. Doring (D)	Fairmont	
	Robert L. McCoy (D)	Fairmont	
	Howard E. Woodward (D)	Fairmont	

HOUSE OF DELEGATES

COUNTY	MEMBERS	POSTOFFICE
Marshall	Will F. Crow (R) Allen Simmons (R)	Glen Easton Moundsville
Mason	George A. Rairden (R)	Leon
Mercer	J. A. Douglas Bailey (D) W. Broughton Johnston (D) H. Dennis Wright (D)	Bluefield Princeton Montcalm
Mineral	H. G. Shores (D)	Ceysler
Mingo	Hiram Phillips (D) Mark Russell, Jr. (D)	Spriegg Williamson
Monongalia	Charles B. Morris (D) Junius M. Strouss (D)	Morgantown Morgantown
Monroe	William M. LaFon (D)	Union
Morgan	Harvey D. Beeler (R)	Berkeley Springs
McDowell	J. R. Anderson (D) A. C. Dickerson (D) Lewis E. Fite (D) R. H. Inscore (D) Fleming A. Jones, Jr. (D)	Northfork Raysal War Benkinjones Welch
Nicholas	J. A. Neal (D)	Fenwick
Ohio	Carl B. Galbraith (D) J. E. McCutcheon (D) Geo. W. Oldham (D) Stephen J. Russek (D)	Wheeling Wheeling Wheeling Wheeling
Pendleton	R. M. Hiner (D)	Franklin
Pleasants	B. A. Dotson (D)	St. Marys
Pocahontas	Stanley J. Rexrode (R)	Marlinton
Preston	Clarence B. Bishoff (R)	Manheim
Putnam	Harry W. Bayer (R)	Winfield
Raleigh	T. E. Bibb (D) J. R. Gilmore (D) A. D. Preston (D)	Beckley Beckley Beckley
Randolph	J. Buhl Shahan (D)	Elkins
Ritchie	A. H. Lawson (R)	Harrisville
Roane	Harry Holswade (D)	Spencer
Summers	W. Carthon Haythe (D)	Hinton
Taylor	Dallas Wolfe (R)	Grafton
Tucker	Lloyd Erhard (D)	Davis
Tyler	I. M. Underwood (R)	Middlebourne
Upshur	Benj. L. Beall (R)	Buckhannon
Wayne	Rufus Lester (D) Oscar Watts (D)	Fort Gay Huntington
Webster	William S. Wyszong (D)	Webster Springs
Wetzel	L. E. Lantz (D)	Jacksonburg
Wirt	J. Wamsley Vandall (R)	Creston
Wood	Ben H. Butcher (D) Forbes R. Hiehle (D) George Sheddan (R)	Parkersburg Parkersburg Parkersburg
Wyoming	Ward Wylie (D)	Mullens

(D)—Democrats..... 72  
 (R)—Republicans..... 22  
 Total..... 94

## Standing Committees of the House of Delegates

### AGRICULTURE

Messrs. Chipley (*Chairman*), Brotherton (*Vice Chairman*), Bailey, Butler, Davis, Gum, Holswade, Keister, Kidd, Lester, Martin (of Jefferson), Neal, Mrs. Price, Messrs. Righter, Bayer, Crow, Hall and Ong.

### ARTS, SCIENCE, AND GENERAL IMPROVEMENTS

Messrs. Martin (of Cabell), (*Chairman*), Preston (*Vice Chairman*), Anderson, Chipley, Doring, Gilmore, Gum, Jimison, Kidd, Righter, Shahan, Vickers, White, Watts, Beall, Butler, Ong and Simmons.

### BANKS AND CORPORATIONS

Messrs. Lantz (*Chairman*), McCoy (*Vice Chairman*), Amos, Anderson, Dotson, Galbraith, Hiner, James, LaFon, Martin (of Jefferson), Paul, Preston, Snider, White, Wright, Wysong, Beeler, Crow, Hertnick, Janes and Reed.

### CLAIMS AND GRIEVANCES

Messrs. Roberts (*Chairman*), Lester (*Vice Chairman*), Adkins, Brotherton, Doring, Fite, Gaylord, Gum, Jimison, Linger, Martin (of Jefferson), McCutcheon, Morris, Phillips, Saville, Wallace, Wright, Beall, Bishoff, Lawson and Shedan.

### COUNTIES, DISTRICTS AND MUNICIPAL CORPORATIONS

Messrs. Johnston (*Chairman*), Russek (*Vice Chairman*), Bailey, Brotherton, Dickerson, Doring, Jimison, Martin (of Cabell), McCoy, Righter, Snider, Strouss, Van Sickler, Vickers, Wallace, Winters, Wiseman, Beard, Hall, Simmons and Underwood.

### EDUCATION

Messrs. Strouss (*Chairman*), Butler (*Vice Chairman*), Adkins, Amos, Anderson, Bailey, Calvert, Galbraith, Jones (of McDowell), Kidd, Lester, Linger, Martin (of Cabell), McCutcheon, Mrs. Price, Messrs. Shahan, Shores, Winter, Wiseman, Rairden, Rexrode, Simmons, Vandall and Wolfe.

## ELECTIONS AND PRIVILEGES

Messrs. Galbraith (*Chairman*), Hiehle (*Vice Chairman*), Bailey, Bibb, Dickerson, Erhard, Fite, Haythe, James, Keister, Morford, Oldham, Snider, White, Bishoff, Janes and Welton.

## EXECUTIVE OFFICES AND LIBRARY

Messrs. Martin (of Jefferson) (*Chairman*), Adkins (*Vice Chairman*), Butcher, Calvert, Doring, Dotson, Erhard, Fite, Gilmore, Haythe, Holswade, Inscore, Kuhn, McCutcheon, White, Beard and Crow.

## FEDERAL RELATIONS

Messrs. Butcher (*Chairman*), Fite (*Vice Chairman*), Johnston, Jones (of McDowell), Lester, Linger, Martin (of Cabell), Morris, Neal, Paul, Preston, Russell and Snider.

## FORESTRY AND CONSERVATION

Messrs. Gaylord (*Chairman*), Erhard (*Vice Chairman*), Adkins, Bailey, Butcher, Gilmore, Hiehle, Linger, McCutcheon, Righter, Russell, Shahan, Wiseman, Beall, Rexrode, Simmons and Wolfe.

## FORFEITED, DELINQUENT AND UNAPPROPRIATED LANDS

Messrs. Wysong (*Chairman*), Amos (*Vice Chairman*), Gum, Hiner, Kidd, Kuhn, Oldham, Paul, Roberts, Saville, Shores, Watts, Woodward, Rairden, Reed, Shedden and Vandall.

## GAME AND FISH

Messrs. Calvert (*Chairman*), Watts, (*Vice Chairman*), Amos, Bibb, Brotherton, Chipley, Galbraith, Gilmore, Kidd, Lantz, Morford, Righter, Roberts, Saville, Shahan, Vickers, Wright, Beeler, Lawson, Wade and Wolfe.

## HUMANE INSTITUTIONS AND PUBLIC BUILDINGS

Mrs. Price (*Chairman*), Messrs. Phillips (*Vice Chairman*), Dotson, Gaylord, Hiehle, Holswade, Keister, Linger, Preston, Righter, Roberts, Russek, Wylie, Bayer, Bishoff, Hall and Wade.

## INSURANCE

Messrs. Davis (*Chairman*), Keister (*Vice Chairman*), Amos, Galbraith, Gaylord, Inscore, Martin (of Cabell), McCoy, Shores, Snider, White, Woodward, Wylie, Hertnick, Jones (of Doddridge), Lawson and Underwood.

## JUDICIARY

Messrs. LaFon (*Chairman*), Wysong (*Vice Chairman*), Amos, Butcher, Davis, Galbraith, Haythe, Hiner, James, Johnston, Jones (of McDowell), Kidd, Preston, Roberts, Russell, Shores, Snider, Van Sickler, Vickers, Wallace, Woodward, Bayer, Janes, Shedan and Underwood.

## LABOR

Messrs. Woodward (*Chairman*), Dickerson (*Vice Chairman*), Anderson, Butcher, Butler, Erhard, Gentry, Gilmore, Inscore, McCutcheon, Morris, Neal, Phillips, Roberts, Thomas, Wallace, Watts, White, Winter, Wiseman, Wright, Beard, Hertnick and Wade.

## MEDICINE AND SANITATION

Messrs. Wylie (*Chairman*), Morford (*Vice Chairman*), Butler, Chipley, Haythe, James, Jones (of McDowell), Kuhn, Morris, Mrs. Price, Messrs. Wiseman, Woodward, Wysong, Crow, Hertnick, Jones (of Doddridge) and Underwood.

## MILITARY AFFAIRS

Messrs. Holswade (*Chairman*), Doring (*Vice Chairman*), Anderson, Bailey, Calvert, Gentry, Inscore, Jones (of McDowell), McCutcheon, Preston, Wallace, Woodward, Wylie, Beall, Hertnick, Jones (of Doddridge), Ong, Simmons and Wolfe.

## MINES AND MINING

Messrs. Bibb (*Chairman*), Paul (*Vice Chairman*), Dickerson, Erhard, Fite, Gilmore, Jimison, Kuhn, Morris, Phillips, Mrs. Proctor, Messrs. Shahan, Strouss, Thomas, Wallace, White, Winter, Wiseman, Woodward, Wright, Wylie, Beard, Reed and Simmons.



## PENITENTIARY

Messrs. Preston (*Chairman*), Fite (*Vice Chairman*), Bibb, Butler, Davis, Gentry, Hiehle, Hiner, Lester, Phillips, Russek, Wallace, Wylie, Beeler, Bishoff, Crow and Underwood.

## PRINTING AND CONTINGENT EXPENSES

Messrs. Gentry (*Chairman*), Anderson (*Vice Chairman*), Inscore, Russek, Van Sickler, Vickers, Watts, Janes, Jones (of Doddridge), Vandall and Welton.

## RAILROADS

Messrs. Jimison (*Chairman*), Haythe (*Vice Chairman*), Adkins, Butler, Calvert, Gentry, Hiner, McCoy, McCutcheon, Morris, Oldham, Paul, Mrs. Proctor, Messrs. Russell, Shores, Watts, Beard, Crow, Ong and Rairden.

## REDISTRICTING

Messrs. Doring (*Chairman*), Russell (*Vice Chairman*), Adkins, Calvert, Chipley, Davis, Hiner, Inscore, Johnston, Keister, Kidd, Lester, Oldham, Saville, Shores, Van Sickler, Winter, Beeler, Hall, Lawson and Rairden.

## ROADS

Messrs. Van Sickler (*Chairman*), Bibb (*Vice Chairman*), Adkins, Chipley, Davis, Dickerson, Dotson, Erhard, Gaylord, Johnston, Lantz, Linger, Martin (of Jefferson), Morford, Phillips, Mrs. Proctor, Messrs. Russek, Saville, Winter, Bishoff, Lawson, Rexrode and Wade.

## RULES

Messrs. Speaker (*Chairman ex officio*), Gentry, Hiner, James, LaFon, Strouss, Underwood and Welton.

## STATE BOUNDARIES

Messrs. Neal (*Chairman*), Keister (*Vice Chairman*), Butcher, Dotson, Gum, Haythe, Hiehle, Holswade, Inscore, Jones (of McDowell), Kuhn, Mrs. Price, Messrs. Shahan, Strouss, Vickers, Shedan, Vandall and Welton.

## TAXATION AND FINANCE

Messrs. Thomas (*Chairman*), Righter, (*Vice Chairman*), Anderson, Bibb, Brotherton, Dotson, Gaylord, Gentry, Hiehle, Holswade, James, Lantz, McCoy, Morford, Oldham, Paul, Mrs. Proctor, Messrs. Russek, Shores, Strouss, White, Wylie, Hall, Rairden, Reed and Welton.

## TEMPERANCE

Messrs. Saville (*Chairman*), Gum (*Vice Chairman*), Brotherton, Dickerson, Fite, Lantz, McCoy, McCutcheon, Neal, Mrs. Proctor, Messrs. Russek, Shores, Winter, Hertnick, Jones (of Doddridge), Rexrode and Wade.

## JOINT COMMITTEE ON ENROLLED BILLS ON THE PART OF THE HOUSE

Messrs. Vickers (*Chairman*), Hiehle, Shahan, Winter and Beeler.

## JOINT COMMITTEE ON JOINT RULES ON THE PART OF THE HOUSE

Messrs. Speaker (Mr. Pelter), Hiner and Underwood.

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, 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 fifteenth day of June, one thousand nine hundred thirty-six, for the following purposes:

*First:* To enact legislation revising the law relating to the care of indigent persons, reorganizing the public welfare services of the state and its subdivisions, and providing public assistance services which shall conform to the requirements of the Federal "Social Security Act."

*Second:* To consider plans and enact legislation for a system of unemployment compensation in the state.

*Third:* To provide any adjustment in state and local finance which may be necessary for the support of public assistance and relief.

*Fourth:* To enact legislation extending the time and adjusting the procedure for the redemption of real estate upon which taxes have become delinquent.

*Fifth:* To enact permissive legislation to allow local governmental units and communities to receive Federal aid for the purpose of capital additions and improvements pertaining to schools, hospitals and other public works.

*Sixth:* To place the State Planning Board on a permanent statutory basis.

*Seventh:* To make appropriation of public funds for necessary construction, maintenance and repair of public highways and bridges.

*Eighth:* To make appropriations of public funds necessary to procure Federal funds as grants-in-aid of state services.

*Ninth:* To make the necessary appropriations of public funds to pay the expenses of this extraordinary session and appropriate funds, where necessary, for the administration of the laws enacted.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State to be affixed.

Done at the Capitol in the City of Charleston,  
this sixth day of June, in the year of our Lord,  
(GREAT SEAL) One Thousand Nine Hundred Thirty-six, and of  
the State the Seventy-third.

By the Governor:

H. G. KUMP.

WM. S. O'BRIEN,  
*Secretary of State.*

STATE OF WEST VIRGINIA  
EXECUTIVE DEPARTMENT  
CHARLESTON

June 6, 1936.

*To the Members of the Senate and House of Delegates:*

An extraordinary session of the Legislature will convene in the Capitol at Charleston on the afternoon of June 15, 1936. There have been many requests to include subjects in the call for the session, which, while worthy of the most serious consideration of the Legislature, have little relation to the pressing problems of the moment. It has been necessary to exclude the subjects of these requests from the call in order that the Legislature may bring all of its powers to bear on the primary questions before us, and also to avoid controversial questions which are more properly for consideration in a regular session.

The vital subjects making this extraordinary session of the Legislature necessary are embraced within Federal-State relations known as the "Social Security Program."

Of singular importance is

Item "First" of the call: Legislation pertaining to the care and security of our citizens, who, through no fault of their own, are in need of public assistance. It has been no easy task to provide for this. Your *Interim Joint Legislative Committee On Social Security* has worked over a period of a year to perfect a bill which will answer, as far as such questions can be answered, the perplexing problems of public welfare as they exist within the borders of our state.

This bill—the "Public Welfare Act of 1936"—will be submitted to you with the report of the *Interim Joint Committee*. Notwithstanding misgivings as to its sufficiency, or the sufficiency of any bill that might be drawn at this time, I commend it to your consideration as the result of long study and thought. It is much more than a bill—it is rather a revision, amendment and codification of a large part of our public welfare laws. It is based upon what seems to me to be a sound principle: *The permanent protection of our citizens against the recurring misfortunes of life.*

In providing such protection, it is the purpose of the Bill:

- (1) To assemble the public welfare services of the State into a single integrated system.
- (2) To modernize the statutory provisions pertaining to welfare activities and to promote more effective services.
- (3) To provide certain public assistance to the aged, the blind and to dependent children which will conform to the requirements of the Federal "Social Security Act."

The bill does not answer all the questions that can be raised under it. But it is based upon every available item of known experience; and, every facility and opportunity offered by the national government to assist the State in discharging this important obligation, has been studied and used to the fullest extent. Its refinement and adjustments must await further experience and the test of trial.

Closely associated with the problem of public assistance is Item "Second"—the urgent question of unemployment compensation. This question involves the most complicated technical departures. Its purpose is most worthy and rises to highest ground for con-

sideration in our social and economic structure. Your Committee has made no recommendation for action concerning it at this time. The report suggests further "investigation of the intricate fiscal, legal and administrative questions which surround this difficult problem of unemployment compensation." The Executive Department stands ready to assist you to the utmost in this behalf.

\* \* \*

The matter of public welfare, which forms the basis of this call, presents a grave problem; at once most far-reaching in its implications and most appealing in its promise of benevolent solution. As we approach it we face the very plain fact that a social security "program," alone, cannot solve this problem.

Throughout the life of our State it has been our devoted purpose and fixed policy to care for those citizens who are in distress because of limited opportunities or impaired resources. The vicissitudes of recent years have emphasized this responsibility beyond all prior experience, but, while we gladly make provision for the conditions which confront us, we cannot avoid the stern, imperative, duty to maintain other essential functions of government that are the very warp and woof of our Statehood.

The resources of our State are for the citizens of our State and those most in need shall have first consideration. But we must temper our aid in wisdom and justice. For those who receive others must give. We cannot bring abundance into lives not fitted by nature, nor practice, to use such abundance wisely and well. We should not create false standards of living at public expense which place a premium upon indolence and a penalty upon industry.

We must foster among our citizens that civic virtue, just pride and nobility of character, which proceed from self-reliance and a consciousness of self-sustained competence.

For those who are in need we can provide subsistence; for those who suffer, we can provide care; for those who live in insecurity, we can provide protection. These things we should and will do—they reside within the second great commandment, "Thou shalt love thy neighbor as thyself." But, in this sacred mandate, we are not required to obligate the State to provide standards of living beyond its own fiscal capacity and in excess of the ability of recipients to live efficiently within such standards. This seems to me to be the viewpoint from which we should direct our welfare policy.

• • •

The purpose of Item "Third" is obvious.

• • •

The remaining articles in the call are, for the most part, of a routine character:

Item "Fourth" looks toward additional aid to our citizens in reclaiming their farms, homes and business properties which have been threatened by the adversities of the past few years.

Item "Fifth" is self-explanatory. While the policy of the Federal government toward work programs for the unemployed over the coming year is still unsettled, our local governmental units should be placed in a position to take advantage of every opportunity to participate in Federal grants for capital purposes.

Item "Sixth" proposes to make the State Planning Board a permanent part of state government in accordance with plans agreed to by the National Resources Board.

Items "Seventh," "Eighth" and "Ninth" are purposed to meet emergency highway requirements, procure Federal grants-in-aid and to secure the fiscal competence of the extraordinary session.

• • •

The call makes no provision for imposing new nor additional taxes. This subject is not eliminated with any thought that no new revenue will be required to carry out the purposes of the measures that you will consider and doubtless enact into law, but it is hoped that there will be available from the general treasury during the current calendar year, sufficient funds to carry through the next few months, which will necessarily be an experimental period, and until the next regular session of the Legislature convenes.

This extraordinary session may well offer an opportunity for achievement comparable with your distinguished work of the past three years. It is my hope that preparation has been so carefully made, that you will be able to dispose of these important questions within a few days, and return to your homes secure in the confidence of another great service to our beloved State.

H. G. KUMP,  
*Governor.*





# LEGISLATURE OF WEST VIRGINIA

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## ACTS OF 1936

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### FIRST EXTRAORDINARY SESSION

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## CHAPTER 1

(House Bill No. 1 — By Mr. Speaker, Mr. Pelter)

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AN ACT relating to the public welfare services of the state and its subdivisions, providing, among other things, for public assistance to the aged, to the blind, to physically handicapped adult persons, and to dependent children, transferring the state veterans' service officer to the state department herein established, providing for general relief of needy persons in the several counties of the state; providing for crippled, neglected, and delinquent children, and repealing chapters nine and forty-nine and article six, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, chapters two and thirty-two, acts of the Legislature of West Virginia, one thousand nine hundred thirty-one, and chapters seventy-four and seventy-five, acts of the Legislature of West Virginia, one thousand nine hundred thirty-five; and enacting

in lieu thereof new chapters nine and forty-nine and providing penalties for the violation thereof.

[Passed June 20, 1936; in effect July 1, 1936. Approved by the Governor.]

**Section**

1. General purposes of act.
2. How act cited.
3. Succession of offices and property.
4. Provisions of act severable.
5. Acts repealed.
6. Termination of West Virginia Relief Administration.

*Be it enacted by the Legislature of West Virginia:*

That chapters nine and forty-nine and article six of chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, chapters two and thirty-two, acts of the Legislature of West Virginia, one thousand nine hundred thirty-one, and chapters seventy-four and seventy-five, acts of the legislature of West Virginia, one thousand nine hundred thirty-five, are hereby repealed, and new chapters nine and forty-nine are hereby enacted to read as follows:

Section 1. *General Purposes.* From the first day of its statehood the state of West Virginia has extended public assistance to those citizens who, for reasons beyond their control, were unable to care for themselves. The great economic disturbances of the past few years have emphasized this responsibility beyond all previous experience. The legislature, therefore, declares itself eager to provide, so far as it is possible to do so, for the permanent protection of its citizens against the recurring misfortunes of life. To this end, it is the purpose of this act:

(1) To assemble the public welfare services of the state into a single integrated system.

(2) To modernize the statutory provisions pertaining to the welfare services to promote more effective activity.

(3) To add to this system certain public assistance services which shall conform to the requirements of the federal "Social Security Act."

Sec. 2. *How Act Cited.* This act may be cited as the "Public Welfare Law of 1936."

2       Sec. 3. *Succession of Offices and Property.* Persons  
3 holding office under provisions of law repealed by this act  
4 shall continue in office until the appointment and qualification  
5 of the successors to their duties under the provisions of this  
6 act, or until their duties are terminated by order of the state  
7 director, because of the adoption and operation of this act.

8       Upon the taking effect of this act, the state department shall  
9 have possession of the property, equipment, records and any  
10 unexpended funds of the state agencies repealed by or trans-  
11 ferred to the state department by this act. The county coun-  
12 cil for a county shall have possession of the property, equip-  
13 ment, and records of county agencies repealed by or trans-  
ferred to the county council by this act.

2       Sec. 4. *Provisions Severable.* The provisions of this act  
3 shall be construed as severable, and should any be held un-  
4 constitutional, or for any other reason invalid, the remaining  
5 provisions shall not be affected thereby.

2       Sec. 5. *Acts Repealed.* Acts or parts of acts general or  
3 special in conflict with or superseded by, the provisions of  
4 this act are hereby repealed. But the enactment of this act  
5 shall not affect the operation of executive orders relating  
6 to the West Virginia Relief Administration dated April  
7 twenty-fifth, one thousand nine hundred and thirty-four and  
8 February thirteenth, one thousand nine hundred and thirty-  
9 five.

2       Sec. 6. *Relief Administration.* The West Virginia Relief  
3 Administration shall continue in effect until its operations  
4 are terminated by order of the governor. When the gover-  
5 nor finds that the state department and county councils are  
6 prepared to discharge the duties of the relief administration,  
7 or any of them, or to discharge such duties in a particular  
8 county of the state, he shall transfer such duties and activities  
9 from the relief administration to the state department or  
10 county council, or both, as the case may be. He shall at the  
11 same time, transfer so much of the appropriation made by  
12 the legislature for emergency relief and applicable to the  
13 transferred activity, as may be necessary, to the state de-  
14 partment to be administered for the purposes of the trans-  
15 ferred activity in accordance with the provisions of this  
chapter.

## Chapter 9. PUBLIC ASSISTANCE AND RELIEF

### Article

1. State Department of Public Assistance.
2. State Advisory Board.
3. The Director of Public Assistance.
4. County Public Assistance Council.
5. Public Assistance.
6. General Relief.
7. County Infirmaries.
8. State Veterans' Service Office.
9. Physical Rehabilitation of Adult Persons.
10. Fiscal Provisions.
11. General Provisions.

### Article I. State Department of Public Assistance.

#### Section

1. Purposes of chapter.
2. State department of public assistance created.
3. Acceptance of federal legislation.
4. When article five to become inoperative.
5. Definitions.

Section 1. *Purpose.* The intent of the legislature is to provide a permanent system of public assistance for the state of West Virginia, to the end that its citizens who are subject to the recurring misfortunes of life may have such aid and encouragement as the state is able to extend. The purpose of this chapter is, therefore:

- (1) To create a state department of public assistance to administer the public welfare services of the state.
- (2) To revise the laws relating to the care and treatment of indigent persons.
- (3) To provide public assistance for the indigent aged, indigent blind, and dependent children, which shall conform to the requirements of the federal "Social Security Act."
- (4) To provide for physical rehabilitation of physically handicapped adult persons who qualify to receive public assistance or general relief under the provisions of this chapter.

Sec. 2. *The State Department of Public Assistance.* To accomplish the purpose of this chapter, there is hereby created the State Department of Public Assistance.

Sec. 3. *Acceptance of Federal Legislation.* The state of West Virginia assents to the purposes of the act of the Congress of the United States, entitled the "Social Security Act," approved August fourteenth, one thousand nine hundred and thirty-five, and assents to such additional federal legislation as is not inconsistent with the purposes of this chapter.

7 The state of West Virginia further accepts the appropria-  
8 tions of money by Congress in pursuance of the "Social Secu-  
9 rity Act" and authorizes the receipt of such money into the  
10 state treasury for the use of the State Department of Public  
11 Assistance in accordance with this chapter and the conditions  
12 imposed by the "Social Security Act."

2 Sec. 4. *To Become Inoperative.* The provisions of article  
3 five of this chapter, relating to public assistance for the  
4 indigent aged, shall become inoperative in the event TITLE  
5 I—GRANTS TO STATES FOR OLD-AGE ASSISTANCE,  
6 of the "Social Security Act," is held unconstitutional, or for  
any reason becomes void or inoperative.

2 Sec. 5. *Definitions.* For the purposes of this chapter:  
3 "State department" means the State Department of Public  
4 Assistance.  
5 "State board" means the State Advisory Board.  
6 "Director" means the Director of the State Department  
7 of Public Assistance.  
8 "County council" means a county public assistance council.  
9 "County director" means a director appointed by a county  
council.

## Article II. State Advisory Board.

### Section

1. The state advisory board.
2. Political affiliation of members.
3. Term of office.
4. Qualifications of members.
5. Disqualification of members.
6. Oath of office.
7. Honorarium and traveling expenses.
8. Offices.
9. Meetings.
10. Quorum.
11. Advisory powers and duties.
12. Powers and duties of state board.
13. Appointment of county councils.
14. Classification of services and compensation.
15. Certification of qualified county directors.

2 Section 1. *The State Advisory Board.* There is hereby  
3 created in the Department of Public Assistance, a "State  
4 Advisory Board" composed of five members.

5 The members and the director shall be appointed by the  
6 governor, by and with the advice and consent of the Senate.  
7 The board shall select one of its members as chairman.

2       Sec. 2. *Political Affiliations of Members.* Not more than  
3 three of the members of the state board other than the  
3 director shall belong to the same political party.

2       Sec. 3. *Term of Office.* The term of office of the members  
2 of the state board shall be six years, except that the governor,  
3 upon the adoption of this chapter, shall appoint the members  
4 upon the following basis: Two members for a term of six  
5 years; two members for a term of four years; and one member  
6 for a term of two years. As these appointments expire, all  
7 appointments shall be for six year terms. In case of a  
8 vacancy in the state board, the appointment shall be for the  
9 remainder of the unexpired term. An appointee shall be  
10 subject to removal at the will and pleasure of the governor.

2       Sec. 4. *Qualifications of Members.* The members of the  
2 state board shall be selected with special reference to their  
3 ability and fitness to effectuate the purposes of this chapter.

2       Sec. 5. *Disqualification.* No member shall be a candidate  
2 for, or hold, any other public office or trust, nor shall he be  
3 a member of any political committee, nor shall he serve as an  
4 election official, nor shall he engage in any political activity,  
5 other than to vote, in behalf of, or in opposition to, any can-  
6 didate, political party or public issue involved in any election.  
7 Any violation by a member of the provisions of this section  
8 shall automatically vacate his membership on the state board.

2       Sec. 6. *Oath of Office.* Members of the state board shall  
2 take and subscribe to the oath prescribed by article four,  
3 section five, of the state constitution before entering upon  
4 their duties. Their oaths shall be filed with the secretary of  
5 state.

2       Sec. 7. *Honorarium and Traveling Expenses.* Each mem-  
2 ber of the state board shall receive an honorarium of ten  
3 dollars for each day actually served in attendance at meet-  
4 ings of the board, and actual expenses incurred in the per-  
5 formance of his duties under the provisions of this chapter.  
6       Requisition for traveling expenses shall be accompanied  
7 by a sworn and itemized statement, which shall be filed with  
8 the auditor and permanently preserved as a public record.

2       Sec. 8. *Offices.* The offices and meeting place of the board  
3 shall be in the offices of the director.

4       Sec. 9. *Meetings.* The state board shall hold four regular  
5 meetings each year, as follows: On the first Monday in July,  
6 October, January, and April. Special meetings may be con-  
7 vened on the call of the director, the governor or a majority  
8 of the members.

9       Sec. 10. *Quorum.* A majority of the members of the  
10 state board shall constitute a quorum for the conduct of  
11 official business.

12       Sec. 11. *Advisory Powers and Duties.* The state board  
13 shall be an advisory body to the director, and as such shall  
14 have the following advisory powers and duties; to:

15       (1) Study and consider the entire field of legislation and  
16 administration concerning public assistance.

17       (2) Advise the director concerning the organization and  
18 administration of the state department.

19       (3) Recommend to the director policies and practices  
20 relative to his duties.

21       (4) Advise and make recommendations to the governor or  
22 legislature relative to the public assistance policy of the state.

23       (5) Advise the director with respect to the special prob-  
24 lems of different regions of the state and different economic  
25 groups.

26       (6) Advise the director with respect to the preparation  
27 and amendment of rules and regulations to give effect to the  
28 provisions of this chapter.

29       (7) Exercise any other advisory powers necessary or  
30 reasonably implied within the provisions and purposes of this  
31 chapter.

32       Sec. 12. *Powers and Duties.* The state board shall, in  
33 addition to its functions as an advisory body, have the fol-  
34 lowing powers and duties; to:

35       (1) Recommend to the governor persons to be appointed  
36 members of the county councils.

37       (2) Prescribe the qualifications for county directors and  
38 their assistants.

39       (3) Certify persons approved for appointment as county  
40 directors.

41       (4) Promulgate reasonable regulations for the filing and

11 consideration of applications for certification as approved  
12 county directors.

13 (5) Prescribe a salary scale to govern compensation paid  
14 to appointees and employees in the state department and to  
15 county directors and their assistants and employees.

16 (6) Keep minutes of the transactions of each session,  
17 regular or special, which shall be public records and filed  
18 with the state department.

Sec. 13. *Appointment of County Councils.* Immediately  
2 after the organization of the state board, the board shall  
3 prepare and submit to the governor a list of persons recom-  
4 mended for appointment to the county public assistance  
5 councils. The state board shall submit the names of not  
6 less than seven nor more than ten persons, for each county  
7 council.

8 As soon as possible after the receipt of the recommenda-  
9 tions, the governor shall appoint four of the persons recom-  
10 mended for each county to the county council, two members  
11 for a three year term, one member for a two year term,  
12 and one member for a one year term. He shall certify the  
13 appointment of the members of the county council to the  
14 state director.

15 As soon as a vacancy occurs in a county council, the state  
16 board shall recommend to the governor a list of persons to  
17 fill the vacancy. At least two persons shall be recommended  
18 for each vacancy.

19 The governor shall designate a person to fill the vacancy  
20 and shall certify the appointment to the state director.

Sec. 14. *Classification of Services and Compensation.*

2 The state board shall promulgate regulations prescribing  
3 the qualifications and compensation of appointees and em-  
4 ployees in the state department and of county directors and  
5 their assistants. The board shall:

6 (1) Classify the different types of services to be per-  
7 formed.

8 (2) Prescribe the qualifications of education, training and  
9 experience for each class.

10 (3) Fix a salary scale for each class. The salary scale  
11 shall establish a maximum and minimum salary for each class.  
12 Except for county directors, the difference between the



13 maximum and minimum shall not exceed one thousand  
14 dollars.

Sec. 15. *Certification of Qualified County Directors.* For  
2 the purpose of certifying persons as qualified for appoint-  
3 ment as county directors, the state board shall:

4 (1) Prescribe required qualifications of education, train-  
5 ing and experience.

6 (2) Prepare and distribute application forms.

7 (3) Examine by written or oral examination, or both,  
8 as the board may determine, persons applying for certifi-  
9 cation.

10 (4) Determine whether the applicant possesses the neces-  
11 sary qualifications.

12 (5) Issue to each approved applicant a certificate of  
13 qualification.

14 (6) Certify to the county councils a list of qualified  
15 persons for appointment as county directors.

16 (7) Promulgate regulations prescribing the qualifications  
17 for county directors and the procedure of application, exami-  
18 nation and certification.

### Article III. The Director of Public Assistance.

#### Section

1. Appointment and term of office of director.
2. Qualifications of director.
3. Oath and bond.
4. Offices.
5. Compensation.
6. Powers and duties.
7. Organization of department.
8. Assistants and employees.
9. Compliance with Federal methods and standards of administration.
10. Supervision of county councils and county directors.
11. Training periods.
12. Appeals from county councils.
13. Delegation of duties.
14. Legal assistance.

Section 1. The governor, with the advice and consent of  
2 the senate, shall appoint a state director of public assistance.  
3 The director shall hold office for a term of six years unless  
4 sooner removed at the will and pleasure of the governor.  
5 He shall devote his entire time to the duties of his office.

Sec. 2. *Qualifications.* The director shall be selected with  
2 special reference to his training, experience, capacity, and  
3 interest in the activities embraced within this chapter.

4 The state director shall not be a candidate for, or hold, any  
5 other public office or trust, nor shall he be a member of any  
6 political committee, nor shall he serve as an election official.  
7 nor shall he engage in any political activity, other than to  
8 vote, in behalf of, or in opposition to, any candidate, politi-  
9 cal party or public issue involved in any election. Any  
10 violation by the director of the foregoing provisions shall  
11 automatically vacate his appointment as director.

12 The state director shall not, for a period of two years after  
13 he ceases to act as director, be a candidate for, or hold, any  
14 state or county elective office.

Sec. 3. *Oath and Bond.* The director, before entering  
2 upon the duties of his office, shall take and subscribe to the  
3 oath prescribed by article four, section five of the state con-  
4 stitution. He shall execute a corporate surety bond in the  
5 sum of fifteen thousand dollars for the faithful performance  
6 of his duties. The bond shall be in a form prescribed by  
7 the attorney general and approved by the governor. The  
8 premiums upon the bond shall be paid out of the funds of  
9 the department.

10 The bond and oath shall be filed with the secretary of  
11 state.

Sec. 4. *Offices.* The offices of the director shall be located  
2 at the state capitol. The director shall keep his offices open  
3 at all reasonable times for the transaction of public business.

Sec. 5. *Compensation.* The director shall receive a yearly  
2 salary of six thousand dollars, and, in addition, the neces-  
3 sary traveling expenses incident to the performance of his  
4 duties. Requisition for traveling expenses shall be accom-  
5 panied by a sworn and itemized statement which shall be  
6 filed with the auditor and preserved as a public record.

Sec. 6. *Powers and Duties.* The director shall be the  
2 executive and administrative head of the department, and as  
3 such shall have the power and duty; to:

4 (1) Exercise general supervision of, and make, and revise,  
5 rules and regulations for the government of the department.

6 (2) Prescribe uniform regulations pertaining to investi-  
7 gations, reinvestigations, and case supervision by county  
8 councils and directors.

9 (3) Prescribe uniform methods of recording and account-  
10 ing to be employed by the county councils and directors.

11 (4) Sign and execute, in the name of the state, by "The  
12 State Department of Public Assistance", and by and with  
13 the consent and approval of the state board, any contract  
14 or agreement with the federal government or its agencies,  
15 other states, subdivisions of this state, corporations, associa-  
16 tions, partnerships, or individuals.

17 (5) Supervise the fiscal affairs and responsibilities of the  
18 department.

19 (6) Organize the department so as to comply with the  
20 requirements of this chapter and standards required by the  
21 federal legislation.

22 (7) Order, with the approval of the state board, two or  
23 more counties to employ a single county director and a joint  
24 staff of assistants and employees.

25 (8) Make such reports as will comply with the require-  
26 ments of the federal legislation and the provisions of this  
27 chapter.

28 (9) Cooperate with federal and state governments for the  
29 more effective attainment of the purposes of this chapter.

30 (10) Keep a complete and accurate record of all proceed-  
31 ings; record and file all bonds or contracts; and assume  
32 responsibility for the custody and preservation of all papers  
33 and documents pertaining to his office.

34 (11) Make an annual report to the governor of the con-  
35 dition, operation, and functioning of the department.

36 (12) Exercise any other powers necessary and proper to  
37 standardize state and county work, to expedite business, to  
38 assure fair consideration of application for aid, and to pro-  
39 mote the efficiency of the service.

40 (13) Invoke any legal, equitable, or special remedies for  
41 the enforcement of his orders or the provisions of this chapter.

Sec. 7. *Organization of Department.* The director shall  
2 create such divisions of the department as will promote  
3 efficiency and economy in administration.

Sec. 8. *Assistants and Employees.* The director shall  
2 appoint the heads of the divisions of the department. He  
3 shall employ such assistants and employees as may be neces-

4 sary to the efficient operation of the department and shall  
5 fix their compensation in accordance with regulations pro-  
6 mulgated under section fourteen, article two of this chapter.  
7 Assistants and employees shall serve at the will and pleasure  
8 of the director.

9 No such assistant or employee shall be a candidate for,  
10 or hold, any other public office or trust, nor shall he be a  
11 member of any political committee, nor shall he serve as an  
12 election official.

Sec. 9. *Compliance with Federal Methods and Standards  
2 of Administration.* For the purpose of assuring full federal  
3 approval of the activities of the department and county  
4 councils, the state director shall comply with all federal  
5 requirements pertaining to methods and standards of admin-  
6 istration.

7 In the making of rules and regulations the state director  
8 shall include such methods and standards of administration  
9 for the conduct of the work of county councils as may be  
10 required for the receipt of grants-in-aid from the federal  
11 government.

Sec. 10. *Supervision of County Councils and County  
2 Directors.* The state director shall organize in the depart-  
3 ment a unit for the inspection, supervision and guidance of  
4 county councils and county directors. The state director,  
5 through this unit, shall maintain close contact with the work  
6 of county councils and county directors, to enforce standard-  
7 ized record keeping and accounting, adequate case investiga-  
8 tion and case supervision, and to guide and instruct county  
9 officials in the performance of their duties.

Sec. 11. *Training Periods.* To insure adequate standards  
2 of public service, the state director shall establish regular  
3 periods of technical and specialized instruction for employees  
4 of the department, county directors and their assistants.  
5 The state director shall designate the persons who shall  
6 attend each period of instruction. Designated attendance  
7 shall be compulsory and shall be compensated for as a part  
8 of regular employment.

Sec. 12. *Appeals from County Councils.* The state

2 director shall organize within the department a board of  
3 review, consisting of the director as chairman and as many  
4 other members, not to exceed five, as may be necessary. The  
5 board of review shall decide appeals from determinations of  
6 a county council's granting or refusing to grant public  
7 assistance under the provisions of this chapter. Hearings  
8 may be held by individual board members in the counties,  
9 but all decisions shall be by the board.

Sec. 13. *Delegation of Duties.* All powers and duties  
2 vested in the director, except the power to sign contracts,  
3 may be delegated by him to his appointees or employees;  
4 but the director shall be responsible for their acts.

Sec. 14. *Legal Assistance.* The attorney general of the  
2 state and his assistants, and the prosecuting attorneys of the  
3 various counties shall render to the director, without addi-  
4 tional compensation, such legal services as he shall require  
5 of them in the discharge of his duties.

#### Article IV. County Public Assistance Council.

##### Section

1. County public assistance council created.
2. Term of office.
3. Qualifications.
4. Disqualification.
5. To serve without pay.
6. Offices and equipment.
7. Meetings and proceedings.
8. Powers and duties.
9. County director of public assistance.
10. Assistants and employees.
11. Disqualification of county director.
12. Powers and duties of county director.
13. Inter-county agreements.
14. Joint county units.

Section 1. *County Public Assistance Councils.* There  
2 is hereby created in each county of the state a "County  
3 Public Assistance Council". The council shall consist of five  
4 citizens of the county, of whom four shall be appointed by  
5 the governor upon recommendation of the state board. The  
6 president of the county court shall be a member *ex officio*.  
7 The president of the county court may appoint another mem-  
8 ber of the court to serve in his place. The council shall desig-  
9 nate one of the appointed members as chairman.

10 Not more than three members shall belong to the same  
11 political party.

Sec. 2. *Term of Office.* Members of the council shall  
2 serve for a term of three years, except that the first members  
3 appointed after the adoption of this chapter shall serve as  
4 specified by section thirteen, article two, of this chapter.

5 A member appointed to fill a vacancy occurring prior to  
6 the expiration of a term shall serve for the unexpired term.

7 An appointee shall be subject to removal at the will and  
8 pleasure of the governor.

Sec. 3. *Qualifications.* The appointed members of the  
2 county council shall be selected with special reference to  
3 their experience, capacity, and fitness to perform the duties  
4 required of them by this chapter.

Sec. 4. *Disqualification.* No appointed member shall be a  
2 candidate for, or hold, any other public office, nor shall he be  
3 a member of any political committee, nor shall he serve as an  
4 election official. If an appointed member becomes a candidate  
5 for, or is appointed to, any other public office, or political  
6 committee, or serves as an election official, his office as a mem-  
7 ber of the county council shall, automatically, be vacated.

Sec. 5. *Serve without Compensation.* Members of the  
2 county council shall serve without compensation.

Sec. 6. *Offices and Equipment.* The office of the county  
2 council shall be at the county seat. The county court shall  
3 provide adequate office space and equipment. Offices shall be  
4 in the county courthouse if possible.

Sec. 7. *Meetings and Proceedings.* The county council  
2 shall hold regular meetings at such times as it shall determine  
3 by formal order. Special meetings may be convened at the  
4 call of the chairman, the state director, the county director  
5 or a majority of the members.

6 A majority of the members shall constitute a quorum for.  
7 the conduct of official business.

8 The county council shall make all of its determinations  
9 in the form of formal orders in which not less than a majority  
10 of the members concur.

2       Sec. 8. *Powers and Duties.* The county council shall be  
3 the administrative agency for the performance of public  
4 assistance activities in the county, and, as such shall have  
5 the following powers and duties; to:

6       (1) Receive and comply with the instructions and regu-  
7 lations of the state board and the state director.

8       (2) Perform such duties as are required for the manage-  
9 ment of specialized types of public assistance provided by this  
10 chapter.

11       (3) Supervise the activities of the county director and the  
12 members of his staff.

13       (4) Prepare and submit to the state board or the state  
14 director reports and information at their request.

15       (5) Cooperate with private charitable organizations or  
16 agencies operating within the county.

17       (6) Keep records of all transactions which shall be pre-  
served as public records.

      Sec. 9. *County Director of Public Assistance.* The county  
2 council shall appoint a "County Director of Public Assist-  
3 ance" from the list of persons certified by the state board as  
4 qualified to perform the duties of that office. The county  
5 director shall serve during the will and pleasure of the county  
6 council. The county council shall fix the compensation of the  
7 county director within the limits of the salary scale fixed  
8 by the state board.

9       The county director shall devote his entire time to the  
10 duties of his office.

11       The county director shall be the ex officio secretary of the  
12 county council.

      Sec. 10. *Assistants and Employees.* The county council,  
2 upon the recommendation of the county director and with the  
3 approval of the state department, shall appoint or employ  
4 such assistants and employees as may be required, and in  
5 counties having a negro population of ten per cent or more  
6 of the total county population, as determined by the last  
7 federal census, the county council shall appoint an assistant  
8 director from the negro race. A person appointed or em-  
9 ployed by the county council shall be qualified in accordance  
10 with the regulations of the state board.

11       The compensation of appointees and employees of the

12 county council shall be fixed by the county council within  
13 the limits of the salary scale adopted by the state board  
14 for the type of service rendered. In addition to their  
15 regular compensation, the county director and his subordinates  
16 shall be allowed their necessary traveling expenses. Requi-  
17 sitions for traveling expenses shall be accompanied by a sworn  
18 and itemized statement which shall be filed with the county  
19 clerk and permanently preserved as a public record.

