

ACTS
OF THE
FIFTIETH
LEGISLATURE
OF
WEST VIRGINIA



REGULAR SESSION
1951



FOREWORD

Included in this volume are the Acts of the 1951 Regular Session of the Fiftieth Legislature, and the Resolutions adopted by the Legislature and the two Houses thereof during this session.

This session convened on January 10 and adjourned sine die March 10, 1951. There was a total of 803 bills introduced—488 House Bills and 315 Senate Bills. The Legislature passed 102 House Bills and 117 Senate Bills.

Of the 219 enactments of the session, the Governor approved 215. Three bills (H. B. No. 357 and H. B. No. 358, feeding of prisoners in counties of 30,000 or less population; and S. B. No. 210, tax on business of selling dressed poultry and turkeys on a wholesale basis) became law without the approval of the Governor. The Budget Bill does not require executive action.

During this session there were 20 House Concurrent, 11 House Joint and 28 House Resolutions offered, of which 9 House Concurrent and 25 House Resolutions were adopted. Eleven Senate Concurrent, 5 Senate Joint and 13 Senate Resolutions were offered, of which 5 Senate Concurrent and 13 Senate Resolutions were adopted. No Joint Resolutions were adopted by the Legislature.

Eighty-nine House Bills, passed by the House, failed of passage by the Senate; and 10 Senate Bills, passed by the Senate, failed of passage by the House.

This volume may be purchased from the State Department of Purchases, State Capitol, Charleston 5, W. Va.

J. R. ALIFF, *Clerk,*
House of Delegates.



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Regular Session, 1951

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LEGISLATURE OF WEST VIRGINIA

MEMBERS, OFFICERS AND STANDING COMMITTEES

REGULAR SESSION, 1951

SENATE

OFFICERS

President—W. BROUGHTON JOHNSTON, Princeton.
President Pro Tempore—FRED C. ALLEN, Marlinton.
 Clerk—J. HOWARD MYERS, Martinsburg.
Sergeant-at-Arms—VERNON Q. CALLOWAY, Welch.
Doorkeeper—GUY DOUGLAS, Lookout.

District	Name	Address
First.....	*William A. Hannig (R).....	Wheeling
	Herbert Traubert (D).....	Follansbee
Second.....	Theodore M. Bowers (R).....	New Martineville
	*John E. Carrigan (R).....	Moundsville
Third.....	Harry E. Moats (R).....	Harrisville
	*Andy Swearingen (R).....	Walker
Fourth.....	Bartow Jones (R).....	Point Pleasant
	*E. Ray Reed (R).....	Clay
Fifth.....	C. H. McKown (D).....	Wayne
	*Andrew R. Winters (D).....	Huntington
Sixth.....	William Mitchell (D).....	Welch
	*Glenn Taylor (D).....	Matewan
Seventh.....	Glenn Jackson (D).....	Logan
	*Lloyd G. Jackson (D).....	Hamlin
Eighth.....	John E. Amos (D).....	Charleston
	*Charles M. Love, Jr. (D).....	Charleston
Ninth.....	*Robert C. Byrd (D).....	Sophia
	Ward Wylie (D).....	Mullens
Tenth.....	W. Broughton Johnston (D).....	Princeton
	*J. Lynn Swiger (D).....	Hinton
Eleventh.....	*John H. Bowling (D).....	White Sulphur Springs
	J. Alfred Taylor, Jr. (D).....	Fayetteville
Twelfth.....	Fred C. Allen (D).....	Marlinton
	*Henry J. McKinley (D).....	Elkins
Thirteenth.....	Floyd D. Boner (D).....	Salem, R. F. D.
	*Walter A. Holden (D).....	Salem
Fourteenth.....	*Don J. Eddy (D).....	Morgantown
	C. Howard Hardesty (D).....	Fairmont
Fifteenth.....	A. L. Reed (R).....	Newburg
	*Dayton R. Stemple (R).....	Philippi
Sixteenth.....	Ralph J. Bean (D).....	Moorefield
	*Clarence E. Martin, Jr. (D).....	Martinsburg

(D) Democrats.....	23
(R) Republicans.....	9
Total.....	32

(*) Hold-over Senators, elected in 1950, who will be members of the 1953 Legislature.

HOUSE OF DELEGATES

OFFICERS

Speaker—W. E. FLANNERY, Man.

Clerk—J. R. ALIFF, Fayetteville.

Sergeant-at-Arms—D. EARL BRAWLEY, Charleston.

Doorkeeper—HERBERT SCHUPBACH, New Martinsville.