Sec. 11. *Disqualification.* No county director shall be a  
2 candidate for, or hold, any other public office, nor be a mem-  
3 ber of any political committee, nor shall he serve as an elec-  
4 tion official, nor shall he engage in any political activity, other  
5 than to vote, in behalf of, or in opposition to, any candidate,  
6 political party, or public issue involved in any election. The  
7 county council shall discharge any director who violates any  
8 provision of this section.

9 No appointee or employee of a county council shall be a  
10 candidate for, or hold, any other public office, nor be a mem-  
11 ber of any political committee, nor shall he serve as an elec-  
12 tion official, nor shall he engage in any political activity,  
13 other than to vote, in behalf of, or in opposition to, any  
14 candidate or political party; and any such appointee or em-  
15 ployee of a county council who shall, in the judgment of  
16 said council, become politically active, contrary to the intent  
17 hereof, shall be dismissed by the council.

Sec. 12. *County Director. Powers and Duties.* The county  
2 director shall be the administrative officer in charge of, and  
3 responsible for, the county activities provided by this chapter  
4 and, as such, shall have the following powers and duties:

5 (1) Perform all duties imposed upon him by the pro-  
6 visions of this chapter.

7 (2) Execute in accordance with the provisions of this  
8 chapter, the instructions of the state board, the state director,  
9 and the county council.

10 (3) Supervise and direct the work of his subordinates and  
11 assistants.

12 (4) Prepare and submit such reports and information as  
13 may be required by the state board, the state director, or the  
14 county council.



15 (5) Observe standard administrative procedure and  
16 methods required by the state director.

17 (6) Cooperate with private charity and welfare agencies  
18 within the county.

Sec. 13. *Inter-county Agreements.* Upon approval by the  
2 state director, two or more county councils may enter into an  
3 inter-county agreement for the joint employment of a single  
4 county director and a joint staff of assistants and employees.  
5 The county councils of the counties desiring so to cooperate  
6 shall prepare an agreement in the form and to the effect  
7 approved by the state director. When adopted by formal  
8 order of each county council acting independently, the agree-  
9 ment shall be effective for the duration of the fiscal year, but  
10 shall automatically expire at the close of the fiscal year. Inter-  
11 county agreements may be renewed annually or amended at  
12 any time by the formal order of the participating county  
13 councils.

14 In case a single county director is designated and a joint  
15 staff of assistants employed, each county council shall continue  
16 to perform within its county the duties required by this  
17 chapter.

Sec. 14. *Joint County Units.* The state director, with the  
2 approval of the state board, may order two or more county  
3 councils to employ a single county director and a joint staff of  
4 assistants and employees. The order shall state the proportion  
5 of the total expenses of the single county director and joint  
6 staff of assistants, allocable to counties under the provisions  
7 of this chapter, which shall be paid by each county. Each  
8 county council shall continue to perform within its county  
9 the duties required by this chapter.

## Article V. Public Assistance.

### Section

1. Purpose of article.
2. Definitions.
3. When aged persons eligible for public assistance.
4. When blind persons eligible for public assistance.
5. When dependent children eligible for public assistance.
6. Applications for public assistance.
7. Investigation of applicants for public assistance.
8. Recommendation by county council.
9. Approval of application.
10. Denial of application.
11. Dependent child; home conditions.

**Section**

12. Blind persons; examination.
13. Notification of applicant; certification of council's decision.
14. Examination by state department.
15. Disposition of application.
16. Amount of grant.
17. Limitation on amount of grant.
18. Additional aid to recipient.
19. Aged and blind assistance not to be paid to same person.
20. Payment for use of recipient.
21. Reconsideration of grant.
22. Reexamination of eyesight.
23. Appeal to state department.
24. Hearing of appeal.
25. Disposition of appeal.
26. Complaint by citizens; appeal.
27. Grants of public assistance exempt from levy of execution, garnishment, etc.
28. Enforcement of relatives' liability.
29. Agreement to reimburse.
30. Lien against assets.
31. Insurance policies.
32. Certification of amount of assistance paid.
33. Lien against real estate.
34. Liability of blind persons.
35. Power of county council.
36. Exemptions.
37. Reimbursement of federal government.
38. Notice of change in resources.
39. Grants conditional.

Section 1. *Purpose.* The purpose of this article is to  
2 provide public assistance for the indigent aged, the indigent  
3 blind and dependent children, that will conform to the re-  
4 quirements for federal grants-in-aid under the "Social  
5 Security Act."

6 Public Assistance shall be granted only:

- 7 (1) To the extent that funds are available for the purpose.
- 8 (2) To those actually in need.
- 9 (3) To the extent necessary to safeguard a decent and  
10 healthful subsistence.

Sec. 2. *Definitions.* Unless the context clearly requires  
2 a different meaning, when used in this article:

3 "Public Assistance" shall mean money payments to, or for  
4 the benefit of, aged persons, blind persons, or dependent  
5 children.

6 "Resources" shall mean all property, real and personal,  
7 tangible and intangible, and all income, whether in the form  
8 of money or otherwise.

9 "Applicant" shall mean the person for whose use and  
10 benefit application is made.

11 "Recipient" shall mean the person for whose use and  
12 benefit a grant of public assistance is made.

Sec. 3. *Aged Persons.* An aged person shall be eligible  
2 for public assistance who:

3 (1) Has attained the age of sixty-five years.

4 (2) Is a citizen of the United States.

5 (3) Has resided in the state for at least five years during  
6 the nine years immediately preceding application for assist-  
7 ance and for one year immediately preceding the application.

8 (4) Has not made an assignment or transfer of property  
9 for the purpose of qualifying for assistance, except as re-  
10 quired by section twenty-nine of this article.

11 (5) Is not in need of continuing institutional care because  
12 of his physical or mental condition.

13 (6) Is not an inmate of a public or private institution.  
14 An inmate may apply for assistance to begin after the dis-  
15 charge from such institution.

16 (7) Is actually in need and has not sufficient income or  
17 other resources to provide a subsistence compatible with de-  
18 cency and health.

Sec. 4. *Blind Persons.* A blind person shall be eligible for  
2 public assistance who:

3 (1) Has vision in the better eye, with correcting glasses,  
4 of twenty two-hundredths or less or a disqualifying field  
5 defect sufficient to incapacitate him for self-support.

6 (2) Has attained the age of twenty-one years.

7 (3) Is a citizen of the United States.

8 (4) Has resided in the state for at least five during the  
9 nine years immediately preceding application for assistance  
10 and for one year immediately preceding the application.

11 (5) Has not made an assignment or transfer of for the  
12 purpose of qualifying for assistance, except as required by  
13 section twenty-nine of this article.

14 (6) Is not an inmate of a public or private institution. An  
15 inmate may apply for assistance to begin after his discharge  
16 from such institution.

17 (7) Is actually in need and has not sufficient income or  
18 other resources to provide a subsistence compatible with de-  
19 cency and health.

2       Sec. 5. *Dependent Children.* A dependent child shall be  
3 eligible for public assistance who:

4       (1) Has not attained the age of sixteen years.

5       (2) Is deprived of parental support or care by reason of  
6 the death, continued absence from home, or physical or mental  
7 incapacity of a parent.

8       (3) Is living with his father, mother, grandfather, grand-  
9 mother, brother, sister, stepfather, stepmother, stepbrother,  
10 stepsister, uncle, or aunt in a place of residence maintained  
11 by such relative as his own home.

12       (4) Has resided in the state for one year immediately pre-  
13 ceding application for assistance, or was born, within one year  
14 immediately preceding application, of a mother who resided  
15 within the state for one year immediately preceding such  
16 birth.

17       (5) Is living in a suitable family home conforming to the  
18 standards of care and health fixed by this chapter and the  
19 regulations of the state department.

20       (6) Is needy because the person caring for him is unable  
21 to support him, and unless public assistance is granted will  
become a public charge.

2       Sec. 6. *Application.* A person desiring public assistance,  
3 or, in the case of a dependent child, the person having custody  
4 of the child, shall apply to the county director of the county  
5 in which he resides. Application shall be in writing, or shall  
6 be reduced to writing, in the form prescribed by the regula-  
7 tions of the state department. The application shall set forth  
8 complete information pertaining to:

9       (1) The eligibility of the applicant as an aged person, a  
10 blind person, or a dependent child.

11       (2) Property owned by the applicant, or in which the  
12 applicant has an interest.

13       (3) Income from all sources including amounts con-  
14 tributed by relatives or other persons.

15       (4) Such other information as the regulations of the state  
16 department may require.

17       The person making application shall subscribe to an oath  
18 or affirmation attesting to the correctness and completeness of  
the information.

2       Sec. 7. *Investigation.* The county director shall, upon the  
3 receipt of the application, make an investigation to determine:

4       (1) The correctness and completeness of the statements  
5 contained in the application.

6       (2) The amount required to provide a subsistence for the  
7 applicant compatible with decency and health.

8       (3) The amount of assistance required, in addition to all  
9 other resources, to provide such a subsistence.

2       Sec. 8. *Recommendation by County Council.* Upon the  
3 completion of his investigation, the county director shall  
4 submit to the county council the application, the results of  
5 his investigation, and his findings as to the eligibility of the  
6 applicant and the amount of public assistance required.

7       The county council shall proceed without delay to consider  
8 the application. It shall approve the application if it finds  
9 that:

10       (1) The applicant is eligible for public assistance in  
11 accordance with the provisions of this article.

12       (2) The resources of the applicant are insufficient to  
13 provide him with a subsistence compatible with decency and  
14 health.

15       (3) The applicant has no relatives or other persons  
16 financially able to support him and legally responsible for his  
17 support.

18       (4) Funds for the purpose of public assistance are avail-  
19 able and may be expended under the provisions of this  
20 chapter.

2       Sec. 9. *Approval of Application.* If the county council  
3 approves an application, it shall determine the amount of aid  
4 per month required for a subsistence compatible with decency  
5 and health, having due regard for the resources of the ap-  
6 plicant and his necessary expenditures.

2       Sec. 10. *Denial of Application.* If the county council finds  
3 that the applicant is not entitled to public assistance under  
4 provisions of section eight of this article, it shall deny the  
5 application.

2       Sec. 11. *Dependent Child. Home Conditions.* In con-  
3 sidering an application for a dependent child, the county  
4 council shall determine whether the person having custody of

4 the child is capable of properly caring for and educating the  
5 child, and whether the place of residence of the person is a  
6 suitable and proper place, taking into consideration the health  
7 and welfare of the child. The county council shall approve  
8 an application for aid for a dependent child only when it  
9 finds that the interests and welfare of the child can best be  
10 protected by granting public assistance.

11 A determination by the county council or by the state de-  
12 partment that the home of the person having custody of a  
13 dependent child is no longer a suitable or proper place for  
14 the rearing of children shall constitute good reason for the  
15 revocation of a grant of public assistance.

Sec. 12. *Blind Persons: Examination.* A county council  
2 shall not approve an application for public assistance to  
3 a blind person until the applicant has been examined by an  
4 ophthalmologist or other qualified person designated by the  
5 state department to make such examinations. The examin-  
6 ing person shall certify to the county council the diagnosis,  
7 prognosis, and visual acuity of the applicant. Certification  
8 shall be on forms prescribed by the state department.

Sec. 13. *Notification and Certification.* Immediately upon  
2 making its decision, the county council shall in writing,

- 3 (1) Notify the applicant of its decision.
- 4 (2) Certify its findings and the record of the application  
5 to the state department.

Sec. 14. *Examination by State Department.* Upon receipt  
2 of the record of an application approved by a county council,  
3 the state department shall examine the recommendation of  
4 the county council. The state department shall approve the  
5 recommendation if it finds:

- 6 (1) That the applicant is legally eligible for aid.
- 7 (2) That the resources of the applicant are insufficient to  
8 provide a subsistence compatible with decency and health.

9 (3) That the amount of public assistance determined as  
10 necessary by the county council is reasonable. If the amount  
11 is unreasonable, the state department may correct the amount.

12 (4) That an investigation was made by the county council  
13 in accordance with the provisions of this article.

14 (5) That sufficient evidence was considered by the county  
15 council to support its conclusion.

16 (6) That pertinent evidence was not excluded or over-  
17 looked.

18 (7) That the recommendations of the county council in  
19 all other respects conform to the requirements of this article  
20 and the rules and regulations of the department.

21 (8) That public funds are available for the payment of  
22 public assistance to the applicant.

Sec. 15. *Disposition of Application.* In addition to the  
2 disposition of an application under section fourteen, the state  
3 department may initiate an original investigation of any  
4 application; may remand an application for further investi-  
5 gation; or may increase or decrease the amount of public  
6 assistance determined by a county council as necessary.

7 The state department shall notify the county council and  
8 the applicant of its decision in writing.

Sec. 16. *Amount of Grant.* When the state department  
2 approves an application for public assistance, it shall fix  
3 the amount of monthly grant required for the needs of the  
4 applicant. Public assistance shall be paid monthly out of  
5 funds appropriated for the purposes of this article upon  
6 requisition of the director by means of a warrant signed by  
7 the auditor and treasurer.

Sec. 17. *Limitation of Amount.* The amount of public  
2 assistance granted from all sources, including funds received  
3 from the Federal government, shall not exceed in the case of:  
4 (1) An aged person, thirty dollars per month.  
5 (2) A blind person, thirty dollars per month.  
6 (3) A dependent child, twelve dollars per month. If  
7 more than one child is accorded public assistance in the same  
8 family, the amount granted for the first child shall not exceed  
9 twelve dollars per month and for each additional child  
10 after the first, shall not exceed eight dollars per month.

Sec. 18. *Additional Aid.* A recipient of public assistance  
2 under this article shall receive no other public aid, except  
3 temporary medical or surgical care, without the approval of  
4 the county council of the county where the recipient resides.

5 Such approval shall be subject to the rules and regulations of  
6 the state departments.

Sec. 19. *Aged and Blind Assistance Not to Be Paid to Same*  
2 *Person.* Public assistance shall not be granted to a blind  
3 person with respect to any period in which he is receiving  
4 public assistance as an aged person.

Sec. 20. *Payment for Use of Recipient.* Whenever an aged  
2 or blind recipient of public assistance is, or becomes in the  
3 judgment of the county council, incapable of managing his  
4 own finances, the council may with the approval of the state  
5 department designate a parent, the legal guardian, or another  
6 responsible person to whom the installments of assistance  
7 shall be paid for the benefit of the recipient. The person  
8 designated and approved shall be responsible to the county  
9 council for the use of all money paid to him under this  
10 section.

11 The county council may, with the approval of the state  
12 department, change its designation or make a new one when  
13 such action is necessary.

Sec. 21. *Reconsideration of Grant.* A grant of public  
2 assistance shall be reconsidered as follows:

3 (1) The county director shall reinvestigate each grant of  
4 public assistance at least once every six months.

5 (2) Whenever there is reason to believe that the con-  
6 ditions governing a grant of public assistance have changed  
7 so as to affect the eligibility of a recipient or the amount  
8 of assistance required, or that a recipient is wasting his  
9 allowance, a reinvestigation may be undertaken by the county  
10 director, the county council, or the state department either  
11 directly or by the county director upon the order of the  
12 state department.

13 If, as the result of the reinvestigation, the county council or  
14 the state department finds that the recipient is not entitled to  
15 public assistance or that the amount granted is insufficient,  
16 excessive, or unnecessary, it shall proceed to revoke the grant  
17 or to adjust the amount in the manner provided by this article  
18 for the determination and fixing of the amount of an original  
19 grant. Before a grant of public assistance is revoked or re-  
20 duced, the recipient shall be notified in writing and shall be  
21 given an opportunity for a hearing in his behalf.



2       Sec. 22. *Reexamination of Eyesight.* A recipient of public  
3 assistance for the blind shall submit to such reexaminations  
4 of his eyesight as the rules of the state department shall  
5 prescribe.

2       Sec. 23. *Appeal to State Department.* An applicant for  
3 or a recipient of public assistance under this article may  
4 appeal to the board of review of the state department when:  
5       (1) His application is denied.  
6       (2) His application is not acted upon for sixty days after  
7 filing with the county director.  
8       (3) He deems the grant inadequate.  
9       (4) The grant is revoked.  
10       (5) The grant is reduced.  
11       The appeal shall be by petition setting forth the reasons for  
12 appeal.

2       Sec. 24. *Hearing of Appeal.* Upon receipt of the petition  
3 the board of review shall set a time for hearing at a con-  
4 venient place in the county in which the petitioner resides.  
5 Hearing shall be held in not less than ten nor more than  
6 thirty days. The petitioner may appear and be heard in  
7 person or may designate another person to represent him.  
8 Hearing may be before a single member of the board of  
9 review, but the appeal shall be decided by the board.

2       Sec. 25. *Disposition of Appeal.* The state board of review,  
3 on appeal, may reverse, affirm, or modify the determination  
4 of the county council. It may remand the matter to the  
5 county council for further investigation and consideration  
6 or refer the matter to the state department for an original  
7 investigation and determination.  
8       The state board of review shall notify the county council  
9 and the person appealing of its decision in writing. Its  
10 decisions shall be binding upon the county council.

2       Sec. 26. *Complaint by Citizens: Appeal.* A citizen or  
3 group of citizens of the county may file with the county  
4 council objections to a grant or the continuance of a grant  
5 of public assistance made by the council. The council shall,  
6 upon request, afford opportunity for a hearing of such ob-  
7 jections.

7 If, after hearing, the complainants are dissatisfied, they  
8 may appeal to the board of review of the state department.  
9 The appeal shall be heard and decided in the manner provided  
10 by sections twenty-three, twenty-four and twenty-five of this  
11 article.

Sec. 27. *Exemptions.* Public assistance received under  
2 the provisions of this article shall be exempt from levy of  
3 execution, garnishment, or any other legal process.

Sec. 28. *Enforcement of Relatives' Liability.* The county  
2 council may proceed by motion in the circuit court of the  
3 county against one or more of the relatives of an applicant  
4 for, or recipient of, public assistance who are of sufficient  
5 financial ability and are legally liable for the support of  
6 such applicant or recipient under the provisions of article  
7 eleven of this chapter.

Sec. 29. *Agreement to Reimburse.* As a condition of  
2 receiving public assistance, an aged person shall submit to  
3 the county council a properly acknowledged agreement  
4 granting to the state a lien upon all or any part of his  
5 real or personal property including that subsequently ac-  
6 quired, as may be required by the rules of the state depart-  
7 ment. The lien shall be effective from the date of its re-  
8 cordation in the county wherein said property is situate, and  
9 shall be for the total amount of public assistance paid to the  
10 person.

11 The clerk of the county court shall enter without fee  
12 the agreement in a book known as "Reimbursement Agree-  
13 ments", and containing a complete alphabetical index. The  
14 county council shall enter with the clerk of the county court  
15 an acknowledgment of the amount of reimbursement  
16 received.

17 Upon reimbursement made to the state because of public  
18 assistance granted, the county council shall file with the  
19 clerk of the county court, of the county where the reim-  
20 bursement agreement was filed, a release to the amount of  
21 reimbursement received, in the manner and form and with  
22 the acknowledgment prescribed by article twelve, chapter  
23 thirty-eight of the code of West Virginia, one thousand nine  
24 hundred thirty-one.

2       Sec. 30. *Lien Against Assets.* The lien provided for by  
3 section twenty-nine shall extend to assets accruing to the  
4 estate of a recipient of old age assistance.

2       Sec. 31. *Insurance Policies.* As a condition of receiving  
3 public assistance, an aged person shall assign to the state  
4 department any insurance policy held by him carrying death  
5 benefits, as security for the amount of public assistance  
6 granted to him.

2       Sec. 32. *Certificate of Amount of Assistance Paid.* Under  
3 the rules and in the form prescribed by the state depart-  
4 ment, the county council shall execute and file with the clerk  
5 of the county court of the county where the recipient resides,  
6 or owns property, a certificate showing the amount of public  
7 assistance paid to an aged person. The certificate when filed  
8 shall be a legal claim of the state against the recipient and  
9 his estate, which claim shall have the force and effect of a  
10 judgment at law with priority over all unsecured claims  
11 except funeral expenses for such recipient, which expenses  
12 shall not exceed one hundred dollars.

13       A claim of the state under this section shall not be ex-  
tinguished by the statute of limitations.

2       Sec. 33. *Lien Against Real Estate.* A lien given under  
3 this article shall not be enforced against real estate occupied  
4 by the surviving spouse of a recipient unless:

4       (1) Such person is a widow who remarries.

5       (2) There is a threatened or actual sale or transfer of  
6 the property.

2       Sec. 34. *Liability of Blind Persons.* The total amount  
3 of public assistance granted to a blind person shall be  
4 allowed as a claim of the state against the recipient and his  
5 estate, but the lien shall not be enforced against real estate  
6 of the recipient occupied by a surviving spouse unless such  
spouse is a widow who remarries.

2       Sec. 35. *Power of County Council.* A county council  
3 shall receive all assignments and perform all acts necessary  
4 to protect the financial interests of the state in the assets  
5 of recipients of public assistance.

5       All liens and claims under this article shall be enforced

6 by the county council as the agent and in the name of the  
7 state, and all money reclaimed shall be paid by the council  
8 into the state treasury.

Sec. 36. *Exemptions.* If the enforcement of a lien or  
2 claim held by the state under this article, real property to  
3 the value of fifteen hundred dollars and personal property to  
4 the value of two hundred dollars shall be exempt.

5 The value of the exemptions shall be determined in the  
6 same manner as exemptions claimed in pursuance of section  
7 forty-eight, article six of the state constitution.

Sec. 37. *Reimbursement to Federal Government.* One  
2 half of the net amount collected from the estate of a  
3 recipient of aid age assistance under the provisions of this  
4 article shall be reimbursed to the federal government. At  
5 such times as the federal government may require, the  
6 state director shall draw his requisition upon the state  
7 auditor in favor of the treasurer of the United States for  
8 the amount of such funds in the state treasury which are  
9 payable to the federal government. The reimbursement  
10 shall be paid out of the state treasury as other claims against  
11 the state are paid.

Sec. 38. *Notice of Change in Resources.* A recipient of  
2 public assistance shall notify immediately the county director  
3 of any increase in his resources. If a recipient fails to  
4 notify the county director of any such increase, the amount  
5 of aid paid to him in excess of his actual needs, shall be  
6 recoverable in the name of the state as a debt.

Sec. 39. *Grants Conditional.* A grant of public assist-  
2 ance shall be subject to:  
3 (1) Reconsideration, revocation, or change.  
4 (2) Appropriation by the legislature of public funds.  
5 (3) Amendment or repeal.  
6 (4) Continuation of federal grants-in-aid.

## Article VI. General Relief.

### Section

1. Purpose of article.
2. General relief; definition.
3. Legal residence.
4. Care to be given.

**Section**

5. Application for general relief.
6. Investigation before granting relief.
7. Disposition by county council.
8. Temporary relief.
9. Order of county council.
10. Family not to be separated.
11. Visitation by county employee.
12. Hospitalization.
13. Emergencies.
14. Supervision.
15. Interment.
16. Regulation by state department.

Section 1. *Purpose.* The purpose of this article is to  
2 provide for the administration of general relief. The  
3 primary financial responsibility for such relief shall remain  
4 in the counties of the state.

Sec. 2. *General Relief: Definition.* "General relief"  
2 shall mean care and assistance to an indigent person who  
3 is a resident of the county and who is in fact:  
4 (1) A public charge, or in danger of becoming a public  
5 charge, or  
6 (2) In need of continuing institutional care because of  
7 his physical or mental condition, or  
8 (3) In need of medical or surgical care whether in an  
9 institution or in his home.  
10 A person financially able to maintain himself under  
11 ordinary conditions, but unable to provide necessary medical  
12 or surgical care or treatment shall be eligible for general  
13 relief.

Sec. 3. *Legal Residence.* For the purpose of this article,  
2 a person shall be a resident of a county if he actually  
3 resides therein and has resided in the state for the year  
4 next preceding application.  
5 Whenever funds are specifically made available for that  
6 purpose, the state department may extend the authority of  
7 a county council to grant general relief to include persons  
8 who have not been residents of the state for one year.

Sec. 4. *Care to Be Given.* A county council shall  
2 administer, within its county, general relief provided for in  
3 this article. The council shall, insofar as funds are available  
4 for the purpose, provide for persons eligible for general  
5 relief.

6 The council shall, whenever possible, administer such care  
7 and assistance as may restore such persons to a condition  
8 of complete self-support and independence.

Sec. 5. *Application.* A person, or another in his behalf,  
2 may make application for general relief to the county director  
3 of the county in which the applicant resides.

Sec. 6. *Investigation.* Upon receipt of an application, or  
2 of information that a person is in need of general relief,  
3 the county director shall investigate and prepare a record  
4 of the circumstances. He shall ascertain, so far as possible,  
5 the resources, ability for labor of all members of the family,  
6 willingness and ability of other persons to assist, the cause  
7 of the present condition, and such other information as may  
8 be pertinent in determining the treatment applicable to the  
9 case and the amount of relief required.

10 The director shall submit the record and his determination  
11 to the county council.

Sec. 7. *Disposition by County Council.* The county  
2 council shall consider the record and the determination of  
3 the county director. The council shall either grant or refuse  
4 relief. If it grants relief it shall specify the type and  
5 amount of relief to be given.

Sec. 8. *Temporary Relief.* Under the direction and  
2 supervision of the county council, the director shall grant  
3 such temporary relief as the exigency of the case requires.

Sec. 9. *Order of County Council.* If a county council  
2 determines that general relief is necessary, it may:

- 3 (1) Fix the amount or value of a monthly or weekly  
4 grant, in money, food, or other necessities, to the needy  
5 person or to another for his use and benefit.
- 6 (2) Commit the person to the county infirmary for con-  
7 tinuing care.
- 8 (3) Order temporary medical or surgical treatment.
- 9 (4) Instruct the county director to accord such aid as  
10 may be appropriate to the case.
- 11 (5) Order any other appropriate assistance or care.

Sec. 10. *Family Not to Be Separated.* So far as possible,

2 the county council shall extend general relief to persons in  
3 their homes. The members of a family shall not be separated  
4 for reasons of poverty alone.

Sec. 11. *Visitation by County Employees.* Health  
2 officers, physicians, and nurses employed by the county shall,  
3 at the request of the county council, make home visits to  
4 indigent persons.

Sec. 12. *Hospitalization.* A county council shall, under  
2 the rules and regulations of the state department, designate  
3 one or more public or private hospitals, approved by the  
4 state department, for the medical and surgical care of  
5 indigent persons in the county.

6 Except as provided in section thirteen of this article, the  
7 payment of hospital costs shall be authorized by a county  
8 council only when the indigent person is admitted upon  
9 order of the council or of the county director.

Sec. 13. *Emergencies.* If, in an emergency, an indigent  
2 person is admitted to a hospital without order of the county  
3 director, the hospital shall not receive payment for the  
4 services rendered unless the hospital, within forty-eight hours  
5 after the admission, sends to the county council of the  
6 county in which the person resides a report of the facts of  
7 the case, including a statement of the physician in attend-  
8 ance as to the necessity of immediate admission of the  
9 person to the hospital; and then, only if the county council  
10 assumes the cost of the services rendered.

11 If the hospital does not know the residence of the indigent  
12 person, the county council of the county where the person  
13 resides, when such residence is finally determined, may assume  
14 the cost of services rendered, although the report required by  
15 this section was not made.

Sec. 14. *Supervision.* For the purpose of assuring that  
2 general relief is continued no longer than necessary, and of  
3 rendering guidance and assistance leading to self-support,  
4 the county director shall:

5 (1) Visit, at least once each month, a person receiving  
6 general relief in his own home or in another place other  
7 than an institution.

8 (2) Visit, as often as the case requires, persons receiving  
9 institutional care or treatment.

10 (3) Reinvestigate, and place before the county council  
11 for review, a case of continued general relief at least once each  
12 year, or more often as the county council may direct.

Sec. 15. *Interment.* A county director shall have de-  
2 cently interred the remains of persons who die in the county,  
3 and who, at the time of death, do not possess money  
4 or property sufficient to pay the expense of such burial.

5 If the deceased is, or has been, in the military service  
6 of the United States, or of the Confederacy, interment shall  
7 not be made in a cemetery or cemetery plot used exclusively  
8 for the burial of indigent persons.

Sec. 16. *Regulations by State Department.* The power  
2 and duties conferred by this article upon the county  
3 council and the county director shall be exercised by them in  
4 accordance with the regulations prescribed by the state  
5 department.

## Article VII. County Infirmaries.

### Section

1. County courts may maintain county infirmary.
2. Lands and property.
3. Two or more counties may jointly establish.
4. Superintendent and staff.
5. Compensation and tenure.
6. Management; regulations.
7. Duties of superintendent.
8. Admission.
9. Labor.
10. Records and reports of admissions.
11. Inspection.
12. Services rendered by county director.
13. Records and accounts.

Section 1. *County Infirmary.* A county court may, in its  
2 discretion, maintain an existing county infirmary or other  
3 institution for the care of persons requiring general relief as  
4 defined by section two, article six, of this chapter.

5 The control and business management of the county in-  
6 firmary or other institution shall be the responsibility of the  
7 county court.

8 The commitment of persons to and the release from the  
9 county infirmary or other institution shall be the responsi-  
10 bility of the county council.



Sec. 2. *Lands and Property.* A county court may:

2 (1) Hold and convey land used as a site for a county  
3 infirmary or other institution, and for farms in connection  
4 therewith.

5 (2) Use and dispose of property received as a gift, grant,  
6 devise, or bequest for the purpose of a county infirmary.

Sec. 3. *Two or More Counties.* The county courts of two  
2 or more adjoining counties may jointly establish an institu-  
3 tion for general relief, and contribute to the expense of  
4 establishing and maintaining it in the proportions and  
5 under the regulations agreed upon. The management shall  
6 be in the county court of the county where the institution  
7 is situated, unless otherwise agreed by the county courts  
8 concerned.

Sec. 4. *Superintendent and Staff.* A county court may  
2 appoint a superintendent in charge of its infirmary and of  
3 similar institutions, and may appoint necessary assistants  
4 and employees.

5 The superintendent shall execute a bond to the county  
6 court in the penalty and with the sureties required by the  
7 county court, conditioned as required by article two, chapter  
8 six of the official code, one thousand nine hundred thirty-  
9 one.

Sec. 5. *Compensation and Tenure.* The superintendent,  
2 assistants, and employees shall receive the salaries and com-  
3 pensation provided by the county court, and shall hold their  
4 positions at the pleasure of the county court.

Sec. 6. *Management: Regulations.* The county court  
2 shall manage and control the institutions provided for by  
3 this article. It may make necessary rules and regulations  
4 for the management of such institutions, including matters  
5 of government and discipline.

Sec. 7. *Duties of Superintendent.* Under the direction  
2 of the county court, the superintendent, with regard to an  
3 institution of which he has charge, shall:

4 (1) Be directly responsible for the management and care  
5 of persons committed.

6 (2) Purchase equipment and supplies.

7 (3) Keep a complete and accurate record of all receipts  
8 and expenditures.

9 (4) Make a detailed report to the county court, annually,  
10 and at such other times as the county court may request.

11 (5) Recommend to the county court improvements in  
12 method or plan of operation.

Sec. 8. *Admission.* The superintendent shall receive  
2 persons committed by order of the county council.

Sec. 9. *Labor.* Persons committed to a county infirmary  
2 or similar institution may be required to perform certain  
3 duties and labor, but only to the extent reasonably permitted  
4 by their physical and mental condition.

Sec. 10. *Records and Reports of Admissions.* The super-  
2 intendent shall:

3 (1) Keep a register of all persons admitted, showing their  
4 name, age, date of, and reason for admission.

5 (2) Record all discharges, removals, escapes, and deaths.

6 (3) Report quarterly, or more often if requested, to the  
7 county court and the county council, the above and such  
8 other information as the court or council may require.

Sec. 11. *Inspection.* The county court shall make a  
2 quarterly inspection of an institution provided for by this  
3 article. It may request the county or a municipal health  
4 officer, or any qualified physician to assist in or make an  
5 independent inspection.

Sec. 12. *Services Rendered by County Director.* At the  
2 request of the county court, the county director shall advise  
3 and consult with the county court with respect to the manage-  
4 ment and control of the infirmary or other institution, and  
5 shall make such visitations and inspections as the county  
6 court may request.

Sec. 13. *Records and Accounts.* Records and accounts  
2 required by this article shall be preserved for not less than  
3 five years as public records.

**Article VIII. State Veterans' Service Office.****Section**

1. State veterans' service officer.
2. Duties.

Section 1. *State Veterans' Service Officer.* There shall be in the state department the office of a state veterans' service officer.

The officer shall be a citizen of this state, entitled to vote, and a veteran of the World War.

Sec. 2. *Duties.* The state veterans' service officer shall:

- (1) Assist all veterans honorably discharged from the armed forces of the United States of America, in properly presenting their claims before the United States Veterans' Administration, or before any bureaus or departments of the United States government; the state of West Virginia, or any of the several states of the United States, when the claims arise out of service with such armed forces.
- (2) Contact all veterans' organizations which are engaged in welfare and relief work in the state.
- (3) Render all possible assistance to veterans and families of veterans within the state, and furnish to the veterans and their families information on compensation, insurance, rehabilitation, hospitalization, and allowances provided by the United States government, by this state, and by other states.
- (4) Make careful inquiry into all claims presented for payment to the state treasurer from any appropriation hereafter made for the relief of sick, disabled, or indigent soldiers, sailors, or marines residing in this state, who served in the armed forces of the United States.

**Article IX. Physical Rehabilitation of Adult Persons.****Section**

1. Purpose of article.
2. Definitions.
3. State department.
4. Eligibility.
5. Powers of state department.
6. Duty of county council.

Section 1. *Purpose.* The purpose of this article is to provide for the development within the state of adult physical rehabilitation for the physically handicapped.

Sec. 2. *Definitions.* For the purpose of this article:

2 "A physically handicapped person" means a person who  
3 by reason of a physical defect or infirmity, whether con-  
4 genital or acquired by accident, injury, or disease, is or may  
5 be expected to be totally or partially incapacitated for re-  
6 munerative occupation.

7 "Adult person" means any individual who:

8 (1) Has attained the age of eighteen years.

9 (2) Is a citizen of the United States.

10 (3) Has resided in the state for at least one year imme-  
11 diately preceding application for rehabilitation aid.

12 "Adult physical rehabilitation" mean the fitting by sur-  
13 gical or medical treatment and hospitalization of physically  
14 handicapped adult persons for remunerative occupations.

Sec. 3. *State Department.* The state department shall  
2 administer the adult physical rehabilitation program through-  
3 out the state.

Sec. 4. *Eligibility.* A physically handicapped adult person  
2 shall be eligible for aid under the provisions of this article if:

3 (1) He is not eligible for physical rehabilitation by some  
4 other department or agency of the federal or state government  
5 or any political subdivision thereof.

6 (2) He is receiving, or is eligible to receive, public assist-  
7 ance or general relief under the provisions of this chapter.

Sec. 5. *Powers of State Department.* In the administra-  
2 tion of adult physical rehabilitation, the state department  
3 shall:

4 (1) Supervise the treatment of physically handicapped  
5 adult persons during the period of treatment.

6 (2) Provide surgical and medical treatment and hospitali-  
7 zation as may be necessary for physically handicapped adult  
8 persons in the state.

9 (3) Procure and furnish to a physically handicapped adult  
10 person artificial limbs and other orthopedic and prosthetic  
11 appliances needed. The department shall collect the cost  
12 price of appliances furnished when the recipient thereof is of  
13 sufficient financial ability.

14 (4) Cooperate with governmental, public, and private

15 institutions, and agencies engaged in activities relating to or  
16 connected with adult physical rehabilitation.

17 (5) Exercise such other powers as may be necessary to  
18 the effective operation of this article.

Sec. 6. *Duty of County Council.* A county council shall  
2 render to the state department such assistance under this  
3 article as the department may request.

## Article X. Fiscal Provisions.

### Section

1. Responsibility.
2. Allocation among counties.
3. General relief.
4. County general relief fund.
5. County funds.
6. Transfers.
7. State general relief.
8. Application for grant.
9. Investigation by director.
10. Determination by state board.
11. Notification.
12. Redetermination of grant.
13. Monthly report.
14. Determination by director.
15. Review by state director.
16. Non-county resident.
17. Suspension of payment.
18. Records and reports.
19. Review by state board.
20. Administrative expenses.
21. Audits.

Section 1. *Responsibility.* The support of public assist-  
2 ance is hereby declared to be the responsibility of the state.  
3 The support of general relief is hereby declared to be the  
4 responsibility of the county. To the extent that a county is  
5 unable because of constitutional restrictions to meet reason-  
6 able costs of general relief as required by this article, the  
7 responsibility of the state is hereby recognized.

Sec. 2. *Allocation Among Counties.* At the beginning  
2 of each fiscal year the state board shall budget, upon the  
3 recommendation of the director, an allocation of available  
4 funds for paying public assistance among the counties of the  
5 state. The state board may also, upon the recommendation  
6 of the director, change an allocation whenever such action  
7 is found necessary. The allocation made for a county shall  
8 be based upon :

9 (1) The relative number of known eligible cases within  
10 the county.

11 (2) The relative costs per case of assuring a subsistence  
12 compatible with decency and health.

13 (3) Such other factors as may be appropriate to assure  
14 a reasonable distribution of public assistance throughout the  
15 state.

16 The state director shall notify each county council of the  
17 budget made for its county by the state board and the number  
18 of cases and average grant per case estimated to be reason-  
19 able for that county.

Sec. 3. *General Relief.* For the purpose of this article  
2 general relief shall mean cash or its equivalent in services  
3 or commodities expended upon the order of the county council  
4 or county director for general relief other than for care in  
5 a county infirmary, child shelter, or similar institution.

Sec. 4. *County General Relief Fund.* A county court  
2 shall include as a separate item within its levy estimate and  
3 within the amount levied for current purposes a fund to  
4 be known as the "General Relief Fund of .....  
5 County". This fund, hereinafter referred to as the "county  
6 fund", shall be used for general relief and for no other  
7 purpose.

8 General relief shall be paid as follows: The county  
9 council shall draw its requisition upon the county court.  
10 The county court shall honor the requisition and, forthwith,  
11 shall issue its order upon the county fund for payment as  
12 other county orders are paid. Orders shall be delivered to  
13 the county director for distribution to recipients.

Sec. 5. *County Funds.* The amount of the county fund  
2 provided each year by a county court shall not be less than  
3 fifteen percentum of the total which the county court is  
4 legally authorized to levy for current purposes by section  
5 ten, article eight, chapter eleven of the code of West Vir-  
6 ginia, one thousand nine hundred thirty-one, as amended,  
7 plus, if available, any other levy or portion of levy specifi-  
8 cally allocated by law to the purpose of the county fund.

9 If a county court finds that expenditures mandatory under  
10 other provisions of law aggregate in excess of eighty-five per

11 centum of the total amount which the county court is  
12 authorized by law to levy for current purposes, the court  
13 may petition the tax commissioner for authority to provide  
14 an amount less than that required by this section. If the  
15 tax commissioner finds that other mandatory expenditures  
16 for the county will exceed eighty-five percentum of the  
17 authorized total levy for current purposes, he may authorize  
18 the county court to provide a lesser amount than that re-  
19 quired by this section, but he shall require the maximum  
20 amount possible under the circumstances.

2 Sec. 6. *Transfers.* A transfer from the county fund to  
3 any other fund shall not be made without the prior approval  
4 of the state department.

2 Sec. 7. *State General Relief.* There is hereby created  
3 a "State General Relief Fund", hereinafter referred to as  
4 the "state fund", to be administered by the state depart-  
5 ment for the purpose of supplementing the county fund for  
6 the support of general relief.

2 Sec. 8. *Application for Grant.* If the amount required  
3 by section five of this article is insufficient to pay for general  
4 relief in a county, the county council and the county court  
5 may apply to the state department for a grant from the  
6 state fund. The application shall be in such form and shall  
7 be submitted at such time as the state department shall  
8 prescribe. It shall set forth:

9 (1) The actual cost of general relief in the county for  
10 the preceding fiscal year, and the estimated cost for the  
11 ensuing fiscal year.

12 (2) The levies and expenditures of the county showing  
13 the rate of tax delinquency, amounts provided for various  
14 county activities, expenditures made mandatory by law, and  
15 amounts allocated to the county fund.

16 (3) Such other information as the state department or  
state board may require.

2 Sec. 9. *Investigation by Director.* Upon receipt of an  
3 application for a grant from the state fund the director shall  
4 examine the application and shall make such other investiga-  
tion as may be appropriate to determine whether the county

5 has allocated every resource available for general relief  
6 during the ensuing year to the general relief fund. The  
7 director shall prepare a report and recommendation for sub-  
8 mission to the state board.

Sec. 10. *Determination by State Board.* The director  
2 shall submit his recommendations to the state board. The  
3 state board shall determine as to each county whether:

4 (1) A grant from the state fund is required to pay the  
5 reasonably estimated cost of general relief during the ensuing  
6 fiscal year.

7 (2) The estimated cost of general relief for the ensuing  
8 fiscal year is reasonable, both as to total cost and estimated  
9 cost per case.

10 (3) Every fiscal resource available to the county court  
11 for general relief has been allocated to the county fund.

12 If the state board determines that a grant from the state  
13 fund should be made to a county, it shall fix the proportion  
14 of the total cost of general relief in the county that shall  
15 be paid from the state fund. It shall set a total amount  
16 which the total of state grants to the county during the fiscal  
17 year shall not exceed.

18 The state board may hold a hearing upon the application  
19 of a county at which the county council, the county court,  
20 citizens of the county, and other interested parties may be  
21 heard.

Sec. 11. *Notification.* The state director shall notify the  
2 county council and the county court of the action taken by  
3 the state board:

Sec. 12. *Redetermination of Grant.* If the state board  
2 finds that a grant allocated to a county is either excessive,  
3 or insufficient, the board may, after ten days' notice to the  
4 county council and county court of the county, proceed to  
5 redetermine the proportion of payment as provided by  
6 section ten of this article.

Sec. 13. *Monthly Report.* The county council for a  
2 county for which a grant from the state fund has been  
3 made shall prepare and submit to the state director a  
4 monthly report showing the number and kind of cases main-  
5 tained under general relief and the amount expended. The



6 report shall be authenticated by the county court as to the  
7 amounts disbursed for the purposes stated.

Sec. 14. *Determination by Director.* Upon receipt of the  
2 monthly report the state director shall determine whether:

3 (1) The cases for which cost is certified were properly  
4 general relief cases.

5 (2) The cost of care was reasonable.

6 If the state director finds that payment should be made,  
7 he shall determine in accordance with the proportion of  
8 payment fixed by the state board the amount due to the  
9 county for that month. He shall draw his requisition for  
10 the amount upon the state auditor in favor of the sheriff of  
11 the county. The payment shall be disbursed as provided  
12 by law for other payments out of the state treasury. The  
13 sheriff, upon receipt of said payment, shall place the same to  
14 the credit of the general relief fund of the county.

Sec. 15. *Review by State Director.* If the state director  
2 finds that cases for which cost is certified by a county were  
3 not properly general relief cases, that the cost per case was  
4 excessive, or that a disproportionate amount of relief was  
5 disbursed during the month as compared with actual or  
6 anticipated needs for the month, he may reduce the amount  
7 of state payment accordingly.

Sec. 16. *Non-County Residents.* The county council  
2 shall certify separately the number of cases and the amount  
3 expended per case for general relief of residents of the state  
4 who at the time of relief granted had resided in the county  
5 for less than one year.

6 Upon approval of the certification by the state director.  
7 the amount so expended shall be reimbursed to the county  
8 from the state fund.

Sec. 17. *Suspension of Payment.* The state director may  
2 suspend the payment of a state grant if he finds that:

3 (1) Relief is being granted to ineligible persons.

4 (2) Funds dedicated for general relief have not actually  
5 been made available for expenditure by the county council,  
6 or are being diverted for other purposes.

7 (3) The provisions of this chapter and the rules and

8 regulations of the department with respect to general relief  
9 are not being complied with.

Sec. 18. *Records and Reports.* The state director, with  
2 the approval of the state board may prescribe forms and  
3 methods of records and accounts, the form and content of  
4 reports to the state department, and such methods and pro-  
5 cedures of administration as may be necessary for the effective  
6 administration of this article.

Sec. 19. *Review by State Board.* A determination made  
2 under this article by the state director shall be subject to  
3 review by the state board upon the petition of the county  
4 council, or the county court of the county, or any interested  
5 party.