County	Name	Address
Barbour	Robert L. Hunt (D)	Philippi
Berkeley	Stewart A. Wright (D)	Martinsburg
Boone	E. E. White (D)	Madison
Braxton	William M. Kidd (D)	Sutton
Brooke	W. R. Curtis (D)	Wellsburg
Cabell	Mike Casey (D)	Huntington
	Carney M. Layne (D)	Huntington
	Will E. Neal (R)	Huntington
	Ford F. Roberts (D)	Milton
	Henry F. White (D)	Huntington
Calhoun	John Hamilton (D)	Grantsville
Clay	Sylvester Mullins (D)	Clay
Doddridge	Clay D. Hammond (R)	West Union
Fayette	Hobart Booth, Jr. (D)	Oak Hill
	John G. Fox (D)	Fayetteville
	Earl Prather (D)	Oak Hill
	Mrs. Nell W. Walker (D)	Winona
Gilmer	Paul H. Kidd (D)	Glennville
Grant	Dan W. Mouse (R)	Petersburg
Greenbrier	Brack L. Campbell (D)	Rupert
	Lester W. Watts (D)	East Rainelle
Hampshire	William L. Thompson (D)	Romney
Hancock	David N. Thomas (R)	Weirton
Hardy	James M. Miley (D)	Moorefield
Harrison	Fred H. Caplan (D)	Clarksburg
	Frank J. Maxwell, Jr. (D)	Clarksburg
	Fred H. Seneca, Jr. (D)	Clarksburg
	W. Guy Tetrick (D)	Clarksburg
Jackson	Delmer Hutton (R)	Kentuck
Jefferson	William P. C. Perry (D)	Charles Town
Kanawha	Larry Wilson Andrews (D)	Charleston
	Martin C. Bowles (D)	South Charleston
	J. Hornor Davis (D)	Charleston
	Frank A. Knight (D)	South Charleston
	James W. Loop (D)	Charleston
	M. M. Maloney (D)	Charleston
	James E. Maroney (D)	Cabin Creek
	Raymond D. Miller (D)	Charleston
Lewis	James H. Hall (R)	Weston, Rt. 1
Lincoln	George D. Williams (D)	Alum Creek
Logan	Denny B. Browning (D)	Logan
	W. E. Flannery (D)	Man
	Jerry E. Stidham (D)	Holden
Marion	Fred L. Doring (D)	Fairmont
	Harry W. Hamilton, Sr. (D)	Fairmont
	George W. May (R)	Fairmont
Marshall	Gordon W. Sammons (R)	Moundsville
	Robert H. Wells (D)	Moundsville

County	Name	Address
Mason	George A. Rairden (R)	Leon
McDowell	Mrs. Elizabeth Drewry (D) W. L. Mills (D) Harry R. Pauley (D) Roy A. Warden (D) James L. Whitt (D)	Northfork Kimball Jaeger War Welch
Mercer	O. H. Ballard (D) C. T. Johnston (D) E. H. Martin (D)	Princeton Bluefield Athens
Mineral	John I. Rogers (R)	Keyser
Mingo	Roy A. Chambers (D) Hiram Phillips (D)	Williamson Sprigg
Monongalia	Charles H. Ambler (D) William A. Moreland (D)	Morgantown Morgantown
Monroe	T. G. Matney (D)	Peterstown, R. F. D.
Morgan	Ward M. Dawson, Sr. (R)	Berkeley Springs
Nicholas	O. J. Carroll (D)	Summersville
Ohio	George F. Beneke (R) Joseph A. Gompers (R) Ben R. Honceker (R) Chester R. Hubbard (R)	Wheeling Wheeling Wheeling Wheeling
Pendleton	William McCoy (D)	Franklin
Pleasants	J. C. Powell (R)	St. Marys
Pocahontas	June McElwee (D)	Marlinton
Preston	Richard Whetsell (R)	Kingwood
Putnam	Raymond V. Humphreys (R)	Hurricane
Raleigh	Roy Lee Harmon (D) H. P. Meadows (D) Everett R. Shafer (D)	Beckley Beckley Beckley
Randolph	W. W. Barron (D)	Elkins
Ritchie	Harold Zinn (R)	Pullman
Roane	R. L. McCulty (R)	Spencer
Summers	C. D. McCormick (D)	Hinton
Taylor	Gough Ridenour (R)	Grafton
Tucker	John J. Mullenex (R)	Parsons
Tyler	Cecil H. Underwood (R)	Sistersville
Upshur	H. Hayden Morgan (R)	Adrian
Wayne	Epison A. Cole (D) H. T. Tucker (D)	Ceredo Huntington
Webster	William S. Wysong (D)	Webster Springs
Wetzel	J. H. Ashcraft (R)	Hundred
Wirt	H. E. Pomroy (D)	Elizabeth
Wood	Spencer K. Creel (R) J. Fred Earley (D) W. M. Parker (R)	Parkersburg Parkersburg Vienna
Wyoming	C. A. Blankenship (D)	Pineville

(D) Democrats..... 67

(R) Republicans..... 27

Total..... 94

STANDING COMMITTEES OF THE SENATE

AERONAUTICS

Messrs. McKinley (*Chairman*), Amos, Winters, Reed (of Preston) and Stemple.

AGRICULTURE

Messrs. Bowling (*Chairman*), Allen, Boner, Hardesty, Martin, Wylie, Jones, Stemple and Swearingen.

BANKS AND CORPORATIONS

Messrs. Jackson (of Logan) (*Chairman*), Allen, Amos, Bowling, McKinley, Traubert, Bowers, Carrigan and Reed (of Preston).

CLAIMS AND GRIEVANCES

Messrs. Love (*Chairman*), Boner, Martin, McKinley, Mitchell, Wylie, Moats, Reed (of Clay) and Swearingen.

COUNTIES AND MUNICIPAL CORPORATIONS

Messrs. Amos (*Chairman*), Eddy, Mitchell, Swiger, Taylor (of Mingo), Traubert, Carrigan, Hannig and Swearingen.

EDUCATION

Messrs. McKown (*Chairman*), Allen, Bowling, Byrd, Hardesty, Holden, Jackson (of Logan), Love, Martin, McKinley, Traubert, Bowers, Moats, Reed (of Preston), and Swearingen.

EXAMINE CLERK'S OFFICE

Messrs. Boner (*Chairman*), Swiger and Jones.

FEDERAL RELATIONS

Messrs. Amos (*Chairman*), Byrd, Holden, Jackson (of Lincoln), Taylor (of Fayette), Winters, Jones and Moats.

FINANCE

Messrs. Hardesty (*Chairman*), Allen, Amos, Bowling, Byrd, Holden, Jackson (of Logan), Martin, Mitchell, Swiger, Taylor (of Mingo), Winters, Wylie, Bowers, Hannig, Jones, Reed (of Preston) and Swearingen.

FORESTRY AND CONSERVATION

Messrs. Bowling (*Chairman*), Allen, Amos, Bean, Hardesty, Jackson (of Lincoln), Jackson (of Logan), McKinley, McKown, Taylor (of Fayette), Taylor (of Mingo), Traubert, Bowers, Reed (of Clay), and Swearingen.

FORFEITED, DELINQUENT AND UNAPPROPRIATED LANDS

Messrs. Eddy (*Chairman*), Amos, Bean, Jackson (of Logan), Swiger, Taylor (of Fayette), Carrigan, Jones and Moats.

INSURANCE

Messrs. Eddy (*Chairman*), Hardesty, Love, Martin, McKown, Swiger, Carrigan, Reed (of Preston) and Swearingen.

INTERSTATE COOPERATION

Messrs. Taylor (of Mingo) (*Chairman*), Bean, Jackson (of Logan), Bowers and Moats.

JUDICIARY

Messrs. Bean (*Chairman*), Allen, Bowling, Eddy, Jackson (of Lincoln), Love, Martin, McKinley, McKown, Mitchell, Taylor (of Fayette), Traubert, Wylie, Carrigan, Moats, Reed (of Clay), Reed (of Preston) and Stemple.

LABOR

Messrs. Eddy (*Chairman*), Boner, Bowling, Swiger, Traubert, Wylie, Hannig, Jones and Swearingen.

MEDICINE AND SANITATION

Messrs. Wylie (*Chairman*), Allen, Eddy, Love, Swiger, Traubert, Bowers, Jones and Stemple.

MILITIA

Messrs. Mitchell (*Chairman*), Boner, Byrd, Eddy, Holden, Jackson (of Lincoln), McKown, Hannig and Moats.

MINES AND MINING

Messrs. Jackson (of Lincoln) (*Chairman*), Hardesty, Jackson (of Logan), Love, Taylor (of Fayette), Taylor (of Mingo), Winters, Carrigan and Reed (of Preston).

PENITENTIARY

Messrs. Mitchell (*Chairman*), Holden, Love, McKinley, Traubert, Wylie, Carrigan, Jones and Moats.

PRIVILEGES AND ELECTIONS

Messrs. Taylor (of Fayette) (*Chairman*), Bean, Boner, Holden, Jackson (of Lincoln), McKown, Mitchell, Hannig and Reed (of Clay).

PUBLIC BUILDINGS AND HUMANE INSTITUTIONS

Messrs. Wylie (*Chairman*), Boner, Bowling, Byrd, Eddy, Hardesty, Holden, Jackson (of Lincoln), Jackson (of Logan), Martin, Taylor (of Fayette), Winters, Jones, Moats and Reed (of Clay).

SENATE COMMITTEES

PUBLIC LIBRARY

Messrs. Amos (*Chairman*), Boner, Byrd, McKown, Taylor (of Fayette), Taylor (of Mingo), Reed (of Clay) and Stemple.

PUBLIC PRINTING

Messrs. Taylor (of Fayette) (*Chairman*), Holden, Love, Martin, Taylor (of Mingo), Winters, Hannig and Reed (of Clay).

RAILROADS

Messrs. Love (*Chairman*), Bowling, Hardesty, Martin, McKinley, Taylor (of Mingo), Bowers, Reed (of Preston) and Swearingen.

REDISTRICTING

Messrs. Mitchell (*Chairman*), Allen, Amos, Bean, Byrd, McKown, Swiger, Carrigan and Reed (of Preston).

ROADS AND NAVIGATION

Messrs. Winters (*Chairman*), Allen, Amos, Bowling, Eddy, Holden, Jackson (of Logan), Martin, McKinley, Mitchell, Swiger, Taylor (of Mingo), Bowers, Hannig, Jones, Reed (of Clay) and Reed (of Preston).