Sec. 20. *Administrative Expenses.* The state board, upon  
2 the recommendation of the state director, shall prescribe a  
3 specific amount from the county fund of each county to be  
4 applied to the administrative expenses of the county council.  
5 The state board may likewise take necessary administrative  
6 expenses into consideration in determining the proportion  
7 payment from the equalization fund to a county, and may  
8 designate an additional amount of monthly payment for ad-  
9 ministrative expenses.

10 The state board may also, upon the recommendation of the  
11 state director, reimburse the several counties, on the basis of  
12 the expense to the county of administering public assistance,  
13 from any funds available to the department to pay such  
14 expense.

15 A payment or reimbursement for administrative expense  
16 shall be contingent upon the maintenance by the county  
17 council and the county court of adequate local administration  
18 and the fulfillment by the county of any agreement made with  
19 the state department with respect to the maintenance and  
20 compensation of local administration.

Sec. 21. *Audits.* Financial records and accounts kept for  
2 the purposes of this chapter shall be audited in accordance  
3 with article nine, chapter six of the code of West Virginia,  
4 one thousand nine hundred thirty-one.

**Article XI. General Provisions.****Section**

1. Continuation of present aid.
2. Grants conditional.
3. Recipient not a pauper.
4. Bringing indigent persons into state.
5. Liability of relatives for support.
6. Enforcement of liability.
7. Jury trial; modification of judgment.
8. Payment in part for support.
9. Investigation.
10. No fees to be charged.
11. Obtaining aid fraudulently.
12. Fraudulent acquisition or disposition of property.
13. Penalties.
14. Duty of prosecuting attorney.
15. Duty of county superintendent of schools.
16. Public records.
17. Rules and regulations.
18. Proceedings by the county council.

Section 1. *Continuation of Present Aid.* Except as otherwise provided in this chapter, aid or assistance rendered under existing law shall not be deemed to be discontinued.

Sec. 2. *Grants Conditional.* The grant of public assistance or of general relief under the provisions of this chapter shall be conditional, and a person shall have no claim as of right to such assistance or relief.

Sec. 3. *Recipient Not a Pauper.* A recipient of public assistance or of general relief shall not be deemed a pauper by reason of the receipt of such assistance or relief.

Sec. 4. *Bringing Indigent Persons into State.* If an indigent person, not having a legal residence in any county of this state, is brought into and left in the state with intent that he should become a public charge, the person who brought or caused to be brought, or counseled or aided in bringing the indigent person into the state, with such intent, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars, or imprisoned in the county jail not more than sixty days, or both.

Sec. 5. *Liability of Relatives for Support.* The relatives of an indigent person, who are of sufficient ability, shall be liable to support such person in the manner required by the county council of the county in which the person may be,

5 and to pay the expenses of burial when he dies, in the fol-  
6 lowing order:

- 7 (1) The children.
- 8 (2) The father.
- 9 (3) The brothers and sisters.
- 10 (4) The mother.

11 If a relative so liable does not reside in this state and has  
12 no estate or debts due him within the state by means of which  
13 the liability can be enforced against him, the other relatives  
14 shall be liable as provided by this section, but a relative shall  
15 not be compelled to receive the indigent person in his own  
16 home.

Sec. 6. *Enforcement of Liability.* The county council of  
2 the county in which the indigent person may be, may proceed  
3 by motion in the circuit court of the county, against one or  
4 more of the relatives liable as provided in section five of this  
5 article.

6 The court shall hear, in a summary manner, the allegations  
7 and proofs of the parties, and assess upon the relatives  
8 notified of the proceeding and appearing to be liable for  
9 the support, a sum sufficient to reimburse to the county  
10 court for the expense incurred by the county council in the  
11 support or burial of the indigent person up to the time of  
12 the assessment, with interest and costs.

13 The court shall further, as the case requires, assess upon  
14 the relative such sums, to be payable quarterly thereafter  
15 to the county court until the further order of the court, as  
16 will be sufficient for the future support of the indigent  
17 person.

18 Payment of the support provided for by this section may  
19 be enforced by execution.

Sec. 7. *Jury Trial; Modification of Judgment.* In a  
2 proceeding under this article, the defendant may demand,  
3 or the court, of its own motion, may order any question of  
4 fact to be tried by jury. The court may, from time to  
5 time, upon motion of the county council, or of a relative  
6 affected, vary the judgment or order so far as it relates to the  
7 future support of the indigent person.

8 A jury fee shall not be taxed in a proceeding under this  
9 section.

2       Sec. 8. *Payment in Part for Support.* If it appears that  
3 a relative liable for the support of an indigent person is  
4 unable wholly to support him, but is able to contribute toward  
5 his support, the court may assess upon the relative the pro-  
6 portion which he shall be required to contribute either to the  
7 past expense incurred by the county council, or to the future  
8 support. The court may assess the residue upon the relatives  
9 in the order of their liability.

10       Payment with interest and costs may be enforced by  
11 execution.

12       Sec. 9. *Investigation.* In all investigations, authorized by  
13 this chapter, the testimony of witnesses and the production  
14 of evidence may be required at any designated place of  
15 hearing and summons may be issued. In case of disobedience  
16 to a summons or other compulsory process, the county council,  
17 or the state department, as the case may be, may invoke the  
18 aid of the circuit court in requiring the evidence and testi-  
19 mony of witnesses and the production of papers, books, and  
20 documents. Upon proper showing, the circuit court shall  
21 issue an order requiring a witness to appear and to produce  
all books and papers and give evidence touching the matter  
in question. A person who fails or refuses to obey the order  
of the circuit court may be punished by the court as for  
contempt.

15       A claim that any such testimony or evidence may tend to  
16 incriminate the person giving the testimony shall not excuse  
17 the person from testifying, but such testimony or evidence  
18 shall not be used against such person in any criminal  
19 prosecution under the laws of this state.

20       In an investigation conducted under the provisions of this  
21 chapter, technical rules of evidence shall not apply.

2       Sec. 10. *No Fees to be Charged.* A person shall not  
3 charge a fee, or receive a payment, gratuity, or thing of value  
4 for representing an applicant for or recipient of public  
5 assistance or general relief whether from the applicant or  
6 recipient or from another person, in any matter concerning  
7 the application for or receipt of such assistance or relief,  
8 except in proceedings brought against an applicant or  
9 recipient for violation of the provisions of this chapter.

9       A person who violates the provisions of this section shall

10 be guilty of a misdemeanor and upon conviction shall be  
11 fined not less than fifty nor more than five hundred dollars or  
12 imprisoned not less than ten nor more than ninety days, or  
13 both, in the discretion of the court.

14 The violation of this section by an attorney at law shall  
15 constitute grounds for disbarment.

Sec. 11. *Obtaining Aid Fraudulently.* It shall be a mis-  
2 demeanor to obtain or attempt to obtain, or aid or abet  
3 an applicant or recipient in obtaining or attempting to obtain,  
4 by means of a wilfully false statement or misrepresentation  
5 or by impersonation or any other fraudulent device:

6 (1) Public assistance or general relief to which the ap-  
7 plicant or recipient is not entitled.

8 (2) Public assistance or general relief in excess of that  
9 to which the applicant or recipient is justly entitled.

10 (3) Payment of a forfeited installment grant of public  
11 assistance or general relief.

12 A person who violates this section shall, upon conviction,  
13 be fined not more than five hundred dollars, or imprisoned not  
14 longer than six months, or both, in the discretion of the court.

Sec. 12. *Fraudulent Acquisition or Disposition of Prop-*  
2 *erty.* A person who aids or abets in buying or in any way  
3 disposing of the property of an applicant for or a recipient  
4 of public assistance or general relief for the purpose of con-  
5 cealing or dissipating the resources of the applicant or  
6 recipient shall be guilty of a misdemeanor and upon con-  
7 viction shall be fined not more than five hundred dollars, or  
8 imprisoned for not more than six months, or both, in the  
9 discretion of the court.

Sec. 13. *Penalties.* A person who violates an order or  
2 regulation made under the authority of this chapter, or who  
3 violates a provision of this chapter for which punishment  
4 has not been specifically provided, shall be guilty of a mis-  
5 demeanor, and upon conviction shall be fined not less than  
6 ten nor more than one hundred dollars or confined in jail not  
7 less than five days nor more than six months, or both such  
8 fine and imprisonment.

2       Sec. 14. *Duty of Prosecuting Attorney.* The prosecuting  
3 attorney shall without additional compensation render to the  
4 county council such legal services as the council may request.

2       Sec. 15. *Duty of County Superintendent of Schools.* The  
3 superintendent of schools of the county shall without ad-  
4 ditional compensation cooperate with and render such assist-  
5 ance to the county council as the council may request.

2       Sec. 16. *Public Records.* All reports, and applications  
3 received by the county council and the record of all pro-  
4 ceedings shall be preserved as public records.

2       Sec. 17. *Rules and Regulations.* The state director shall  
3 prepare and promulgate rules and regulations to give effect  
4 to the provisions of this chapter.

2       Sec. 18. *Proceedings by the County Council.* A county  
3 council shall have authority to institute, in the name of the  
4 state, proceedings incident to the performance of its duties  
5 under the provisions of this chapter.

## Chapter 49. CHILD WELFARE

### Article

1. Purposes; Definitions.
2. Neglected Children.
3. Private Institutions and Organizations.
4. Crippled Children.
5. Juvenile Courts.
6. Child Shelter.
7. General Provisions.

### Article I. Purposes; Definitions.

#### Section

1. Purpose of chapter.
2. Definition of child.
3. Neglected child.
4. Delinquent child.
5. Crippled child.
6. Definitions.

2       Section 1. *Purpose.* The purpose of this chapter is to  
3 provide a comprehensive system of child welfare throughout  
4 the state.

5       The child welfare services of the state shall be administered  
6 by the state department of public assistance and the several  
7 county councils in accordance with the provisions of this  
8 chapter.

8 Said department of public assistance is designated as the  
9 agency to cooperate with the children's bureau of the United  
10 States Department of Labor in extending and improving child  
11 welfare services, to comply with regulations of the children's  
12 bureau, and to receive and expend federal funds for these  
13 services.

Sec. 2. *Definition of Child.* "Child" means a person under  
2 the age of eighteen years.

Sec. 3. *Neglected Child.* "Neglected Child" means a boy  
2 under the age of sixteen years or a girl under the age of  
3 eighteen years who comes within any of the following classes:

- 4 (1) Is destitute, homeless, or abandoned.
- 5 (2) Has not proper parental care or guardianship.
- 6 (3) Habitually begs or receives alms.
- 7 (4) By reason of neglect, cruelty, or disrepute on the part  
8 of parents, guardians, or other persons in whose care the  
9 child may be, is living in an improper place.
- 10 (5) Is in an environment warranting the appointment of  
11 a guardian under this article.

Sec. 4. *Delinquent Child.* "Delinquent child" means a  
2 person under the age of sixteen years who commits any of the  
3 following:

- 4 (1) Violates a law or municipal ordinance.
- 5 (2) Commits an act which if committed by an adult would  
6 be a crime not punishable by death or life imprisonment.
- 7 (3) Is incorrigible, ungovernable, or habitually disobedient  
8 and beyond the control of his parent, guardian, or other  
9 custodian.
- 10 (4) Is habitually truant.
- 11 (5) Without just cause and without the consent of his  
12 parent, guardian, or other custodian, repeatedly deserts his  
13 home or place of abode.
- 14 (6) Engages in an occupation which is in violation of law.
- 15 (7) Associates with immoral or vicious persons.
- 16 (8) Frequents a place the existence of which is in viola-  
17 tion of law.
- 18 (9) Deports himself so as to wilfully injure or endanger  
19 the morals or health of himself or others.



Sec. 5. *Crippled Child.* "Crippled child" means a  
2 person under the age of eighteen years who, by reason of  
3 physical defect or infirmity, is, or may be expected to be,  
4 totally or partially incapacitated for education or for re-  
5 munerative occupation.

Sec. 6. *Definitions.* For the purpose of this chapter:

- 2 (1) "State Department" means the State Department of  
3 Public Assistance.
- 4 (2) "State board" means the State Advisory Board.
- 5 (3) "Director" means the Director of the State Depart-  
6 ment of Public Assistance.
- 7 (4) "County Council" means a county public assistance  
8 council.
- 9 (5) "County Director" means a director appointed by a  
10 county council.
- 11 (6) "Children's Institution" means an institution other  
12 than a state or educational institution, providing for persons  
13 under the age of eighteen years:
- 14 (a) Continuing care, custody or training as its primary  
15 purpose; or
- 16 (b) Temporary or continuing medical or surgical hos-  
17 pitalization.
- 18 (7) "Children's organization" means an organization  
19 having for its object the prevention of cruelty and distress  
20 among children, finding homes for children, and assuming  
21 temporary custody of children for these purposes.

## Article II. Neglected Children.

### Section

1. Neglected children; petition to juvenile court.
2. Hearing.
3. Commitment to state department.
4. Temporary custody.
5. Information supplied to state department.
6. Physical and mental examination.
7. Mentally defective children.
8. Duration of custody.
9. Disposition other than commitment to state department.
10. Private homes.
11. Placement in children's homes.
12. Religious beliefs of parents to be observed.
13. Case work; mentally defective children.
14. Parole to state department.
15. Admissions to school for deaf and blind children.
16. Services rendered by county council and director.
17. Authority over institution caring for children.

**Section**

18. Reports by institutions and organizations.
19. Inspection.
20. Approval of articles of incorporation.
21. Placement by foreign organizations.

**Section 1. *Neglected Children: Petition to Juvenile Court.***

2 If the state department, or a reputable person, believes that  
3 a child is neglected, the department or person may present a  
4 petition setting forth the facts to the court having juvenile  
5 jurisdiction in the county in which the child resides or to  
6 the judge in vacation. The petition shall be verified by oath  
7 of some credible person having knowledge of the facts.

8 Upon the filing of the petition, the court or the judge shall  
9 set a time and place for a hearing upon the facts.

**Sec. 2. *Hearing.*** Notice of time and place of hearing  
2 shall be served upon the person having custody of the child  
3 and shall be given to the state department. The person  
4 having custody of the child, a parent or other person stand-  
5 ing in *loco parentis*, a relative, or any other person having  
6 knowledge of the circumstances may appear and be heard.

**Sec. 3. *Commitment to State Department.*** If the court  
2 or judge finds that the interests and welfare of the child  
3 require that custody be changed, the court or judge may  
4 commit the child to the custody of the state department.

**Sec. 4. *Temporary Custody.*** Until a hearing can be held  
2 upon the petition, the court or judge may order that the child  
3 be delivered into the custody of the state department, or into  
4 such other custody as the court or judge may deem proper.

**Sec. 5. *Information Supplied to State Department.*** At  
2 the time of commitment, the court or judge shall supply to  
3 the state department all information before the court or judge  
4 regarding the history and situation of the child, its parents  
5 and forebears. The information shall be upon the form  
6 provided by the state department.

**Sec. 6. *Physical and Mental Examination.*** Before being  
2 committed to the state department, a neglected child shall be  
3 given a physical and mental examination. The result of the  
4 examination shall be reported to the state department upon  
5 blank forms prepared and furnished by the department.

6 After considering the results of the examination, the state

7 department may accept or refuse to accept a child for  
8 commitment.

Sec. 7. *Mentally Defective Children.* The state depart-  
2 ment may return a mentally defective child committed to it  
3 to the county from which the child was committed, to be  
4 dealt with by the county mental hygiene commission.

Sec. 8. *Duration of Custody.* A neglected child committed  
2 to the state department shall remain in the custody of the  
3 department until he attains the age of twenty-one years or is  
4 married, whichever occurs first, unless:

5 (1) Upon proper showing the court or judge by whom the  
6 child was committed returns the child to his parents or other  
7 guardian.

8 (2) The child is legally adopted by a person approved by  
9 the state department.

Sec. 9. *Disposition Other Than Commitment to State*  
2 *Department.* The court or judge may:

3 (1) Allow a neglected child to remain at its home subject  
4 to the supervision of the state department

5 (2) Appoint a reputable person of good moral character  
6 as guardian of the person of the child.

7 (3) Commit the child to a suitable state institution caring  
8 for neglected children.

9 (4) Commit the child to a school, home, or organization  
10 which cares for or obtains homes for neglected children and  
11 which has been approved under section seventeen of this  
12 article.

Sec. 10. *Private Homes.* When it appears proper, the  
2 state department may place a child in its custody in a suitable  
3 private home. The person with whom the child is placed  
4 shall observe and be governed by the provisions of law con-  
5 cerning the placing of children in private homes, and the  
6 rules and regulations of the state department.

7 When necessary, the state department may place a child  
8 in a private boarding home.

Sec. 11. *Placement in Children's Homes.* The state de-  
2 partment may place a neglected child in its custody in an  
3 orphan asylum or children's home incorporated under the  
4 laws of the state and approved by the department.

5 With respect to a child so placed, the orphan asylum or  
6 children's home shall have the same rights, powers, privileges,  
7 and authority, and be subject to the same duties, require-  
8 ments, and responsibilities, as in the case of children placed  
9 under its care and management in any other manner allowed  
10 by law.

Sec. 12. *Religious Belief of Parents to be Observed.* The  
2 court in committing any child, or the state department in  
3 placing any child, shall place such child as far as practicable  
4 in the care and custody of an individual holding the same  
5 religious belief as the parents or relatives of the child, or  
6 with some institution or organization that is controlled by  
7 persons of the same religious belief as that of the parents  
8 or relatives of the child.

Sec. 13. *Case Work: Mentally Defective Children.* The  
2 state department shall, upon request of the state board of  
3 control, make family case work investigations of children who  
4 are mentally defective.

Sec. 14. *Parole to State Department.* Children paroled  
2 from the state industrial homes for girls and the state in-  
3 dustrial school for boys shall be paroled to the state depart-  
4 ment.

Sec. 15. *Admission to Schools for Deaf and Blind Children.*  
2 The state department shall investigate applications for ad-  
3 mission to the state schools for the deaf and blind, and  
4 applications for admission to a state hospital for orthopedic  
5 treatment.

6 For the purposes of this section the state department shall  
7 have authority to procure proper medical and surgical ex-  
8 aminations. The expenses of examinations and of the trans-  
9 portation of an applicant to and from the hospital shall be  
10 paid by the county in which the applicant resides, upon  
11 submission of an itemized statement of expenses, verified by  
12 affidavit of an agent of the state department.

13 If the state department finds that the child should be ad-  
14 mitted to the state school, it shall certify the case to the  
15 principal for admission. The principal shall admit a child  
16 to such school only upon the certification of the state de-  
17 partment.

2       Sec. 16. *Services Rendered by County Council and Direc-*  
3 *tor.* A county council and a county director shall perform  
4 for the state department such services in locating and in  
5 making visitations and reports concerning cases of neglected  
6 children as the state department may require.

2       Sec. 17. *Authority Over Institutions Caring for Children.*  
3 The state department shall supervise children's institutions,  
4 and organizations receiving children for the purpose of care,  
5 training, or placing in other institutions or in private homes,  
6 except state institutions under the management of the board  
7 of control. The state department shall annually visit and  
8 inspect a children's institution or organization and shall  
9 determine the fitness of the institution or organization to  
10 provide care or training for children.

11       If the state department approves the institution or organiza-  
12 tion, it shall issue a certificate of approval which shall  
13 continue in force for one year unless sooner revoked for  
14 cause. The certificate of approval shall be a license to  
15 operate the institution or organization. A person shall not  
16 operate or maintain such institution or organization unless  
17 licensed under this section.

2       Sec. 18. *Reports by Institutions and Organizations.* A  
3 children's institution or organization shall make an annual  
4 report showing its condition, management, and competence to  
5 care for or to train children, together with such other infor-  
6 mation as the state department may require. The report  
7 shall be in such form and shall be submitted at such time  
8 as the department may determine.

2       Sec. 19. *Inspection.* If the state department finds that  
3 a children's institution or organization is of such a character,  
4 or is so equipped, managed, or financed that the interests  
5 and welfare of a child are not served by entrusting his care  
6 or training to the institution or organization, it shall notify  
7 the institution or organization, stating the reasons for its  
8 decision and designating the measures to be taken to correct  
9 the conditions causing disapproval.

10       A failure or refusal to correct conditions causing dis-  
11 approval shall be sufficient reason for a revocation of or a  
12 refusal to issue a certificate of approval.

Sec. 20. *Approval of Articles of Incorporation.* A child-  
 2 dren's institution or organization shall not be incorporated  
 3 in this state unless the proposed articles of incorporation  
 4 have first been examined and approved by the state depart-  
 5 ment. Proposed amendments to such articles of incorpora-  
 6 tion shall likewise be subject to the examination and approval  
 7 of the state department.

Sec. 21. *Placement by Foreign Organization.* An in-  
 2 stitution or organization incorporated under the laws of an-  
 3 other state shall not place a child in a private home in this  
 4 state without the approval of the state department.

### Article III. Private Institutions and Organizations.

#### Section

1. What children admitted.
2. Children's organizations.
3. Officers of institutions may petition for custody of child.
4. Provisions applicable.
5. Supervision and control of children.
6. Placing children in children's institution.
7. Guardians for children.
8. Placing in private homes.
9. Bond by person receiving child.
10. Assignment of services of such children.
11. Removing children from private homes.
12. Returning child to its parents or guardian.

Section 1. *What Children Admitted.* A children's in-  
 2 stitution established under the laws of this state, or of the  
 3 state of Virginia prior to the formation of this state, may  
 4 take under guardianship a neglected child who:

5 (1) Is voluntarily surrendered by the father and mother;  
 6 by one parent in case of the death, or long continued absence  
 7 of the other parent; by the guardian of the child's person;  
 8 by a children's organization; or, where the child is illegiti-  
 9 mate, by its mother. By virtue of the surrender of a child,  
 10 the orphan asylum or children's home shall exercise over  
 11 the child the same power possessed by the parties surrender-  
 12 ing the child.

13 (2) Is committed to its custody by the court or judge  
 14 having juvenile jurisdiction in the county in which the child  
 15 resides. Commitment shall be in accordance with the pro-  
 16 visions of article two of this chapter.

Sec. 2. *Children's Organizations.* An organization  
 2 formed under the laws of this state for the purpose of pro-

3 tecting children from cruelty, or for finding homes for chil-  
4 dren, may receive into its custody and control a neglected  
5 child who is voluntarily surrendered by its father and mother,  
6 by one parent in case of the death or long continued absence  
7 of the other parent, by the guardian of the person of the  
8 child, or, where the child is illegitimate, by its mother.

2 *Sec. 3. Officers of Institutions May Petition for Custody*  
3 *of Child.* An officer of a children's institution or organiza-  
4 tion may petition the court, or judge having juvenile juris-  
5 diction, for the purpose of obtaining custody of a neglected  
6 child in the manner provided by section one of article two  
7 of this chapter.

2 *Sec. 4. Provisions Applicable.* The provisions of article  
3 two of this chapter shall apply in all respects to the com-  
4 mitment, care, and custody of neglected children by a chil-  
5 dren's institution or organization.

5 A children's institution or organization shall be licensed  
6 as required by section seventeen, article two of this chapter.

2 *Sec 5. Supervision and Control of Children.* A child  
3 placed in the care or committed to the custody of a children's  
4 organization shall be under its supervision and control until  
5 the child is received into a children's institution or private  
6 home, or until otherwise ordered by the court or judge by  
7 whom the child was committed.

2 *Sec. 6. Placing Children in Children's Institutions.*  
3 A children's organization may place a child in an approved  
4 children's institution established under the laws of this state,  
5 or the state of Virginia prior to the formation of this state,  
6 which will receive the child.

2 *Sec. 7. Guardians for Children.* At the time of com-  
3 mitment the court or judge shall appoint the person in  
4 charge of the children's institution or organization to which  
5 the child is committed, as the guardian of the person of the  
6 child.

2 *Sec. 8. Placing in Private Homes.* If the state depart-  
3 ment consents and approves, a children's institution or  
4 organization may place a child in a suitable private home,  
5 having regard for the religious and moral character of those

5 with whom the child is placed, in order to secure to the  
6 child the benefits of good example and wholesome instruc-  
7 tion.

Sec. 9. *Bond by Person Receiving Child.* When a child  
2 is placed in a private home, the state department may, in its  
3 discretion, order the children's institution or organization to  
4 require a bond, payable to the state department, to be entered  
5 into by the person receiving the child. The bond shall be in  
6 a penalty of not less than one thousand dollars, conditioned  
7 upon furnishing to the child good and sufficient clothing,  
8 food, and medical attention, and causing it to receive a  
9 common school education.

Sec. 10. *Assignment of Services of Such Children.* A  
2 person receiving a child under the provisions of this article  
3 shall not assign or transfer its services for any period with-  
4 out the written consent of the children's institution or organ-  
5 ization, as the case may be, and of the state department.

6 If the person taking charge of a child, desires to be released  
7 from the agreement, the children's institution or organiza-  
8 tion may in its discretion cancel the agreement and resume  
9 custody of the child.

Sec. 11. *Removing Children from Private Home.* The  
2 children's institution or organization shall remove a child  
3 from a private home in which the child was placed by it,  
4 when, in its judgment, or in the judgment of the state depart-  
5 ment, the home has become an improper place. In case of  
6 removal, the children's institution or organization shall re-  
7 sume custody of the child.

Sec. 12. *Returning Child to Its Parents or Guardian.* A  
2 children's institution or organization may in its discretion  
3 and, if the child was committed to it by the order of a court,  
4 with the consent of the court or judge, return the child to  
5 the parents, surviving parent, or guardian.



**Article IV. Crippled Children.****Section**

1. Purpose of article.
2. What children are included.
3. Powers of state department.
4. Advisory board of orthopedic surgeons.
5. Report of birth of crippled child.
6. County council and county director to render services.
7. Other agencies to assist.
8. Cooperation with private agencies.

Section 1. *Purpose.* The purpose of this article is to provide for the continuation and development of services for crippled children. The state department shall formulate and apply administrative policies coordinating the care, treatment, and education of physically handicapped children.

In the development of administrative policies, the state department shall cooperate with the children's bureau of the United States Department of Labor and shall comply with the regulations of the children's bureau prescribed under the authority of the "Social Security Act," and is hereby authorized to receive and expend federal funds for these services.

Sec. 2. *What Children Are Included.* It is the intention of this article that services for crippled children shall be extended only to those children for whom adequate care, treatment and rehabilitation is not available from other than public sources.

Sec. 3. *Powers of State Department.* In the care and treatment of crippled children the state department shall, so far as funds are available for the purpose:

- (1) Locate crippled children requiring medical, surgical, or other corrective treatment and provide competent diagnosis to determine the treatment required.
- (2) Supply to crippled children treatment, including hospitalization, and after-care leading to correction and rehabilitation.
- (3) Guide and supervise crippled children to assure adequate care and treatment.

Sec. 4. *Advisory Board of Orthopedic Surgeons.* The state director shall designate a board of three orthopedic surgeons, of recognized ability, to be selected from a list

4 recommended by the state medical association, to serve in an  
5 advisory capacity in giving effect to the provisions of this  
6 article. The surgeons shall serve without pay, except for  
7 actual expenses incurred.

8 The board of surgeons shall :

9 (1) Consult with the state board and state director with  
10 respect to the plans, policies and methods of the state depart-  
11 ment for giving effect to this article.

12 (2) Examine the credentials and recommend the appoint-  
13 ment of orthopedic surgeons to be employed by the state de-  
14 partment.

15 (3) Examine the facilities and recommend the institutions  
16 in which crippled children may be hospitalized by the state  
17 department.

Sec. 5. *Birth of a Crippled Child.* Within thirty days  
2 after the birth of a child with a congenital deformity,  
3 the physician, midwife, or other person attending the birth  
4 shall report the deformity upon a form prescribed to the  
5 state department.

6 The report shall be solely for the use of the state depart-  
7 ment and shall not be open for public inspection.

Sec. 6. *County Council and County Director to Render*  
2 *Services.* A county council and county director shall co-  
3 operate with the state department in rendering the services  
4 provided by this article. They shall perform for the state  
5 department such investigations, case supervision, and other  
6 services as the department may request.

Sec. 7. *Other Agencies to Assist.* So far as practicable,  
2 the services and facilities of the state department of health,  
3 of the state department of education and the state board of  
4 control shall be available to the state department for the  
5 purposes of this article.

Sec. 8. *Cooperation with Private Agencies.* The state de-  
2 partment shall cooperate with private agencies and organi-  
3 zations engaged in rendering similar services to crippled  
4 children.

**Article V. Juvenile Courts.****Section**

1. What courts have juvenile jurisdiction.
2. Jurisdiction of juvenile court.
3. Criminal jurisdiction.
4. Children wards of court.
5. Juvenile records.
6. Trial by jury.
7. Delinquent child; petition to juvenile court.
8. Service of summons.
9. Answer.
10. Default of answer.
11. Temporary disposition.
12. Warrant.
13. Council for child.
14. Disposition by court.
15. Child not committed to jail.
16. Duty of clerk.
17. Probation officer.
18. Duty of probation officer.
19. Powers of probation officer.

Section 1. *What Courts Have Juvenile Jurisdiction.* The circuit court of the county shall have original jurisdiction in proceedings brought by petition under this article. If, however, a court, in addition to the circuit court, has been or is subsequently created in a county, proceedings under this article shall be held in the additional court with right of appeal to the circuit court as follows:

- (1) The domestic relations court, or if there is none,
- (2) The court of common pleas or intermediate court having chancery jurisdiction, or if there is none,
- (3) The criminal court.

Sec. 2. *Jurisdiction of Juvenile Court.* The juvenile court shall have exclusive jurisdiction to hear and determine all proceedings concerning delinquent children under the provisions of this article.

Sec. 3. *Criminal Jurisdiction.* Except as to a violation of law which if committed by an adult would be a capital offense, the juvenile court shall have exclusive jurisdiction to hear and determine criminal charges, including a charge of violation of a municipal ordinance, against a person who was under sixteen years of age at the time of the alleged offense.

If during the pendency of a criminal proceeding against a person in a court other than a juvenile court, it shall be ascertained that the person was under the age of sixteen years at

10 the time of the alleged offense, the court, judge, or magistrate  
11 shall immediately transfer the case with all the papers,  
12 documents, and testimony connected therewith to the juvenile  
13 court having jurisdiction. The juvenile court shall proceed  
14 to hear and dispose of the case in the same manner as if it  
15 had been instituted in that court in the first instance.

Sec. 4. *Children Wards of Court.* A person under the  
2 age of sixteen years who appears before the juvenile court in  
3 any capacity shall be deemed to be a ward of the court, and  
4 protected accordingly.

Sec. 5. *Juvenile Record.* The court shall, for the purposes  
2 of this article, be called the "Juvenile Court." The findings  
3 and orders of the court shall be entered in a book, kept by  
4 the clerk of the court for that purpose, known as the  
5 "Juvenile Record."

Sec. 6. *Trial by Jury.* In a proceeding under this article,  
2 an interested person may demand, or the judge of his own  
3 motion, may order a jury of twelve persons to try any question  
4 of fact.

Sec. 7. *Delinquent Child; Petition to Juvenile Court.* If  
2 the state department or a reputable person believes that a  
3 child is delinquent, the department or person may present a  
4 petition setting forth the facts to the court or judge having  
5 juvenile jurisdiction in the county where the child may be.  
6 The petition may set forth that it is for the interest of  
7 the child and of the state that the child be taken from its  
8 parent, guardian, or other custodian and placed under another  
9 guardianship or custody as determined by the court; and  
10 that the parent, guardian or other custodian is unfit properly  
11 to care for, protect, train, educate, control or discipline the  
12 child, or that the parent, guardian, or other custodian con-  
13 sents that the child may be taken from him.

14 The petition shall be verified by oath, and shall set forth  
15 the name and address of the parent, guardian, or other person  
16 having custody and control of the child if such name and  
17 address are known to the petitioner.

18 Upon the filing of the petition, the court or judge shall set a  
19 time and place for a hearing and proceedings upon the facts.

2       Sec. 8. *Service of Summons.* A person named in the  
3 petition shall be made a defendant and shall be notified of  
4 the proceedings by personal service of summons, which shall  
5 require the person to appear with the child at the time and  
6 place set for the proceedings. If the defendant cannot be  
7 found, service may be by publication made twice in a news-  
8 paper of general circulation published in the county; or  
9 if there is none, then in a newspaper published in the state  
and of general circulation in the county.

2       Sec. 9. *Answer.* A defendant, duly summoned, shall appear  
3 and answer, in open court or before the judge in vacation, on  
4 the return day of the summons, or if the summons is served  
5 less than one day prior to the return day, then on the follow-  
6 ing day.

7       A defendant notified by publication shall appear and  
8 answer in open court or before the judge in vacation within  
9 twenty days after the date of the first publication.

10       The answer shall have as evidence no greater weight than  
the petition.

2       Sec. 10. *Default of Answer.* In default of answer, the  
petition may be taken as confessed.

2       Sec. 11. *Temporary Disposition.* The court or judge may,  
3 before the proceedings, make temporary disposition of the  
4 child in the manner provided in article two of this chapter,  
5 or may order the child to be placed in the custody of a proba-  
6 tion officer.

2       Sec. 12. *Warrant.* The court or judge may, if he deems  
3 such action necessary, order the issuance of a warrant against  
4 the person having custody and control of the child, to bring  
5 the person into court or before the judge; or a warrant  
6 against the child to bring the child into court or before the  
judge.

2       Sec. 13. *Counsel for Child.* In a proceeding under this  
3 article, the court or judge may, upon request of the child or  
4 of the person named in the petition, appoint counsel to rep-  
5 resent the child.

2       Sec. 14. *Disposition by Court.* With a view to the welfare  
3 and interest of the child and of the state, the court or judge

3 may, after the proceedings, make any of the following dis-  
4 positions:

5 (1) Treat the child as a neglected child, in which case the  
6 provisions of article two of this chapter shall apply.

7 (2) Order the child placed under the supervision of a  
8 probation officer.

9 (3) Permit the child to be proceeded against in accordance  
10 with the laws of the state governing the commission of crimes  
11 or violations of municipal ordinances.

12 (4) Commit the child to an industrial or correctional in-  
13 stitution for minors.

Sec. 15. *Child Not Committed to Jail.* A child under  
2 sixteen years of age, whether delinquent or otherwise, shall  
3 not be committed to a jail or police station.

Sec. 16. *Duty of Clerk.* The clerk of the juvenile court  
2 shall promptly notify the state department of delinquent  
3 children brought before the court or judge and of delinquency  
4 proceedings pending.

Sec. 17. *Probation Officers.* The county director shall be  
2 *ex officio* probation officer of the juvenile court and of the  
3 county. He may, with the approval of the juvenile court,  
4 designate one or more of his assistants or other employees of  
5 the county council to assist him in his duties as probation  
6 officer or to act in his stead.

Sec. 18. *Duty of Probation Officer.* The clerk of a court  
2 shall notify, if practicable, the chief probation officer of the  
3 county when a child is to be brought before the court or judge.  
4 When notified, or if the probation officer otherwise obtains  
5 knowledge of such fact, he or one of his assistants shall:

6 (1) Make investigation of the case.

7 (2) Be present in court, or before the judge, to represent  
8 the interests of the child when the case is heard.

9 (3) Furnish such information and assistance as the court  
10 or judge may require.

11 (4) Take charge of the child before and after the trial, as  
12 may be directed by the court or judge.

Sec. 19. *Powers of Probation Officer.* A probation officer  
2 is hereby vested with the power and authority of a peace

- 3 officer to make arrests and perform any other duties ordinarily  
4 performed by a peace officer, incident to his office, or neces-  
5 sary or convenient to the performance of his duties.

## Article VI. Child Shelter.

### Section

1. County court may establish.
2. Purpose.
3. Management and commitment.
4. Lands and property.
5. Two or more counties may jointly establish.
6. Care of children.
7. Superintendent and employees.
8. Employees; compensation; tenure.
9. Duties as to children committed.
10. Records and reports.
11. Information furnished.
12. Inspection.
13. Services rendered by county director.
14. Appropriations.

Section 1. *County Court may establish.* A county court,  
2 in its discretion, may establish, equip, and maintain a home  
3 for the temporary detention of children, separated entirely  
4 from a place of confinement of adults, to be known as "The  
5 Children's Shelter of ..... County." An existing  
6 detention home may be continued as a children's shelter to be  
7 conducted as provided in this article.

Sec. 2. *Purpose.* A children's shelter shall be conducted  
2 for the purpose of providing temporary care for neglected  
3 children and custody of children whose cases are pending  
4 before the juvenile court.

Sec. 3. *Management and Commitment.* The control and  
2 business management of a children's shelter shall be the  
3 responsibility of the county court.

4 The commitment of persons to and the release from the  
5 children's shelter shall be by the county council or the  
6 juvenile court.

Sec. 4. *Lands and Property.* A county court may:

- 2 (1) Hold and convey land used as a site for a children's  
3 shelter.
- 4 (2) Use and dispose of property received as a gift, grant,  
5 devise, or bequest for the purpose of a children's shelter.

Sec. 5. *Two or More Counties.* The county courts of two  
2 or more adjoining counties may jointly establish a children's

3 shelter, and contribute to the expense of establishing and  
4 maintaining it in the proportions and under the regulations  
5 agreed upon. The management shall be in the county court  
6 of the county where the shelter is situated unless otherwise  
7 agreed by the county courts concerned.

Sec. 6. *Care of Children.* A children's shelter shall be  
2 so arranged, furnished, and conducted that the children resi-  
3 dent therein are, so far as consistent with safe custody, cared  
4 for as in a family home. The shelter shall be supplied with  
5 all necessary and convenient facilities for the care of the  
6 children.

Sec. 7. *Superintendent and Employees.* The county court  
2 shall appoint a superintendent and such other employees as  
3 may be necessary for the proper care and maintenance of the  
4 shelter. Persons appointed shall be selected with special  
5 reference to good moral character and their ability to deal  
6 with and care for children.

7 The superintendent shall reside in the shelter.

Sec. 8. *Employees: Compensation; Tenure.* The super-  
2 intendent and employees shall serve during the pleasure of  
3 the county court. The court shall fix their compensation.

Sec. 9. *Duties as to Children committed.* The superin-  
2 tendent shall receive and have temporary custody of children  
3 committed to the shelter by the county council or the juvenile  
4 court.

5 The superintendent shall keep a complete record of all  
6 children committed. The record shall show the name, age,  
7 and residence of the child and the cause and period of de-  
8 tention, and any other useful data or information that the  
9 state department, the county council, or the juvenile court  
10 may direct.

Sec. 10. *Records and Reports.* The superintendent shall  
2 keep a record of expenditures made by the county for the  
3 care and maintenance of the shelter. He shall make an  
4 annual report to the county court and shall file a copy with  
5 the clerk of the court. The report shall contain an itemized  
6 statement of all expenses necessary to maintain the home,  
7 together with the number of children cared for during each  
8 month.



2       Sec. 11. *Information Furnished.* At the request of the  
3 president of the county court or the juvenile court, the  
4 superintendent shall furnish such information with respect  
5 to the shelter as may be desired.

2       Sec. 12. *Inspection.* The county court shall make quarterly  
3 or more frequent inspection of a children's shelter provided  
4 for by this article. It may request the county or municipal  
5 health officer, or any qualified physician to assist in or make  
6 an independent inspection.

2       Sec. 13. *Services Rendered by County Director.* At the  
3 request of the county court, the county director shall advise  
4 and consult with the county court with respect to the manage-  
5 ment and control of the children's shelter, and shall make  
6 such visitations and inspections as the county court may  
7 request.

2       Sec. 14. *Appropriation.* In a county in which a children's  
3 shelter is established and maintained, the county court shall  
4 annually include within its estimate of necessary county ex-  
5 penditures an amount sufficient to provide for the main-  
6 tenance of the shelter.

## Article VII. General Provisions.

### Section

1. Consent of guardian to adoption.
2. Guardianship of estate of child not affected.
3. Proceedings not to be evidence against child or be published.
4. Placing children in infirmaries.
5. Support of child placed in home or institution under guardianship.
6. Enforcement of order for support from wages.
7. Contributing to delinquency of a child.
8. Proof in cases of contributing to delinquency.
9. Suspension of sentence.
10. Maintenance of child by convicted person.
11. Care of the child upon conviction for contributing to its delinquency.
12. Custody of child by convicted person.
13. Suspension of sentence; bond.
14. Recovery on bond without separate suit.
15. Suspended sentence may be enforced.
16. Enforcement of sentence.
17. Suspension of sentence not to exceed two years.
18. Interference with disposition of child punishable as contempt of court.
19. Penalty for enticing away child.
20. Penalties.
21. Judge may act in vacation.
22. Appeal and writs of error.

**Section**

23. Preservation of records.
24. Rules and regulations.
25. State department to gather statistics.
26. Duty of prosecuting attorney.
27. Duty of county superintendent of schools.
28. Proceedings by the county council.

Section 1. *Consent of Guardian to Adoption.* If at the hearing under article two of this chapter, the court or judge finds that it is to the best interest of a neglected child that the guardian of his person be given authority to consent to his legal adoption as required by section one, article four of chapter forty-eight of the official code of one thousand nine hundred thirty-one, the court or judge may by order authorize the guardian to appear in court where proceedings for the adoption of the child are pending and to consent to the adoption.

The court or judge shall authorize the guardian to consent to adoption only if the court or judge finds that:

(1) The person legally responsible for the child, or, if there is no such person, the nearest known relative agrees to the order of the court or judge, or

(2) The person legally responsible for the child is unfit because of moral delinquency, habitual drunkenness, use of narcotic drugs, extreme and repeated cruelty to the child, or abandonment, or desertion of the child for more than six months next preceding the hearing, or

(3) The child is fourteen years of age or over and agrees to the order.

In an adoption proceeding the court or judge with the consent of a guardian so authorized under this section, may enter an order or decree of adoption without further notice to, or consent by the parent or relatives of the child.

Sec. 2. *Guardianship of Estate of Child Not Affected.* The provisions of this chapter shall not be construed to give the guardian appointed hereunder the guardianship of the estate of the child, or to change the age of minority for any other purpose except the custody of the child.

The guardian of the estate of a child committed to guardianship hereunder shall furnish, at such times and in such form as may be required, full information concerning the property of the child to the state department or to the court or judge before whom the case of any such child is heard.

2       *Sec. 3. Proceedings Not to be Evidence Against Child, or*  
3 *be Published.* Any evidence given in any cause or proceeding  
4 under this chapter, or any order, judgment or finding therein,  
5 shall not in any civil, criminal or other cause of proceeding  
6 whatever in any court, be lawful or proper evidence against  
7 such child for any purpose whatsoever except in subsequent  
8 cases under this chapter involving the same child; nor shall  
9 the name of any child, in connection with any proceedings  
10 under this chapter, be published in any newspaper without a  
written order of the court.

2       *Sec. 4. Placing Children in Infirmaries.* A child shall not  
3 be placed in a county infirmary or similar institution for  
4 other than temporary care. When a child is so placed, written  
5 notification shall be given to the state department not later  
6 than three days after the child enters the infirmary. When a  
7 mentally defective child is so placed, notice shall be given to  
8 the state board of control.

8       A superintendent of an infirmary or other institution who  
9 fails to notify the state department or the state board of  
10 control, as the case may be, shall be guilty of a misdemeanor.

2       *Sec. 5. Support of Child Placed in Home or Institution or*  
3 *Under Guardianship.* If it appears upon the hearing of a  
4 petition under this chapter that a person legally liable for  
5 the support of the child is able to contribute to the support  
6 of such child, the court or judge shall order the person to pay  
7 the state department, institution, organization, or private  
8 person to whom the child was committed, a reasonable sum  
9 from time to time for the support, maintenance, and educa-  
10 tion of the child.

10       The court or judge may require the person liable for the  
11 support to give reasonable security for payment. Upon  
12 failure to give security or to pay, the court or judge may  
13 enforce obedience by proceeding as for contempt of court.  
14 The court or judge may, on application, and on such notice  
15 as the court or judge may direct, from time to time, make  
16 such alterations in the allowance as shall appear reasonable  
17 and proper.

2       *Sec. 6. Enforcement or Order for Support from Wages.*  
3 If the person ordered to pay for the support, maintenance,  
and education of a child is employed for wages, salary, or

4 commission, the court or judge may order that the sum to be  
5 paid by him shall be paid to the guardian, institution,  
6 organization, or person having custody of such child, out of  
7 his wages, salary, or commission, and that he shall execute  
8 an assignment thereof *pro tanto*. The court or judge may  
9 also order the person to report to the court or judge, from  
10 time to time, his place of employment and the amount earned  
11 by him. Upon his failure to obey the order of the court  
12 or judge, he may be punished as for contempt of court.

Sec. 7. *Contributing to Delinquency of a Child.* A  
2 person who causes, encourages, or contributes to the delin-  
3 quency of a child, or who is responsible for such delinquency,  
4 shall be guilty of a misdemeanor, and, upon trial and con-  
5 viction thereof, shall be fined not to exceed five hundred  
6 dollars, or imprisoned in the county jail for a period not  
7 exceeding one year, or both.

Sec. 8. *Proof in Cases of Contributing to Delinquency.*  
2 In finding a person guilty of contributing to the delinquency  
3 of a child, it shall not be necessary to prove that the child  
4 has actually become delinquent, if it appears from the  
5 evidence that the accused is guilty of conduct or of an act  
6 of neglect or omission of duty on his part toward the child  
7 which would tend to bring about or to encourage the de-  
8 linquency.

Sec. 9. *Suspension of Sentence.* A court or judge, upon  
2 such convictions as are imposed in accordance with the pro-  
3 visions of this chapter, may:

4 (1) Suspend the sentence of a person found guilty of  
5 contributing to the delinquency of a child.

6 (2) Stay or postpone the enforcement of execution of  
7 sentence.

8 (3) Release the person from custody.

Sec. 10. *Maintenance of Child by Convicted Person.* If  
2 the sentence of the person found guilty is suspended, the  
3 court or judge may make it a condition of suspending  
4 sentence that the person pay for whatever treatment and  
5 care may be required for the welfare of such child,  
6 and for its support and maintenance while in the custody  
7 of the department, person, or institution, and any other

8 expense that may have resulted from, or be necessary be-  
9 cause of, the act or acts of the person found guilty.

2 *Sec. 11. Care of Child Upon Conviction for Contributing*  
3 *to Its Delinquency.* Where a person is found guilty of con-  
4 tributing to the delinquency of a child, the court or judge  
5 may place the child in the temporary custody of the state  
6 department or of some responsible person or approved  
7 institution.

2 *Sec. 12. Custody of Child by Convicted Person.* If the  
3 guilty person had custody of the child prior to conviction,  
4 the court or judge may, on suspending sentence, permit the  
5 child to remain in the custody of the person, and make it  
6 a condition of suspending sentence that the person provides  
7 whatever treatment and care may be required for the wel-  
8 fare of the child, and shall do whatever may be calculated  
9 to secure obedience to the law or to remove the cause of  
such delinquency.

2 *Sec. 13. Suspension of Sentence: Bond.* The conditions  
3 upon which the sentence of a person found guilty of con-  
4 tributing to the delinquency, or to the neglect of any child,  
5 may be suspended, may include the furnishing of a good  
6 and sufficient bond to the state of West Virginia in such  
7 penal sum as the court shall determine, not exceeding one  
8 thousand dollars, conditioned upon:

8 (1) Furnishing whatever treatment and care may be re-  
9 quired for the welfare of such child.

10 (2) Doing whatever may be calculated to secure obedience  
11 to the law or to remove the cause of delinquency, or neglect.

12 (3) Payment of such amount as the court may order,  
13 not exceeding twenty dollars per month, for the support,  
14 care, and maintenance of the child to whose delinquency  
15 the person contributed. The sum shall be expended under  
16 the order of the court or judge for the purposes enumerated.

2 *Sec. 14. Recovery on Bond Without Separate Suit.* The  
3 penalty of a bond given upon suspension of sentence which  
4 becomes forfeited shall be recoverable without separate suit.  
5 The court or judge may cause citation or summons to issue  
to the surety, requiring that he appear at a time named by

6 the court or judge, not less than ten nor more than twenty  
7 days from the issuance of the summons, and show cause why  
8 judgment should not be entered for the penalty of such bond  
9 and execution issued against the property of the surety.  
10 Upon failure to appear, or failure to show sufficient cause,  
11 the court shall enter judgment in behalf of the state of  
12 West Virginia against the principal and surety in not to  
13 exceed the penalty of the bond plus costs.

14 Any money collected or paid upon an execution, or upon  
15 the bond, shall be deposited with the clerk of the court in  
16 which the bond was given. The money shall be applied first  
17 to the payment of all court costs and then to the treatment,  
18 care, or maintenance of the child for whose delinquency con-  
19 viction was had. If any money so collected is not required  
20 for these purposes, it shall be paid within one year into  
21 the county treasury, and credited to the general relief fund  
22 of the county.

Sec. 15. *Suspended Sentence May be Enforced.* If it  
2 appear to the satisfaction of the court or judge at any time  
3 while a suspension of sentence or stay of execution remains  
4 in effect, that the sentence ought to be enforced, the court  
5 or judge may enforce the sentence. A jail sentence shall  
6 commence from the date upon which the sentence is so  
7 ordered to be enforced.

Sec. 16. *Enforcement of Sentence.* If the conditions of  
2 suspension are complied with, the sentence shall remain  
3 suspended, subject to enforcement upon the violation of any  
4 of the conditions imposed. Upon a failure to comply with  
5 any of the conditions imposed, the sentence shall be enforced  
6 and any bond given to insure the performance of the con-  
7 ditions shall be forfeited.

Sec. 17. *Suspension of Sentence Not to Exceed Two Years.*  
2 A sentence shall not be suspended, or final judgment or  
3 execution stayed, for a period exceeding two years. At the  
4 end of two years from the time of imposition of sentence  
5 or sooner in the discretion of the court or judge, the de-  
6 fendant shall be finally released and discharged.

Sec. 18. *Interference with Disposition of Child Punish-  
2 able as Contempt of Court.* A person who interferes with

3 the direction of disposition of a child in accordance with an  
4 order of the court or judge made in pursuance of the pro-  
5 visions of this chapter, or with the state department, or  
6 a probation or other officer of the court in carrying out the  
7 directions of the court or judge under such an order, shall  
8 be subject to punishment as for contempt of court.

Sec. 19. *Penalty for Enticing Away Child.* A person  
2 who personally or by agent entices or forcibly removes a  
3 child from a custody in which the child was placed under  
4 the provisions of this chapter, shall be guilty of a misde-  
5 meanor, and upon conviction shall be fined not more than  
6 one hundred dollars, or be imprisoned not more than six  
7 months, or both such fine and imprisonment.

Sec. 20. *Penalties.* A person who violates an order, rule,  
2 or regulation made under the authority of this chapter, or  
3 who violates a provision of this chapter for which punish-  
4 ment has not been specifically provided, shall be guilty of  
5 a misdemeanor, and upon conviction shall be fined not less  
6 than ten nor more than one hundred dollars, or confined in  
7 jail not less than five days nor more than six months, or  
8 both such fine and imprisonment.

Sec. 21. *Judge May Act in Vacation.* The powers and  
2 jurisdiction of the court, under the provisions of this chapter.  
3 may be exercised by the judge thereof in vacation.

Sec. 22. *Appeal and Writs of Error.* Cases under this  
2 chapter, if tried in any inferior court, may be reviewed by  
3 writ of error or appeal to the circuit court, and if tried or  
4 reviewed in a circuit court, by writ of error or appeal to  
5 the supreme court of appeals.

Sec. 23. *Preservation of Records.* The proceedings,  
2 records, reports, case histories, and all other papers or  
3 documents of or received by the state department or a county  
4 council in the administration of this chapter shall be filed  
5 of record and preserved.

Sec. 24. *Rules and Regulations.* The state director shall  
2 prepare and promulgate rules and regulations necessary to  
3 give effect to the provisions of this chapter.

2        *Sec. 25. State Department to Gather Statistics.* The  
3 state department shall gather statistics and study legislation  
4 and problems connected with neglected and delinquent chil-  
5 dren, and publish the results from time to time. It shall  
6 also make available, so far as possible, to officials, institutions,  
7 and organizations dealing with these problems, such litera-  
8 ture as shall tend to promote the efficiency of child welfare  
services.

2        *Sec. 26. Duty of Prosecuting Attorney.* The prosecuting  
3 attorney shall render to the county council, without addi-  
4 tional compensation, such legal services as the council may  
require.

2        *Sec. 27. Duty of County Superintendent of Schools.* The  
3 superintendent of schools of the county shall, without addi-  
4 tional compensation, cooperate with and render such assist-  
ance to the county council as the council may require.

2        *Sec. 28. Proceeding by the County Council.* A county  
3 council shall have the authority to institute, in the name  
4 of the state, proceedings incident to the performance of its  
duties under the provisions of this chapter.

## CHAPTER 2

(House Bill No. 10 — By Mr. Thomas)

AN ACT to appropriate moneys from the treasury for the purpose  
of carrying into effect the Public Welfare Law of one thousand  
nine hundred thirty-six.

[Passed June 20, 1936; In effect from passage. Approved by the Governor.]

### Section

1. Appropriation of two million five hundred thousand dollars to carry into effect the Public Welfare Law of one thousand nine hundred thirty-six.

*Be it enacted by the Legislature of West Virginia:*

2. *Section 1. Appropriation to Carry Into Effect Public Welfare Law.* It appearing from a statement of the revenues



3 and appropriations for the fiscal years one thousand nine  
4 hundred thirty-five—one thousand nine hundred thirty-six  
5 and one thousand nine hundred thirty-six—one thousand  
6 nine hundred thirty-seven, that there will remain in the  
7 treasury, state fund general revenue, revenue in excess of the  
8 amount hereby appropriated, there is hereby appropriated  
9 from the state fund general revenue for the fiscal year one  
10 thousand nine hundred thirty-six—one thousand nine hundred  
11 thirty-seven, the sum of two million five hundred thousand  
12 dollars to the Department of Public Assistance for the pur-  
13 pose of being expended in carrying into effect the Public  
14 Welfare Law of one thousand nine hundred thirty-six, to be  
15 expended upon requisitions drawn upon the Auditor by the  
16 proper officials of the Department of Public Assistance.

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## CHAPTER 3

(House Bill No. 12 — By Mr. LaFon)

AN ACT to appropriate moneys from the treasury to the auditor's office for carrying into effect the delinquent tax redemption laws.

[Passed June 19, 1936: in effect from passage. Approved by the Governor.]

### Section

1. Appropriations to auditor's office for expenses incident to redemption of lands delinquent for non-payment of taxes.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Appropriation to Auditor's Office.* It appearing  
2 from a statement of the revenues and appropriations for the  
3 fiscal years one thousand nine hundred thirty-five—one thou-  
4 sand nine hundred thirty-six and one thousand nine hundred  
5 thirty-six—one thousand nine hundred thirty-seven, that there  
6 remains in the treasury's state fund general revenue, revenue  
7 in excess of the amounts hereby appropriated, there is hereby  
8 appropriated from the state fund general revenue to the

9 auditor's office for the fiscal year one thousand nine hundred  
10 thirty-five—one thousand nine hundred thirty-six, the sum of  
11 thirteen thousand seven hundred seven dollars and twenty-  
12 five cents, and for the fiscal year one thousand nine hundred  
13 thirty-six—one thousand nine hundred thirty-seven, the sum  
14 of thirty-one thousand three hundred sixty dollars, to be ex-  
15 pended to meet the deficiency in the appropriation for the  
16 current fiscal year one thousand nine hundred thirty-five—one  
17 thousand nine hundred thirty-six, occasioned by the unexpect-  
18 edly large number of requests for redemption and to be ex-  
19 pended in carrying out the provisions of an act of the Legis-  
20 lature, first extraordinary session, one thousand nine hundred  
21 thirty-six, known and designated as house bill number two.

## CHAPTER 4

(House Bill No. 7 — By Mr. Thomas)

AN ACT to appropriate moneys from the treasury to the Department of Labor for cooperation with the federal government in maintaining the West Virginia State Employment Service.

[Passed June 19, 1936; in effect from passage. Approved by the Governor.]

### Section

1. Appropriation to Department of Labor for maintenance of West Virginia Employment Service in cooperation with the Department of Labor of the United States.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Appropriation for West Virginia Employment Service.* It appearing from a statement of the revenues and appropriations for the fiscal years one thousand nine hundred thirty-five—one thousand nine hundred thirty-six, and one thousand nine hundred thirty-six—one thousand nine hundred thirty-seven, that there remains in the treasury, state fund general revenue, revenue in excess of the amount hereby appropriated, there is hereby appropriated from the state fund general revenue to the Department of Labor for the fiscal year one thousand nine hundred thirty-six—one thousand nine

11 hundred thirty-seven, the sum of three thousand five hundred  
 12 dollars, to be expended upon the requisition of the Commis-  
 13 sioner of Labor for the maintenance of West Virginia Em-  
 14 ployment Service in cooperation with the Department of  
 15 Labor of the United States.

## CHAPTER 5

(House Bill No. 14 — By Mr. Davis)

AN ACT making appropriations of public moneys out of the treasury to pay the expenses of this extraordinary session of the Legislature.

[Passed June 20, 1936; in effect from passage. Approved by the Governor.]

### Section

1. Appropriation for legislative printing.
2. Appropriation for mileage of members and expenses of Senate.
3. Appropriation for mileage of members and expenses of House of Delegates, and miscellaneous items.
4. Payment of bills for supplies and services not included in appropriation bill or incurred after adjournment.

*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-seven, the following sums of money for the following named purposes:

### LEGISLATIVE PRINTING

Section 1. Legislative printing.....\$ 35,000.00

### SENATE

Sec. 2. Mileage of Members.....\$	929.10
2 President of the Senate, \$2.00 per day, as presid-	
3 ing officer for six days .....	12.00
4 <i>Compensation und per diem of other Elective Officers</i>	
5 Compensation of the Clerk of the Senate.....	120.00

6	Compensation of the Sergeant-at-Arms.....	60.00
7	Compensation of the Doorkeeper.....	60.00
8	<i>Compensation of Presidential Appointees</i>	
9	Seven Floor Stenographers.....	294.00
10	One Mail Clerk .....	42.00
11	One Assistant Sergeant-at-Arms.....	42.00
12	One Clerk to Sergeant-at-Arms.....	42.00
13	One Secretary to the Minority.....	72.00
14	One Minority Stenographer.....	54.00
15	One Secretary to the President.....	72.00
16	One Messenger to the President.....	24.00
17	One Chief Page.....	30.00
18	Three Assistant Doorkeepers.....	126.00
19	One Enrolled Bill Clerk.....	48.00
20	Two Pages.....	48.00
21	One Men's Cloakroom Attendant.....	24.00
22	One Women's Cloakroom Attendant.....	24.00
23	<i>Clerk's Appointees</i>	
24	Four Proofreaders.....	192.00
25	Two Copyholders.....	84.00
26	One Assistant and Secretary to the Clerk.....	72.00
27	One Journal Stenographer.....	54.00
28	Five Journal Room Clerks.....	210.00
29	Four Document Room Clerks.....	168.00
30	Superintendent of Capitol Buildings and	
31	Grounds and Six Assistants.....	156.00
32	Contingent Fund of the Senate.....	15,000.00
33	Deposit with Central Mailing Office for Postage..	1,000.00
34	Services in connection with preparation for open-	
35	ing of session, and for pages who served first	
36	two days of session.....	105.00

#### HOUSE OF DELEGATES

	Sec. 3. Contingent Fund of the House of	
2	Delegates .....	\$20,000.00
3	Mileage of Members and Officers of the House of	
4	Delegates .....	2,700.60
5	Salaries of Members of the House of Delegates.....	2,500.00

6	Compensation and per diem of Officers and At-	
7	taches .....	4,386.00
8	To pay for services rendered preliminary to	
9	opening of session (authorized by H. R. No. 6)..	660.00
10	To John S. Hall, Clerk, for supervision of in-	
11	stallation of voting machine from August 9th	
12	to November 30th, 1935.....	555.00
13	To M. P. Geene, Electrician for voting machine...	40.00
14	To Lawrence Cunningham, Custodian of Build-	
15	ing and Grounds.....	12.00
16	To Kenna Simmons, Janitor Service.....	20.00
17	To R. E. Morgan, services.....	36.00
18	To Emory McClure, services.....	36.00

19

*Miscellaneous Appropriations*

20	Laird Office Equipment Company, services and	
21	and supplies .....	130.75
22	Woodrum Home Outfitting Company, supplies....	50.00
23	Charleston Cut Flower Company, flowers.....	32.12
24	H. R. Judy, keys.....	25.00
25	Electrolux, Inc., supplies.....	74.75
26	Thomas Office Supply Company, supplies.....	298.25
27	Diamond Ice Company, ice.....	129.50
28	C. W. Wendell, supplies .....	39.90
29	Rose City Press, supplies .....	16.35
30	Tyler Mountain Water Products Company, water	3.00

## PAYMENT OF BILLS AFTER ADJOURNMENT OF SESSION

Sec. 4. The Clerk of the House of Delegates, with approval of the Speaker, and the Clerk of the Senate, with the approval of the President, are authorized to draw their warrants upon the Auditor, payable out the contingent fund of the respective houses, for any bills for supplies and services that may have been incurred by the House of Delegates and the Senate and not included in this appropriation bill, and for bills and services incurred after adjournment, the requisition for same to be accompanied by a bill for same to be filed with the Auditor.

## CHAPTER 6

(House Bill No. 9 — By Mr. Thomas)

AN ACT to appropriate moneys from the treasury to continue unemployment relief for the remainder of the current fiscal year one thousand nine hundred thirty-five—one thousand nine hundred thirty-six.

[Passed June 19, 1936; in effect from passage. Approved by the Governor.]

### Section

1. Appropriation of one hundred five thousand dollars for remainder of the current fiscal year for the relief of the needy.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Appropriation for Relief of Needy.* It appearing  
2 from a statement of revenues and appropriations for the fiscal  
3 year one thousand nine hundred thirty-five—one thousand nine  
4 hundred thirty-six, that there remains in the treasury, state  
5 fund general revenue, revenue in excess of the amount hereby  
6 appropriated, there is hereby appropriated from the state  
7 fund general revenue for the remainder of the current fiscal  
8 year one thousand nine hundred thirty-five—one thousand  
9 nine hundred thirty-six, the sum of one hundred five thou-  
10 sand dollars for the purpose of affording relief to needy per-  
11 sons for the remainder of the current fiscal year, to be ex-  
12 pended upon the requisition of the Governor.

## CHAPTER 7

(House Bill No. 8 — By Mr. Thomas)

AN ACT to appropriate moneys from the treasury for the construction, reconstruction and maintenance of public roads.

[Passed June 19, 1936; in effect from passage. Approved by the Governor.]

### Section

1. Appropriation of two million dollars for the construction, reconstruction and maintenance of public roads.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Appropriation for Public Roads.* It appearing  
2 from a statement of the revenues and appropriations for the  
3 fiscal years one thousand nine hundred thirty-five—one thou-  
4 sand nine hundred thirty-six, and one thousand nine hundred  
5 thirty-six—one thousand nine hundred thirty-seven, that there  
6 remains in the treasury, state fund general revenue, revenue  
7 in excess of the amount hereby appropriated, there is hereby  
8 appropriated from the state fund general revenue to the  
9 state road fund for the fiscal year one thousand nine hundred  
10 thirty-six—one thousand nine hundred thirty-seven, to be used  
11 for the construction, reconstruction and maintenance of pub-  
12 lic roads, the sum of two million dollars, to be transferred  
13 from the state fund general revenue to the state road fund  
14 upon the requisition of the Governor, at such times and in  
15 such amounts as in his opinion the condition of the treasury  
16 warrants.

## CHAPTER 8

(House Bill No. 6 — By Mr. Thomas)

AN ACT to appropriate state funds necessary to secure federal grants-in-aid of certain state institutions.

[Passed June 19, 1936; in effect from passage. Approved by the Governor.]

**Section**

1. Appropriations for certain state institutions to furnish and equip buildings under construction by the Board of Control in cooperation with the Federal Emergency Administration of Public Works.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Appropriation to Secure Federal Grants-in-Aid for Certain State Institutions.* It appearing from a statement of the revenues and appropriations for the fiscal years one thousand nine hundred thirty-five—one thousand nine hundred thirty-six, and one thousand nine hundred thirty-six—one thousand nine hundred thirty-seven, that there remains in the treasury, state fund general revenue, revenue in excess of the amount hereby appropriated, there is hereby appropriated from the state fund general revenue the following sums of money for the purpose of furnishing and equipping the following buildings now under construction by the West Virginia Board of Control in cooperation with the Federal Emergency Administration of Public Works, such moneys to be expended under the direction of the West Virginia Board of Control as provided by law:

16	Pinecrest Sanitarium .....	\$ 7,300.00
17	Hopemont Sanitarium .....	13,100.00
18	Weston State Hospital.....	4,100.00
19	Marshall College .....	30,000.00
20	Concord State Teachers College.....	3,000.00
21	Glenville State Teachers College.....	8,500.00
22	West Liberty State Teachers College.....	2,700.00
23	West Virginia State College.....	33,500.00
24	Total.....	\$102,200.00



## CHAPTER 9

(Senate Bill No. 17 — By Mr. Hodges, by request)

AN ACT to appropriate public money out of the state treasury for the purpose of matching additional federal funds for vocational rehabilitation work, for the fiscal year ending June thirtieth, one thousand nine hundred thirty-seven.

[Passed June 19, 1936: in effect from passage. Approved by the Governor.]

### Section

1. Appropriation to match additional federal funds for vocational rehabilitation.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Appropriation for Vocational Rehabilitation.*

- 2 For the purpose of matching additional federal funds for  
3 vocational rehabilitation work, for the fiscal year ending  
4 June thirtieth, one thousand nine hundred thirty-seven, there  
5 is hereby appropriated from the state treasury out of funds  
6 not otherwise appropriated, the necessary sum of twelve thou-  
7 sand seven hundred thirty-four dollars sixty-seven cents.

—o—

## CHAPTER 10

(House Bill No. 2 — By Mr. Thomas)

AN ACT to extend the time for redemption of real estate sold for the non-payment of taxes assessed and levied thereon and purchased for the state, and providing that in making redemption of such real estate no interest, costs, fees or penalties shall be required to be paid for any year previous to the year one thousand nine hundred thirty-three.

[Passed June 16, 1936: in effect from passage. Approved by the Governor.]

### Section

1. Time extended for redemption of real estate sold for the non-payment of taxes and purchased for the state, including lands

**Section**

certified to the commissioner of school lands but not sold and sale confirmed; by whom and when redemption may be made; when interest, costs, fees or penalties not to be required; receipts for payment of taxes.

2. Auditor to accept and disburse tax payments and report redemptions monthly to county assessors.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Redemption of Real Estate Sold for the Non-Payment of Taxes.* Notwithstanding the provisions of section thirty, article ten, chapter eleven of the code of West Virginia, or the provisions of any other statute, the previous owner of any real estate sold for the non-payment of taxes assessed and levied thereon and purchased for the state, and including real estate certified to the commissioner of school lands of the respective counties, and including real estate against which suits have been instituted but no sale and confirmation of sale made, the heirs or assigns of such previous owner, or any person having a right to a lien on such real estate or having a right to charge it for a debt, may, on or before the thirtieth day of June, one thousand nine hundred thirty-seven, redeem the same by paying to the Auditor of the state of West Virginia the amount of all state, state school, county, school district, and other district taxes, and all municipal corporation taxes, including such taxes as were or should have been assessed thereon for the year in which the same was sold, together with such additional sums as would have accrued thereon for all of such taxes if the same had not been purchased for the state.

In making such redemption, no interest, costs, fees or penalties shall be required to be paid for any year or years prior to the year one thousand nine hundred thirty-three, but for the year one thousand nine hundred thirty-three and for the years subsequent thereto, such interest, costs, fees and penalties shall be required to be paid as are provided for by law.

When real estate is redeemed from the Auditor under the provisions of this act he shall execute triplicate receipts, one copy to be retained in the files of his office and two copies to be delivered to the person paying such taxes, and when one copy of such redemption receipt shall be presented to the clerk of the county court of the county in which the real

34 estate so redeemed is situated, such clerk shall record and file  
35 such receipt, and shall note such redemption on the records  
36 of his office wherein the sale of such real estate is shown. For  
37 such services the clerk shall receive no fee.

Sec. 2. *Auditor to Accept and Disburse Tax Payments;*  
2 *Reports to Assessors.* It shall be the duty of the Auditor of  
3 this state to accept payment of the taxes mentioned in section  
4 one of this act and to disburse same as other tax moneys are  
5 disbursed. He shall report monthly to the assessors of the  
6 several counties all redemptions permitted under the pro-  
7 visions of this act.

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## CHAPTER 11

(House Bill No. 3 — By Mr. Thomas)

AN ACT to provide a moratorium for the institution and prosecution of suits for the sale of forfeited or escheated lands.

[Passed June 17, 1936; in effect from passage. Approved by the Governor.]

### Section

1. Time extended for institution or prosecution of suits for the sale of forfeited or escheated lands; exceptions.

*Be it enacted by the Legislature of West Virginia:*

Section 1.—*Suits for Sale of Forfeited or Escheated*  
2 *Lands*—Notwithstanding the provisions of section ten, article  
3 three, chapter thirty-seven of the code of West Virginia, as  
4 amended by chapter eighteen, acts of the Legislature, first  
5 extraordinary session, one thousand nine hundred thirty-  
6 three, no suit shall be instituted or prosecuted for the sale of  
7 forfeited or escheated lands until after the thirtieth day  
8 of June, one thousand nine hundred thirty-seven: *Provided,*  
9 *That such suit may be instituted and prosecuted at any time*  
10 *at the instance and request of the former owner or owners*  
11 *of any particular tract or tracts of land, or of a redeemable*

12 interest or interests therein, or such suit may be instituted  
13 and prosecuted at any time at the express direction and  
14 order of the court.

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## CHAPTER 12

(House Bill No. 4 — By Mr. Speaker, Mr. Pelter)

AN ACT to authorize county courts, district boards of education, and municipalities to receive and expend federal grants-in-aid for the construction or improvement of public buildings and public improvements, and in conjunction therewith to raise and expend local revenues.

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[Passed June 19, 1936; in effect from passage. Approved by the Governor.]

### Section

1. County courts, district boards of education and municipalities authorized to receive and expend federal grants of money for public improvements in conjunction with local revenues, when authorized levies not needed for debt purposes may be used for public improvements.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Federal Grants of Money for Public Improve-*  
2 *ments.* That county courts, district boards of education and  
3 municipalities are hereby authorized to receive grants of  
4 money from the federal government or any department or in-  
5 strumentality thereof, for the construction or improvement  
6 or in aid of the construction or improvement of public build-  
7 ings and other public improvements, and may expend such  
8 moneys for such purposes.  
9 They may expend in conjunction with such federal grants,  
10 any moneys held or to be raised by them and not required for  
11 other public purposes, for the construction or improvement  
12 of such public buildings and public improvements, and may  
13 levy taxes therefor within the prescribed constitutional and  
14 statutory limitations of levies.

15 When any such county court, district board of education or  
16 municipality is not required to utilize its full allocation of  
17 levies for debt purposes, so much of the allocations of levies  
18 to the respective fiscal bodies for debt purposes made by  
19 chapter sixty-seven, acts of the Legislature of West Vir-  
20 ginia, second extraordinary session, one thousand nine hun-  
21 dred thirty-three, or any amendments thereto, as are not  
22 required for debt purposes, may be utilized for the purpose  
23 of raising moneys for the construction or improvement of  
24 such public buildings, and the making of other public im-  
25 provements.

## CHAPTER 13

(House Bill No. 13 — By Mr. Martin, of Jefferson)

AN ACT to amend and reenact section five, article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as said section was enacted by chapter forty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, relating to roads and highways.

[Passed June 20, 1936; in effect from passage. Approved by the Governor.]

### Section

5. Exercise of right of eminent domain by state road commission or state road commissioner for certain purposes, including interstate bridges and bridge sites; character of title acquired; exercise of right in adjoining state; proceedings may be at law or in equity.

*Be it enacted by the Legislature of West Virginia:*

That section five, article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as said section was enacted by chapter forty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

- Section 5. *Right of Eminent Domain.* The state road commissioner, or the state road commission may acquire by right of eminent domain any land or water, or any interest therein or any rights, ways, or easements thereon or thereover, for the

5 purpose of constructing, widening, straightening, grading, or  
6 altering any state road, or for the purposes enumerated in  
7 section twenty-five of this article, or to provide a detour or  
8 temporary road or bridge while a road is in the process of con-  
9 struction, reconstruction, improvement, or repair, or for any  
10 other purposes authorized by any provision of this chapter,  
11 whenever a just compensation cannot be agreed upon by the  
12 owner or claimant of such property, for such taking, use, or  
13 damage.

14 The state road commissioner, or the state road commission,  
15 for any of the purposes aforesaid may likewise acquire by  
16 eminent domain any bridge or bridge site across any stream  
17 separating this state from an adjoining state, any portion  
18 thereof, or the approaches thereto, or any interest, franchise,  
19 right, or privilege in the same, whether the same be owned  
20 and operated by a bridge company, a railroad or electric  
21 company, or other railway, or other utility, or any other  
22 person, firm, or corporation, such right to be exercised to  
23 provide either for a permanent title, ownership, use, or ease-  
24 ment thereon or thereover, or for a temporary use and ease-  
25 men thereon or thereover as a detour, or temporary road or  
26 bridge; and such rights may be acquired subject to the use  
27 by any railroad or electric company, or other railway or  
28 utility, or under such reasonable regulation as to such use  
29 as the court may prescribe. The state road commission may  
30 also exercise in any adjoining state such powers of eminent  
31 domain for any of the purposes aforesaid, whether such  
32 powers are now conferred or may be hereafter conferred  
33 upon the commission by any act of congress of the United  
34 States, if such act of congress be necessary for the exercise  
35 of such powers. Title to property condemned in any ad-  
36 joining state may be taken either in the name of the state  
37 or of the state road commission.

38 The proceedings for the purposes aforesaid may be insti-  
39 tuted in the name of the commissioner, or the state road  
40 commission, either at law or in equity, and prosecuted and  
41 determined as provided in chapter fifty-four.

## CHAPTER 14

(Senate Bill No. 14 — By Mr. Hodges, by request)

AN ACT to amend and reenact section nineteen, article three, chapter four, acts of the Legislature, regular session, one thousand nine hundred thirty-five, relating to the state control of alcoholic liquors.

[Passed June 19, 1936; in effect from passage. Approved by the Governor.]

### Section

1. Maximum amounts of collections by West Virginia Liquor Control Commission to be credited to operating and reserve funds; excess receipts to be transferred monthly to state fund general revenue.

*Be it enacted by the Legislature of West Virginia:*

Section 19. *Operating and Reserve Funds; Excess.* All  
2 moneys collected by the commission shall be credited to the  
3 operating fund until that fund reaches an amount sufficient  
4 for the current and routine requirements of the department,  
5 this amount to be fixed by the commission with the approval  
6 of the governor, and not to exceed at any time the sum of two  
7 hundred fifty thousand dollars. The receipts in excess of the  
8 requirements of the operating fund shall be paid into the  
9 reserve fund until the amount of the reserve fund equals  
10 three hundred fifty thousand dollars. Receipts in excess of  
11 the requirements of the operating and reserve funds shall be  
12 transferred monthly into the state fund general revenue of  
13 the state treasury upon requisition of the governor.

## CHAPTER 15

(Senate Bill No. 18 — By Mr. Randolph and Mr. Barnhart)

AN ACT establishing a West Virginia Commission on Interstate Cooperation.

[Passed June 20, 1936; in effect from passage. Approved by the Governor.]

### Section

1. West Virginia Commission on Interstate Cooperation created; duties.
2. Senate standing Committee on Interstate Cooperation: number and appointment of members; president of Senate may serve as member.
3. House of Delegates standing Committee on Interstate Cooperation: number and appointment of members.
4. Number and appointment of members of commission: chairman: governor to be honorary member.
5. Committees of commission; membership and duties; advisory boards.
6. Reports by commission to governor and legislature; members of commission and committees to serve without compensation.
7. Senate and House councils of the American Legislators' Association; terms; terms of administrative members.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Commission on Interstate Cooperation.* There is hereby established the West Virginia Commission on Interstate Cooperation, which shall encourage and arrange conferences with officials of other states and of other units of government; carry forward the participation of this state as a member of the Council of State Governments, both regionally and nationally; and formulate proposals for cooperation between this state and other states.

Sec. 2. *Senate Committee.* There is hereby established a standing Committee on Interstate Cooperation of the Senate, to consist of three Senators. The members and chairman of this committee shall be designated in the same manner as is customary in the case of the members and chairman of other standing committees of the Senate. The President of the Senate may serve as one of the three members of this committee.



2       Sec. 3. *House Committee.* There is hereby established a  
3 similar standing Committee on Interstate Cooperation of the  
4 House of Delegates, also to consist of three members; and the  
5 members and chairman of this committee shall be designated  
6 in the same manner as is customary in the case of the mem-  
7 bers and chairman of other standing committees of the House  
8 of Delegates.

2       Sec. 4. *Membership of the Commission.* The said Commis-  
3 sion on Interstate Cooperation shall be composed of twelve  
4 members, namely:

5       The three members of the Committee on Interstate Co-  
6 operation of the Senate;

7       The three members of the Committee on Interstate Co-  
8 operation of the House of Delegates;

9       Three private citizens of the state named by the governor;  
10 and

11       Three officials of the state government named by the gover-  
12 nor, one of whom shall be designated by him as the chairman  
13 of the commission.

14       The governor shall be an honorary member of the com-  
15 mission.

2       Sec. 5. *Committees; Duties; Advisory Boards.* The com-  
3 mission shall establish such committees as it deems advisable,  
4 to conduct conferences and to formulate proposals concerning  
5 subjects of intergovernmental cooperation. Subject to the  
6 approval of the commission, the members of every such com-  
7 mittee shall be appointed by the chairman of the commission.  
8 State officials who are not members of the Commission on  
9 Interstate Cooperation may be appointed as members of any  
10 such committee, but at least one member of the commission  
11 shall be a member of every such committee. The commission  
12 may provide such rules as it considers appropriate concerning  
13 the membership and the functioning of any committee which  
14 it establishes. The commission may provide for advisory  
15 boards for itself and for its various committees, and for the  
services of private citizens on such boards.

2       Sec. 6. *Reports of Commission.* The commission shall re-  
3 port to the governor and to the legislature within fifteen days  
4 after the convening of each regular legislative session, and at

4 such other times as it deems appropriate. Its members and  
5 the members of all committees which it establishes shall serve  
6 without compensation.

Sec. 7. *Councils of American Legislators' Association.* The  
2 said standing committee of the Senate, and the said standing  
3 committee of the House of Delegates, shall function during  
4 the regular sessions of the legislature and also during the  
5 interim periods between such sessions; their members shall  
6 serve until their successors are designated; and they shall  
7 respectively constitute the Senate and House Councils of the  
8 American Legislators' Association for this state. The term of  
9 each administrative member of the commission shall extend  
10 until the next gubernatorial inauguration and thereafter until  
11 his successor is appointed.

# RESOLUTIONS

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## HOUSE CONCURRENT RESOLUTION NO. 1

(BY MR. LAFON)

[Adopted June 15, 1936.]

Raising a joint committee to notify the Governor that the Legislature has assembled in extraordinary session.

*Resolved by the House of Delegates, the Senate concurring therein:*

That a joint committee be appointed, three by the President of the Senate and three by the Speaker of the House of Delegates, to wait upon His Excellency, the Governor, and inform him that the Legislature has assembled in extraordinary session, pursuant to his proclamation, issued on the sixth day of June, one thousand nine hundred thirty-six, with a quorum of each house present and is ready to receive any communication or message he may desire to present.

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## HOUSE CONCURRENT RESOLUTION NO. 2

(BY MR. THOMAS)

[Adopted June 15, 1936.]

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 an address by His Excellency, the Governor.

## HOUSE CONCURRENT RESOLUTION NO. 3

(BY MR. AMOS)

[Adopted June 18, 1936.]

Raising a joint committee to make an investigation and study of the laws of the State of West Virginia relating to the sale of non-intoxicating beer with regard to the administration thereof, the licensing of dispensers thereunder and any abuses of said law, and providing that such committee shall report its findings, together with suggested changes in said law, to the Governor and to the Legislature.

WHEREAS, It is the sense of the Legislature that a joint committee be appointed for the purpose of investigating and studying the functioning of the present beer law with particular regard to abuses thereunder by dispensers, and with a view to recommending legislation to correct such abuses and circumstances existing thereunder as tend to undermine public morals and decency; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That a joint committee of six be raised, to be known as "The Committee on Beer Legislation," three members thereof to be appointed by the President of the Senate and three members thereof to be appointed by the Speaker of the House of Delegates; that such committee investigate and study the functioning of the present beer law, with particular regard to abuses thereunder and any and all circumstances existing thereunder which tend to undermine public morals and decency; and that said committee report its findings, together with suggested changes in the non-intoxicating beer law, to the Governor and both houses of the Legislature, on or before November 30, 1936.

Said committee is hereby authorized to hold its meetings in any part of the State of West Virginia it may determine, and the expenses of the members of said committee shall be paid equally from the contingent funds of the Senate and House of Delegates upon certificate of the Chairman of said committee after approval of the President of the Senate and the Speaker of the House of Delegates.

## HOUSE CONCURRENT RESOLUTION NO. 4

(BY MR. RUSSEK)

[Adopted June 18, 1936.]

Concerning the one hundredth anniversary of the City of Wheeling.

WHEREAS, The City of Wheeling proposes on the seventeenth to the twenty-first days of September, both inclusive, of this year, to celebrate the one hundredth anniversary of its incorporation as a municipality; and

WHEREAS, The City of Wheeling and the communities surrounding it have played an important part in the history of this State and the commonwealth of Virginia before the organization of this State, it having been the location of one of the first settlements in the Ohio Valley; long a trading center of river navigation before the advent of the railroad; a pioneer in the iron and steel business; the place of the convention which originated the organization of the State of West Virginia; the first capital of the State; and, during all this period, a leader in the industrial, social and professional life of the State, which position it still maintains; and

WHEREAS, The celebration of the organization of the City of Wheeling is an event of interest not only to the people of West Virginia but to the bordering states and one to which attention should be given by this body; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the Legislature of West Virginia hereby approves the aims and purposes of the proposed centennial celebration and urges that the people of this state attend the celebration and give to it their active support; and, be it

*Further Resolved,* That the Governors of the States of Ohio, Pennsylvania and Virginia be notified of the said anniversary celebration and be invited to participate therein, and that such invitation be extended by delivering to the Governors of the said states a copy of this resolution; and, be it

*Further Resolved,* That we hereby felicitate the citizens of the City of Wheeling upon its splendid progress in the century just

closing, and congratulate them on the prospects for the future along all lines which have made it a great community, and a splendid part of our commonwealth; and, be it

*Further Resolved*, That a copy of this resolution be transmitted to Thomas M. Block, Chairman of the Centennial Celebration Committee.

### HOUSE CONCURRENT RESOLUTION NO. 8

(BY MR. VICKERS)

[Adopted June 20, 1936.]

Authorizing the payment of expenses for services and supplies after the close of this extraordinary session of the Legislature.

*Resolved by the House of Delegates, the Senate concurring therein:*

That the Legislature of West Virginia hereby authorizes the payment of expenses for services and supplies incurred after the close of this extraordinary session of the Legislature, in completing the work of the session, and that the Auditor is hereby authorized and directed to honor and pay the warrants of the Clerk of the Senate and the Clerk of the House of Delegates, drawn in favor of persons for services performed or supplies furnished, as authorized by either separate or concurrent action of the two houses; and, be it

*Further Resolved*, That all extensions of per diem authorized by House Resolution No. 17, per diem and expenses authorized by House Resolution No. 19, and by Senate Resolutions for similar purposes, are hereby declared to be authorized by the Legislature and shall have the same force and effect as if they were incorporated herein.

### HOUSE CONCURRENT RESOLUTION NO. 9

(BY MR. LAFON)

[Adopted June 20, 1936.]

Raising a joint committee to notify His Excellency, the Governor, that the Legislature is ready to adjourn *sine die*.

*Resolved by the House of Delegates, the Senate concurring therein:*

That a joint committee of six, consisting of three 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 to notify His Excellency, the Governor, that the Legislature has completed its labors for which it was convened in extraordinary session, is ready to adjourn *sine die*, and inquire of him if he has any further communication to make to the Legislature.

### HOUSE RESOLUTION NO. 1

(BY MR. JAMES)

(Originating in the Committee on Rules)

[Adopted June 15, 1936.]

Adoption of House Rules and authorizing the use of a voting machine.

*Resolved by the House of Delegates:*

That the rules of the House of Delegates for the 1935 regular session of the Legislature insofar as applicable, and as the same may be modified and amended by the adoption of rules providing for the use of a voting machine, are hereby adopted as the rules to govern the proceedings of this extraordinary session; and, be it

*Further Resolved*, That a new rule to be numbered 49-a, be adopted, as follows:

49-a. *Voting by Machine.* A voting machine may be used in taking the yeas and nays on any question, for quorum calls and for determining the result when a division is demanded.

When a vote is to be taken on the voting machine the Speaker shall announce the question to be voted upon and direct the Clerk to prepare the machine. The Clerk shall then sound the gong which shall be notice to all members to vote. After reasonable time has been given all members to vote the Speaker shall ask the question "Have all members voted?", vote himself, if the vote being taken is upon a question on which he is required to vote,

and then direct the Clerk to close the machine and ascertain the result. As soon as this is done, the Clerk shall hand the record of the vote to the Speaker and he shall promptly announce the result. No vote may be changed after it has been recorded.

No member shall vote for another member, nor shall any person not a member cast a vote for a member. In addition to such penalties as may be prescribed by law, any member who shall vote or attempt to vote for another member may be expelled as a member of the House or punished in such other manner as the House may determine. If a person not a member shall vote or attempt to vote for any member he shall be barred from the floor of the House for the remainder of the session and may be further punished in such manner as the House may deem proper, in addition to such punishment as may be prescribed by law.

All other rules governing voting and the taking of the yeas and nays, insofar as applicable, shall apply to taking votes by means of the voting machine.

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## HOUSE RESOLUTION NO. 2

(BY MR. GENTRY)

[Adopted June 15, 1936.]

Raising a committee to inform the Senate that the House of Delegates has assembled in extraordinary session.

*Resolved by the House of Delegates:*

That the Speaker appoint a committee of three to inform the Senate that a quorum of the House of Delegates has assembled in its chamber in extraordinary session, pursuant to the proclamation of His Excellency, the Governor, issued on the sixth day of June, one thousand nine hundred thirty-six, and is ready to proceed with the business for which this extraordinary session of the Legislature has been convened.



## HOUSE RESOLUTION NO. 3

(BY MR. WISEMAN)

[Adopted June 15. 1936.]

Concerning the death of the Honorable C. N. Proctor.

WHEREAS, The Honorable C. N. Proctor, a member of this body from the County of Fayette, has departed this life; and

WHEREAS, He was one of Fayette County's leading citizens, a prominent business man, a hard-working member of the Legislature and a devoted servant of the people; and

WHEREAS, In the passing of Delegate Proctor this body and the county which he represented well and faithfully loses a capable, distinguished legislator; therefore, be it

*Resolved by the House of Delegates:*

That this body deploras the loss of this member and extends to his family the heartfelt sympathy of the members of the House of Delegates; and, be it

*Further Resolved,* That the Clerk transmit a copy of this resolution to the widow of the deceased.

## HOUSE RESOLUTION NO. 4

(BY MR. STROUSS)

[Adopted June 15. 1936.]

Authorizing the Clerk to compile and have a Legislative Manual printed.

WHEREAS, The rules of the Legislature have not been printed in convenient form for use of the members; therefore, be it

*Resolved by the House of Delegates:*

That the Clerk is hereby authorized to compile and have printed without delay a Legislative Manual containing the rules of the Legislature and such other matter as he may deem proper.

## HOUSE RESOLUTION NO. 5

(BY MR. HINER)

(Originating in the Committee on Rules)

[Adopted June 15, 1936.]

Authorizing the appointment of attaches for this extraordinary session of the Legislature.