RULES

Messrs. Johnston (*President*), Allen, Bean, Hardesty, McKown, Wylie, Bowers, Hannig and Stemple.

TEMPERANCE

Messrs. Traubert (*Chairman*), Boner, Jackson (of Lincoln), Love, Taylor (of Mingo), Winters, Carrigan, Hannig and Reed (of Clay).

VETERANS' AFFAIRS

Messrs. Allen (*Chairman*), Byrd, Bowling, Eddy, Jackson (of Lincoln), Mitchell, Carrigan, Reed (of Clay) and Swearingen.

JOINT COMMITTEE ON GOVERNMENT AND FINANCE ON THE PART OF THE SENATE

Messrs. Johnston (*President*), Bean, Hardesty, Reed (of Preston) and Stemple.

JOINT COMMITTEE ON JOINT RULES ON THE PART OF THE SENATE

Messrs. Johnston (*President*), Bean and Stemple.

JOINT COMMITTEE ON ENROLLED BILLS ON THE PART OF THE SENATE

Messrs. Byrd (*Chairman*), Jackson (of Logan), Winters, Hannig and Swearingen.

STANDING COMMITTEES OF THE HOUSE OF DELEGATES

AGRICULTURE

Messrs. McCormick (*Chairman*), Miley (*Vice Chairman*), Bowles, Hamilton (of Calhoun), Hamilton (of Marion), Johnston, Loop, Matney, Maxwell, McCoy, Miller, Perry, Phillips, Thompson, Watts, Wells, Wright, Ashcraft, Dawson, Hall, McCulty, Mouse, Parker, Rogers and Zinn.

BANKING

Messrs. McElwee (*Chairman*), White (of Boone) (*Vice Chairman*), Barron, Browning, Campbell, Carroll, Davis, Doring, Earley, Fox, Kidd (of Gilmer), Maloney, Maxwell, Meadows, Miller, Pauley, Wells, Watts, White (of Cabell), Beneke, Hammond, May, McCulty, Thomas and Underwood.

CLAIMS

Messrs. Whitt (*Chairman*), Thompson (*Vice Chairman*), Andrews, Ballard, Barron, Blankenship, Campbell, Caplan, Cole, Hunt, Layne, Moreland, Pomroy, Tetrick, Tucker, Warden, Wells, Wysong, Creel, Gompers, Hubbard, Parker, Rairden and Ridenour.

COUNTIES, DISTRICTS AND MUNICIPALITIES

Messrs. Ballard (*Chairman*), Layne (*Vice Chairman*), Andrews, Browning, Caplan, Cole, Curtis, Davis, Fox, Maxwell, McElwee, Meadows, Miley, Shafer, Tucker, Mrs. Walker, Messrs. Warden, White (of Boone), Ashcraft, Creel, Dawson, Hubbard, Thomas and Whetsell.

DELINQUENT LANDS

Messrs. Caplan (*Chairman*), Fox (*Vice Chairman*), Andrews, Bowles, Davis, Earley, Kidd (of Braxton), Kidd (of Gilmer), Layne, Maroney, Moreland, Tetrick, Wysong, Beneke, Gompers, Hammond, Honecker, Hubbard, Morgan and Powell.

EDUCATION

Messrs. Blankenship (*Chairman*), Mullins (*Vice Chairman*) Ambler, Curtis, Mrs. Drewry, Messrs. Hamilton (of Marion), Hunt, Johnston, Loop, McCormick, Scanes, Shafer, Thompson, Mrs. Walker, Messrs. Watts, White (of Cabell), Whitt, Dawson, Honecker, Hutton, Neal, Powell, Ridenour, Thomas and Zinn.

ELECTIONS

Messrs. Roberts (*Chairman*), Warden (*Vice Chairman*), Andrews, Blankenship, Chambers, Doring, Earley, Johnston, Kidd (of Gilmer), Layne, Matney, Moreland, Mullins, Scanes, Thompson, Wysong, Beneke, Hammond, May, Morgan, Powell and Underwood.

FINANCE

Messrs. Perry (*Chairman*), McElwee (*Vice Chairman*), Ambler, Ballard, Bowles, Carroll, Fox, Hamilton (of Calhoun), Harmon, Maloney, Martin, Prather, Roberts, Scanes, Stidham, Watts, White (of Boone), Whitt, Honecker, McCulty, Neal, Powell, Rairden, Rogers and Underwood.

FORESTRY AND CONSERVATION

Messrs. McCoy (*Chairman*), Hunt (*Vice Chairman*), Ballard, Booth, Campbell, Casey, Chambers, Cole, Maroney, McElwee, Miley, Mullins, Pauley, Perry, Phillips, Pomroy, Prather, Roberts, Wright, Gompers, Hall and Zinn.

GAME AND FISH

Messrs. Booth (*Chairman*), Harmon (*Vice Chairman*), Andrews, Caplan, Cole, Doring, Martin, Matney, McCoy, Miley, Mullins, Pomroy, Thompson, Tucker, White (of Boone), Whitt, Williams, Wright, Beneke, Hammond, Mouse, Mullenex, Parker and Powell.

HEALTH

Mrs. Walker (*Chairman*), Messrs. Moreland (*Vice Chairman*), Ambler, Mrs. Drewry, Messrs. Johnston, Knight, Matney, Maxwell, Mullins, Pauley, Thompson, Wells, White (of Cabell), Gompers, Hall, Humphreys, Hutton, McCulty, Neal, Rogers and Zinn.

HUMANE INSTITUTIONS

Messrs. Phillips (*Chairman*), Shafer (*Vice Chairman*), Ambler, Booth, Cole, Davis, Mrs. Drewry, Messrs. Johnston, Matney, Miller, Roberts, Tucker, Warden, Wells, Dawson, Honecker, Hubbard, Humphreys, Neal, Thomas and Whetsell

INSURANCE

Messrs Meadows (*Chairman*), Barron (*Vice Chairman*), Blankenship, Booth, Bowles, Carroll, Curtis, Fox, Kidd (of Braxton), Kidd (of Gilmer), Layne, Miller, White (of Cabell), Whitt, Humphreys, Hutton, May, Mullenex, Ridenour, Thomas and Underwood.

INTERSTATE COOPERATION

Messrs. Pauley (*Chairman*), Chambers, Knight, Morgan and Underwood.

JUDICIARY

Messrs. Davis (*Chairman*), Wysong (*Vice Chairman*), Andrews, Barron, Browning, Caplan, Doringer, Earley Kidd (of Braxton), Kidd (of Gilmer), Layne, Loop, Maroney, Maxwell, McCoy, Moreland, Tucker, Mrs. Walker, Messrs. Beneke, Gompers, Hammond, Hubbard, May, Morgan and Whetsell.

LABOR AND INDUSTRY

Messrs. Loop (*Chairman*), Scanes (*Vice Chairman*), Barron, Booth, Bowles, Chambers, Hunt, Maroney, Martin, Mills, Phillips, Prather, Stidham, Williams, Wright, Creel, May, Mullenex, Neal and Underwood.

MILITARY AFFAIRS

Messrs. Martin (*Chairman*), Chambers (*Vice Chairman*), Andrews, Ballard, Blankenship, Browning, Campbell, Carroll, Casey, Mrs. Drewry, Messrs. Earley, Hamilton (of Calhoun), Harmon, Maloney, McCormick, McElwee, Miley, Phillips, Ashcraft, Creel, Hammond, Hutton, Ridenour, Rogers and Sammons.

MINING

Messrs. Stidham (*Chairman*), Mills (*Vice Chairman*), Browning, Carroll, Casey, Mrs. Drewry, Messrs. Hamilton (of Marion), Harmon, Hunt, Maloney, Martin, McCoy, Meadows, Phillips, Prather, Scanes, Mrs. Walker, Messrs. Watts, Williams, Hall, Humphreys, May, Mullenex and Rairden.

PENAL AND CORRECTIONAL INSTITUTIONS

Messrs. Carroll (*Chairman*), Kidd (of Braxton) (*Vice Chairman*), Andrews, Barron, Blankenship, Browning, Campbell, Casey, Curtis, McCormick, Miley, Miller, Mills, Shafer, Thompson, Warden, Wells, Williams, Ashcraft, Hall, Honecker, Hutton, Mouse, Mullenex and Sammons.

RAILROADS

Messrs. Knight (*Chairman*), Wright (*Vice Chairman*), Casey, Curtis, Davis, Fox, Hamilton (of Marion), Kidd (of Gilmer), Martin, Matney, McCormick, McCoy, McElwee, Mullins, Pauley, Perry, Tetrick, Dawson, McCulty, Morgan, Ridenour, Rogers, Sammons, Underwood and Whetsell.

REDISTRICTING

Messrs. Tucker (*Chairman*), Hamilton (of Calhoun) (*Vice Chairman*), Ambler, Blankenship, Bowles, Campbell, Chambers, Cole, Curtis, Doring, Mrs. Drewry, Messrs. Harmon, Loop, Mills, Stidham, Wells, White (of Cabell), Gompers, Honecker, Humphreys, Morgan, Powell, Underwood and Whetsell.

ROADS

Messrs. Wysong (*Chairman*), White (of Cabell) (*Vice Chairman*), Ballard, Curtis, Kidd (of Braxton), Knight, Maloney, Matney, Maxwell, McCormick, Meadows, Mullins, Pomroy, Prather, Scanes, Tetrick, Watts, Whitt, Ashcraft, Hall, Hutton Mouse, Parker, Sammons and Zinn.

RULES

Messrs. Flannery (*Chairman ex officio*), Casey, Davis, Doring, Kidd (of Gilmer), Perry, Mrs. Walker, Messrs. Morgan, Rairden and Underwood.