*Resolved by the House of Delegates:*

That the Speaker of the House of Delegates be, and he is hereby authorized to appoint for the House of Delegates, the following attaches and other employees to receive the per diems as herein provided during this extraordinary session of the Legislature:

## (1) For the Clerk's office the following:

Two record clerks at seven dollars per day;  
Two roll-call clerks at six dollars per day;  
One supervisor of printing at ten dollars per day;  
Four proofreaders at seven dollars per day;  
Four copyholders at seven dollars per day;  
One clerk to the Committee on Enrolled Bills at seven dollars per day;  
One messenger at five dollars per day;  
Two stenographers at seven dollars per day;  
One assistant clerk at ten dollars per day;  
One Journal clerk at ten dollars per day;  
One Journal stenographer at eight dollars per day;

## (2) For other offices and positions the following:

One Chaplain at six dollars per day;  
One Clerk and one stenographer to the Committee on Taxation and Finance at ten and seven dollars per day, respectively;  
One Clerk and one stenographer to the Committee on the Judiciary at ten and seven dollars per day, respectively;  
One Clerk and one stenographer to the Committee on Roads at eight and seven dollars per day, respectively;  
One supervisor of stenographers at ten dollars per day;  
Twenty-five stenographers at seven dollars per day;  
One Chief Journal Room Clerk at eight dollars per day;

Ten Assistant Journal Room Clerks at seven dollars per day;  
One mailing clerk at eight dollars per day;  
Five assistant mailing clerks at seven dollars per day;  
Five pages at four dollars per day;  
Three assistant Sergeants-at-Arms at six dollars per day;  
Six assistant Doorkeepers at six dollars per day;  
Two men's cloak room attendants at five dollars per day;  
One ladies' cloak room attendant at five dollars per day;  
Four janitors at five dollars per day;  
One nightwatchman at six dollars per day; and, be it

*Further Resolved*, That the secretary and stenographer to the Speaker, as provided for by the rules of the House, shall receive ten and eight dollars per day, respectively; and that the secretary and stenographer to the Clerk, as provided for by the rules, shall receive seven and ten dollars per day, respectively; and, be it

*Further Resolved*, That the Clerk of the House shall receive twenty dollars per day; that the Sergeant-at-Arms and Doorkeeper shall each receive ten dollars per day; and that the three assistant clerks provided for by section nine, article one, chapter four of the code, shall each receive ten dollars per day; and, be it

*Further Resolved*, That all of the appointments made under authority of this resolution shall be certified to the Auditor and Treasurer by the Clerk, and the Clerk is hereby authorized to draw his warrants or requisitions upon the Auditor in favor of the persons so appointed and the Auditor shall honor and pay such warrants when presented and charge same to the "per diem of officers and attaches fund of the House of Delegates." The Clerk shall draw his warrants in favor of officers, attaches and other employees, for consecutive days from the date of the opening of this session, at the per diem herein set out, until such time as their services shall cease. The Speaker shall require each of said employees to perform such duties as shall be assigned him and is hereby given authority to dispense with the services of any attache or attaches for any such time or number of days as their services shall not be needed during the session, and they shall not be paid for such time, nor shall other persons be appointed in their places for any such time as they may be suspended when not needed; and, be it

*Further Resolved*, That the Speaker is hereby authorized to assign attaches and employees to such positions and duties as he may deem proper to secure the most efficient and expeditious work during the session of the Legislature.

HOUSE RESOLUTION NO. 6

(BY MR. THOMAS)

[Adopted June 15, 1936.]

Authorizing payment for services rendered preliminary to the opening of this session.

*Resolved by the House of Delegates:*

That the Clerk is hereby directed to draw his warrants upon the Auditor in favor of the following persons in the amounts herein set out, for services rendered the House of Delegates, preliminary to the convening of the Legislature:

John S. Hall, Clerk.....	\$140.00
O. C. Parsons.....	70.00
Wm. O. Dower.....	70.00
Elmer Ferrell.....	70.00
Hal. F. Depue.....	70.00
C. R. Bishop.....	70.00
Jack Diamond.....	35.00
Sam White, Janitor.....	30.00
W. E. Kirkle, Janitor.....	25.00
Dell Mullens, Janitor.....	20.00
Jack Thomas, Janitor.....	30.00
J. A. Morgan, Janitor.....	10.00
Mrs. Jimmy Jackson.....	20.00

All of said amounts to be paid out of the "per diem of officers and attaches fund of the House of Delegates."

## HOUSE RESOLUTION NO. 9

(BY MR. VAN SICKLER)

[Adopted June 18, 1936.]

Relating to quarters for the West Virginia Liquor Control Commission.

WHEREAS, The West Virginia Liquor Control Commission has in its clerical employ more than one hundred persons, seventy of whom, together with auditing machines, stationary desks, record cabinets and other necessary equipment are now located in one room in the basement of the capitol, which room is without natural light, is inadequately ventilated, and is otherwise unsuited for the purpose for which it is being used; and

WHEREAS, Because of the said existing conditions the health and comfort of said employees are threatened and jeopardized, and the proper and orderly business of said commission is impaired and impeded; therefore, be it

*Resolved by the House of Delegates:*

That the Board of Public Works be and the same is hereby requested to promptly provide suitable and convenient quarters for the use of the said commission, to the end that the public business conducted by it may be transacted with convenience, decorum and dispatch, and the health and comfort of its employees vouched and safeguarded.

## HOUSE RESOLUTION NO. 10

(BY MR. GENTRY)

[Adopted June 19, 1936.]

Directing the Auditor to request members of the House of Delegates who have resigned to return their salary to the State Treasury.

WHEREAS, Since drawing their salary for the year, 1936, a number of members of this body have resigned to accept appointments to positions with the Federal Government; therefore, be it

*Resolved by the House of Delegates:*

That the State Auditor is hereby directed to request the members of the House of Delegates who have resigned since the 1935 regular session, and who have been paid their salaries for 1936, to return same, or any unearned portion of same, to the State Treasury.

HOUSE RESOLUTION NO. 12

(BY MR. NEAL)

[Adopted June 10, 1936.]

Requesting the Clerk of the Senate to furnish the members of the House of Delegates with additional Blue Books.

WHEREAS, Many members of the House of Delegates have exhausted their allotment of the 1935 Blue Book, and have had many calls for additional copies of said book; therefore, be it

*Resolved by the House of Delegates:*

That the Clerk of the Senate is hereby requested to give each member of this House twelve additional copies of the 1935 Blue Book.

HOUSE RESOLUTION NO. 13

(BY MR. REED, by request)

[Adopted June 20, 1936.]

Granting permission for David Lasser to address the House of Delegates.

WHEREAS, The National Workers' Alliance of America with a membership of eight hundred thousand, through its Chairman, David Lasser, has requested ten or fifteen minutes' time for Mr. Lasser to speak to this body in behalf of certain subjects in which the said organization is interested; therefore, be it

*Resolved by the House of Delegates:*

That David Lasser be granted permission to address this body before adjournment.

## HOUSE RESOLUTION NO. 14

(BY MR. WADE)

[Adopted June 20, 1936.]

Expressing appreciation and thanks to the people of the Commonwealth of Pennsylvania, the people of the State of Ohio, the people of the State of West Virginia, the American Red Cross, the American Legion and the Salvation Army for the splendid assistance rendered to the people of the devastated flood area.

WHEREAS, In March of 1936, there came to the Upper Ohio Valley the most devastating flood ever known in the history of our State, and took a heavy toll of property and life, and left many families homeless, hungry, cold and destitute. Our people in the flood area being in dire need of the necessities of life and not being able to obtain the same, were given immediate aid in the way of food, clothing, furniture, medical care and money by the people of the Commonwealth of Pennsylvania, the people of the State of Ohio, the people of the State of West Virginia, the American Red Cross, the American Legion and the Salvation Army; therefore, be it

*Resolved by the House of Delegates:*

That this body go on record as appreciating and thanking the people of the Commonwealth of Pennsylvania, the people of the State of Ohio, the people of the State of West Virginia, the American Red Cross, the American Legion, the Salvation Army and all other organizations and individuals for the splendid assistance rendered to the people of the devastated flood area; and, be it

*Further Resolved,* That the Clerk of the House of Delegates send a copy of this resolution to the Governor of the Commonwealth of Pennsylvania, the Governor of the State of Ohio, the National Chairman of the American Red Cross, the General of the Salvation Army, and the National Commander of the American Legion.

## HOUSE RESOLUTION NO. 15

(BY MR. GALBRAITH)

[Adopted June 20, 1936.]

Authorizing the Auditor and Treasurer to pay salaries of certain members of the House of Delegates.

WHEREAS, The Governor has appointed the following named persons to fill vacancies in the House of Delegates; and

WHEREAS, Each of said persons has qualified as a member of the House of Delegates, by taking and subscribing to the several oaths prescribed by section sixteen, article six of the Constitution of this State; therefore, be it

*Resolved by the House of Delegates:*

That upon the warrants of the Clerk, the Auditor and Treasurer are hereby authorized and directed to pay to the following members, the sum of five hundred dollars each, as salary for the year one thousand nine hundred thirty-six, in advance of the appropriation for the purpose:

George S. Wallace, Huntington, West Virginia, to fill the vacancy caused by the resignation of the Honorable Ed V. Perry, of Cabell County.

Mrs. Allie Dickerson Proctor, Clifftop, West Virginia, to fill the vacancy caused by the death of the Honorable C. N. Proctor, of Fayette County.

Paul H. Kidd, Glenville, West Virginia, to fill the vacancy caused by the resignation of the Honorable E. E. Cottrill, of Gilmer County.

Clifford R. Snider, Clarksburg, West Virginia, to fill the vacancy caused by the resignation of the Honorable John H. Clifford, of Harrison County.

E. E. White, Madison, West Virginia, to fill the vacancy caused by the resignation of the Honorable Arnold G. Breedlove, of Boone County.



## HOUSE RESOLUTION NO. 16

(BY MR. THOMAS)

[Adopted June 20, 1936.]

Authorizing the Auditor to pay mileage to the Doorkeeper of the House of Delegates.

*Resolved by the House of Delegates:*

That the Clerk is hereby authorized to draw his warrant upon the Auditor in the amount of \$61.80 for mileage for the Honorable J. N. Finley, Doorkeeper of the House of Delegates, to be paid from the appropriation for mileage hereafter to be made.

## HOUSE RESOLUTION NO. 17

(BY MR. HINER)

(Originating in the Committee on Rules)

[Adopted June 20, 1936.]

Authorizing the printing of the Acts and the House Journal of this session of the Legislature and providing for extension of time for persons to complete the work of the session.

*Resolved by the House of Delegates:*

That under authority of section thirteen, article one, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, the clerk of the House of Delegates is hereby directed to have printed by the public printer six thousand copies of the Acts of this extraordinary session of the Legislature, in pamphlet form, properly headnoted, indexed and with a full table of contents, for distribution among the members of the Legislature, judges of the supreme court of appeals, circuit, common pleas, criminal and intermediate courts, and the county officials.

The public printer shall print and deliver said copies of the Acts as soon as possible after the adjournment of this session. The Clerk of the Senate shall be furnished sufficient copies to forward by mail or express twenty of said copies to each member of the State Senate, and the Clerk of the House of Delegates shall forward by mail or express twenty copies of said Acts to each member of the House of

Delegates, as soon as the same are printed and available for distribution. The Clerk of the House of Delegates shall also furnish one copy to each of the state officials, judges of the supreme court of appeals, circuit, common pleas, criminal and intermediate courts of this state, and shall forward to the county clerk of each county, sufficient copies to furnish one copy to each county office; the remainder, if any, shall be delivered to the superintendent of public printing for distribution by him. The Clerk of the House of Delegates is also authorized to have printed, in signature form or advance sheets, any general law which he may deem to be of sufficient importance to be issued and distributed in this form.

The type from which said Acts are printed shall be held by the public printer and the Acts of this session shall be included in the bound volume of the next regular session of the Legislature.

For the work required in printing and distributing the Acts of this session, and for proofreading, indexing and headnoting the same; for the purpose of arranging and filing of all bills, resolutions and other official papers in the office of the Speaker and Clerk; for indexing, proofreading and printing of the Journals of the House of Delegates; for the purpose of arranging the offices and committee rooms and performing the other duties of the office of the Sergeant-at-Arms, the time of the following officers and employees is extended for the time hereinafter set out, at the same per diem as paid during this extraordinary session of the Legislature, to-wit:

The Clerk, two assistant clerks, the secretary to the Clerk, the journal clerk, the journal stenographer, the secretary to the Speaker, two stenographers and one janitor is extended for thirty days; two proofreaders and two assistant clerks for twenty days; two mailing clerks, the chief journal room clerk, the Sergeant-at-Arms, the Doorkeeper and two janitors is extended for ten days.

All persons given extensions of time in this resolution shall be paid the same per diem as paid for the same positions during this extraordinary session. The Clerk shall draw his warrants upon the Auditor in favor of the persons entitled to per diems under this resolution for consecutive days until such time as their services cease, and the Auditor shall honor and pay such warrants when presented and charge same to the contingent fund of the House of Delegates.

To pay postage or expressage on the Acts and Journals, the sum of two hundred dollars is hereby directed to be paid by the Auditor from the contingent fund of the House of Delegates upon the warrants of the Clerk.

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HOUSE RESOLUTION NO. 18

(BY MR. PAUL)

[Adopted June 20, 1936.]

Directing the Clerk to mail the members a copy of the corrected House Journal.

*Resolved by the House of Delegates:*

That the Clerk of the House of Delegates is hereby authorized and directed to mail each member of this body a copy of the corrected House Journal of this session of the Legislature when the same is printed and bound.

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HOUSE RESOLUTION NO. 19

(BY MR. JAMES)

(Originating in the Committee on Rules)

[Adopted June 20, 1936.]

Providing for the selection and equipping of permanent offices for the Clerk of the House of Delegates.

WHEREAS, The Clerk of the House of Delegates is keeper of the rolls of the Legislature and has in his custody all engrossed bills passed by the Legislature, joint and concurrent resolutions adopted, as well as many other official records and documents; and

WHEREAS, The Clerk of the House of Delegates does not now have suitable and adequate office space for filing and safekeeping of the official legislative records; and

WHEREAS, It is highly important that all legislative records be preserved; therefore, be it

*Resolved by the House of Delegates:*

That the Rules Committee of this House is hereby directed to

immediately select adequate and suitable offices for the Clerk of the House of Delegates; and, be it

*Further Resolved*, That the Clerk and one assistant, to be designated by the Clerk, be paid for ten days at the same per diem as paid during this extraordinary session, for filing, indexing, and arranging the official papers of the Clerk's office before the next regular session of the Legislature; and, be it

*Further Resolved*, That if additional filing cabinets and other furniture or equipment is needed to properly outfit and furnish a permanent office for the Clerk, he is hereby authorized to purchase same at a cost not to exceed five hundred dollars (\$500.00). All bills for expenses incurred under authority of this resolution shall be paid by the Auditor from the contingent fund of the House of Delegates upon warrants of the Clerk.

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#### HOUSE RESOLUTION NO. 20

(BY MR. BROTHERTON)

[Adopted June 20, 1936.]

Notifying the Senate that the House of Delegates is ready to adjourn *sine die*.

*Resolved by the House of Delegates:*

That a committee of three be appointed by the Speaker to notify the Senate that the House of Delegates has completed its labors and is ready to adjourn *sine die*.

---

#### SENATE CONCURRENT RESOLUTION NO. 1

(BY MR. SPILLERS)

[Adopted June 15, 1936.]

Relating to joint rules of the Senate and House of Delegates.

*Resolved by the Senate, the House of Delegates 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-five, are hereby adopted and shall govern the proceedings of this extraordinary session.

## SENATE CONCURRENT RESOLUTION NO. 2

(BY MR. SMITH)

[Adopted June 15, 1936.]

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 the Clerk of the House of Delegates, to pay the mileage of the members of the Senate and the House of Delegates; bills incurred and services furnished to the Legislature for this session, including contingent expenses; the per diem of the officers and attaches of the Senate and House of Delegates and for legislative printing of this session, as the accounts for same may come due.

## SENATE CONCURRENT RESOLUTION NO. 3

(BY MR. BARNHART)

[Adopted June 15, 1936.]

Continuing the Joint Committee to study and report to the Governor and to the Legislature, concerning legislation on problems of Social Security and other subjects appurtenant thereto.

WHEREAS, The Joint Legislative Committee on Social Security legislation, created by Senate Concurrent Resolution No. 10, adopted March 1, regular session, 1935, has submitted to the Governor and to the Legislature its report and recommendations on those phases of the Federal Social Security program, dealing with grants-in-aid and with general relief; and

WHEREAS, The committee on page four of its report calls attention to studies in which it is now engaged on the subject of Unemployment Compensation, and upon which it is not yet ready to report to the Legislature; and

WHEREAS, The report further indicates the belief of the com-

mittee that this question must be met and answered before the first federal payroll levy therefor is due and payable on January 31, 1937; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That the said Joint Committee, created under Senate Concurrent Resolution No. 10, adopted March 1, 1935, be continued until December 1, 1936, and that the Committee be directed to make its report to the Governor and to the Legislature on the subject of Unemployment Compensation, on or before that date.

Said committee is hereby authorized to meet in the City of Charleston or elsewhere, as it may determine, the expenses of the members of said committee to be paid equally from the contingent funds of the Senate and House of Delegates upon certificate of the chairman of said committee. Said committee is further authorized, should it deem it advisable, to employ such legal counsel and assistants as it may deem necessary.

## SENATE CONCURRENT RESOLUTION NO. 6

(BY MR. FLEMING)

[Adopted June 20, 1936.]

Concerning the Annual Ohio River Festival.

WHEREAS, The citizens of the town of Ravenswood and the surrounding territory, in the month of September, in the year one thousand nine hundred thirty-five, inaugurated and held a celebration, known as the First Annual Ohio River Festival, in commemoration of those pioneers whose noble and heroic sacrifices carried the fruits of European civilization from the Atlantic seaboard into the Ohio Valley, and who relied upon the new stream and the new land for the development of an independent and self-reliant character; and

WHEREAS, The celebration of the Second Annual Ohio River Festival will be held at Ravenswood on the fifth, sixth and seventh days of September of this year; and

WHEREAS, The celebration is an event of interest not only to

the people of West Virginia, but to the bordering states, and one to which attention should be given by this body; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That the Legislature of West Virginia hereby approves the aims and purposes of the Annual Ohio River Festival and urges that the people of this state attend the celebration and give to it their active support; and, be it

*Further Resolved.* That the Governors of the States of Ohio, Pennsylvania and Kentucky be notified of the said celebration and be invited to participate therein, and that such invitation be extended by delivering to the Governors of the states a copy of this resolution; and, be it

*Further Resolved.* That we hereby felicitate the citizens of the town of Ravenswood and the surrounding territory upon the inauguration of this annual celebration and congratulate them upon its prospects for the future; and, be it

*Further Resolved.* That a copy of this resolution be transmitted to the Ohio River Festival Association, Inc.

## SENATE RESOLUTION NO. 1

(BY MR. FLEMING)

[Adopted June 15, 1936.]

Raising a committee to inform the House of Delegates that the Senate has assembled in extraordinary session.

*Resolved by the Senate:*

That a committee of three be appointed by the President to inform the House of Delegates that the Senate has assembled in extraordinary session pursuant to the proclamation of his Excellency, Governor H. G. Kump, with a quorum present, and is ready to proceed with the business of the extraordinary session.

## SENATE RESOLUTION NO. 2

(BY MR. MITCHELL)

[Adopted June 15, 1936.]

Adopting rules of the Senate.

*Resolved by the Senate:*

That the rules of the Senate, regular session, one thousand nine hundred thirty-five, be adopted as the rules of the Senate for this session.

## SENATE RESOLUTION NO. 3

(BY MR. HELMICK)

[Adopted June 15, 1936.]

Relating to the appointment of assistant janitors.

WHEREAS, Lawrence M. Cunningham, Superintendent of Capitol buildings and grounds, under authority of section twenty-two, article one, chapter five of the code, has designated six assistants for the janitor work of the Senate for this session; therefore, be it

*Resolved by the Senate:*

That the per diem of said assistant janitors is fixed at four dollars, and that of the said Lawrence M. Cunningham is fixed at two dollars, as the Senate's one-half of his per diem.

## SENATE RESOLUTION NO. 4

(BY MR. GARRETT)

[Adopted June 15, 1936.]

Relating to the mailing of Journals and bills.

*Resolved by the Senate:*

That the Clerk of the Senate is authorized to have mailed from the Senate document room, copies of the bills and daily Journals of the Senate to addresses to be furnished to the Clerk by the members of the Senate, twenty of which such addresses may be submitted by each member of the Senate, and that the expense of such mailing, including postage, be paid out of the contingent fund of the Senate by the Auditor, in advance of the appropriation therefor, upon proper requisition drawn by the Clerk of the Senate.



## SENATE RESOLUTION NO. 5

(BY MR. HODGES, MR. PRESIDENT)

[Adopted June 15, 1936.]

Expressing the sympathy of the members of the Senate for Honorable George O. Young, confined to his home by illness.

WHEREAS, Honorable George O. Young, of Buckhannon, West Virginia, member of the State Senate, representing the Thirteenth District, is prevented by illness from occupying his seat in this body at the convening of this extraordinary session; therefore, be it

*Resolved by the Senate:*

That the sympathy of the members is extended to Senator Young, with the wish for his speedy and complete recovery, and that the Senate Clerk be directed to send to Senator Young a floral token expressing the esteem and affection in which he is held by his fellow-members of the State Senate.

## SENATE RESOLUTION NO. 6

(BY MR. HODGES, MR. PRESIDENT)

(Originating in the Committee on Rules)

[Adopted June 18, 1936.]

Relating to the payment for services of attaches.

*Resolved by the Senate:*

That the Clerk of the Senate is authorized to draw his warrants upon the Auditor in favor of the following named persons for the amounts set opposite their names for services rendered preparatory to the convening of this extraordinary session of the Legislature, and for extra services performed during the first two days of the session.

Fred D. Wolfe.....	\$30.00
Mont Rinehart.....	25.00
Raymond Bush.....	8.00
Arch McQueen.....	8.00
Philip Haddad .....	8.00

James Prunty.....	8.00
Clarence Starghill.....	10.00
Bernard White.....	8.00

## SENATE RESOLUTION NO. 7

(BY MR. HODGES, MR. PRESIDENT)

(Originating in the Committee on Rules)

[Adopted June 18, 1936.]

Authorizing the appointment of attaches.

*Resolved by the Senate:*

That the President of the Senate is authorized to make the following appointments, viz:

Seven floor stenographers, at \$7.00 per day each;  
 One mail clerk, at \$7.00 per day;  
 One assistant Sergeant-at-Arms, at \$7.00 per day;  
 One clerk to the Sergeant-at-Arms, at \$7.00 per day;  
 One secretary to the minority, at \$12.00 per day;  
 One minority stenographer, at \$9.00 per day;  
 One secretary to the President, at \$12.00 per day;  
 One messenger to the President, at \$4.00 per day;  
 Three assistant doorkeepers, at \$7.00 per day each;  
 One enrolled bill clerk, at \$8.00 per day;  
 One chief page, at \$5.00 per day;  
 Two pages, at \$4.00 per day each;  
 One men's cloakroom attendant, at \$4.00 per day;  
 One woman's cloakroom attendant, at \$4.00 per day; and, be it

*Resolved further,* That the Clerk of the Senate is authorized to make the following appointments, viz:

Four proofreaders, at \$8.00 per day each;  
 Two copyholders, at \$7.00 per day each;  
 One assistant and secretary to the Clerk, at \$12.00 per day;  
 One Journal stenographer, at \$9.00 per day;  
 Five Journal room clerks, at \$7.00 per day each;  
 Four document room clerks, at \$7.00 per day each; and, be it

*Resolved further*, That the Sergeant-at-Arms shall receive \$10.00 per day; the Doorkeeper \$10.00 per day; and the Clerk \$20.00 per day.

The Clerk shall draw his warrants upon the Auditor in favor of the officers and attaches herein appointed for consecutive days from the date of the opening of this session at the per diems herein set out, and the Auditor shall honor and pay such warrants in advance of the appropriation for the purpose, when presented, and charge same to the "per diem of officers and attaches" fund of the Senate.

The President and the Clerk shall require said employees to perform the duties assigned to them, and they are authorized and directed to remove any of such employees whose work is not satisfactory and to appoint another in his place.

#### SENATE RESOLUTION NO. 8

(By MR. HODGES, MR. PRESIDENT)

(Originating in the Committee on Rules)

[Adopted June 20, 1936.]

Relating to the printing of the Journal and Acts of this extraordinary session of the Legislature.

*Resolved by the Senate:*

The Clerk, together with the Clerk of the House of Delegates, is hereby directed to have printed by the public printer, six thousand copies of the Acts of this session, in pamphlet form, properly headnoted, indexed and with a full table of contents, for distribution among the members of the Legislature, Judges of the Supreme Court of Appeals and of the Circuit, Criminal and Intermediate Courts, Circuit and County Clerks, Sheriffs and Prosecuting Attorneys.

Said public printer shall print and deliver said copies to the clerks of the two houses as soon as possible after 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 twenty of said copies, and one copy to each of the state officials, and the remainder, if any, they shall deliver to the superintendent of printing and stationery 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 one hundred and fifty dollars out of the contingent fund of the Senate is hereby directed to be paid by the Auditor, upon proper warrant to pay the postage or expressage on said advance copies.

In order to complete the work of the session in arranging and filing of all bills, resolutions, petitions and other official papers in the Clerk's office and document room, and to allow time for proofreading, printing and indexing the corrected Journal and arranging and printing its several appendices, and in printing and indexing the volume of Senate Bills, and in completing the work in the mailing and document rooms and in performing other services incident to the closing of this session of the Legislature, the per diem of the Clerk, at \$20.00 per day, two assistant clerks at \$12.00 each, one assistant clerk at \$9.00 and two assistant clerks at \$8.00 each is extended for thirty days; two assistant clerks at \$8.00 for fifteen days each; one enrolled bill clerk at \$8.00 for five days; three assistant clerks at \$7.00 for seven days each; one assistant clerk at \$9.00 for three days; one messenger in clerk's office at \$5.00 for thirty days; secretary to the President at \$12.00 for thirty days; the Sergeant-at-Arms at \$10.00 for fifteen days; the Door-keeper at \$10.00 for ten days; one janitor at \$4.00 for ten days; and, one janitor at \$4.00 for thirty days.

All extensions provided for herein shall begin at the end of this session of the Legislature.

The compensation of those designated hereunder shall be paid out of the contingent fund of the Senate for consecutive days upon proper requisition drawn by the Clerk of the Senate upon the Auditor.

## SENATE RESOLUTION NO. 9

(BY MR. HELMICK)

(Originating in the Committee on Rules)

[Adopted June 20, 1936.]

Payment for stenographic services.

*Resolved by the Senate:*

That the Clerk of the Senate is authorized to draw his warrant upon the Auditor in favor of Grayce Cunningham, for stenographic services rendered the President of the Senate, in his official capacity, from May 1, 1935, to July 1, 1936, for four hundred and twenty dollars.

## SENATE RESOLUTION NO. 10

(BY MR. MITCHELL)

[Adopted June 20, 1936.]

Committee to notify House of Delegates.

*Resolved by the Senate:*

That a committee of three be appointed by the President of the Senate to notify the House of Delegates that the Senate is ready to adjourn *sine die*.



# INDEX

## ACTS AMENDED:

ACTS	CH.	ART.	SEC.	SESS.	PAGE
1933	40			First Ex. Sess.	(Roads and high-ways—eminent domain) ..... 55
1935	4	3	19	Reg. Sess.	(Transfer of funds of Liquor Control Commission) ..... 87

## ACTS REPEALED:

ACTS	CH.	ART.	SEC.	SESS.	PAGE
1931	2				(Department of Public Welfare) ..... 2
1931	32				(Old Age Pensions) ..... 2
1935	74				(Department of Public Welfare) ..... 2
1935	75				(Child Welfare) ..... 2

## AGED, THE:

	SEC.	PAGE
(See Public Welfare Law)		

## ALCOHOLIC LIQUORS:

(See State Liquor Control Commission) .....	87
---	----

## APPROPRIATIONS:

Auditor's office, delinquent tax redemptions ..	1	73
Department of Labor, State Employment Service .	1	74
Legislative .....	1-4	75
Public Welfare (Social Security).....	1	72
Relief of the needy .....	1	78
Roads .....	1	79
State institutions .....	1	80
Vocational rehabilitation .....	1	81

## ATTORNEY GENERAL:

(See Public Welfare Law)

## AUDITOR:

Redemption of delinquent real estate .....	1-2	82
--	-----	----

## AUDITOR'S OFFICE:

Appropriation for, redemption of real estate .....	1	73
--	---	----

## BLIND, THE:

(See Public Welfare Law)

	SEC.	PAGE
<b>BOARD OF CONTROL:</b>		
To expend appropriations for state institutions.....	1	80
<b>BOARDS OF EDUCATION:</b>		
Public improvements		
federal grants of money for .....	1	84
local revenues .....	1	84
levies .....	1	85
<b>BRIDGES, PUBLIC:</b>		
(See Roads and Bridges)		
<b>CHILDREN, DELINQUENT AND NEGLECTED:</b>		
(See Public Welfare Law)		
<b>CODE AMENDED:</b>		
CH. ART. SEC.		
17 4 5 (Roads and highways—eminent domain) ..		85
<b>CODE REPEALED:</b>		
CH. ART. SEC.		
9 (The Poor) .....		2
29 6 (State Veterans' Service Officer) ..		2
49 (Child Welfare) .....		2
<b>COMMISSION:</b>		
(See West Virginia Commission on Interstate Co- operation) .....		88
<b>CONCORD STATE TEACHERS COLLEGE:</b>		
Appropriation for.....	1	80
<b>COOPERATION:</b>		
Federal Government		
public improvements .....	1	84
public works administration.....	1	80
state employment service.....	1	74
vocational rehabilitation.....	1	81
Interstate Commission on.....	1-7	88
<b>COUNTY COURTS:</b>		
(See Public Welfare Law)		
Public improvements .....	1	84
federal grants of money for .....	1	84
local revenues .....	1	84
levies .....	1	85
<b>DELINQUENT REAL ESTATE:</b>		
(See Real Estate) .....		81
<b>DEPARTMENT OF LABOR:</b>		
Appropriation, state employment service .....	1	74
<b>DEPARTMENT OF PUBLIC ASSISTANCE:</b>		
(See Public Welfare Law)		



	SEC.	PAGE
<b>EMINENT DOMAIN, RIGHT OF:</b>		
Use of, by state road commission or commissioner..	5	85
<b>FORFEITED OR ESCHEATED REAL ESTATE:</b>		
(See Real Estate).....		83
<b>GLENVILLE STATE TEACHERS COLLEGE:</b>		
Appropriation for.....	1	80
<b>GOVERNOR:</b>		
Appointments by		
commission on interstate cooperation.....	4	89
department of public assistance		
county councils.....	13, 1	8, 13
director .....	1	9
state advisory board .....	1	5
Honorary member, commission on interstate co- operation .....	4	89
To expend appropriation for relief of needy.....	1	78
To transfer funds to state road fund .....	1	79
To transfer funds of liquor control commission .....	19	87
To transfer duties of relief administration .....	6	3
<b>HOPEMONT SANITARIUM:</b>		
Appropriation for .....	1	80
<b>LEGISLATURE:</b>		
Appropriation for expenses		
house of delegates .....	3	76
printing .....	1	75
senate .....	2	75
supplies and services .....	4	77
<b>LIQUOR CONTROL COMMISSION:</b>		
(See State Liquor Control Commission).....	19	87
<b>MARSHALL COLLEGE:</b>		
Appropriation for .....	1	80
<b>MUNICIPALITIES:</b>		
Public improvements		
federal grants of money for.....	1	84
local revenues .....	1	84
levies .....	1	85
<b>OLD AGE ASSISTANCE:</b>		
(See Public Welfare Law)		
<b>PHYSICAL REHABILITATION:</b>		
(See Rehabilitation)		
<b>PINECREST SANITARIUM:</b>		
Appropriation for.....	1	80

	SEC.	PAGE
PROSECUTING ATTORNEYS:		
(See Public Welfare Law)		
PUBLIC ASSISTANCE:		
(See Public Welfare Law)		
PUBLIC WELFARE LAW:		
Acts repealed by.....	5	3
succession to offices and property .....	3	3
Attorney General		
legal services .....	14	13
Blind, The		
(See Public Assistance)		
Child Welfare		
Administered by Department of Public As-		
sistance .....	1	47
Child shelter		
care of children in .....	6	64
commitment to .....	3	63
county court may establish .....	1	63
county director, duties .....	13	65
inspection of .....	12	65
joint, two or more counties .....	5	63
lands and property for .....	4	63
levy for maintenance .....	14	65
management of .....	3	63
purpose .....	2	63
superintendent and employees, appointment	7	64
compensation and tenure .....	8	64
duties as to children committed .....	9	64
information furnished to courts .....	11	65
records and reports .....	10	64
Cited .....	2	2
Construction .....	4	3
County Councils		
(See Department of Public Assistance)		
County infirmaries		
children placed in .....	4	67
notification by superintendent .....	4	67
commitment to, by county councils .....	1	32
county court may maintain .....	1	32
duties of county director .....	12	34
inspection of .....	11, 12	34
joint, two or more counties .....	3	33
labor by inmates .....	9	34
lands and property of .....	2	33
management by county court .....	1, 6	32, 33
records and reports .....	10, 13	34
superintendent and staff .....	4	33

PUBLIC WELFARE LAW (Continued):	SEC.	PAGE
admissions to, by.....	8	34
bond .....	4	33
compensation and tenure.....	5	33
duties .....	7	33
as to children placed in .....	4	67
Crippled children		
board of orthopedic surgeons.....	4	57
eligibility for aid .....	2	57
purpose of article .....	1	57
report of birth of .....	5	58
state department, duties.....	1, 3	57
assistance to, by other agencies.....	7	58
by county councils and director.....	6	58
cooperation with private agencies .....	8	58
Dependent children, eligibility.....	5	20
Federal legislation, assent to .....	3	4
General purpose of act .....	1	1
General Relief		
administration by county councils .....	4	29
in homes .....	10	30
application for.....	5	30
disposition of, by county council .....	7, 9	30
investigation by director.....	6	30
report of .....	6	30
county fund for.....	4	38
administration expenses .....	20	42
amount .....	5	38
transfers from .....	6	39
definition .....	2, 3	29, 38
resident of county .....	3	29
continuation of present aid .....	1	43
hospitalization .....	12	31
emergency .....	13	31
cost of .....	12	31
interment of deceased indigents .....	15	32
liability of relatives for expense .....	6	44
non-residents .....	3, 16	29, 41
orders by county council concerning .....	9	30
payment, manner .....	4	38
purpose of .....	1	29
recipient of, not a pauper .....	3	43
regulations by state department .....	16	32
separation of members of family .....	10	30
state fund for, created .....	7	39
grants from, to counties .....	8	39
administration expenses .....	20	42
application for .....	8	39
determination by state board .....	10	40

PUBLIC WELFARE LAW (Continued):	Sec.	PAGE
notification .....	11	40
form .....	8	39
investigation of.....	9	39
monthly report to state director ...	13	40
action on.....	14, 15	41
review by state board.....	19	42
suspension of payment.....	17	41
purpose .....	7	39
records and reports.....	18	42
audits .....	21	42
supervision by county director.....	14	31
support of, by state.....	1	37
temporary .....	8	30
visitation in homes.....	11	31
<b>Juvenile Courts</b>		
children wards of court .....	4	60
courts, having juvenile jurisdiction .....	1, 7	59, 60
delinquency of child		
contributing to, penalty .....	7	68
proof of .....	8	68
suspended sentence for.....	9	68
bond .....	13	69
recovery on .....	14	69
enforcement .....	15, 16	70
not to exceed two years .....	17	70
delinquent child		
custody of, by convicted person .....	12	69
maintenance of .....	10	68
petition concerning .....	7	60
counsel for child .....	13	61
disposition of by court.....	14	61
appeal .....	22	71
interference with .....	18, 19	70, 71
name not published .....	3	67
not committed to jail .....	15	62
notice to state department .....	16	62
hearing on .....	7	60
answer .....	9	61
default .....	10	61
summons for defendant .....	8	61
warrant .....	12	61
proceedings not evidence against child .....	3	67
temporary disposition .....	11	61, 69
jurisdiction over delinquent children.....	2	59
criminal .....	3	59
transfer to juvenile court .....	3	59
in vacation .....	21	71

PUBLIC WELFARE LAW (Continued):	SEC.	PAGE
juvenile record .....	5	60
probation officers.....	17	62
duties .....	18	62
powers .....	19	62
purpose of chapter.....	1	47
records, preservation of .....	23	71
rules and regulations.....	24	71
violations, penalties.....	20	71
Inoperative, when .....	4	5
Neglected children		
adoption .....	1	66
consent of guardian.....	1	66
assignment of services.....	10	56
children's institutions and organizations		
articles of incorporation, approval.....	20	54
authority of state department over.....	17	53
certificate of approval.....	17	53
revocation or refusal.....	19	53
children, admittance to .....	1, 2	54
children's organizations .....	2	54
guardian for.....	7	55
petition for.....	3	55
placements by .....	6, 8	55
bond .....	9	56
supervision and control.....	5	55
inspection of .....	19	53
provisions applicable .....	4	55
removal by, from private home .....	11	56
reports by.....	18	53
return, to .....	10	56
by, to parent or guardian .....	12	56
guardianship of estate .....	2	66
orthopedic treatment.....	15	52
parole from industrial homes .....	14	52
petition to juvenile court concerning .....	1	50
hearing on .....	2	50
commitment .....	3, 9, 11	50, 51
duration .....	8	51
examination before .....	6	50
information supplied by court .....	5	50
placing in private homes .....	10	51
religious beliefs of parents observed ..	12	52
return of mentally defective to county.....	7	51
family case work.....	13	52
support of committed child .....	5	67
enforcement of order for.....	6	67
temporary custody .....	4	50

PUBLIC WELFARE LAW (Continued):	SEC.	PAGE
placement by foreign organization.....	21	54
schools for deaf and blind, admissions to .....	15	52
services by county council and director .....	16	53
statistics concerning .....	25	72
Old Age Pensions		
(See Public Assistance)		
Prosecuting Attorneys, legal assistance .....	14, 26	13, 47, 72
Public Assistance		
additional .....	18	23
aged persons		
eligibility .....	3	19
insurance policies, assignment .....	31	27
not to also receive grant as blind .....	19	24
reimbursement agreement by.....	29	26
lien of.....	29, 30	26, 27
enforcement .....	33	27
allocation to counties by state board.....	2	37
basis of.....	2	37
notice .....	2	38
application to county director for.....	6	20
approval by county council.....	8, 9	21
denial of .....	10	21
form .....	6	20
investigation		
by county director.....	7	21
by state department.....	15	23
report of, to county council.....	8	21
blind persons		
eligibility for aid.....	4	19
examination .....	12	22
lien against estate of.....	34	27
enforcement .....	34	27
not to also receive grant as aged .....	19	24
reexamination .....	22	25
certificate of amount paid .....	32	27
recording and lien of .....	32	27
county superintendents of schools to render		
assistance.....	14, 27	47, 72
change in resources, notice of.....	38	28
Definitions .....	2	18
Department of Public Assistance		
appeals to .....	23, 26	25
disposition of.....	25	25
hearings on.....	24	25
county councils		
appeals from.....	12	12
appointment by governor.....	13, 1	8, 13

PUBLIC WELFARE LAW (Continued):	SEC.	PAGE
assistants and employees .....	10	15
compensation and traveling expenses .....	10	15
disqualification for political activity....	11	16
certification to, by state board .....	15	9
chairman .....	1	13
compensation .....	5	14
complaints to.....	26	25
appeals to state department .....	26	25
contact with state director.....	10	12
disqualification for political activity.....	4	14
joint county units		
by agreement of county councils .....	13	17
by order of state director.....	14	17
meetings and proceedings .....	7	14
offices and equipment.....	6	14
political activity.....	4	14
affiliations .....	1	14
powers and duties .....	8	15
assignment and liens .....	35	27
president county court ex officio member .	1	13
proceedings by .....	28	72
qualifications .....	3	14
secretary .....	9	15
term of office .....	2	14
vacancy .....	13	8
created .....	2	4
definitions of boards and officers .....	5	5
director, county		
appointment by county council .....	9	15
certification of, by state department .....	15	9
compensation .....	9	15
disqualification for political activity .....	11	16
negro assistant director.....	10	15
political activity .....	11	16
powers and duties .....	12	16
general relief.....	5, 6, 8, 14, 15	30, 31, 32
secretary of county council .....	9	15
term of office .....	9	15
director, state		
appointment by governor.....	1	9
compensation and traveling expenses.....	5	10
delegation of duties .....	13	13
legal assistance to.....	14	13
oath and bond.....	3	10
offices .....	4	10
political activity vacates appointment.....	2	9
powers and duties .....	6	10

PUBLIC WELFARE LAW (Continued):	SEC.	PAGE
qualifications .....	2	9
term of office .....	1	9
divisions of, director to create .....	7	11
assistants and employees, appointment .....	8	11
political activity .....	8	12
board of review .....	12	12
appeals to from county councils .....	12	12
heads of, appointment .....	8	11
inspections by, of county councils .....	10	12
regulations for general relief .....	16	32
rules and regulations, to comply with federal methods .....	9	12
salary scale, board to fix .....	14(3)	8
state advisory board		
chairman .....	1	5
meetings .....	9	7
members		
compensation and traveling expenses .....	7	6
disqualification .....	5	6
number and appointment .....	1	5
oath of office .....	6	6
offices .....	8	7
political activity .....	5	6
affiliations .....	2	6
qualifications .....	4	6
terms of office .....	3	6
powers and duties, advisory .....	11	7
additional .....	12-15	7, 9
quorum .....	10	7
regulations for general relief .....	16	32
dependent children		
eligibility for aid .....	5	20
home conditions .....	11	21
revocation of grant .....	11	22
exempt from levy of execution .....	27	26
exemptions, amount .....	36	28
fees for services to recipient		
unlawful to charge .....	10	45
penalty .....	10	45
fraudulently acquiring or disposing of property	12	46
penalty .....	12	46
fraudulently obtaining aid .....	11	46
penalty .....	11	46
grant of		
amount .....	16	23
limitation .....	17	23



PUBLIC WELFARE LAW (Continued):	SEC.	PAGE
conditional .....	39	28
objections to .....	26	25
reconsideration .....	21	24
indigent persons		
bringing into state, penalty.....	4	43
liability of relatives for support .....	5	43
enforcement .....	28, 6	26, 44
jury trial .....	7	44
partial support .....	8	45
insurance policies, assignment.....	31	27
investigations, powers .....	9	45
lien of.....	29, 30, 33, 34	26, 27
exemptions .....	36	28
medical and surgical care.....	18	23
under general relief .....	12	31
emergencies .....	13	31
notification of decision .....	13	22
action on by state department.....	14, 15	22, 23
payment to another for use of recipient .....	20	24
physical rehabilitation		
definitions .....	2	26
eligibility for.....	4	36
purpose .....	1	35
state department to administer.....	3	36
assistance by county council.....	6	37
powers .....	5	36
purpose and extent of act and article.....	1	2, 4, 18, 29
reimbursement to federal government .....	37	28
relief administration, state		
transfer to county council .....	6	3
state veterans' service officer		
duties .....	2	35
qualifications .....	1	35
support of, state's responsibility .....	1	37
training periods for county directors and others .....	11	12
violations, penalties .....	13	46
 REAL ESTATE:		
Delinquent, redemption of		
receipts by Auditor.....	1	82
recording .....	1	83
reports by Auditor to assessors .....	2	83
when no interest, etc., required .....	1	82
Forfeited or escheated		
moratorium on suits for sale of.....	1	83
exceptions .....	1	83

REHABILITATION:	Sec.	PAGE
Physical		
(See Public Welfare Law)		
Vocational		
appropriation for.....	1	81
 RELIEF OF THE NEEDY:		
(See Public Welfare Law—General Relief)		
Appropriation for.....	1	78
 RESOLUTIONS:		
House:		PAGE
No. 1. Adopting rules and authorizing use of voting machine .....		95
No. 2. To inform Senate that the House of Delegates had assembled in extraordinary session .....		96
No. 3. Concerning the death of the Honorable C. N. Proctor .....		97
No. 4. Authorizing the Clerk to compile and print the Legislative Manual .....		97
No. 5. Appointment of attaches .....		98
No. 6. Payment for services preliminary to opening of session .....		100
No. 9. Quarters for the West Virginia Liquor Control Commission .....		101
No. 10. Concerning return of salaries by resigned mem- bers of the House.....		101
No. 12. Request for additional Blue Books to members of House.....		102
No. 13. Granting permission to David Lasser to address the House.....		102
No. 14. Expressing thanks for assistance rendered during the late flood in the Upper Ohio Valley.....		103
No. 15. Authorizing the payment of salaries of desig- nated members of the House .....		104
No. 16. Authorizing payment of mileage to the Door- keeper of the House.....		105
No. 17. Printing and distribution of Acts, printing House Journal and extension of per diems to com- plete work of session.....		105
No. 18. Mailing members of House copies of corrected House Journal.....		107
No. 19. Selection and equipping of offices for Clerk of House .....		107
No. 20. Notifying Senate that the house was ready to ad- journ <i>sine die</i> .....		108

## RESOLUTIONS (Continued):

PAGE

## HOUSE CONCURRENT:

No. 1.	Raising joint committee to notify Governor that the Legislature had assembled .....	91
No. 2.	Providing for a joint assembly .....	91
No. 3.	Raising a joint committee on Beer Legislation ...	92
No. 4.	Concerning the one hundredth anniversary of the City of Wheeling .....	93
No. 8.	Authorizing payment of expenses for services and supplies after close of session .....	94
No. 9.	Raising joint committee to notify the Governor that the Legislature was ready to adjourn <i>sine die</i> .....	94

## SENATE:

No. 1.	Raising committee to inform the House that the Senate had assembled .....	111
No. 2.	Adopting rules of the Senate .....	112
No. 3.	Relating to the appointment of assistant janitors .....	112
No. 4.	Relating to the mailing of Journals and bills .....	112
No. 5.	Expressing sympathy of members of the Senate for Senator G. O. Young, confined to his home by illness .....	113
No. 6.	Payment for services preliminary to convening of session .....	113
No. 7.	Authorizing the appointment of attaches .....	114
No. 8.	Extension of per diems to complete work of session .....	115
No. 9.	Payment for stenographic services to President of the Senate .....	117
No. 10.	Raising a committee to notify the House that the Senate was ready to adjourn <i>sine die</i> .....	117

## SENATE CONCURRENT:

No. 1.	Adopting joint rules .....	108
No. 2.	Authorizing Auditor to pay mileage and contingent expenses .....	109
No. 3.	Continuing Joint Legislative Committee on Social Security Legislation .....	109
No. 6.	Concerning the Annual Ohio River Festival .....	110

## ROADS AND BRIDGES, PUBLIC:

	SEC.	PAGE
Acquired by right of eminent domain .....	5	85
Appropriation for .....	1	79

## SCHOOLS FOR DEAF AND BLIND:

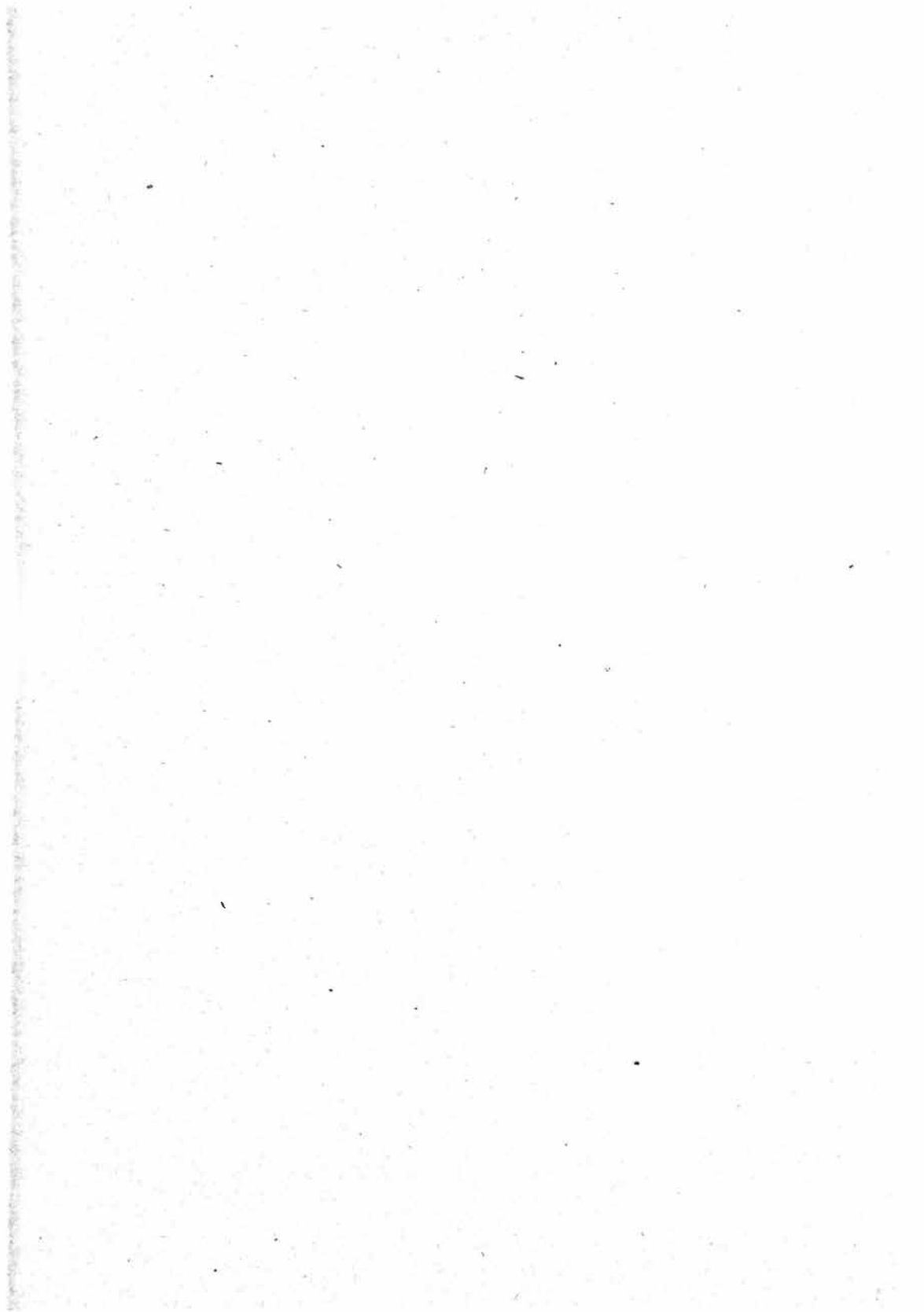
Admission to .....	15	52
--------------------	----	----

## SOCIAL SECURITY:

(See Public Welfare Law)

	SEC.	PAGE
STATE EMPLOYMENT SERVICE:		
Appropriation for.....	1	74
STATE INSTITUTIONS:		
Appropriations for.....	1	80
STATE LIQUOR CONTROL COMMISSION:		
Limitation on, and transfer of, funds.....	19	87
STATE ROAD COMMISSION AND COMMISSIONER:		
Right of eminent domain.....	1	85
TAXES:		
Levies for public improvements.....	1	85
Real estate, delinquent and forfeited.....	1	82-83
UNEMPLOYMENT RELIEF:		
Appropriation for.....	1	78
VOCATIONAL REHABILITATION:		
(See Rehabilitation)		
WEST LIBERTY STATE COLLEGE:		
Appropriation for.....	1	80
WESTON STATE HOSPITAL:		
Appropriation for.....	1	80
WEST VIRGINIA COMMISSION ON INTERSTATE COOPERATION:		
Duties.....	1	88
Committees.....	5	89
House of Delegates standing committee.....	3, 7	89, 90
Members.....	4	89
Reports by.....	6	89
Senate standing committee.....	2, 7	88, 90
WEST VIRGINIA STATE COLLEGE:		
Appropriation for.....	1	80
WEST VIRGINIA STATE EMPLOYMENT SERVICE:		
Appropriation for.....	1	74





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**ACTS**  
**AND**  
**RESOLUTIONS**  
**OF THE**  
**FORTY-THIRD**  
**LEGISLATURE**

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**SECOND EXTRAORDINARY SESSION**  
**DECEMBER 14 TO DECEMBER 16**  
**1936**

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**TABLE OF CONTENTS**

---

**ACTS AND RESOLUTIONS**

---

**GENERAL LAWS**

<b>CHAPTER</b>	<b>UNEMPLOYMENT COMPENSATION</b>	<b>PAGE</b>
1.	Unemployment Compensation Act .....	1

**APPROPRIATIONS**

2.	Appropriation to Department of Unemployment Compensation to carry into effect Unemployment Compensation Act ..	41
3.	Appropriation for expenses of extraordinary session of the Legislature .....	42

**TRANSFER OF FUNDS**

4.	Transfer of funds from Department of Labor to Department of Unemployment Compensation .....	46
----	---	----

---

**RESOLUTIONS**

**HOUSE CONCURRENT RESOLUTIONS**

<b>NUMBER</b>		<b>PAGE</b>
1.	Raising a joint committee to notify the Governor that the Legislature had assembled and organized.....	47
2.	Raising a joint assembly to open and publish election returns for state offices.....	47
3.	Concerning the death of the Honorable George A. Laughlin ...	48
4.	Providing for a joint assembly to hear an address by the Governor .....	49
5.	Authorizing payment of expenses after close of session .....	49
6.	Raising a joint committee to notify the Governor that the Legislature was ready to adjourn <i>sine die</i> .....	50

<b>HOUSE RESOLUTIONS</b>	
NUMBER	PAGE
1. Adoption of House Rules.....	50
2. Raising a committee to inform Senate that House had assembled and organized.....	51
3. Authorizing payment of mileage of members.....	51
4. Authorizing purchase of flags for House Chamber.....	54
5. Authorizing printing and distribution of Acts, printing of House Journal, and extension of per diems to complete work of session.....	54
6. Raising a committee to notify the Senate that the House was ready to adjourn <i>sine die</i> .....	56
 <b>SENATE CONCURRENT RESOLUTIONS</b> 	
1. Adopting joint rules for the Senate and House.....	56
2. Providing for payment of legislative expenses.....	57
4. Providing for public legislative hearings on subject of Unemployment Compensation .....	57
 <b>SENATE RESOLUTIONS</b> 	
1. Raising a committee to notify House that Senate had assembled and organized.....	58
2. Adopting Senate Rules.....	59
3. Relating to the appointment of assistant janitors.....	59
4. Authorizing payment for stenographic services rendered President of the Senate.....	59
5. Authorizing payment for services rendered preparatory to opening of session.....	60
6. Authorizing the appointment of attaches.....	60
7. Authorizing the purchase of furniture and equipment.....	61
8. Extending per diems of officers and attaches to complete work of session.....	62
9. Raising a committee to notify the House that the Senate was ready to adjourn <i>sine die</i> .....	63

# LIST OF MEMBERS AND OFFICERS OF THE LEGISLATURE OF WEST VIRGINIA

SECOND EXTRAORDINARY SESSION  
December 14 to December 16, 1936

## SENATE

### OFFICERS

*President*—CHARLES E. HODGES, Morgantown

*Clerk*—CHARLES LIVELY, Weston

*Sergeant-at-Arms*—FRED D. WOLFE, Ripley

*Doorkeeper*—G. W. TRIPLETT, Huntington

DISTRICT	MEMBERS	ADDRESS
First.....	*C. Lee Spillers (D)..... James Paul, Jr. (D).....	Wheeling Wellsburg
Second.....	*Frank A. Young (R)..... L. B. Snyder (D).....	Sistersville New Martinsville
Third.....	*Clinton L. Howard (D)..... Dan B. Fleming (D).....	Parkersburg St. Marys
Fourth.....	*L. O. Curtis (R)..... Howard S. Johnson (R).....	Spencer Point Pleasant
Fifth.....	*J. Patrick Beacom (D)..... C. N. Hall (D).....	Huntington Hamlin
Sixth.....	*John H. Greene (D)..... C. Frank Millender (D).....	Williamson Wayne
Seventh.....	*O. C. Canterbury (D)..... W. Broughton Johnston (D).....	Beckley Princeton
Eighth.....	*Alvin J. Barnhart (D)..... John J. Pelter (D).....	Charleston Dehue
Ninth.....	*F. W. Tuckwiller (D)..... Emmett O. Wiseman (D).....	Lewisburg Fayetteville
Tenth.....	*G. C. Belknap (D)..... Fred C. Allen (D).....	Gassaway Marlinton
Eleventh.....	*Chas. E. Hodges (D)..... Earl H. Smith (D).....	Morgantown Fairmont
Twelfth.....	*Byron B. Randolph (D)..... George W. Jackson (D).....	Clarksburg Jane Lew
Thirteenth.....	*G. O. Young (R)..... J. Buhl Shahan (D).....	Buckhannon Elkins
Fourteenth.....	*E. Bunker Reynolds (R)..... A. L. Helmick (R).....	Keyser Thomas
Fifteenth.....	*M. O. Rouss (D)..... D. Grove Moler (D).....	Charles Town Martinsburg

\* Hold-over Senators, who were elected in 1934.

(D) Democrats.....	24
(R) Republicans.....	6
Total.....	30

## HOUSE OF DELEGATES

### OFFICERS

*Speaker*—JAMES KAY THOMAS, Charleston

*Clerk*—JOHN S. HALL, Williamson

*Sergeant-at-Arms*—HARRY HOLSWADE, Spencer

*Doorkeeper*—CLARK NEAL, Fenwick

COUNTY	MEMBERS	ADDRESS
<b>Barbour</b> .....	Wm. Taylor George, Jr. (D).....	Philippi
<b>Berkeley</b> .....	John L. Wever (D).....	Martinsburg
<b>Boone</b> .....	E. E. White (D).....	Madison
<b>Braxton</b> .....	Claude R. Linger (D).....	Burnsville
<b>Brooke</b> .....	B. O. Cresap (D).....	Wellsburg
<b>Cabell</b> .....	Geo. H. Gunnoe (D).....	Huntington
	W. D. Keister (D).....	Huntington
	A. M. Martin (D).....	Barboursville
	J. B. Porter (D).....	Huntington
	Claude V. Swann (D).....	Huntington
<b>Calhoun</b> .....	C. C. Kingsbury (D).....	Rocksdale
<b>Clay</b> .....	W. C. Bobbitt (D).....	Clay
<b>Doddridge</b> .....	S. L. Smith (R).....	West Union
<b>Fayette</b> .....	R. L. Matthews (D).....	Montgomery
	J. Alfred Taylor (D).....	Fayetteville
	J. Alex. Tinsley (D).....	Ansted
	Mrs. Nell W. Walker (D).....	Wuona
<b>Gilmer</b> .....	Emmett J. Bush (D).....	Glenville
<b>Grant</b> .....	Melvin C. Muntzing (R).....	Maysville
<b>Greenbrier</b> .....	John B. Sydenstricker (D).....	Lewisburg
	Harry L. Van Sickler (D).....	Lewisburg
<b>Hampshire</b> .....	William T. Mileson (D).....	Springfield
<b>Hancock</b> .....	William J. Long (D).....	Weirton
<b>Hardy</b> .....	George Miley (D).....	Moorefield
<b>Harrison</b> .....	Howard J. James (D).....	Clarksburg
	Wm. Bryan Jennings (D).....	Lost Creek
	Edgar E. Righter (D).....	Shinnston, R. D. 2
	Fred L. Shinn (D).....	Clarksburg
<b>Jackson</b> .....	Charles F. Ong (R).....	Ripley
<b>Jefferson</b> .....	John Cochran Skinner (D).....	Charles Town
<b>Kanawha</b> .....	W. T. Brotherton (D).....	Charleston
	Carl C. Calvert (D).....	Chelyan
	Roy F. Jimison (D).....	Kayford
	K. L. McClung (D).....	Charleston
	E. M. McConihay (D).....	Chesapeake
	P. H. Murphy (D).....	Charleston
	R. N. Stephens, Jr. (D).....	Charleston
	James Kay Thomas (D).....	Charleston
<b>Lewis</b> .....	Kenneth S. Kurtz (R).....	Weston
<b>Lincoln</b> .....	Greely Isaacs (D).....	Branchland
<b>Logan</b> .....	W. Carson Browning (D).....	Logan
	Hugh Paul (D).....	Logan
	Lester Perry (D).....	Logan
<b>Marion</b> .....	Fred L. Doringier (D).....	Fairmont
	Robert L. McCoy (D).....	Fairmont
	Ashby L. Thomas (D).....	Barrackville

HOUSE OF DELEGATES

COUNTY	MEMBERS	ADDRESS
Marshall	Charles Heath (D)	Moundsville
	John Storm (D)	Wheeling, R. D. 2
Mason	Jason T. Weissenburger (R)	Point Pleasant
Mercer	John W. Haldren (D)	Bluefield
	W. A. Light (D)	Bluefield
	H. Dennis Wright (D)	Montcalm
Mineral	H. G. Shores (D)	Keyser
Mingo	Mark Russell, Jr. (D)	Williamson
	Glenn Taylor (D)	Matewan
Monongalia	Harold D. Slaven (D)	Morgantown
	Junius M. Strouss (D)	Morgantown
Monroe	William M. LaFon (D)	Union
Morgan	H. D. Beeler (R)	Berkeley Springs
McDowell	George Evans (D)	Iaeger
	Lewis E. Fite (D)	War
	Lee L. Foster (D)	Northfork
	Fleming A. Jones, Jr. (D)	Welch
Nicholas	Harry R. Pauley (D)	Iaeger
	J. A. Neal (D)	Fenwick
Ohio	Malcolm T. Brice (D)	Wheeling
	William H. Havercamp (D)	Wheeling
	George W. Oldham (D)	Wheeling
	Stephen J. Russek (D)	Wheeling
Pendleton	Robert L. Eye (D)	Franklin
Pleasants	J. C. Powell (R)	St. Marys
Pocahontas	June McElwee (D)	Marlinton
Preston	Clarence B. Bishoff (R)	Manheim
Putnam	Virgil M. Bias (D)	Hurricane
Raleigh	T. E. Bibb (D)	Beckley
	O. C. Flint (D)	Beckley
	Ermil D. Hodson (D)	Stanaford
Randolph	John W. Bosworth (D)	Elkins
Ritchie	Robert Morris (R)	Harrisville
Ronne	A. T. Gordon (R)	Spencer
Summers	Forest L. McNeer (D)	Hinton
Taylor	William J. Hussion (D)	Grafton
Tucker	Lloyd Erhard (D)	Davis
Tyler	Orren L. Jones (R)	Middlebourne
Upshur	Lorentz See (R)	French Creek
Wayne	Grover C. Hunter (D)	Wayne
	James O. Marcum (D)	Ceredo
Webster	E. H. Morton (D)	Webster Springs
Wetzel	John W. Pyles (D)	New Martinsville
Wirt	Delbert C. Daugherty (D)	Sandyville, R. D. 1
Wood	Ben H. Butcher (D)	Parkersburg
	Geo. W. Dye (D)	Parkersburg
	T. H. McKinley (D)	Parkersburg
Wyoming	J. O. Balliff (D)	Mullens

(D) Democrats	82
(R) Republicans	12
<b>Total</b>	<b>94</b>

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, article seven of the Constitution of this State, do hereby call the Legislature of West Virginia to convene in extraordinary session at 2:00 o'clock on the afternoon of the fourteenth day of December, one thousand nine hundred thirty-six, for the following purposes:

*First:* To enact legislation providing for a system of unemployment compensation in the state which shall conform to the requirements of the "Federal Social Security Act."

*Second:* To make the necessary appropriations of public funds to pay the expenses of this extraordinary session and appropriate funds, where necessary, for the administration of the laws enacted.

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 fourth day of December, in the year of our Lord, One Thousand Nine Hundred Thirty-six, and of the State the Seventy-fourth.

By the Governor:

H. G. KUMP.

WM. S. O'BRIEN,

*Secretary of State.*

STATE OF WEST VIRGINIA  
EXECUTIVE DEPARTMENT  
CHARLESTON

December 4, 1936.

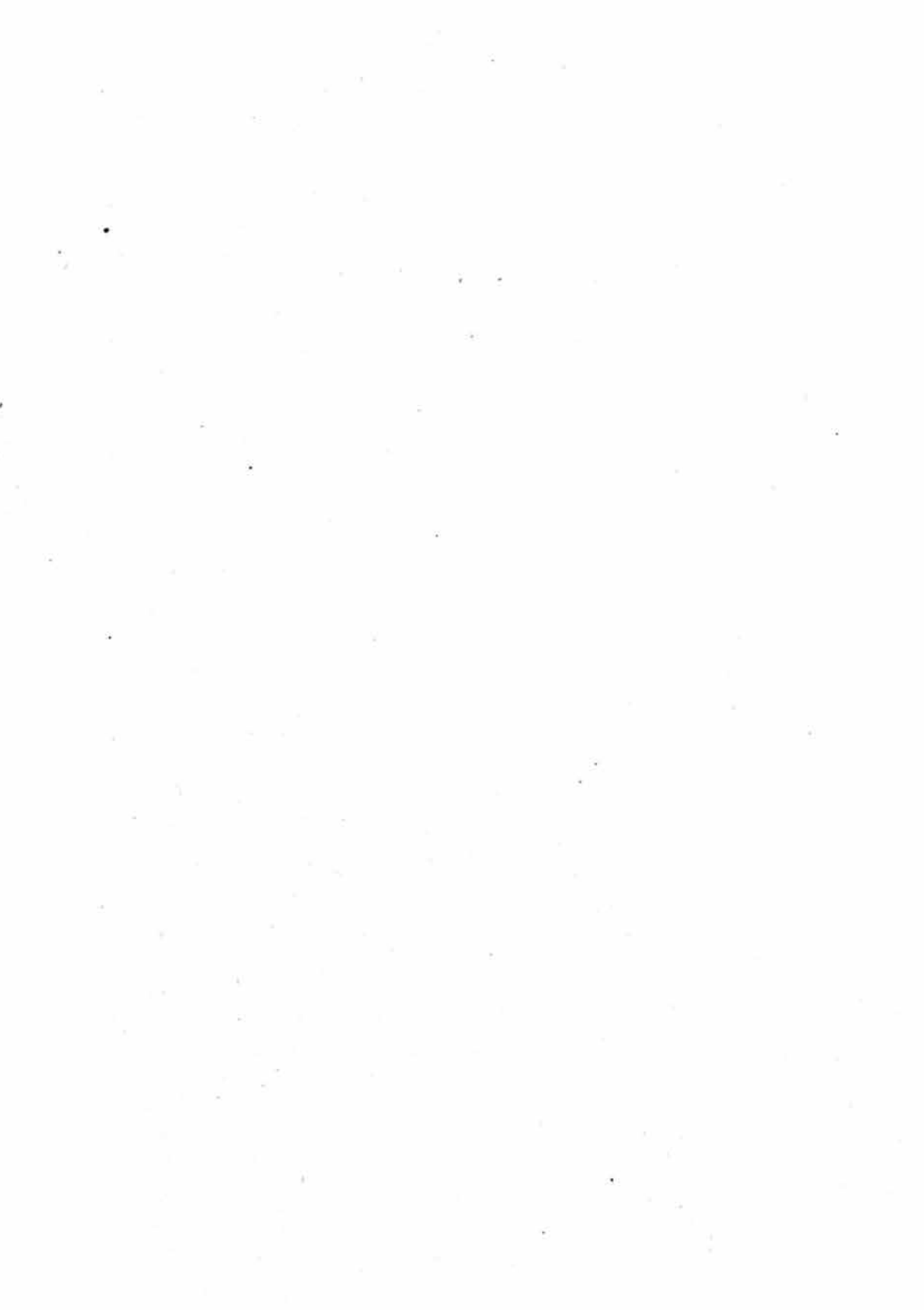
*To the Members of the Senate and House of Delegates:*

An extraordinary session of the Legislature will convene in the Capitol at Charleston on the afternoon of December 14, 1936, for the purpose of considering legislation providing for a system of unemployment compensation in the state, conforming to the requirements of the "Federal Social Security Act."

It is with much reluctance that I call you from your homes and personal affairs at this time, but developments of the last few days seem to plainly indicate that it is my duty to do so.

I trust and believe your work may be completed within one week.

H. G. KUMP,  
*Governor.*





WEST VIRGINIA LEGISLATURE

ACTS OF 1936

SECOND EXTRAORDINARY SESSION

CHAPTER 1

(House Bill No. 1—By Mr. Speaker, Mr. Thomas)

AN ACT to amend the code of West Virginia, one thousand nine hundred thirty-one, by adding chapter twenty-one-A, creating a Department of Unemployment Compensation.

[Passed December 16, 1936; in effect from passage. Approved by the Governor.]

Chapter 21-A. UNEMPLOYMENT COMPENSATION.

Article

1. Department of Unemployment Compensation.
2. The Director of Unemployment Compensation.
3. Advisory Council.
4. Board of Review.
5. Employer Coverage and Responsibility
6. Employee Eligibility; Benefits.
7. Claims Procedure.
8. Unemployment Compensation Fund.
9. Unemployment Compensation Administration Fund.
10. General Provisions.

*Be it enacted by the Legislature of West Virginia:*

That the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding chapter twenty-one-A, creating a Department of Unemployment Comensation, as follows:

Article 1. Department of Unemployment Compensation.

Section

1. Purpose.
2. Short title.
3. Definitions.
4. Department of unemployment compensation.
5. Federal-state cooperation.
6. Unemployment stabilization.
7. Employment agencies transfer.
8. Cooperation within the state.

Section 1. *Purpose.* The purpose of this chapter is to  
2 provide reasonable and effective means for the promotion

3 of social and economic security by reducing as far as practi-  
4 cable the hazards of unemployment. In the furtherance of  
5 this objective, the Legislature establishes a compulsory  
6 system of unemployment reserves in order to

7 (1) Provide a measure of security to the families of  
8 unemployed persons.

9 (2) Guard against the menace to health, morals, and  
10 welfare arising from unemployment.

11 (3) Maintain as great purchasing power as possible, with  
12 a view to sustaining the economic system during periods of  
13 economic depression.

14 (4) Stimulate stability of employment as a requisite of  
15 social and economic security.

16 (5) Allay and prevent the debilitating consequences of  
17 poor relief assistance.

18 To give effect to these purposes the Legislature establishes  
19 the following system in the belief that the purposes are  
20 reasonably within the sphere of governmental control and  
21 that the agencies created for their accomplishment are the  
22 fairest and most effective devices now available.

23 Sec. 2. *Short Title.* This chapter may be cited as the  
24 "Unemployment Compensation Law."

25 Sec. 3. *Definitions.* As used in this chapter, unless the  
26 context clearly requires otherwise,

27 "Administrative fund" means the Unemployment Com-  
28 pensation Administration Fund, from which the administra-  
29 tive expenses under this chapter shall be paid.

30 "Annual payroll" means the total amount of wages pay-  
31 able by an employer (regardless of the time of payment)  
32 for employment during one year.

33 "Average annual payroll" means the average of the  
34 annual payrolls of an employer for the last three or five  
35 preceding years, whichever is the higher.

36 "Benefits" means the money payable to an individual  
37 with respect to his unemployment.

38 "Board" means Board of Review.

39 "Director" means the Unemployment Compensation Di-  
40 rector.

41 "Employing unit" means an individual, or type of or-  
42 ganization, including any partnership, association, trust.

19 estate, joint stock company, insurance company, corpora-  
20 tion, domestic or foreign, or the receivership, trustee in  
21 bankruptcy, trustee or successor thereof, or the legal rep-  
22 resentative of a deceased person which has on January one,  
23 one thousand nine hundred thirty-five, or subsequent thereto,  
24 had in its employ one or more individuals performing serv-  
25 ice within the state.

26 "Employer" means an employing unit which for some  
27 portion of a day, not necessarily simultaneously, in each of  
28 twenty different weeks, which weeks need not be consecutive  
29 within either the current year or the preceding year, has  
30 had in employment eight or more individuals (irrespective  
31 of whether the same individuals were or were not employed  
32 on each of such days).

33 "Employment" means service, (including service in inter-  
34 state commerce) performed for wages, if:

35 (1) Performed in this state by an individual unless such  
36 service is incidental to the individual's service performed  
37 elsewhere.

38 (2) Performed elsewhere but incidental to an individ-  
39 ual's service in this state, unless payments are made upon  
40 such services under an unemployment compensation law of  
41 another state,

42 The term "employment" shall not include

43 (1) Service performed in employ of this state or any  
44 political subdivision thereof:

45 (a) On an unemployment work relief project designated  
46 as such by the director.

47 (b) In a regular position on an annual salary basis.

48 (c) As a teacher or administrative officer in a public  
49 school, college, or university.

50 (2) Service performed in the employ of another state, its  
51 political subdivisions or instrumentality of that state or its  
52 subdivisions.

53 (3) Service performed in the employ of the United States  
54 or an instrumentality of the United States.

55 (4) Service with respect to which unemployment compen-  
56 sation is payable under an unemployment compensation system  
57 established by an act of Congress. The director may enter  
58 into agreements with the proper agency established under  
59 such act of Congress to provide reciprocal treatment to in-  
60 dividuals who, after acquiring potential rights to benefits

61 under this chapter, have acquired rights to unemployment  
62 compensation under an act of Congress, or who have, after  
63 acquiring potential rights to unemployment compensation  
64 under an act of Congress, acquired rights to benefits under  
65 this chapter. Such agreements shall become effective ten days  
66 after such publication as complies with the general rules of  
67 the department.

68 (5) Agricultural labor.

69 (6) Domestic service in a private home.

70 (7) Service performed as an officer or member of a crew  
71 of a vessel on the navigable waters of the United States.

72 (8) Service performed by an individual in the employ of  
73 his son, daughter, or spouse.

74 (9) Service performed by a child under the age of twenty-  
75 one years in the employ of his father or mother.

76 (10) Service performed in the employ of an employing  
77 unit organized and operated exclusively for religious, scien-  
78 tific, literary, or educational purpose or for prevention of  
79 cruelty to children or animals no part of the net earnings of  
80 which inure to the benefit of any private shareholder or in-  
81 dividual.

82 "Employment office" means a free public employment of-  
83 fice or branch thereof, operated by this state or maintained as  
84 a part of a state-controlled system of public employment of-  
85 fices.

86 "Fund" means the Unemployment Compensation Fund es-  
87 tablished by this chapter.

88 "Partial unemployment" means work for less than full-  
89 time during a week for which an individual's wages fails to  
90 equal two dollars more than the weekly benefit amount he  
91 would be entitled to receive if totally unemployed and  
92 eligible.

93 "Payments" means the money required to be paid into  
94 the State unemployment Compensation Fund as provided by  
95 article five of this chapter.

96 "State" includes in addition to the states of the United  
97 States, Alaska, Hawaii, and the District of Columbia.

98 "Total unemployment" means total lack of work during a  
99 week in which an individual performs no service for which  
100 wages are payable to him.

101 "Wages" means all remuneration payable for personal  
102 services, including commissions and bonuses and the cash

103 value of all remuneration payable in any medium other than  
104 cash. Gratuities customarily received by an individual in  
105 the course of his employment from persons other than his  
106 employing unit shall be treated as wages paid by his em-  
107 ploying unit.

108 The reasonable cash value of remuneration payable in any  
109 medium other than cash, and the reasonable amount of  
110 gratuities shall be estimated and determined in accordance  
111 with rules prescribed by the director.

112 "Week" means a calendar week, ending at midnight Sat-  
113 ursday, or the equivalent thereof, as determined in accordance  
114 with the regulations prescribed by the director.

115 "Week of employment" means each week occurring after  
116 March thirty-one, one thousand nine hundred thirty-six,  
117 within which an individual performs employment for an  
118 employing unit which has satisfied the conditions set forth  
119 in the definition of "employer" prescribed by this section;  
120 but does not include a week in which the plurality of an  
121 individual's total working hours are performed without the  
122 state in service for which payments in respect to such  
123 plurality are required under an unemployment compensation  
124 law of another state or an unemployment compensation law  
125 of the United States.

126 "Weekly benefit amount" means the amount of benefit an  
127 individual would be entitled to receive for one week of total  
128 unemployment.

129 "Year" means a calendar year, or the equivalent thereof  
130 as determined by the director.

*Sec. 4. Department of Unemployment Compensation.*

2 There is created a Department of Unemployment Compensa-  
3 tion, composed of a division of unemployment compensation  
4 and a division of employment service, and such other division  
5 or units as the director determines to be necessary.

*Sec. 5. Federal-State Cooperation.* The department shall  
2 cooperate with the Social Security Board of the federal gov-  
3 ernment, similar agencies of the several states, and such other  
4 agencies as are concerned with the problem of employment  
5 security and public assistance and relief.

*Sec. 6. Employment Stabilization.* The department, through  
2 the director and the advisory council, shall take all steps, to :

3 (1) Reduce and prevent unemployment.

4 (2) Encourage and assist in the adoption of practical  
5 methods of vocational training and guidance. •

6 (3) Encourage the establishment by the state and local  
7 subdivisions of public works reserves to finance construction  
8 programs in times of unemployment.

9 (4) Promote reemployment and employment readjust-  
10 ment between industries.

11 (5) Conduct researches and investigations toward these  
12 ends, and publish the results.

Sec. 7. *Employment Agencies Transfer.* The "State Public  
2 Employment Agency" now maintained in the department of  
3 labor shall be transferred on January one, one thousand nine  
4 hundred thirty-seven, and shall be made the State Employ-  
5 ment Service Division of the Department of Unemployment  
6 Compensation.

Sec. 8. *Cooperation within the State.* Officers of the state  
2 and of its political subdivisions shall furnish to the director  
3 upon his request such information relative to the purposes  
4 of this chapter as they may have in their possession.

## Article 2. The Director of Unemployment Compensation.

### Section

1. Appointment.
2. Qualifications.
3. Oath.
4. Offices.
5. Compensation.
6. Powers and duties.
7. Organization of the department.
8. Exemption of employees of the employment service division.
9. Assistants and employees.
10. Classification of services and compensation.
11. Examinations and annual merit ratings.
12. Dismissal, termination, lay off, suspension.
13. Delegation of duties.
14. Deputies.
15. State employment service.
16. Employment offices.
17. Federal-state cooperation.
18. Acceptance of aid.
19. Legal assistants.
20. Rules and regulations.
21. Oaths and witnesses.
22. Subpoenas.
23. Publication.

Section 1. *Appointment.* The department shall be in  
2 charge of a director of unemployment compensation. The

3 director shall be appointed by the Governor, by and with the  
4 advice and consent of the Senate, for a term of six years and  
5 shall hold his office subject to the will and pleasure of the  
6 Governor.

Sec. 2. *Qualifications.* The director shall be selected with  
2 special reference to his training, experience, and capacity.

3 He shall not be a candidate for or hold any other public  
4 office or trust, nor shall he be a member of a political com-  
5 mittee. If he becomes a candidate for a public office or be-  
6 comes a member of a political committee, his office as  
7 director shall be immediately vacated. He shall devote his  
8 entire time to the duties of his office.

Sec. 3. *Oath.* The director, before entering upon the duties  
2 of his office, shall take and subscribe to the oath prescribed  
3 by article four, section five of the State Constitution. The  
4 oath shall be filed with the Secretary of State.

Sec. 4. *Offices.* The office of the director shall be located  
2 at the capitol. The director shall keep his offices open at all  
3 reasonable times for the transaction of public business.

Sec. 5. *Compensation.* The director shall receive a yearly  
2 salary of six thousand dollars, and the necessary traveling  
3 expenses incident to the performance of his duties. Requisi-  
4 tion for traveling expenses shall be accompanied by a sworn  
5 itemized statement which shall be filed with the auditor and  
6 preserved as a public record.

Sec. 6. *Powers and Duties.* The director shall be the  
2 executive and administrative head of the department and  
3 shall have the power and duty, to:

4 (1) Exercise general supervision of and make regulations  
5 for the government of the department.

6 (2) Prescribe uniform rules pertaining to investigations,  
7 departmental hearings, and promulgate rules and regula-  
8 tions.

9 (3) Supervise fiscal affairs and responsibilities of the  
10 department.

11 (4) Prescribe the qualifications of, appoint, remove, and  
12 fix the compensation of the officers and employees of the  
13 department.

14 (5) Organize and administer the department so as to com-  
15 ply with the requirements of this chapter and the standards  
16 required by federal legislation.

17 (6) Make reports in such form and containing such in-  
18 formation as the federal Social Security Board may from  
19 time to time require, and comply with such provisions as the  
20 federal Social Security Board may from time to time find  
21 necessary to assure the correctness and verification of such  
22 reports.

23 (7) Make available to any agency of the United States  
24 charged with the administration of public works or assistance  
25 through public employment, upon their request, the name,  
26 address, ordinary occupation and employment status of each  
27 recipient of unemployment compensation, and a statement  
28 of the recipient's rights to further compensation under this  
29 chapter.

30 (8) Keep an accurate and complete record of all depart-  
31 mental proceedings; record and file all bonds and contracts  
32 and assume responsibility for the custody and preservation  
33 of all papers and documents of the department.

34 (9) Sign and execute in the name of the state, by "The  
35 State Department of Unemployment Compensation," any  
36 contract or agreement with the federal government, its  
37 agencies, other states, their subdivisions, or private persons.

38 (10) Prescribe a salary scale to govern compensation of  
39 appointees and employees of the department.

40 (11) Make the original determination of right in claims  
41 for benefits.

42 (12) Make recommendations, and an annual report to the  
43 Governor concerning the condition, operation, and function-  
44 ing of the department.

45 (13) Invoke any legal, equitable or special remedy for the  
46 enforcement of orders or the provisions of this chapter.

47 (14) Exercise any other power necessary to standardize  
48 administration, expedite departmental business, assure the  
49 establishment of fair rules and regulations and promote the  
50 efficiency of the service.

Sec. 7. *Organization of the Department.* The director  
2 shall establish within the department the division of unem-  
3 ployment compensation, and the division of unemployment



4 service and such other units as will promote efficiency and  
5 economy in administration.

Sec. 8. *Exemption of Employees of the Employment Service Division.* The provisions of sections nine to twelve of  
2 this article shall not apply to assistants and employees in the  
3 Employment Service division so as to reduce in any way the  
4 standards and requirements of the act of Congress entitled  
5 "An act to provide for the establishment of a national em-  
6 ployment system and for cooperation with states in the pro-  
7 motion of such system, and for other purposes" approved  
8 June six, one thousand nine hundred thirty-three, as  
9 amended; but wherever the provisions of this article impose  
10 a higher standard, compliance of employment service em-  
11 ployees shall be required.  
12

Sec. 9. *Assistants and Employees.* Upon a non-partisan  
2 merit basis the director shall appoint the division and unit  
3 heads, and such assistants and employees as may be necessary  
4 to the efficient operation of the department. He shall fix  
5 their compensation in accordance with the provisions of sec-  
6 tion ten of this article.

Sec. 10. *Classification of Services and Compensation.* The  
2 director shall by uniform regulation:

- 3 (1) Classify the different types of services to be performed  
4 for the department.
- 5 (2) Prescribe the qualifications of education, training, and  
6 experience for the appointees and employees of each class.
- 7 (3) Fix a maximum and minimum salary for each class.  
8 The difference between the maximum and minimum for any  
9 class shall not exceed one thousand dollars.

Sec. 11. *Examinations and Annual Merit Ratings.* The  
2 director shall hold examinations to determine the technical  
3 and professional qualifications of applicants for positions.  
4 The examinations shall be a guide to the director in making  
5 his appointments.

6 The director shall annually rate the employees according  
7 to their merit and shall determine whether they are maintain-  
8 ing standards of eligibility.

Sec. 12. *Dismissal, Termination, Lay-off, Suspension.*

2 The director shall establish regulations governing dismissals,  
3 terminations, lay-offs, and suspensions. Severance of em-  
4 ployees' relationship with the department shall be in accord-  
5 ance with these regulations. All severances shall be for good  
6 cause. Failure to maintain technical or professional qualifi-  
7 cations shall be a good cause for severance.

Sec. 13. *Delegation of Duties.* All powers and duties

2 vested in the director may be delegated by him to his ap-  
3 pointees and employees; but the director shall be responsible  
4 for their acts.

Sec. 14. *Deputies.* For the original determination of

2 claims, the director shall appoint a necessary number of  
3 deputies as his representatives.

Sec. 15. *State Employment Service.* The director shall

2 appoint upon a non-partisan merit basis the head of the divi-  
3 sion of the employment service and shall fix his salary and  
4 prescribe his duties, in accordance with the requirements of  
5 section eight of this article.

Sec. 16. *Employment Offices.* The director shall establish

2 and maintain free public employment offices in such places  
3 as necessary for the proper administration of this chapter and  
4 for the purpose of performing the duties within the purview  
5 of the act of Congress entitled "An Act to provide for the  
6 establishment of a national employment system and for co-  
7 operation with states in the promotion of such system, and  
8 for other purposes," approved June six, one thousand nine  
9 hundred thirty-three, as amended.

Sec. 17. *Federal-State Cooperation.* The head of the em-

2 ployment service division shall have all powers and duties  
3 necessary to secure to the state the benefits of Congressional  
4 action for the promotion and maintenance of a system of  
5 public employment offices. To this end the provisions of the  
6 act referred to in the preceding section and such additional  
7 Congressional action consistent with the above act may be  
8 accepted by the state and the state pledges its observance  
9 and compliance therewith.

10 The State Employment Service Division is designated the  
11 agent of this state for the purposes of compliance with the

12 act of Congress entitled "An Act to provide for the establish-  
13 ment of a national employment system and for cooperation  
14 with states in the promotion of such system, and for other  
15 purposes," approved June six, one thousand nine hundred  
16 thirty-three, as amended. The director shall appoint the head  
17 of the service and all appointees and employees in accord-  
18 ance with the regulations prescribed by the director of the  
19 United States Employment Service.

2       Sec. 18. *Acceptance of Aid.* For the purpose of establish-  
3 ing and maintaining free public employment offices, the  
4 director may enter into agreements with any political sub-  
5 division of the state or with any private non-profit organiza-  
6 tion, and as part of such an agreement the director may ac-  
7 cept money, services, or quarters as a contribution to the em-  
8 ployment service account.

2       Sec. 19. *Legal Assistants.* The attorney general and his  
3 assistants and the prosecuting attorneys of the several coun-  
4 ties shall render to the director without additional compensa-  
5 tion such legal services as in the discharge of his duties he  
6 shall require.

7       The director may employ temporarily or as regular members  
8 of the department additional legal counsel. The remunera-  
9 tion of such counsel shall be paid from the administration  
10 fund.

2       Sec. 20. *Rules and Regulations.* The director may issue  
3 rules and regulations in accordance with such regular pro-  
4 cedure as the director shall prescribe.

2       Sec. 21. *Oaths and Witnesses.* The director and his  
3 specially authorized representatives shall have the power  
4 to administer oaths, take depositions, certify official acts, and  
5 issue subpoenas to compel the attendance of witnesses and  
6 production of papers necessary as evidence in connection with  
7 a dispute or the administration of this chapter.

2       Sec. 22. *Subpoenas.* The director or his authorized repre-  
3 sentative shall have the power to issue subpoena for the pro-  
4 duction of persons and papers in all proceedings within the  
5 purview of this chapter. In case a person refuses to obey  
6 such subpoena the director or his representative may invoke

6 the aid of any circuit court in order that the testimony or  
 7 evidence be produced. Upon proper showing, such court  
 8 shall issue a subpoena or order requiring such persons to  
 9 appear before the director or his representative and produce  
 10 all evidence and give all testimony touching the matter in  
 11 question.

12 A person failing to obey such order may be punished by  
 13 such court as for contempt.

Sec. 23. *Publication.* The director shall print for public  
 2 distribution :

3 (1) The text of this chapter.

4 (2) The regulations and general rules of the division.

5 (3) Such other material as the director deems relevant  
 6 and suitable for the more effective administration of the  
 7 chapter.

### Article 3. Advisory Council.

#### Section

1. Creation.
2. Appointment.
3. Term of office.
4. Qualifications.
5. Disqualifications.
6. Oath of office.
7. Honorarium and traveling expenses.
8. Offices.
9. Meetings.
10. Quorum.
11. Advisory powers and duties.
12. Local advisory councils.

Section 1. *Creation.* There is hereby created in the De-  
 2 partment of Unemployment Compensation a "State Advisory  
 3 Council" composed of six members.

Sec. 2. *Appointment.* The members shall be appointed by  
 2 the Governor, by and with the advice and consent of the  
 3 Senate.

Sec. 3. *Term of Office.* The term of office of the members  
 2 of the council shall be six years, except that the Governor,  
 3 upon the adoption of this chapter, shall appoint the members  
 4 upon the following basis: Two members for a term of six  
 5 years; two members for a term of four years; two members for  
 6 a term of two years. As these appointments expire, all ap-  
 7 pointments shall be for six-year terms.