TEMPERANCE

Messrs. Maloney (*Chairman*), Earley (*Vice Chairman*), Barron, Booth, Browning, Hamilton (of Calhoun), Hamilton (of Marion), Harmon, Knight, Maroney, Martin, McCoy, Miller, Mills, Roberts, Stidham, Warden, White (of Boone), Williams, Beneke, Mouse, Powell, Rairden and Zinn.

VETERANS' AFFAIRS

Messrs. Mills (*Chairman*), Pomroy (*Vice Chairman*), Chambers, Hamilton (of Calhoun), Hamilton (of Marion), Harmon, Hunt, Kidd (of Braxton), Knight, Layne, Maroney, Moreland, Pauley, Perry, Roberts, Shafer, Whitt, Creel, Gompers, Hubbard, Parker, Ridenour, Rogers and Sammons.

JOINT COMMITTEE ON ENROLLED BILLS ON THE PART OF THE HOUSE

Messrs. Loop (*Chairman*), Ambler (*Vice Chairman*), Mrs. Walker, Messrs. Dawson and Rairden.

JOINT COMMITTEE ON GOVERNMENT AND FINANCE ON THE PART OF THE HOUSE

Messrs. Flannery (*Speaker*), Davis, Mrs. Walker, Messrs. McCulty and Powell.

JOINT COMMITTEE ON JOINT RULES ON THE PART OF THE HOUSE

Messrs. Flannery (*Speaker*) (*Chairman ex officio*), Davis and Underwood.

LEGISLATURE OF WEST VIRGINIA

ACTS OF 1951

REGULAR SESSION

CHAPTER 1

(Com. Sub. for Senate Bill No. 62—Originating in the Senate Committee on the Judiciary)

AN ACT to amend article two, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be designated section nineteen-a, relating to a statute of limitations on collection of taxes, interest and penalties due the State of West Virginia or any subdivision thereof.

[Passed February 16, 1951; in effect ninety days from passage. Approved by Governor.]

Article 2. Limitations of Actions and Suits.

Section

19-a. Collection of taxes due the state or any subdivision thereof.

Be it enacted by the Legislature of West Virginia:

That article two, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section to be designated section nineteen-a to read as follows:

- Section 19-a.—*Collection of Taxes Due the State or Any Subdivision Thereof.*—Every action or process to collect any tax (other than ad valorem tax on real or personal property), interest and penalty due the state or any

5 subdivision thereof shall be brought or issued within
6 five years next after the date on which the taxpayer
7 is required by the statute or ordinance imposing the tax,
8 interest and penalty to file a return and pay the tax due
9 thereunder, unless a different limitation is specifically
10 prescribed by such statute or ordinance. The limitation
11 provided by this section shall likewise apply to enforce-
12 ment of the lien, if any, securing the payment of such
13 tax, interest and penalty, but shall not apply in event of
14 fraud or in event the taxpayer wholly fails to file the
15 return required by the statute or ordinance imposing
16 the tax.

17 The official of the state or any subdivision thereof who
18 is charged with the duty of collecting any tax, interest
19 and penalty the collection of which is affected by the
20 limitation hereinbefore provided may, before the run-
21 ning of the five-year period of such limitation has been
22 completed, enter into a written agreement with the tax-
23 payer consenting to an extension of such period for an
24 additional period of not to exceed two years, and any
25 action or process may be brought or issued to collect such
26 tax, interest and penalty at any time prior to the ex-
27 piration of the period so agreed upon. The period so
28 agreed upon may be extended for additional periods not
29 in excess of two years each by subsequent agreements in
30 writing made before the expiration of the period previ-
31 ously agreed upon.

CHAPTER 2

(Com. Sub. for Senate Bill No. 53—Originating in the Senate Committee
on the Judiciary)

AN ACT to amend article six, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be designated section two-a, relating to the investment of trust funds by boards of trustees or fiduciaries of any university, college, seminary or other institution of learning and

of any hospital, church or other eleemosynary or charitable institution.

[Passed March 10, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 6. Investments by Fiduciaries.

Section

2-a. Securities in which certain fiduciaries may invest trust funds.

Be it enacted by the Legislature of West Virginia:

That article six, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section to be designated section two-a to read as follows:

Section 2-a. *Securities in Which Certain Fiduciaries*
2 *May Invest Trust Funds.*—The board of trustees of or any
3 fiduciary for any university, college, seminary or other
4 institution of learning and of any hospital, church or
5 other eleemosynary or charitable institution or associa-
6 tion, in acquiring, investing, reinvesting, exchanging, re-
7 taining, selling and managing property, real or personal,
8 now or hereafter coming into their custody, care or con-
9 trol, other than property of the classes enumerated in
10 section two of this article, shall exercise the judgment
11 and care under the circumstances then prevailing which
12 men of prudence, discretion and intelligence exercise in
13 the management of their own affairs, not in regard to
14 speculation, but in regard to the permanent disposition
15 of their funds, considering the probable income as well
16 as the probable safety of their capital. Within the limita-
17 tions of the foregoing standard, fiduciaries mentioned in
18 this section are authorized to acquire and retain without
19 any order of any court every kind of property real, per-
20 sonal or mixed, and every kind of investment, specifically
21 including but not by way of limitation, bonds, debentures
22 and other corporate obligations, and stocks, preferred or
23 common, which men of prudence, discretion and intelli-
24 gence acquire or retain for their own account, and within
25 the limitations of the foregoing standard, such fiduciaries
26 may retain property properly acquired, without limita-

27 tion as to time and without regard to its suitability for
28 original purchase.