8 In case of a vacancy, the Governor shall make an appoint-  
9 ment for the remainder of the unexpired term.

10 Members shall be subject to removal at the will and pleasure  
11 of the Governor.

Sec. 4. *Qualifications.* The members of the council shall  
2 be selected with special reference to their ability and fitness  
3 to effectuate the purposes of this chapter.

4 Two members of the council shall be selected as representa-  
5 tives of employer interests; two members shall be selected as  
6 representatives of employee interests; and two members shall  
7 represent the interests of the general public.

Sec. 5. *Disqualifications.* A member shall not be a candi-  
2 date for, or hold, any other public office or trust, nor shall  
3 he be a member of any political committee. If a member be-  
4 comes a candidate for, or is appointed to, any other public  
5 office or political committee, his office as a member of the  
6 council shall automatically be vacated.

Sec. 6. *Oath of Office.* Members of the council shall take  
2 and subscribe to the constitutional oath before entering upon  
3 their duties. Their oaths shall be filed with the Secretary of  
4 State.

Sec. 7. *Honorarium and Traveling Expenses.* Each member  
2 of the council shall receive an honorarium of fifteen dollars  
3 for each day actually served in attendance at meetings of the  
4 Council and such traveling expenses as are incurred in the  
5 performance of his duties under the provisions of this chapter.

6 Requisition for traveling expenses shall be accompanied  
7 by a sworn and itemized statement which shall be filed with  
8 the Auditor and permanently preserved as a public record.

9 Members shall not be compensated for more than thirty  
10 days' service in any year.

Sec. 8. *Offices.* The offices and meeting place of the council  
2 shall be at the capital.

Sec. 9. *Meetings.* The council shall hold four regular  
2 meetings each year as follows: On the first Monday in

3 January, April, July, and October. Special meetings may be  
4 convened on the call of the director, the Governor, or a  
5 majority of the members.

Sec. 10. *Quorum.* A majority of the members of the council  
2 shall constitute a quorum for the conduct of council business.

Sec. 11. *Advisory Powers and Duties.* The council shall  
2 be an advisory body to the director and as such shall have  
3 the following advisory powers and duties:

4 (1) Study and consider the entire field of legislation and  
5 administration concerning Unemployment Compensation.

6 (2) Advise the director concerning the organization and  
7 administration of the department.

8 (3) Recommend to the director policies and practices  
9 relative to his duties.

10 (4) Advise and make recommendations to the Governor  
11 or to the Legislature relative to the unemployment policy of  
12 the state.

13 (5) Advise the director with respect to the special prob-  
14 lems of different industries, regions, or economic groups of  
15 the state.

16 (6) Advise the director with respect to the preparation  
17 and amendment of the rules and regulations relative to this  
18 chapter.

19 (7) Exercise any other advisory powers necessary or  
20 reasonably implied within the provisions and purposes of this  
21 chapter.

Sec. 12. *Local Advisory Councils.* The advisory council  
2 may appoint local advisory councils for the study, considera-  
3 tion, and reporting of any particular local situation.

4 The local council shall be appointed for a limited and  
5 temporary period only. Members of the local council shall  
6 serve without compensation.

7 The local council shall make such reports as the advisory  
8 council stipulates in its order of appointment.

**Article 4. Board of Review.****Section**

1. Board of review.
2. Appointment.
3. Qualifications.
4. Oath of office.
5. Compensation.
6. Meetings.
7. Quorum.
8. Removal.
9. Powers and duties.
10. Appointment of examiners.
11. Oaths and witnesses.
12. Subpoenas.

Section 1. *Board of Review.* There is hereby created on  
2 October first, one thousand nine hundred thirty-seven, a  
3 Board of Review, consisting of three members. They shall  
4 devote their entire time to the duties of their offices.

Sec. 2. *Appointment.* On October first, one thousand nine  
2 hundred thirty-seven, the Governor, by and with the advice  
3 and consent of the Senate, shall appoint the members of the  
4 Board of Review for terms of six years, except that the terms  
5 of the members first taking office shall be two, four, and six  
6 years, respectively, as designated by the Governor at the  
7 time of their appointment. Vacancies shall be filled by the  
8 Governor for the unexpired term. The Governor shall design-  
9 nate one member as chairman of the board.

Sec. 3. *Qualifications.* The members of the board shall be  
2 selected with special reference to their ability and fitness  
3 to adjudicate claims. Selections shall be upon a non-partisan  
4 merit basis. The Governor shall not appoint a person who  
5 is identified with the interests of either employers or em-  
6 ployees.

Sec. 4. *Oath of Office.* Members of the board shall take  
2 and subscribe to the constitutional oath before entering  
3 upon their duties. Their oaths shall be filed with the secre-  
4 tary of state.

Sec. 5. *Compensation.* Each member of the board shall  
2 receive an annual salary of four thousand dollars and the  
3 necessary traveling expenses incurred in the performance  
4 of his duties.

5 Requisition for traveling expenses shall be accompanied  
6 by a sworn and itemized statement which shall be filed  
7 with the Auditor and permanently preserved as a public  
8 record.

9 The salaries and the expenses of the members shall be  
10 paid from the administration fund.

Sec. 6. *Meetings.* The offices and meeting place of the  
2 board shall be at the capitol; but the board may sit at such  
3 other places as the prompt and efficient hearing of claims  
4 may require.

Sec. 7. *Quorum.* A majority of the members of the board  
2 shall constitute a quorum for the hearing of appealed claims.

Sec. 8. *Removal.* After hearing, and upon cause shown,  
2 the Governor may remove a member of the board.

Sec. 9. *Powers and Duties.* The board shall have the  
2 following powers and duties, to

3 (1) Hear and determine all disputed claims presented to  
4 it in accordance with the provisions of article seven.

5 (2) Appoint examiners and fix their salaries.

6 (3) Organize from salaried examiners such appeal  
7 tribunals as are necessary for the expedition of disputed  
8 claim procedure.

9 (4) Establish procedure for the hearing of disputed  
10 claims.

11 (5) Take oaths, examine witnesses, and issue subpoenas.

12 (6) Establish the amount of witness fees.

13 (7) Keep such records and make such reports as are  
14 necessary for disputed claims.

15 (8) Exercise such additional powers as may be necessary  
16 for the proper conduct of a system of administrative review  
17 of disputed claim.

Sec. 10. *Appointment of Examiners.* The board may  
2 appoint such examiners as are necessary to hear appeals  
3 from determinations of deputies. The board shall fix the  
4 examiners' salaries which shall be paid from the administra-  
5 tion fund.

6 Appointment shall be made upon a non-partisan merit



7 basis. The board shall not appoint a person who is identified  
8 with the interests of either employers or employees.

Sec. 11. *Oaths and Witnesses.* The board, appeal tribunal,  
2 or examiner will have the power to administer oaths, take de-  
3 positions, certify official acts, and issue subpoenas to compel  
4 the attendance of witnesses and the production of papers  
5 necessary as evidence in connection with a dispute or dis-  
6 puted claim.

Sec. 12. *Subpoenas.* The board, appeal tribunal, or ex-  
2 aminer shall have the power to issue subpoenas for the pro-  
3 duction of persons and papers in all proceedings within their  
4 jurisdiction. In case a person refuses to obey such subpoena  
5 the board, appeal tribunal, or examiner may invoke the aid  
6 of a circuit court in order that the testimony or evidence  
7 be produced. Upon proper showing such court shall issue  
8 an order requiring such persons to appear before the board  
9 appeal tribunal, or examiner and produce all evidence and  
10 give all testimony touching the matter in question. A  
11 person failing to obey such order may be punished by the  
12 court as for contempt.

## Article 5. Employer Coverage and Responsibility.

### Section

1. Employer coverage.
2. Duration.
3. Voluntary coverage.
4. Payments.
5. Rate of contribution.
6. Pooled fund.
7. Separate accounts.
8. Merit rating; classification.
9. Merit rating; fund stabilization.
10. Merit rating; decreased rates.
11. Merit rating; increased rates.
12. Auxiliary rates.
13. Method of payment.
14. Deduction of wages prohibited.
15. Fractions.
16. Collection of payments.
17. Interest on past-due payments.
18. Priorities.
19. Refunds.

Section 1. *Employer Coverage.* An employing unit which  
2 is or becomes an employer subject to this chapter during  
3 any year shall be subject to the provisions of the chapter  
4 for the whole of the year.

Sec. 2. *Duration.* Except as provided in section three of this article, an employing unit shall cease to be an employer subject to this chapter only as of the first day of January of any year, and only if it files with the director, prior to the fifth day of January of such year, a written application for termination of coverage, and the director finds that there were no twenty different days, each day being in a different week within the preceding calendar year, within which such employing unit employed eight or more individuals in employment subject to this chapter.

Sec. 3. *Voluntary Coverage.* Upon written election filed with the director, an employing unit not subject to this chapter, or an employer of services which do not constitute employment under this chapter, may, upon the written approval of the director qualify under this chapter for a period of not less than two years. An employing unit which voluntarily elects to become an employer subject to this chapter shall be treated as an employer for all purpose for the full period of its election.

In the case of voluntary coverage, an employing unit or employer may withdraw as of January first of any calendar year, if thirty days prior to that date it files written notice of its intention with the director.

Sec. 4. *Payments.* On and after January first, one thousand nine hundred thirty-six, an employer shall be liable for payments in respect to wages payable for employment occurring during each year.

Sec. 5. *Rate of Contribution.* An employer shall make payments to the unemployment compensation fund equal to the following percentages of wages payable by him with respect to employment as follows:

Nine-tenths of one per cent with respect to employment during the year, one thousand nine hundred thirty-six.

One and eight-tenths per cent with respect to employment during the year, one thousand nine hundred thirty-seven.

Two and seven-tenths per cent with respect to employment during the years, one thousand nine hundred thirty-eight, one thousand nine hundred thirty-nine, one thousand nine hundred forty, and thereafter.

13 The percentage determined by sections eight to thirteen of  
14 this article.

Sec. 6. *Pooled Fund.* All payments shall be made to the  
2 unemployment compensation fund. All payments to the  
3 fund shall be pooled and available to pay benefits to any  
4 individual entitled thereto under this chapter, irrespective  
5 of the source of the payment. Nothing in this chapter shall  
6 be construed to grant to an employer or individual in his  
7 service prior claim or right to the amount paid by him to the  
8 unemployment compensation fund.

Sec. 7. *Separate Account.* The director shall maintain a  
2 separate account for each employer, crediting his account  
3 with all the payments which he has made and charging his  
4 account with all benefits which under article six were  
5 chargeable against weeks of employment in his service.

Sec. 8. *Merit Rating: Classification.* For the year one  
2 thousand nine hundred forty-one and each year thereafter  
3 the director shall classify employers according to the ratio  
4 of payments credited and benefits charged to their account,  
5 with a view to fixing such payment-rates as will reflect their  
6 employment experience.

Sec. 9. *Merit Ratings: Fund Stabilization.* An employer's  
2 payment-rate shall be reduced only as of January one of a  
3 calendar year and shall not be reduced below two and seven  
4 tenths per cent:

5 (1) Prior to January one, one thousand nine hundred  
6 forty-one.

7 (2) Thereafter, unless the total assets of the fund, ex  
8 cluding payments payable at the beginning of the year,  
9 exceed the total benefits paid from the fund within the last  
10 preceding year.

11 No employer's rate shall be less than one and eight-tenths  
12 per cent, unless the assets of the entire fund are at such  
13 time at least twice the total benefits paid from the fund  
14 within the last preceding year.

Sec. 10. *Merit Rating: Decreased Rates.* After the require-  
2 ments of section nine have been complied with, an em-

3 ployer's payment shall remain two and seven-tenths per cent,  
4 until:

5 (1) There has elapsed three years throughout which an  
6 individual in his employ could have received benefits if un-  
7 employed and eligible.

8 (2) His payments exceed the benefits charged to his  
9 account by an amount equal to at least seven and one-half  
10 per cent of his average annual payroll, in which case his  
11 rate shall be one and eight-tenths per cent.

12 (3) His payments exceed the benefits charged to his  
13 account by an amount equal to at least ten per cent of his  
14 average annual payroll, in which case his rate shall be  
15 nine-tenths of one per cent.

16 The director shall determine an employer's compliance  
17 with these requirements.

Sec. 11. *Merit Ratings: Increased Rates.* If the total pay-  
2 ments of an employer for all past periods or the last sixty  
3 consecutive calendar months (whichever period is the more  
4 advantageous to the employer) are less than the total  
5 benefits charged against his account during the same period,  
6 his rate shall be three and six-tenths per cent, unless he shows  
7 to the satisfaction of the director that such experience is  
8 due to an act of God, fire, or other catastrophe, or act of  
9 civil or military authority, directly affecting the place in  
10 which individuals were employed by him, in which case the  
11 rate shall be two and seven-tenths per cent.

Sec. 12. *Auxiliary Rates.* If the director determines that  
2 the above rates work inequities and hardships upon par-  
3 ticular individuals or industries he may hold an investiga-  
4 tion after proper notice and hearing and establish other  
5 rates more in consonance with the risk of each employer  
6 and more nearly calculated to increase stabilization of em-  
7 ployment. Rates fixed by the director shall be subject to  
8 the following limitations:

9 (1) The combined rates of all employers shall yield ap-  
10 proximately two and seven-tenths per cent of the total  
11 annual payrolls.

12 (2) The rate for a particular employer shall not be less  
13 than two and seven-tenths per cent until there has been

14 three years throughout which an individual in his employ  
15 could have received benefits if unemployed and eligible.

Sec. 13. *Method of Payment.* All payments shall be made  
2 in accordance with rules and regulations of the director.

Sec. 14. *Deduction of Wages Prohibited.* An employer  
2 shall not deduct payments in whole or in part from the wages  
3 of an individual in his employ.

Sec. 15. *Fractions.* In any payment, a fractional part of  
2 a cent shall be disregarded unless it amount to one-half cent  
3 or more, in which case, it shall be increased to one cent.

Sec. 16. *Collection of Payments.* The director in the name  
2 of the state shall commence a civil action against an employer,  
3 who, after due notice, defaults in any payment or interest  
4 thereon. If judgment is against the employer he shall pay  
5 the costs of the action.

6 Civil actions under this section shall be given preference  
7 on the calendar of the court over all other civil actions ex-  
8 cept petitions for judicial review under this chapter and  
9 cases arising under the Workmen's Compensation Law.

Sec. 17. *Interest on Past-due Payments.* Payments un-  
2 paid on the date on which due and payable, as prescribed by  
3 the director, shall bear interest at the rate of one per cent  
4 per month until payment plus accrued interest is received by  
5 the director.

6 Interest collected pursuant to this section shall be paid  
7 into the Unemployment Compensation Fund.

Sec. 18. *Priorities.* In the event of any distribution of an  
2 employer's assets pursuant to an order of the court under a  
3 law of this state, payments then or thereafter due shall be  
4 paid in full prior to all other claims except taxes and claims  
5 for wages. Wage claims in excess of two hundred fifty dollars  
6 per claimant or earned more than six months before the com-  
7 mencement of the proceeding, shall not be entitled to priority.  
8 In the event of an employer's adjudication in bankruptcy,  
9 judicially confirmed extension proposal or composition, under  
10 the Federal Bankruptcy Act of one thousand eight hundred  
11 ninety-eight, as amended, payments then or thereafter due

12 shall be entitled to such priority as is provided in section  
13 sixty-four (b) of that act, as amended.

Sec. 19. *Refunds.* Within one year after date on which pay-  
2 ment or interest thereon is due, an employer, who has paid  
3 such payment or interest, may make application for:

4 (1) An adjustment thereof in connection with subsequent  
5 payments.

6 (2) A refund thereof if adjustment cannot be made

7 If the director determines that payments and interest were  
8 erroneously collected, he shall make the adjustment, without  
9 interest, in connection with subsequent payments of the em-  
10 ployer, or if such adjustment cannot be made, refund the  
11 amount without interest from the Unemployment Compensa-  
12 tion Fund.

13 For like cause and within the same period the director,  
14 on his own initiative, may make an adjustment or refund.

#### **Article 6. Employee Eligibility; Benefits.**

##### **Section**

1. Eligibility qualifications.
2. Waiting period construed.
3. Extension of employment period.
4. Disqualification for benefits.
5. Suitable work.
6. Suitable work; further requirements.
7. Disqualification in case of labor dispute; exception.
8. Payment of benefits.
9. Place of payment.
10. Amount of benefits; total unemployment.
11. Amount of benefits; partial unemployment.
12. Ratio of benefits.
13. Method of charging benefits.
14. Two or more employers.
15. Partial benefits.
16. Full-time weekly hours.
17. Hourly rate of earnings.
18. Full-time weekly wage.
19. Uniform hour and rate determination.
20. Seasonal and part-time employment.

Section 1. *Eligibility Qualifications.* An unemployed in-  
2 dividual shall be eligible to receive benefits, only if the director  
3 finds that:

4 (1) He has registered for work at and thereafter con-  
5 tinues to report at an employment office in accordance with  
6 the regulations of the director.

7 (2) He has made a claim for benefits in accordance with

8 the provisions of article seven of this chapter.

9 (3) He is able to work, and is available for work.

10 (4) He has been totally unemployed for a waiting period  
11 of two weeks prior to the week for which he claims benefits  
12 for total unemployment.

13 (5) He has had at least thirteen weeks of employment  
14 within the fifty-two consecutive weeks preceding the first  
15 week in any continuous period of unemployment.

Sec. 2. *Waiting Period Construed.* The waiting period of  
2 two weeks need not be consecutive but may be accumulated  
3 during the thirteen consecutive weeks preceding the week  
4 for which benefits are claimed. This requirement shall not  
5 interrupt the payment of benefits for consecutive weeks of  
6 unemployment; but the waiting period must occur after bene-  
7 fits could first become payable to an individual under this  
8 chapter.

9 During the waiting period the individual must be eligible  
10 in all respects except for the requirements of subsections two  
11 and five, section one of this article.

Sec. 3. *Extension of Employment Period.* If the director  
2 finds that during the period of fifty-two weeks required by  
3 subsection five, section one of this article, or the period of  
4 one hundred and four weeks required by section twelve of this  
5 article, an individual has been:

6 (1) Incapable of work because of some physical or mental  
7 disability,

8 (2) Engaged in self-employment,

9 (3) Engaged in the performance of services not subject to  
10 this chapter,  
11 either or both periods shall be extended by the duration of  
12 the incapacity, self-employment, or services. No such exten-  
13 sions shall exceed fifty-two additional weeks.

Sec. 4. *Disqualification for Benefits.* Upon the determi-  
2 nation of the facts by the director or his deputy, an individual  
3 shall be disqualified for benefits:

4 (1) For the week in which he left work voluntarily with-  
5 out good cause and for not less than one nor more than five  
6 weeks which immediately follow.

7 (2) For the week in which he has been discharged for

8 misconduct connected with his work and for not less than  
9 one nor more than nine weeks which immediately follows.

10 (3) For the week in which he failed, without good cause,  
11 to apply for available suitable work, accept suitable work  
12 when offered, or return to his customary self-employment  
13 when directed to do so by the director and for not less than  
14 one nor more than five weeks which immediately follow.

15 (4) For a week in which his total or partial unemploy-  
16 ment is due to a stoppage of work which exists because of a  
17 labor dispute at the factory, establishment, or other premises  
18 at which he was last employed, unless the director is satis-  
19 fied that he was not (one) participating, financing, or inter-  
20 ested in such dispute, and (two) did not belong to a grade  
21 or class of workers who were participating, financing, or  
22 directly interested in the labor dispute which resulted in  
23 the stoppage of work.

24 (5) For a week with respect to which he is receiving or  
25 has received :

26 (a) Wages in lieu of notice ;

27 (b) Compensation for temporary partial disability under  
28 the Workmen's Compensation Law of any state or under a  
29 similar law of the United States ;

30 (c) Old age benefits under Title II of the Social Security  
31 Act or similar payments under any act of Congress.

Sec. 5. *Suitable Work.* In determining whether work is  
2 suitable for an individual, the director shall consider :

3 (1) The degree of risk involved to the individual's health,  
4 safety, and morals.

5 (2) The individual's physical fitness and prior training.

6 (3) His experience and prior earnings.

7 (4) His length of unemployment.

8 (5) His prospects of securing local work in his customary  
9 occupation.

10 (6) The distance of the available work from his residence.

Sec. 6. *Suitable Work: Further Requirements.* Notwith-  
2 standing any other provisions of this chapter, no work shall  
3 be deemed suitable and benefits shall not be denied to an in-  
4 dividual, otherwise eligible, for refusing to accept new work  
5 under any of the following conditions :



6 (1) If the position offered is vacant due directly to a  
7 strike, lockout, or other labor dispute.

8 (2) If the wages, hours, or other conditions of the work  
9 offered are substantially less favorable to the individual than  
10 those prevailing for similar work in the locality.

11 (3) If as a condition of being employed the individual  
12 would be required to join a company union or to resign from  
13 or refrain from joining any bona-fide labor organization.

Sec. 7. *Disqualification in Case of Labor Dispute: Ex-*  
2 *ception.* In case separate branches of work commonly con-  
3 ducted as separate businesses are conducted in separate de-  
4 partments on the same premises, each department shall, for  
5 the purposes of subsection four, section four, be treated as a  
6 separate establishment.

Sec. 8. *Payment of Benefits.* Benefits shall become payable  
2 from the fund twenty-four months after the first day when  
3 payments first accrue.

Sec. 9. *Place of Payment.* Benefits shall be paid through  
2 employment offices in accordance with such regulations as  
3 the director shall prescribe.

Sec. 10. *Amount of Benefits: Total Unemployment.* Each  
2 eligible individual who is totally unemployed in any week  
3 shall be paid benefits with respect to that week at the rate  
4 of fifty per cent of his full-time weekly wage, but no more  
5 than fifteen dollars per week nor less than five dollars, or  
6 three-fourths of his full-time weekly wage, whichever is the  
7 lesser.

8 Benefits shall be computed to the next highest multiple  
9 of twenty cents.

Sec. 11. *Amount of Benefits: Partial Unemployment.* An  
2 eligible individual who is partially unemployed in any week  
3 shall be paid with respect to such week a partial benefit.  
4 Such partial benefit shall be an amount which if added to  
5 his wages for such week would exceed his weekly benefit  
6 amount by two dollars.

7 If such partial benefit for any week equal less than two  
8 dollars it shall not be payable unless and until the accumu-  
9 lated total of such partial benefits with respect to weeks  
10 occurring within the thirteen preceding weeks equals two  
11 dollars or more.

2       Sec. 12. *Ratio of Benefits.* An eligible individual shall be  
3 paid benefits with respect to his total or partial unemploy-  
4 ment in the ratio of one-fourth of his weekly benefit amount  
5 to each uncharged week of employment occurring within the  
6 one hundred four consecutive weeks preceding the first week  
7 in any continuous period of unemployment, except that his  
8 aggregate benefits thus payable within any period of fifty-  
9 two consecutive weeks shall not exceed twelve times his  
weekly benefit amount.

2       Sec. 13. *Method of Charging Benefits.* An individual's  
3 total benefits shall be limited in accordance with the pro-  
4 visions of section twelve of this article and shall be charged  
5 against his weeks of employment in the inverse chronological  
6 order in which such weeks occurred.

2       Sec. 14. *Two or More Employers.* In no event shall any  
3 one calendar week be charged as more than one week of em-  
4 ployment. If during any week an individual has rendered  
5 services for more than one employer his benefit shall be  
6 chargeable only against the week of employment for the em-  
7 ployer by whom the plurality of his wages for such week was  
payable.

2       Sec. 15. *Partial Benefits.* If the amount chargeable against  
3 a particular week of employment is less than one-fourth of  
4 the weekly benefit amount, the manner in which and the extent  
5 to which such charge shall be made shall be fixed by the  
6 director according to a general rule.

2       Sec. 16. *Full-time Weekly Hours.* An individual's full-  
3 time weekly hours shall be determined as follows:

- 3       (1) The hours worked by an individual in all those weeks  
4 of employment in which he worked thirty hours or more  
5 occurring within the fifty-two weeks preceding the first week  
6 in any continuous period of unemployment shall be added to-  
7 gether.
- 8       (2) The total hours shall be divided by the number of  
9 weeks in which more than thirty hours were worked.
- 10       (3) The resulting weekly average shall constitute the in-  
11 dividual's full-time weekly hours.
- 12       (4) If the application of the above method produces un-  
13 reasonable or arbitrary results in a particular case, the

14 director shall prescribe fair and reasonable methods of deter-  
15 mination.

Sec. 17. *Hourly Rate of Earnings.* An individual's hourly  
2 rate of earnings shall be determined by dividing the total  
3 wages for his full-time weekly hours occurring within the  
4 thirteen weeks preceding the first week in any continuous  
5 period of unemployment by the total number of hours of  
6 employment within such weeks. The quotient so obtained  
7 shall be his hourly rate of earnings until a subsequent deter-  
8 mination is made. If such method of determination is un-  
9 reasonable or arbitrary in a particular case, the hourly rate  
10 of earnings shall be determined by the director in accordance  
11 with fair and reasonable methods.

Sec. 18. *Full-time Weekly Wage.* The full-time weekly  
2 wage shall be the product of the full-time weekly hours as  
3 determined in section sixteen and the hourly rate of earn-  
4 ings as determined in section eighteen of this article.

Sec. 19. *Uniform Hour and Rate Determination.* After  
2 fair notice and opportunity to be heard, the director may  
3 determine the full-time weekly hours customarily worked  
4 and the hourly rate of earnings customarily received by  
5 individuals employed in any trade or industry or any type  
6 of employment within the state. After such hearing he may  
7 determine and publish uniform rates within industries for  
8 different types of employment and for different portions of  
9 the state. Until such determinations are amended or re-  
10 scinded, the rates so fixed shall be the basis for determining  
11 the full-time weekly wage.

12 Upon application in writing the director may exempt any  
13 individual from the application of such uniform rates if the  
14 applicant demonstrates their unfairness or inapplicability to  
15 him.

Sec. 20. *Seasonal and Part-time Employment.* The director  
2 shall study and investigate the prevalence of part-time and  
3 seasonal employment in the state. He shall prepare a plan  
4 covering the protections of this chapter with respect to in-  
5 dividuals in part-time and seasonal employment and shall  
6 submit such plan to the Legislature, which convenes in Janu-  
7 ary, one thousand nine hundred thirty-nine.

**Article 7. Claim Procedure.****Section**

1. Claims.
2. Display of regulations.
3. Deputies.
4. Initial determination.
5. Reference.
6. Board procedure; referred cases.
7. Appeal tribunals.
8. Appeal from deputy's decision.
9. Finality of examiner's decision.
10. Board review.
11. Benefits pending appeal.
12. Quorum.
13. Procedure.
14. Records.
15. Report of decision.
16. Exclusion of interested party.
17. Finality of board's decision.
18. Claim procedure cost.
19. Administrative relief first.
20. Board a necessary party.
21. Findings of fact.
22. Judicial review.
23. Trial.
24. Exceptions and bond.
25. Service.
26. Transcript of record.
27. Appeal.
28. Effect of judicial decision.
29. Supersedeas.

Section 1. *Claims.* Claims for benefit shall be made in accordance with the rules and regulations prescribed by the director.

Sec. 2. *Display of Regulations.* An employer shall post and maintain in places readily accessible to individuals in his service the claim procedure regulations presented by the director. At the time of discharge an employer shall furnish an individual with a copy of the regulations. The director shall provide an employer copies of the regulations without cost.

Sec. 3. *Deputies.* The director shall appoint deputies to investigate and originally determine all claims for benefits.

Sec. 4. *Initial Determination.* A deputy shall promptly investigate a claim and shall, after the establishment of the facts, determine

- (1) The validity of the claim.
- (2) The week with respect to which benefits will commence.

6 (3) The amount of benefit.

7 (4) The maximum duration of benefit.

8 The deputy, then, shall promptly notify the claimant and  
9 interested parties of his findings and decisions.

Sec. 5. *Reference.* If, after the establishment of the facts,  
2 the deputy is in doubt concerning the claim he shall refer the  
3 claim and any question involved to the board.

4 If in any case the payment or denial of benefit will be  
5 determined by the provisions of subsection four, section four,  
6 article six, the deputy shall transmit his full findings of  
7 fact with respect to that subsection to the board for their  
8 decision.

Sec. 6. *Board Procedure: Referred Cases.* The board shall  
2 follow the same procedure in referred cases as in disputed  
3 cases. The board shall upon such findings and such additional  
4 evidence as it may procure make a decision and transmit it  
5 to the deputy.

6 The deputy shall promptly notify the claimant and inter-  
7 ested parties of the findings and decisions.

Sec. 7. *Appeal Tribunals.* The board shall determine the  
2 manner of hearing appeals from the decision of a deputy  
3 and may direct in particular cases or in particular areas that  
4 the appeal be heard by:

5 (1) A single examiner.

6 (2) A tribunal of three examiners assigned by the board.

7 (3) A member of the board.

Sec. 8. *Appeal from Deputy's Decision.* Upon appeal from  
2 the determination of a deputy, an individual shall be entitled  
3 to a fair hearing and reasonable opportunity to be heard  
4 before an appeal tribunal as provided in section seven of  
5 this article.

6 Upon a consideration of all the evidence the appeal tribunal  
7 shall make a decision, and shall notify the parties of its  
8 findings and decision.

Sec. 9. *Finality of Examiner's Decision.* The decision of  
2 an appeal tribunal shall be final and benefits shall be paid  
3 or denied in accordance therewith, unless a claimant or  
4 interested party files an appeal to the board within:

5 (1) Five calendar days after the delivery of notification  
6 of the examiner's decision, or

7 (2) Seven calendar days after mailing of notification to  
8 his last known address.

Sec. 10. *Board Review.* The board may, after proper  
2 notice and opportunity for hearing,

3 (1) On its own motion affirm, modify, or set aside a de-  
4 cision of an examiner.

5 (2) Direct the taking of additional evidence in a disputed  
6 claim.

7 (3) Permit parties to an examiner's decision to initiate  
8 further appeals before it.

Sec. 11. *Benefits Pending Appeal.* If an appeal is filed,  
2 benefits for the period prior to final determination of the  
3 board shall be paid only after such determination. If the  
4 board affirms the decision of the examiner allowing benefits,  
5 the benefits shall be paid regardless of any further appeal;  
6 but if the decision of the board is reversed on appeal, an  
7 employer's account shall not be charged with the benefits so  
8 paid.

Sec. 12. *Quorum.* All hearings before the board shall be  
2 before at least a quorum of its members.

Sec. 13. *Procedure.* The board shall establish, and may  
2 from time to time modify and amend, rules and regulations  
3 relative to disputed claims for:

4 (1) The conduct and determination of benefit cases ap-  
5 pealed to it, or to an examiner, or an appeal tribunal.

6 (2) The form of all papers and records thereof.

7 (3) The time, place, and manner of hearings.

8 (4) Determining the rights of the parties; and the rules  
9 need not conform to the common law or statutory rules of  
10 evidence and procedure and may provide for the determina-  
11 tion of questions of fact according to the predominance of the  
12 evidence.

Sec. 14. *Records.* The board shall keep full and complete  
2 records of all proceedings concerning a disputed claim. All  
3 testimony upon a disputed claim shall be recorded but need  
4 not be transcribed unless the claim is appealed.

2       Sec. 15. *Report of Decision.* The board shall notify,  
3 promptly, the parties to an appeal of its findings and de-  
4 cision.

2       Sec. 16. *Exclusion of Interested Party.* A person inter-  
3 ested in the determination of any disputed claim arising  
4 under this chapter shall not participate on behalf of the  
5 director or the board in the determination thereof.

2       Sec. 17. *Finality of Board's Decision.* The decision of the  
3 board shall be final and benefits shall be paid or denied in  
4 accordance therewith, unless a claimant or interested party  
5 appeals to a court within ten days after mailing or notifica-  
6 tion of the board's decision.

2       Sec. 18. *Claim Procedure Cost.* Witness fees of subpoenaed  
3 witnesses shall be charged to the administration fund.

2       Sec. 19. *Administrative Relief First.* A person claiming an  
3 interest under the provisions of this article shall exhaust his  
4 remedies before the board before seeking judicial review.

2       Sec. 20. *Board a Necessary Party.* The board shall be  
3 made a party to every judicial action which involves its de-  
4 cisions. The board may be represented in such actions by an  
5 attorney of the department or at the board's request, by  
6 the attorney general.

2       Sec. 21. *Findings of Fact.* In a judicial proceeding to re-  
3 view a decision of the board, the findings of fact, if sup-  
4 ported by the evidence and in the absence of fraud, shall be  
5 conclusive, and the jurisdiction of the court confined to  
6 questions of law.

2       Sec. 22. *Judicial Review.* Within ten days after a decision  
3 of the board has become final, any party aggrieved may  
4 secure judicial review of the decision by commencing an  
5 action against the board in the circuit court of Kanawha  
6 county. Parties to the proceedings before the board shall be  
7 made defendants.

2       Sec. 23. *Trial.* Except as limited by section twenty of this  
3 article, a decision of the board taken to the circuit court of  
4 Kanawha county for judicial review shall be tried as any  
5 other civil action.

2       Sec. 24. *Exceptions and Bond.* In any judicial proceeding  
3 arising under this chapter it shall not be necessary to enter

3 exception to the rulings of the board and no bond shall be  
4 required for entering an appeal.

Sec. 25. *Service.* Service in such an action shall be upon  
2 the director or such person as he may designate, and service  
3 upon him shall be treated as completed service upon all  
4 parties to the original dispute. The director shall immediately  
5 upon receipt of service forward a copy of such service by  
6 registered mail to each defendant.

Sec. 26. *Transcript of Record.* The director shall certify  
2 and file with the court all documents and papers and a  
3 transcript of all testimony taken in a disputed claim together  
4 with its findings of fact and decision thereon.

5 Upon its own motion the board may also certify to the  
6 court questions of law involved in any of the board's de-  
7 cisions.

Sec. 27. *Appeal.* The appeal from the decision of the cir-  
2 cuit court of Kanawha county may be taken to the supreme  
3 court of appeals. The cases shall go from the circuit court of  
4 Kanawha county only on writ of certiorari and need be heard  
5 only at the session of the supreme court.

Sec. 28. *Effect of Judicial Decision.* Upon the final deter-  
2 mination of such judicial proceeding the board shall enter  
3 an order in accordance with the court's determination.

Sec. 29. *Supersedeas.* A petition for judicial review shall  
2 not act as supersedeas or stay unless the board shall so  
3 order.

## Article 8. Unemployment Compensation Fund.

### Section

1. Establishment.
2. Administration.
3. Director's bond.
4. Accounts in deposit.
5. Clearing account.
6. Unemployment trust fund account.
7. Deposit with federal government.
8. Benefit account.
9. Deposit of funds.
10. Withdrawals.
11. Issuance of warrants.
12. Unclaimed amounts.
13. Termination of state act.

Section 1. *Establishment.* There is hereby established as a  
2 special fund, separate and apart from all public moneys or



3 funds of the state, an unemployment compensation fund. The  
4 fund shall consist of:

5 (1) All payments collected under this chapter and all  
6 interest thereon.

7 (2) All fines and penalties collected under the provisions  
8 of this chapter.

9 (3) Interest earned upon money in the fund.

10 (4) Property or securities acquired through the use of  
11 the fund.

12 (5) Earnings of such property or securities.

13 All money in the fund shall be mingled and undivided.

Sec. 2. *Administration.* The director shall be the custodian  
2 of the fund and shall administer it exclusively for the pur-  
3 poses of this chapter.

Sec. 3. *Director's Bond.* The director shall give a separate  
2 surety bond in the sum of fifty thousand dollars for the faith-  
3 ful management of the fund. The bond shall be in a form pre-  
4 scribed by the attorney general and approved by the Gov-  
5 ernor. The premiums upon the bond shall be paid out of the  
6 administration fund.

7 The bond shall be filed with the secretary of state.

Sec. 4. *Accounts in Deposit.* The director shall maintain  
2 in the fund three separate accounts:

3 (1) A clearing account.

4 (2) An unemployment trust fund account.

5 (3) A benefit account.

Sec. 5. *Clearing Account.* Upon the receipt of payments  
2 and other moneys payable into the fund under this chapter,  
3 the director shall immediately deposit them in the clearing  
4 account. Refunds payable under section twenty of article  
5 five shall be made from the clearing account. Such refunds  
6 shall be made upon warrants issued by the director.

Sec. 6. *Unemployment Trust Fund Account.* The unem-  
2 ployment trust fund account shall consist of money deposited  
3 with the secretary of the treasury of the United States to the  
4 credit of this state in the unemployment trust fund.

Sec. 7. *Deposit with Federal Government.* After clear-  
2 ance, moneys in the clearing account shall be deposited im-

3 mediately with the secretary of the treasury of the United  
4 States to the credit of the account of this state in the unem-  
5 ployment trust fund, established under section nine hundred  
6 four of the Social Security Act. The deposit of these funds  
7 shall not be conditioned by the requirements imposed upon  
8 public funds of this state.

Sec. 8. *Benefit Account.* The benefit account shall consist  
2 of moneys requisitioned from this state's account in the un-  
3 employment trust fund.

Sec. 9. *Deposit of Funds.* Money in the clearing and benefit  
2 accounts shall be deposited by the director with the consent  
3 of the Governor in any bank or public depository in which  
4 public funds of the state may be deposited. No public deposit  
5 insurance charge or premium shall be paid out of the unem-  
6 ployment compensation fund.

Sec. 10. *Withdrawals.* Except as provided in section thirteen  
2 of this article, money shall be requisitioned from this state's  
3 account in the unemployment trust fund solely for the pay-  
4 ment of benefits. The director may requisition from the un-  
5 employment trust fund such amounts, not exceeding the  
6 amount of the account, as he determines to be necessary for  
7 the payment of benefits for a reasonable future period.

8 Upon receipt of the money he shall deposit it in the benefit  
9 account.

Sec. 11. *Issuance of Warrants.* The director shall issue his  
2 warrants for the payment of benefits solely from the benefit  
3 account. Expenditures of money in the benefit account and  
4 refunds from the clearing account shall not be subject to  
5 limitations imposed upon the release of public funds in the  
6 custody of state officers.

7 All warrants issued by the director shall bear his signature.

Sec. 12. *Unclaimed Amounts.* Amounts unclaimed or un-  
2 paid at the expiration of the period for which sums have  
3 been requisitioned, shall be deducted from the estimates for  
4 succeeding periods, or in the discretion of the director may  
5 be redeposited with the secretary of the treasury of the  
6 United States in the unemployment trust fund.

Sec. 13. *Termination of State Act.* In case title nine of

2 the Federal Social Security Act is declared unconstitutional  
3 by the Supreme Court of the United States or is repealed by  
4 Congress or amended with the result that no portion of the  
5 contributions required by this chapter may be credited  
6 against the federal excise tax levied by title nine of such act,  
7 the provisions of this chapter by virtue of that fact shall  
8 become inoperative.

9 All assets standing to the credit of the state in the Unem-  
10 ployment Trust Fund in the United States Treasury shall  
11 be requisitioned promptly by the director. The assets of the  
12 state's account in the trust fund shall be placed in the Un-  
13 employment Compensation Fund and together with the assets  
14 in that fund shall be refunded pro rata to the contributors.

15 Money in the administration fund received from the fed-  
16 eral government shall be dealt with by the state treasurer  
17 pursuant to the conditions of the grant thereof to the State  
18 of West Virginia, and any assets therein which have been  
19 appropriated thereto out of the general treasury of the state  
20 by the Legislature shall revert to such general fund in the  
21 state treasury.

22 Corresponding action shall be taken with respect to assets  
23 in the unemployment compensation fund, the unemploy-  
24 ment trust fund, and the administration fund, in the event  
25 that this act shall be repealed by the Legislature, or declared  
26 invalid under the state constitution by the Supreme Court  
27 of Appeals of West Virginia or invalid under the United  
28 States constitution by the Supreme Court of the United  
29 States.

30 The director is hereby granted continuing authority for  
31 the purposes of action provided for by this section in case any  
32 of the above contingencies occur.

## **Article 9. Unemployment Compensation Administration Fund.**

### **Section**

1. Administration fund.
2. Appropriation.
3. Contents of fund.
4. Disbursements.
5. Lapse.
6. Treasurer's bond.
7. Employment service account.

Section 1. *Administration Fund.* There is hereby created  
2 in the state treasury a special fund to be known as the

3 unemployment compensation administration fund. All moneys  
4 in this fund shall be expended solely for the purpose of de-  
5 fraying the cost of the administration of this chapter.

Sec. 2. *Appropriation.* The moneys deposited with this  
2 fund are hereby appropriated and made available to the  
3 order of the director.

Sec. 3. *Contents of Fund.* The fund shall consist of:

- 2 (1) Moneys appropriated by the state.
- 3 (2) Moneys received from the United States, or any  
4 agency thereof, including the Social Security Board and the  
5 United States Employment Service.
- 6 (3) Moneys received from any other source.

Sec. 4. *Disbursements.* This fund shall be administered  
2 and disbursed in the same manner and under the same con-  
3 ditions as other special funds of the state treasury.

Sec. 5. *Lapse.* Balances to the credit of the administration  
2 fund shall not lapse at any time, but shall be continuously  
3 available to the director for expenditure consistent with this  
4 chapter.

Sec. 6. *Treasurer's Bond.* The treasurer shall give a sepa-  
2 rate and additional bond conditioned upon the faithful per-  
3 formance of his duties with regard to the administration fund.  
4 The bond shall be in the amount of fifteen thousand dollars  
5 and in the form prescribed by the attorney general and ap-  
6 proved by the Governor. Premiums on the bond shall be a  
7 charge on the administration fund.

Sec. 7. *Employment Service Account.* For the purpose  
2 of maintaining the employment offices established by this  
3 chapter and for the purpose of cooperating with the United  
4 States Employment Service, a special employment service  
5 account shall be maintained as a part of the administration  
6 fund.

**Article 10. General Provisions.****Section**

1. Waiver of rights.
2. Assignment of benefits; exceptions.
3. Limitation of fees.
4. Records and reports.
5. Attorney fees.
6. Self-incrimination.
7. False representation.
8. Misrepresentation.
9. Penalty for deduction or waiver.
10. General penalty.
11. Information.
12. Representation in court.
13. Criminal actions.
14. Non-liability of state.
15. Constitutionality.
16. Acts repealed.
17. Savings clause.

Section 1. *Waiver of Rights.* An agreement to waive, re-  
2 lease or commute rights to benefits, or other rights, accruing  
3 under this chapter shall be invalid.

4 An agreement by an individual to pay all or any portion  
5 of an employer's payment shall be invalid.

Sec. 2. *Assignment of Benefits: Exceptions.* An assign-  
2 ment, pledge or encumbrance of any benefit due or payable  
3 under this chapter shall be invalid. Right to benefits shall  
4 be exempt from levy, execution, attachment, or other processes  
5 for the collection of debt. Benefits received by an individual  
6 so long as they are not mingled with other funds of the  
7 recipient, shall be exempt from process for the collection of  
8 a debt. The waiver of any exemption provided in this section  
9 shall be void.

10 Collection of debts incurred for necessities furnished to  
11 an individual, his spouse, or dependents, during a period of  
12 unemployment shall be exempt from the operation of the  
13 above provision.

Sec. 3. *Limitation of Fees.* No fee shall be charged an  
2 individual in any proceeding under this act by the depart-  
3 ment or its representatives.

Sec. 4. *Records and Reports.* An employing unit shall  
2 keep true and accurate employment records containing such  
3 information as the director may prescribe. The record shall  
4 be open to inspection by the director at any reasonable time.

2       Sec. 5. *Attorney Fees.* An individual may be represented  
3 by counsel or authorized agent before the board of review,  
4 an appeal tribunal, or examiner, or a court; but the amount  
5 of the fee for such service shall be subject to the regulation  
6 of the board.

7       A person who charges or accepts a fee for such service in  
8 an amount unapproved by the board shall be guilty of a mis-  
9 demeanor. Charging an unapproved amount shall constitute  
10 grounds for disbarment.

11       Sec. 6. *Self-incrimination.* A person shall not be excused  
12 from attending and testifying or producing books, papers,  
13 correspondence, memoranda, or other records before the  
14 director or the board or in obedience to the subpoena of the  
15 board or the director, or a duly authorized representative  
16 of the board or the director, in any proceeding brought  
17 under this chapter on the ground that the testimony or  
18 evidence may tend to incriminate him, or subject him to a  
19 penalty or forfeiture. An individual shall not be prosecuted  
20 or subjected to penalty or forfeiture on account of testimony  
21 given, or evidence produced subject to such subpoena, if  
22 prior to giving such testimony or producing such evidence  
23 he has claimed his privilege against self-incrimination.