29 Nothing contained in this section shall be construed as
30 authorizing any departure from, or variation of, the
31 express terms or limitations set forth in any will, agree-
32 ment, court order or other instrument creating or de-
33 fining any such fiduciaries' duties and powers, but the
34 terms "legal investment" or "authorized investment" or
35 words of similar import, as used in any such instrument
36 with respect to such fiduciaries shall be taken to include
37 any investment which is permitted by the terms of the
38 preceding paragraph: *Provided, however,* That this para-
39 graph shall not be construed as restricting the power of a
40 court of proper jurisdiction to permit any such fiduciaries
41 to deviate from the terms of any will, agreement, or other
42 instrument relating to the acquisition, investment, rein-
43 vestment, exchange, retention, sale or management of
44 property, real or personal.

45 Nothing contained in this section shall be construed as
46 a declaration of legislative intent that the standards
47 herein prescribed for investments by such fiduciaries shall
48 be denied to or inapplicable with respect to investments
49 by other fiduciaries named in section two of this article.

CHAPTER 3

(Senate Bill No. 81—By Mr. Martin)

AN ACT to amend article eight, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be designated section seven-a, relating to the jurisdiction of the court in suits to subject real estate of decedents to the payment of their debts:

[Passed March 7, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 8. Real Estate of Decedents.

Section

7-a. Jurisdiction of court in suits to subject real estate of decedents to the payment of their debts.

Be it enacted by the Legislature of West Virginia:

That article eight, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section to be designated section seven-a to read as follows:

Section 7-a. *Jurisdiction of Court in Suits to Subject
2 Real Estate of Decedents to the Payment of Their Debts.—*
3 In every suit under the preceding section, whether
4 brought by the personal representative or by any creditor,
5 or whether a general creditors' suit is pending at the
6 time of the death of the decedent, the court shall have
7 general jurisdiction with all the powers of a court of
8 equity, and shall have authority to construe any deed,
9 will or other writing, or dispose of any other matter per-
10 taining to the real estate, or any part thereof, of the said
11 decedent, the same as though a separate suit had been
12 brought for that purpose.

CHAPTER 4

(Senate Bill No. 149—By Mr. Taylor, of Mingo)

AN ACT to amend and reenact section nine, article two, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to salaries and traveling expenses of members of the West Virginia liquor control commission.

[Passed March 8, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 2. Liquor Control Commission.

Section

9. Salaries and traveling expenses.

Be it enacted by the Legislature of West Virginia:

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

Section 9. *Salaries and Traveling Expenses.*—Each
 2 member of the commission shall receive a salary of seven
 3 thousand dollars per annum and his actual and necessary
 4 traveling expenses incurred in the performance of his
 5 duties.

CHAPTER 5

(Senate Bill No. 209—By Mr. McKinley)

AN ACT to amend and reenact section seven, article three, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the compensation of agencies of the West Virginia liquor control commission.

[Passed March 9, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 3. Sales by Commission.

Section

7. *Agencies classified; compensation and bond of agent.*

Be it enacted by the Legislature of West Virginia:

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

Section 7. *Agencies Classified; Compensation and Bond of Agent.*—The commission shall classify state agencies
 2 of Agent.—The commission shall classify state agencies
 3 into not more than five groups with respect to volume
 4 of business. An agent shall be compensated in a fixed
 5 sum, uniform within each group, and in an amount to be
 6 fixed by the commission, but not more than three thou-
 7 sand six hundred dollars in any one year.

8 Each agent shall give bond in an amount fixed by the
 9 commission conditioned upon the faithful observance of
 10 the provisions of this chapter, compliance with the rules
 11 and regulations of the commission, and the accounting
 12 for and paying over of all moneys coming into his cus-
 13 tody by virtue of his agency. An agent shall not, at any

- 14 time, have on hand a stock of alcoholic liquors greater in
15 value than the amount of his bond.
-

CHAPTER 6

(House Bill No. 56—By Mr. Speaker, Mr. Flannery)

AN ACT to amend and reenact sections nine and nineteen, article three, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the prices at which alcoholic liquors may be sold by the liquor control commission and to the disposition of moneys received by the commission, and providing for an increase in such prices to raise additional revenue for the payment of veterans' bonus bonds.

[Passed February 5, 1951; in effect from passage. Approved by the Governor.]

Article 3. Sales by Commission.

Section

9. Uniform prices; posting and distribution of price lists; price increase for payment of veterans' bonus bonds.
19. Amount of operating and reserve fund; payments into veterans' bonus sinking fund; disposition of excess.