24       This section shall not exempt an individual from prosecu-  
25 tion and punishment for perjury.

26       Sec. 7. *False Representation.* A person who makes a false  
27 statement or representation, knowing it to be false, or who  
28 knowingly fails to disclose a material fact in order to obtain  
29 or increase a benefit under this chapter, either for himself  
30 or another, shall be guilty of a misdemeanor and upon con-  
31 viction punished by a fine of not less than twenty dollars nor  
32 more than fifty dollars, or by imprisonment for not longer  
33 than thirty days, or both.

34       Each false statement or representation, or failure to dis-  
35 close a material fact shall constitute a separate offense.

36       Sec. 8. *Misrepresentation.* A person, who by reason of  
37 non-disclosure or misrepresentation, either by himself or an-  
38 other (irrespective of whether such non-disclosure or mis-  
39 representation was known or fraudulent) has received a sum  
40 as a benefit under this chapter shall either have such sum

6 deducted from a future benefit payable to him or shall repay  
7 to the director the amount which he has received.

8 Collection shall be made in the same manner as collection  
9 of past due payments.

Sec. 9. *Penalty for Deduction or Waiver.* An employer  
2 who directly or indirectly:

3 (1) Makes or accepts a deduction from an individual's  
4 wage for the purpose of financing an employer's payment, or

5 (2) Requires or accepts a waiver of a right given an  
6 individual by this act,

7 shall be guilty of a misdemeanor, and upon conviction shall  
8 be fined not less than one hundred dollars nor more than  
9 one thousand dollars.

Sec. 10. *General Penalty.* A person who wilfully violates  
2 a provision of this chapter or a rule or regulation thereunder  
3 for which a specific penalty has not been imposed shall be  
4 guilty of a misdemeanor and upon conviction shall be fined  
5 not less than twenty dollars nor more than two hundred  
6 dollars.

7 Each day such violation continues shall be a separate  
8 offense.

Sec. 11. *Information.* The director may require an em-  
2 ploying unit to provide sworn or unsworn reports concern-  
3 ing:

4 (1) The number of individuals in its employ.

5 (2) Individually their hours of labor.

6 (3) Individually the rate and amount of wages.

7 (4) Such other information as is reasonably connected  
8 with the administration of this chapter.

9 Information thus obtained shall not be published or be  
10 open to public inspection so as to reveal the identity of the  
11 employing unit. A claimant of benefit, however, shall be  
12 supplied with information from such records to the extent  
13 necessary for the proper presentation of his claim.

14 A person who violates the provisions of this section shall  
15 be guilty of a misdemeanor, and upon conviction shall be  
16 fined not less than twenty dollars nor more than two hun-  
17 dred dollars, or imprisoned not longer than ninety days, or  
18 both.

2           Sec. 12. *Representation in Court.* The director, through  
3 his attorney, may represent the interest of the state in any  
4 civil action to enforce the provisions of this chapter.

2           Sec. 13. *Criminal Actions.* Criminal actions to enforce  
3 the provisions of this chapter, or rules or regulations issued  
4 thereunder, shall be prosecuted by the attorney general, or at  
5 his request by the prosecuting attorney of any county in  
6 which the defendant resides.

2           Sec. 14. *Non-liability of State.* Benefits under this act shall  
3 be due and payable only to the extent that moneys are avail-  
4 able to the credit of the unemployment compensation fund.  
5 Neither the state nor the director shall be liable for any  
6 claim in excess of the credit of the fund.

2           Sec. 15. *Constitutionality.* The provisions of this act shall  
3 be construed as severable, and should any provision be held  
4 unconstitutional, or for any other reason invalid, the remain-  
5 ing provisions shall not be affected thereby.

2           Sec. 16. *Acts Repealed.* Acts or parts of acts in conflict  
3 with or superseded by the provisions of this act are hereby  
4 repealed.

2           Sec. 17. *Savings Clause.* The Legislature reserves the right  
3 to amend or repeal all or any part of this chapter and no  
4 private rights shall vest against any legislative amendment  
5 or change or repeal. All rights, privileges, or immunities  
6 conferred by this chapter or by acts done pursuant thereto  
7 shall exist subject to the power of the Legislature to amend  
8 or repeal this chapter at any time.



## CHAPTER 2

(House Bill No. 2—By Mr. Speaker, Mr. Thomas)

AN ACT to appropriate money out of the treasury for the purpose of carrying into effect the Unemployment Compensation Law of one thousand nine hundred thirty-six.

[Passed December 16, 1936; in effect from passage. Approved by the Governor.]

### Section

1. Appropriation to carry into effect Unemployment Compensation Law.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Appropriation to Carry Into Effect Unemployment Compensation Law.* It appearing from the statement of the revenues of the current fiscal year and of the appropriations therefor that there remains in the general revenue for the current fiscal year, unappropriated, an amount in excess of the amount appropriated by this act, there is hereby appropriated to the Department of Unemployment Compensation for the remainder of the current fiscal year ending June thirtieth, one thousand nine hundred thirty-seven, the sum of twenty thousand dollars, to be expended upon requisitions drawn upon the Auditor by the proper officials of the Department of Unemployment Compensation.

## CHAPTER 3

(House Bill No. 4—By Mr. Van Sickler)

AN ACT making appropriations of public moneys out of the treasury to pay the expenses of this extraordinary session of the Legislature.

[Passed December 16, 1936; in effect from passage. Approved by the Governor.]

### Section

1. Appropriation for legislative printing.
2. Appropriation for expenses of Senate.
3. Appropriation for expenses of House of Delegates.
4. Payment of bills for supplies and services after adjournment of session.

*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-seven, the following sums of money for the following named purposes:

### LEGISLATIVE PRINTING

Section 1. Legislative printing..... \$12,000.00

### SENATE

Sec. 2. Mileage of members.....	\$	927.10
2 President of the Senate, \$2.00 per day, as pre-		
3 siding officer for three days.....		6.00
4 Compensation and per diem of officers and at-		
5 taches .....		821.00
6		
<i>Miscellaneous Appropriations</i>		
7 Laird Office Equipment Company, supplies.....		86.42
8 The Rose City Press, supplies.....		370.82
9 Thomas Office Supply Company, supplies.....		3.25
10 Contingent Fund for the Senate.....		10,000.00

### HOUSE OF DELEGATES

Sec. 3. Contingent Fund of the House of Dele-		
2 gates .....		\$10,000.00

3	Mileage of members of the House of Delegates .....	2,830.20
4	Speaker of the House of Delegates, \$2.00 per day,	
5	as presiding officer for three days .....	6.00
6	<i>Compensation and Per Diem of Other Elective Officers</i>	
7	Compensation of the Clerk, three days.....	60.00
8	Compensation of the Sergeant-at-Arms, three days	30.00
9	Compensation of the Doorkeeper, three days.....	30.00
10	<i>Compensation of Attaches and Other Employees</i>	
11	M. D. Ruffner, stenographer, three days.....	30.00
12	Hal W. DePue, assistant Sergeant-at-Arms, three	
13	days .....	18.00
14	Walter Foster, assistant Sergeant-at-Arms, three	
15	days .....	18.00
16	E. W. Webster, assistant Sergeant-at-Arms, three	
17	days .....	18.00
18	William Demuth, Jr., assistant Sergcant-at-	
19	Arms, three days.....	18.00
20	L. T. Harvey, assistant Doorkeeper, three days...	18.00
21	Arthur M. Martin, assistant Doorkeeper, three	
22	days .....	18.00
23	O. J. Carroll, assistant Doorkeeper, three days...	18.00
24	Ed. Snodgrass, assistant Doorkeeper, three days...	18.00
25	O. P. Oldham, assistant Doorkeeper, three days...	18.00
26	Howard Kuhn, assistant Doorkeeper, three days..	18.00
27	Elmer Ferrell, assistant Clerk, three days.....	30.00
28	Frances Evans, assistant Clerk, three days.....	30.00
29	Alex Garred, assistant Clerk, three days.....	30.00
30	Homer Burley, assistant Clerk, three days.....	30.00
31	Frances Owens, House stenographer, three days...	30.00
32	Leo Palmer, stenographer to Clerk, three days...	24.00
33	O. C. Parsons, Journal Clerk, three days.....	30.00
34	Lois Hoey, Journal stenographer, three days.....	24.00
35	M. P. Geene, electrician, three days.....	30.00
36	Marion Gooch, proofreader, three days.....	21.00
37	William N. Postlewaite, proofreader, three days...	21.00
38	Mrs. D. H. McLaugherty, stenographer, three	
39	days .....	21.00
40	W. H. Carkrean, record clerk, three days.....	18.00

41	Carmine Gantz, stenographer, three days.....	21.00
42	John Getchen, record clerk, three days.....	18.00
43	Mrs. Lois Russell, stenographer, three days.....	21.00
44	Florence Grisham, stenographer, three days.....	21.00
45	Mary L. Combs, journal room clerk, three days....	18.00
46	C. H. Turner, journal room clerk, three days.....	18.00
47	J. C. Dillon, journal room clerk, three days.....	18.00
48	James D. Ahern, journal room clerk, three days....	18.00
49	F. G. Williams, clerk, three days.....	18.00
50	George Guy, clerk, three days.....	18.00
51	Vinson Hooton, clerk, three days.....	18.00
52	P. J. Kilcoyne, clerk, three days.....	18.00
53	R. W. Chidester, clerk, three days.....	18.00
54	Thelma Kittle, stenographer, three days.....	21.00
55	Richard Tabor, page, three days.....	15.00
56	S. M. Croft, page, three days.....	15.00
57	Gordon Shingleton, page, three days.....	15.00
58	Mary Paul, stenographer, three days.....	21.00
59	Jack Thomas, janitor, three days.....	20.00
60	Boisey Green, janitor, three days.....	15.00
61	Dennis Gilmer, janitor, three days.....	20.00
62	Joe Canterbury, janitor, three days.....	20.00
63	Charles Anderson, cloak room attendant.....	20.00
64	Lawrence Cunningham, custodian of buildings and	
65	grounds.....	6.00
66	Arnold Phillips, clerk, three days.....	18.00
67	Glenneth Adkins, clerk, three days.....	21.00
68	<i>For Services Preliminary to Opening of Session</i>	
69	John S. Hall, Clerk.....	140.00
70	O. C. Parsons.....	70.00
71	Elmer Ferrell.....	70.00
72	L. H. Burley.....	70.00
73	Leo G. Palmer.....	40.00
74	Leona Faulkner.....	25.00
75	M. P. Greene.....	45.00
76	Steve Calles.....	25.00
77	Hal DePue.....	70.00
78	Joe Canterbury.....	45.00
79	Jack Thomas.....	55.00

80	Dennis Gilmer .....	35.00
81	Boisey Green .....	45.00
82	<i>Miscellaneous Appropriations</i>	
83	Bert Silman & Company, signs.....	24.10
84	Charleston Cut Flower Company, flowers.....	2.55
85	Laird Office Equipment Company, supplies.....	25.60
86	Rose City Press, supplies.....	241.45
87	Diamond Ice Company, ice.....	2.00
88	C. W. Wendall, supplies.....	9.90

PAYMENT OF BILLS AFTER ADJOURNMENT  
OF SESSION

2     Sec. 4. The Clerk of the House of Delegates, with approval  
3     of the Speaker, and the Clerk of the Senate, with the ap-  
4     proval of the President, are authorized to draw their war-  
5     rants upon the Auditor, payable out of the contingent fund  
6     of the respective houses, for any bills for supplies and services  
7     that may have been incurred by the House of Delegates and  
8     the Senate and not included in this appropriation bill, and  
9     for bills and services incurred after adjournment, the requisi-  
10    tion for same to be accompanied by a bill for same to be filed  
11    with the Auditor.

12    Upon the warrants of the Clerk of the Senate and the Clerk  
13    of the House of Delegates, the Auditor shall pay the amounts  
herein appropriated for services and other purposes.

## CHAPTER 4

(House Bill No. 3—By Mr. Speaker, Mr. Thomas)

AN ACT transferring to the Department of Unemployment Compensation for the use of the division of employment service so much as remains of the appropriation made to the Department of Labor for the West Virginia Employment Service by chapter nine, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, and so much as remains of the appropriation authorized by chapter four, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-six.

[Passed December 16, 1936; in effect from passage. Approved by the Governor.]

### Section

1. Transfer of funds from Department of Labor to Department of Unemployment Compensation.

*Be it enacted by the Legislature of West Virginia:*

Section 1. *Transfer of Funds From Department of Labor to Department of Unemployment Compensation.* There is hereby transferred to the Department of Unemployment Compensation for the use of the division of employment service so much of the appropriation made to the Department of Labor for the West Virginia Employment Service by chapter nine, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, and so much of the appropriation made by chapter four, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-six, as remains unexpended on the date of the transfer of the employment service to the Department of Unemployment Compensation.

# RESOLUTIONS

## HOUSE CONCURRENT RESOLUTION NO. 1

(BY MR. RUSSEK)

[Adopted December 14, 1936.]

Raising a joint committee to notify His Excellency, the Governor, that the Legislature has assembled in extraordinary session, and has organized by the election of officers.

*Resolved by the House of Delegates, the Senate concurring therein:*

That a joint committee be appointed, three by the President of the Senate, and three by the Speaker of the House of Delegates, to wait upon His Excellency, the Governor, and inform him that the Legislature has assembled in extraordinary session, pursuant to his proclamation, issued on the 4th day of December, one thousand nine hundred thirty-six, has organized by the election of officers as required by the Constitution, and is ready, with a quorum of each house present, to proceed with the business for which this extraordinary session has convened, and is furthermore ready to receive any communication or message he may desire to present.

## HOUSE CONCURRENT RESOLUTION NO. 2

(BY MR. RIGHTER)

[Adopted December 14, 1936.]

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 3:30 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 3rd day of November, one thousand nine hundred thirty-six, as provided by section three, article seven of the Constitution of this state.

### HOUSE CONCURRENT RESOLUTION NO. 3

(BY MESSRS. RUSSEK AND BRICE)

[Adopted December 14, 1936.]

Concerning the death of the Honorable George A. Laughlin.

WHEREAS, Since the last session of the West Virginia Legislature, the Honorable George A. Laughlin, of Ohio County, a former member of this body, has departed this life; and

WHEREAS, Mr. Laughlin rendered conspicuous service to his community and his state as a member of the Legislature and as a private citizen, supporting with his influence and his means every movement for the benefit of his fellow citizens; and

WHEREAS, It is now disclosed that during his lifetime, Mr. Laughlin quietly and without publicity gave large sums to religious, charitable and civic enterprises both in his home city and elsewhere in the state; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the West Virginia Legislature does hereby express its sense of profound grief and shock at the death of Mr. Laughlin, and its conviction that the state has lost one of its foremost citizens; and, be it

*Further Resolved,* That the Clerk of the House of Delegates be directed to send a copy of this resolution to Mr. Laughlin's widow.



## HOUSE CONCURRENT RESOLUTION NO. 4

(BY MR. CRESAP)

[Adopted December 14, 1936.]

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 3:45 o'clock P. M., this day, to hear an address by His Excellency, the Governor.

## HOUSE CONCURRENT RESOLUTION NO. 5

(BY MR. MATTHEWS)

[Adopted December 16, 1936.]

Authorizing the payment of expenses for services and supplies after the close of this extraordinary session of the Legislature.

*Resolved by the House of Delegates, the Senate concurring therein:*

That the Legislature of West Virginia hereby authorizes the payment of expenses for services and supplies incurred after the close of this extraordinary session of the Legislature, in completing the work of the session, and that the Auditor is hereby authorized and directed to honor and pay the warrants of the Clerk of the Senate and the Clerk of the House of Delegates, drawn in favor of persons for services performed or supplies furnished, as authorized by either separate or concurrent action of the two houses; and, be it

*Further Resolved*, That all extensions of per diem authorized by House Resolution No. 5, and by Senate resolutions for similar purposes, are hereby declared to be authorized by the Legislature and shall have the same force and effect as if they were incorporated herein.

## HOUSE CONCURRENT RESOLUTION NO. 6

(BY MR. JAMES)

[Adopted December 16, 1936.]

Raising a joint committee to notify His Excellency, the Governor, that the Legislature is ready to adjourn *sine die*.

*Resolved by the House of Delegates, the Senate concurring therein:*

That a joint committee of six, consisting of three 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 to notify His Excellency, the Governor, that the Legislature has completed its labors for which it was convened in extraordinary session, is ready to adjourn *sine die*, and inquire of him if he has any further communication to make to the Legislature.

## HOUSE RESOLUTION NO. 1

(BY MR. STROUSS)

[Adopted December 14, 1936.]

Adopting rules for the House of Delegates:

*Resolved by the House of Delegates:*

That the rules of the House of Delegates for the 1935 regular session of the Legislature, as amended by the 1936 extraordinary session, are hereby adopted as the rules to govern the proceedings of this extraordinary session, insofar as the same are applicable.

## HOUSE RESOLUTION NO. 2

(BY MR. LINGER)

[Adopted December 14, 1936.]

Raising a committee to inform the Senate that the House of Delegates has assembled and organized.

*Resolved by the House of Delegates:*

That the Speaker appoint a committee of three to inform the Senate that the House of Delegates has assembled in its chamber in extraordinary session, pursuant to the proclamation of His Excellency, the Governor, issued on the fourth day of December, one thousand nine hundred thirty-six, with a quorum present, has organized by the election of the Honorable James Kay Thomas as Speaker, and the Honorable John S. Hall as Clerk, and is ready to proceed with the business for which this extraordinary session of the Legislature has been convened.

## HOUSE RESOLUTION NO. 3

(BY MR. NEAL)

[Adopted December 15, 1936.]

Authorizing the Clerk to draw his warrants upon the Auditor for mileage for members of the House of Delegates.

*Resolved by the House of Delegates:*

That the Clerk is hereby authorized and directed to draw his warrants upon the Auditor for mileage of members for this extraordinary session in the amounts herein set out:

<i>Name</i>	<i>Miles</i>	<i>Amount</i>
J. O. Bailiff.....	200	\$20.00
Virgil M. Bias.....	52	5.20
H. D. Beeler.....	670	67.00
T. E. Bibb.....	160	16.00
Clarence B. Bishoff.....	444	44.40
W. C. Bobbitt.....	100	10.00
John W. Bosworth.....	332	33.20
Malcolm T. Brice.....	534	53.40
W. Carson Browning.....	144	14.40
Emmett J. Bush.....	180	18.00

## HOUSE RESOLUTIONS

<i>Name</i>	<i>Miles</i>	<i>Amount</i>
Ben H. Butcher.....	160	16.00
Carl Calvert.....	30	3.00
B. O. Cresap.....	564	56.40
Delbert C. Daugherty.....	160	16.00
Fred L. Doringe.....	568	56.80
George W. Dye.....	160	16.00
Lloyd Erhard.....	484	48.40
George Evans.....	418	41.80
Robert L. Eye.....	868	86.80
Lewis E. Fite.....	454	45.40
O. C. Flint.....	160	16.00
Lee L. Foster.....	444	44.40
Wm. Taylor George, Jr.....	390	39.00
A. T. Gordon.....	102	10.20
Geo. H. Gunnoe.....	104	10.40
Jno. W. Haldren.....	470	47.00
Wm. H. Havercamp.....	534	53.40
Chas. Heath.....	544	54.40
Ermil D. Hodson.....	160	16.00
Grover C. Hunter.....	160	16.00
William J. Hussion.....	400	40.00
Greely Isaacs.....	90	9.00
Howard J. James.....	320	32.00
Wm. Bryan Jennings.....	312	31.20
Roy F. Jimison.....	64	6.40
Fleming A. Jones.....	420	42.00
Orren L. Jones.....	400	40.00
W. D. Keister.....	104	10.40
C. C. Kingsbury.....	152	15.20
Kenneth S. Kurtz.....	234	23.40
William M. LaFon.....	258	25.80
W. A. Light.....	470	47.00
Claude R. Linger.....	230	23.00
Wm. J. Long.....	618	61.80
James O. Marcum.....	120	12.00
A. M. Martin.....	84	8.40
R. L. Matthews.....	54	5.40
E. M. McConihay.....	28	2.80
Robert L. McCoy.....	440	44.00

<i>Name</i>	<i>Miles</i>	<i>Amount</i>
June McElwee.....	304	30.40
T. H. McKinley.....	160	16.00
Forrest L. McNeer.....	210	21.00
George Miley.....	540	54.00
William T. Milleson.....	570	57.00
Robert Morris.....	236	23.60
E. H. Morton.....	230	23.00
Melvin C. Muntzing.....	840	84.00
J. A. Neal.....	212	21.20
George W. Oldham.....	534	53.40
Chas. F. Ong.....	80	8.00
Hugh Paul.....	144	14.40
Harry R. Pauley.....	418	41.80
Lester Perry.....	144	14.40
J. B. Porter.....	104	10.40
J. C. Powell.....	342	34.20
John W. Pyles.....	500	50.00
Edgar E. Righter.....	320	32.00
Stephen J. Russek.....	534	53.40
Mark Russell.....	250	25.00
Lorentz See.....	320	32.00
Fred L. Shinn.....	320	32.00
H. G. Shores.....	592	59.20
John B. Sydenstricker.....	274	27.40
Jno. C. Skinner.....	900	90.00
Harold D. Slaven.....	450	45.00
S. L. Smith.....	268	26.80
John Storm.....	544	54.40
Junius Strouss.....	450	45.00
Claud V. Swann.....	104	10.40
J. Alfred Taylor.....	110	11.00
Glenn Taylor.....	250	25.00
J. Alex. Tinsley.....	98	9.80
Ashby L. Thomas.....	440	44.00
Harry L. Van Sickler.....	274	27.40
Mrs. Nell W. Walker.....	124	12.40
Jason T. Weissenburger.....	114	11.40
John L. Wever.....	908	90.80
E. E. White.....	72	7.20
H. Dennis Wright.....	470	47.00

## HOUSE RESOLUTION NO. 4

(BY MR. NEAL)

[Adopted December 15, 1936.]

Authorizing the Sergeant-at-Arms to purchase suitable National and State flags for the House Chamber.

*Resolved by the House of Delegates:*

That the Sergeant-at-Arms is hereby authorized and directed to purchase suitable National and State flags, and staffs, for use in the House Chamber. The cost of same to be paid from the Contingent Fund of the House of Delegates upon the warrants of the Clerk.

## HOUSE RESOLUTION NO. 5

(BY MR. STROUSS)

(Originating in the Committee on Rules)

[Adopted December 16, 1936.]

Authorizing the printing of the Acts and Journal of this session of the Legislature and providing extension of time for persons to complete the work of the session and for work preliminary to the opening of the regular session of the Legislature in January.

*Resolved by the House of Delegates:*

That under authority of section thirteen, article one, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, the Clerk of the House of Delegates is hereby authorized to have printed by the public printer five thousand copies of the Acts of this extraordinary session of the Legislature, in pamphlet form, properly headnoted, and with a full table of contents, for distribution among the members of the Legislature, judges of the Supreme Court of Appeals, circuit, common pleas, criminal and intermediate courts, and the county officials.

The public printer shall print and deliver said copies of the Acts as soon as possible after the adjournment of this session. The Clerk of the Senate shall be furnished sufficient copies to forward by mail or express twenty copies to each member of the State

Senate, and the Clerk of the House of Delegates shall forward by mail or express twenty copies of said Acts to each member of the House of Delegates as soon as the same are printed and available for distribution. The Clerk of the House of Delegates shall also furnish one copy to each of the state officials, judges of the Supreme Court of Appeals, circuit, common pleas, criminal and intermediate courts of this state, and shall forward to the county clerk of each county sufficient copies to furnish one copy to each county office. The Clerk of the House of Delegates is also authorized to have printed, in signature form or advance sheets, any general law which he may deem to be of sufficient importance to be issued and distributed in this form.

The Clerk shall index and have the Journal of this session printed, and have the public printer hold the same to be bound with the Journal of the 1937 regular session.

The type from which said Acts are printed shall be held by the public printer and the Acts of this session shall be included in the bound volume of the next regular session of the Legislature.

For the work required in printing and distributing the Acts of this session, and for proofreading and headnoting the same; for the purpose of arranging and filing the bills, resolutions and other official papers in the office of the Speaker and Clerk; for indexing, proofreading and printing of the Journal of the House of Delegates; and for work preliminary to the opening of the regular session of the Legislature on January 13, 1937, the time of the following officers and employees is extended until the date of the commencement of the regular term, beginning January 13, 1937, to-wit:

The Clerk, Sergeant-at-Arms, stenographer to the Clerk, two assistant clerks, stenographer to the Speaker, Journal clerk, Journal stenographer, one proofreader and one janitor; also the time of two Journal room clerks, and three janitors is extended for five days each.

All persons given extensions of time in this resolution shall be paid the same per diem as paid for the same positions during this extraordinary session. The Clerk shall draw his warrants upon the Auditor in favor of the persons entitled to per diem under this resolution for consecutive days until such time as their serv-

ices cease, and the Auditor shall honor and pay such warrants when presented and charge same to the contingent fund of the House of Delegates.

To pay postage or expressage on the Acts and other official papers to be distributed by the Clerk, the sum of one hundred fifty dollars is hereby directed to be paid by the Auditor from the contingent fund of the House of Delegates upon the warrants of the Clerk.

### HOUSE RESOLUTION NO. 6

(BY MR. TAYLOR, of Fayette)

[Adopted December 16, 1936.]

Notifying the Senate that the House was ready to adjourn *sine die*.

*Resolved by the House of Delegates:*

That a committee of three be appointed by the Speaker to notify the Senate that the House of Delegates has completed its labors and is ready to adjourn *sine die*.

### SENATE CONCURRENT RESOLUTION NO. 1

(BY MR. SPILLERS)

[Adopted December 14, 1936.]

Relating to joint rules of the Senate and the House of Delegates.

*Resolved by the Senate, the House of Delegates 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-five, are hereby adopted and shall govern the proceedings of this extraordinary session.



## SENATE CONCURRENT RESOLUTION NO. 2

(By MR. BEACOM)

[Adopted December 15, 1936.]

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 the Clerk of the House of Delegates, to pay the mileage of the members of the Senate and the House of Delegates; bills incurred and services furnished to the Legislature for this session, including contingent expenses; the per diem of the officers and attaches of the Senate and House of Delegates and for legislative printing of this session, as the accounts for same may come due.

## SENATE CONCURRENT RESOLUTION NO. 4

(By MR. BEACOM)

[Adopted December 16, 1936.]

Establishing a date for public legislative hearings on the subject of Unemployment Compensation.

WHEREAS, The Legislature has been assembled in extraordinary session for the purpose of enacting before December thirty-first, one thousand nine hundred thirty-six, a state unemployment compensation act in order to conserve to the state and the beneficiaries of such an act, revenues which would otherwise be collected by the federal government as a general excise tax; and

WHEREAS, Under the provisions of the federal social security act, no unemployment compensation benefits can be paid prior to January one, one thousand nine hundred thirty-eight, thereby affording one full year and an entire regular session of the Legislature for further consideration and study of all the details of such a bill, including those relating to the payment of benefits thereunder; and

WHEREAS, The immediate objective of the present enactment is to levy an unemployment compensation tax as a state tax and to set up administrative machinery for the collection thereof prior to December thirty-one, one thousand nine hundred thirty-six; and

WHEREAS, There is not sufficient time prior to December thirty-one, one thousand nine hundred thirty-six, to permit legislative hearing on the many views upon this legislation of those desiring to be heard, without menacing the passage and the required approval of the act by the Social Security Board on or before December thirty-one, one thousand nine hundred thirty-six; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That the Legislature give this public notice of its intention to consider unemployment legislation at the regular biennial session thereof, commencing January thirteen, one thousand nine hundred thirty-seven, and that public hearings on the subject shall begin, not later than January twenty, one thousand nine hundred thirty-seven, before such joint or separate bodies of the Senate and the House of Delegates as the houses may, by concurrent resolution therefor, provide.

### SENATE RESOLUTION NO. 1

(BY MR. PAULL)

[Adopted December 14, 1936.]

Raising a committee to inform the House of Delegates that the Senate has assembled in extraordinary session.

*Resolved by the Senate:*

That a committee of three be appointed by the President to inform the House of Delegates that the Senate, assembled in extraordinary session pursuant to the proclamation of His Excellency, Governor H. G. Kump, with a quorum present, is organized and ready to proceed with the business of the session, Charles E. Hodges being elected President for the term beginning today and continuing until the beginning of the next regular session, the clerk, Charles Lively, continuing in that capacity as provided by law.

## SENATE RESOLUTION NO. 2

(BY MR. FLEMING)

[Adopted December 14, 1936.]

Adopting rules of the Senate.

*Resolved by the Senate:*

That the rules of the Senate, regular session, one thousand nine hundred thirty-five, be adopted as the rules of the Senate for this session.

## SENATE RESOLUTION NO. 3

(BY MR. HODGES)

(Originating in the Committee on Rules)

[Adopted December 16, 1936.]

Relating to the appointment of assistant janitors.

WHEREAS, Lawrence M. Cunningham, Superintendent of Capitol Building and Grounds, under authority of section twenty-two, article one, chapter five of the Code, has designated four assistants for the janitor work of the Senate for this session; therefore, be it

*Resolved by the Senate:*

That the per diem of said assistant janitors is fixed at \$4.00, and that of the said Lawrence M. Cunningham is fixed at \$2.00, as the Senate's one-half of his per diem.

## SENATE RESOLUTION NO. 4

(BY MR. HODGES)

(Originating in the Committee on Rules)

[Adopted December 16, 1936.]

Payment for stenographic services.

*Resolved by the Senate:*

That the Clerk of the Senate is authorized to draw his warrant upon the Auditor in favor of Grayce Cunningham for stenographic services rendered the President of the Senate, in his official capacity, from July 1, 1936, to January 1, 1937, for one hundred eighty dollars.

## SENATE RESOLUTION NO. 5

(BY MR. HODGES)

(Originating in the Committee on Rules)

[Adopted December 16, 1936.]

Relating to the payment for services of attaches preparatory to convening of session.

*Resolved by the Senate:*

That the Clerk of the Senate is authorized to draw his warrants upon the Auditor in favor of the following named persons for the amounts set opposite their names for services rendered preparatory to the convening of this extraordinary session of the Legislature:

Fred D. Wolfe, Sergeant-at-Arms.....	\$70.00
Robert H. Kidd, Printing Clerk.....	25.00
Bernard White, Janitor.....	28.00

## SENATE RESOLUTION NO. 6

(BY MR. HODGES)

(Originating in the Committee on Rules)

[Adopted December 16, 1936.]

Authorizing the appointment of attaches.

*Resolved by the Senate:*

That the President of the Senate is authorized to make the following appointments, viz:

Five floor stenographers, at \$7.00 per day each;  
 One mail clerk, at \$7.00 per day;  
 One assistant Sergeant-at-Arms, at \$7.00 per day;  
 One clerk to the Sergeant-at-Arms, at \$7.00 per day;  
 One secretary to the minority, at \$12.00 per day;  
 One minority stenographer, at \$9.00 per day;  
 Two assistant doorkeepers, at \$7.00 per day each;  
 One secretary to the President, at \$12.00 per day;  
 Two pages, at \$4.00 per day each;  
 Three cloakroom attendants, at \$4.00 per day each; and, be it

*Resolved further*, That the Clerk of the Senate is authorized to make the following appointments, viz:

Three proofreaders, at \$8.00 per day each;

Four journal room clerks, at \$7.00 per day each;

One assistant and secretary to the Clerk, at \$12.00 per day;

Four document room clerks, at \$7.00 per day each; and, be it

*Resolved further*, That the Sergeant-at-Arms shall receive \$10.00 per day; the Doorkeeper, \$10.00 per day; and the Clerk, \$20.00 per day.

The Clerk shall draw his warrants upon the Auditor in favor of the officers and attaches herein appointed for consecutive days from the date of the opening of this session at the per diem herein set out, and the Auditor shall honor and pay such warrants in advance of the appropriation for the purpose, when presented, and charge same to the "per diem of officers and attaches" fund of the Senate.

The President and the Clerk shall require said employees to perform duties assigned to them, and they are authorized and directed to remove any of such employees whose work is not satisfactory and to appoint another in his place.

## SENATE RESOLUTION NO. 7

(BY MR. HODGES)

(Originating in the Committee on Rules)

[Adopted December 16, 1936.]

Authorizing the purchase of furniture and equipment.

*Resolved by the Senate:*

That the Clerk of the Senate is hereby authorized and directed to purchase, at a sum not to exceed \$750.00, furniture and equipment necessary to furnish adequately the Clerk's office and stenographers and typing rooms in the Senate, such furniture and equipment to be purchased and installed prior to the beginning of the regular session in January, 1937.

All bills for expenses incurred under authority of this resolution shall be paid by the Auditor from the contingent fund of the Senate upon warrants drawn by the Clerk.

## SENATE RESOLUTION NO. 8

(BY MR. HODGES)

(Originating in the Committee on Rules)

[Adopted December 16, 1936.]

Relating to the printing of the Journal and Acts of this extraordinary session of the Legislature.

*Resolved by the Senate:*

The Clerk, together with the Clerk of the House of Delegates, is hereby directed to have printed by the public printer, six thousand copies of the Acts of this session, in pamphlet form, properly headnoted, indexed and with a full table of contents, for distribution among the members of the Legislature, judges of the Supreme Court of Appeals and the circuit, criminal and intermediate courts, circuit and county clerks, sheriffs and prosecuting attorneys.

Said public printer shall print and deliver said copies to the clerks of the two houses as soon as possible after 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 twenty of said copies, and one copy to each of the state officials, and the remainder, if any, they shall deliver to the superintendent of printing and stationery 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 one hundred and fifty dollars out of the contingent fund of the Senate is hereby directed to be paid by the Auditor, upon proper warrant to pay the postage or expressage on said advance copies.

In order to complete the work of the session in arranging and filing of all bills, resolutions, petitions and other official papers in the Clerk's office and document room, and to allow time for proof-reading, printing and indexing the corrected Journal and arranging and printing its several appendices, and in printing and indexing the volume of Senate Bills, and in completing the work in the mailing and document rooms and in performing other services

incident to the closing of this session of the Legislature, the per diem of the Clerk at \$20.00 per day, and two assistant clerks at \$12.00 per day each is extended for twenty-seven days; three assistant clerks at \$8.00 per day for twelve days each; the secretary to the President at \$12.00 for twenty-seven days; two assistant clerks at \$7.00 for twelve days each; two assistant clerks at \$7.00 for five days each; the stenographer to the minority at \$9.00 for two days; the Sergeant-at-Arms at \$10.00 for two days; and two janitors at \$4.00 for five days each.

All extensions provided for herein shall begin at the end of this session of the Legislature.

The compensation of those designated hereunder shall be paid out of the contingent fund of the Senate for consecutive days upon proper requisition drawn by the Clerk of the Senate upon the Auditor.

#### SENATE RESOLUTION NO. 9

(BY MR. CANTERBURY)

[Adopted December 16, 1936.]

Notifying the House of Delegates that the Senate is ready to adjourn *sine die*.

*Resolved by the Senate:*

That a committee of three be appointed by the President of the Senate to notify the House of Delegates that the Senate is ready to adjourn *sine die*.





# INDEX

## ACTS

Second Extraordinary Session, 1936

### APPROPRIATIONS:

	SEC.	PAGE
Department of unemployment compensation .....	1	41
transfer to, from department of labor .....	1	46
Legislative .....	1-4	42

### ATTORNEY GENERAL:

(See Unemployment Compensation)

### CODE AMENDED:

Chapter twenty-one-a added (Unemployment Compensation) .....		1
--	--	---

### DEPARTMENT OF LABOR:

Transfer from, of appropriation made to.....	1	46
--	---	----

### GOVERNOR:

(See Unemployment Compensation)

Communication to members of Legislature.....		IX
Proclamation convening session.....		VIII

### LEGISLATURE:

Appropriation for expenses		
house of delegates.....	3	42
printing .....	1	42
senate .....	2	42
supplies and services.....	4	45

### PROSECUTING ATTORNEY:

(See Unemployment Compensation)

### RESOLUTIONS:

#### House:

No. 1 Adopting rules .....		50
No. 2 To inform the Senate that House of Delegates had organized .....		51
No. 3 Authorizing payment of mileage to the members of the House of Delegates.....		51
No. 4 Purchase of national and state flags for the House Chamber .....		54
No. 5 Printing and distribution of Acts and extension of per diems to complete work of session .....		54
No. 6 Notifying Senate that the House of Delegates was ready to adjourn <i>sine die</i> .....		56

## RESOLUTIONS (Continued):

## HOUSE CONCURRENT:

	PAGE
No. 1 Raising joint committee to notify the Governor that the Legislature had assembled and organized .....	47
No. 2 Raising a joint assembly to open and publish election returns .....	47
No. 3 Concerning the death of the Honorable George A. Laughlin .....	48
No. 4 Raising a joint assembly to hear an address by the Governor .....	49
No. 5 Authorizing payment of expenses for services and supplies after close of session .....	49
No. 6 Raising joint committee to notify the Governor that the Legislature was ready to adjourn <i>sine die</i> .....	50

## SENATE:

No. 1 To inform the House of Delegates that the Senate had organized .....	58
No. 2 Adopting rules .....	59
No. 3 Appointment of assistant janitors .....	59
No. 4 Payment to Grayce Cunningham for stenographic services .....	59
No. 5 Payment for services preliminary to convening of session .....	60
No. 6 Authorizing appointment of attaches .....	60
No. 7 Authorizing the purchase of furniture and equipment .....	61
No. 8 Relating to the printing of the Journal and Acts ..	62
No. 9 To notify the House of Delegates that the Senate was ready to adjourn <i>sine die</i> .....	63

## SENATE CONCURRENT:

No. 1 Adopting joint rules .....	56
No. 2 Payment of mileage, contingent and other legislative expenses in advance of the appropriation therefor .....	57
No. 4 Legislative hearings on unemployment compensation .....	57

## UNEMPLOYMENT COMPENSATION:

	ART.	SEC.	PAGE
Act creating			
acts repealed .....	10	16	40
appropriations for .....		1, 1	41, 46
attorney fees .....	10	5	38
attorney general, duties .....	2	19	11
	10	13	40

UNEMPLOYMENT COMPENSATION (Continued):

	ART.	SEC.	PAGE
constitutionality .....	10	15	40
criminal actions under.....	10	13	40
definitions of words and phrases.....	1	3	2
distribution of .....	2	23	12
governor's appointments under.....	2	1	6
	3	2,3	12
	4	2,3	15
penalty for violation.....	10	10	39
prosecuting attorney, duties.....	2	19	11
	10	13	40
saving clause.....	10	17	40
title .....	1	2	2
Advisory Council.....	3		12
advisory powers and duties.....	3	11	14
appointment .....	3	2	12
compensation .....	3	7	13
created .....	3	1	12
disqualifications .....	3	5	13
local councils .....	3	12	14
meetings .....	3	9	13
number .....	3	1	12
oath .....	3	6	13
offices .....	3	8	13
qualifications .....	3	4	13
quorum .....	3	10	14
term .....	3	3	12
Board of Review.....	4		15
appointment .....	4	2	15
compensation .....	4	5	15
created .....	4	1	15
meetings .....	4	6	16
number .....	4	1	15
oath .....	4	4	15
offices .....	4	6	16
powers and duties .....	4	9	16
appointment of examiners .....	4	10	16
oaths and witnesses.....	4	11	17
subpoenas .....	4	12	17
qualifications .....	4	3	15
quorum .....	4	7	16
removal .....	4	8	16
reviews by .....	7 10, 29 30, 32		
Claim procedure.....	7		28
board review.....	7	10	30
decision, report of.....	7	15	31
finality .....	7	17	31

## UNEMPLOYMENT COMPENSATION (Continued):

	ART.	SEC.	PAGE
judicial review of.....	7	22	31
appeal from.....	7	27	32
effect of.....	7	28	32
exceptions and bond.....	7	24	31
service.....	7	25	32
supersedeas.....	7	29	32
transcript of record.....	7	26	32
trial.....	7	23	31
findings of fact.....	7	21	31
interested party excluded.....	7	16	31
necessary party.....	7	20	31
procedure.....	7	13	30
quorum.....	7	12	30
records.....	7	14	30
witness fees, payment.....	7	18	31
deputies.....	7	3	28
appeal from.....	7	8	29
tribunals.....	7	7	29
decision final, when.....	7	9	29
determination of claim by.....	7	4	28
reference of, to board.....	7	5	29
action on by board.....	7	6	29
director to prescribe rules for.....	7	1	28
display of regulations.....	7	2	28
examiners.....	7	7	29
board of review of decisions of.....	7	10	30
benefits pending appeal.....	7	11	30
Compensation Administration Fund.....	9		35
appropriation to director.....	9	2	36
balances not to lapse.....	9	5	36
created.....	9	1	35
disbursements.....	9	4	36
employment service account.....	9	7	36
purpose.....	9	1	36
treasurer's bond.....	9	6	36
sources.....	9	3	36
Compensation Fund.....			
accounts in deposit.....	8	4	33
benefit account.....	8	8	34
deposit.....	8	9, 10	34
withdrawals.....	8	11	34
clearing account.....	8	5	33
deposit.....	8	9	34
unemployment trust fund account.....	8	6	33
deposit with federal government.....	8	7	33
re-deposits of unclaimed funds.....	8	12	33
withdrawals.....	8	10	34
if state act terminates.....	8	13	34

UNEMPLOYMENT COMPENSATION (Continued):

	ART.	SEC.	PAGE
administration .....	8	2	33
established .....	8	1	32
sources .....	8	1	33
Department of.....	1		1
created .....	1	4	5
director .....	2		6
acceptance of aid by.....	2	18	11
appointment of.....	2	1	6
appointments by.....	2	9	9
bond .....	8	3	33
classifications by.....	2	10	9
compensation .....	2	5	7
delegation of duties.....	2	13	10
deposit and withdrawal of funds.....	8	9, 10	34
deputies .....	2	14	10
dismissals, etc. by.....	2	12	10
distribution of act by.....	2	23	12
employment offices.....	2	16	10
employment service.....	2	15	10
examinations and ratings by.....	2	11	9
legal assistants.....	2	9	11
oath .....	2	3	7
offices .....	2	4	7
plan concerning seasonal, etc., employment	6	20	27
powers and duties.....	2	6	7
oath and witnesses.....	2	21	11
subpoenas .....	2	21	12
qualifications .....	2	2	7
reports to.....	10	11	39
representation in court.....	10	12	40
rules and regulations by.....	2	20	11
state public employment agency transferred to	1	7	6
Employee benefits .....	6		22
amount .....	6	10, 11	25
full-time weekly hours.....	6	16	26
full-time weekly wage.....	6	18	27
hourly rate of earnings.....	6	17	27
partial and total unemployment.....	6	10, 11	25
ratio .....	6	12	26
disqualification for.....	6	4	23
eligibility for.....	6	1	22
extension of employment period.....	6	3	23
suitable work, defined.....	6	5, 6	24
waiting period.....	6	2	23
exempt from levy, etc.....	10	2	37
false representation, penalty.....	10	7	38

## UNEMPLOYMENT COMPENSATION (Continued):

	ART.	SEC.	PAGE
method of charging.....	6	13	26
two or more employers.....	6	14	26
misrepresentation, repayment.....	10	8	38
non-assignable.....	10	2	37
non-liability of state for.....	10	14	40
partial.....	6	15	26
payment.....	6	8	25
pending appeal.....	7	11	30
place of.....	6	9	25
Employer coverage and responsibility.....	5		17
coverage.....	5	1	17
voluntary.....	5	3	18
deduction from wages prohibited.....	5	14	21
penalty.....	10	9	39
display of regulations.....	5	2	18
payments by, liability for.....	5	4	18
agreement by individual to pay, invalid.....	10	1	37
collection.....	5	16	21
fractions.....	5	15	21
interest on.....	5	17	21
method.....	5	13	21
pooled.....	5	6	19
priority.....	5	18	21
refunds.....	5	19	22
separate accounts.....	5	7	19
rate of contribution.....	5	5	18
auxiliary.....	5	12	20
merit rating.....	5	8	19
classification.....	5	8	19
decreased rates.....	5	10	19
fund stabilization.....	5	9	19
increased rates.....	5	11	20
records, inspection.....	10	4	37
reports by.....	10	11	39
State public employment agency transferred.....	1	7	6
Waiver of rights invalid.....	10	1	37
Witness, self-incrimination.....	10	6	38

See, also, chapter 100, acts regular session, 1937