Be it enacted by the Legislature of West Virginia:

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

- Section 9. *Uniform Prices; Posting and Distribution of Price Lists; Price Increase for Payment of Veterans' Bonus Bonds.*—The commission shall, from time to time, fix uniform prices for each variety, class and brand of alcoholic liquors offered for sale in state stores. Alcoholic liquors shall be sold in state stores and agencies only at the uniform prices fixed by the commission.
The commission shall prepare price lists showing the price of each variety, class or brand. Price lists shall be posted prominently in each store and shall be available for distribution and inspection in every state store and agency.

13 For the purpose of providing revenue for the payment
14 of bonds issued under and by virtue of the veterans' bonus
15 amendment to the constitution, the commission in the
16 exercise of its authority under this section is hereby di-
17 rected to increase the price of alcoholic liquors on or be-
18 fore the last day of June, one thousand nine hundred fifty-
19 one, in an amount sufficient to produce an additional an-
20 nual revenue of one million six hundred thousand dollars
21 on an annual volume of business equal to the average for
22 the last three years. Whenever in any fiscal year the
23 amount of money accumulated in the veterans' bonus
24 sinking fund shall be sufficient to pay at maturity all out-
25 standing bonus bonds, together with the interest due or
26 payable thereon, the provision herein made for such price
27 increase shall become ineffective at the end of such fiscal
28 year.

Sec. 19. *Amount of Operating and Reserve Fund; Pay-
2 ments into Veterans' Bonus Sinking Fund; Disposition of
3 Excess.*—All moneys collected by the commission shall be
4 credited to the operating fund until that fund reaches an
5 amount sufficient for the current and routine requirements
6 of the department, this amount to be fixed by the com-
7 mission with the approval of the governor, and not to
8 exceed at any time the sum of one million five hundred
9 thousand dollars. The receipts in excess of the require-
10 ments of the operating fund shall be paid into the reserve
11 fund until the amount of the reserve fund equals three
12 hundred fifty thousand dollars.

13 On or after the first day of July, one thousand nine hun-
14 dred fifty-one, from receipts in excess of the requirement
15 of the operating and reserve fund, the sum of four hun-
16 dred thousand dollars shall, upon requisition of the gov-
17 ernor, be paid each quarter into the veterans' bonus sink-
18 ing fund. If in any fiscal year the amount so paid shall be
19 less than fifteen per cent of such excess, an additional
20 amount sufficient to make the total payments equal to
21 fifteen per cent of such excess shall at the end of the fiscal
22 year be paid into the sinking fund, upon requisition of the
23 governor. Whenever in any fiscal year the amount of
24 money accumulated in the veterans' bonus sinking fund

25 shall be sufficient to pay at maturity all outstanding bonus
26 bonds, together with the interest due or payable thereon,
27 no further transfers to such sinking fund shall be made
28 after the end of such fiscal year.

29 All receipts of the commission, not otherwise disposed
30 of by this section, shall, upon requisition of the governor,
31 be paid monthly into the state general revenue fund.

CHAPTER 7

(House Bill No. 72—By Mr. Davis)

AN ACT to amend and reenact section seventeen, article five, chapter fifty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to printing record by clerk; distribution; deposit; felony cases.

[Passed February 6, 1951; in effect from passage. Approved by the Governor.]

Article 5. Appellate Relief in the Supreme Court of Appeals.

Section

17. Printing record by clerk; distribution; deposit; costs; felony cases.

Be it enacted by the Legislature of West Virginia:

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

Section 17. *Printing Record by Clerk; Distribution; Deposit; Costs; Felony Cases.*—Eighteen copies of the record shall be printed containing the petition, so much of the record as the counsel for any party interested or the court may direct, and the table of contents, in octavo form, on book paper of good quality, ten point type, the title on the cover to be in the center, preserving on the margin of the printed record the paging of the record from the court below. The printed matter on the pages of such record shall be four inches by seven and one-fourth inches in size, and each page shall contain thirty-eight lines of such type exclusive of folio number. Such pages

13 shall not be more than single leaded, and not more than
14 a twelve point slug shall be used around heads. In meas-
15 uring such printing and estimating the number of pages,
16 no unnecessary space at the top, bottom or elsewhere on
17 a page shall be reckoned or counted, and only the actual
18 printing done by measuring on the face of the type shall
19 be charged, except that the blank portions of pages at the
20 end of the petition, record and index may be counted as
21 full pages. No entirely blank pages shall be counted, and
22 only two pages shall be counted for cover. The rate which
23 may be charged for such printing shall not be more than
24 one dollar and sixty cents per page, which includes
25 page insertion of tabular work, maps, blueprints, photo-
26 stats and other exhibits. And the cost of printing, photo-
27 stating and blueprinting, if any, shall be included at the
28 end of the printed record together with the date the rec-
29 ord was printed.

30 The clerk shall have the record printed when the party
31 obtaining the appeal, writ of error or supersedeas shall
32 deposit with him a sufficient sum to pay for such print-
33 ing. The clerk shall deliver one copy of the printed rec-
34 ord to the judge and clerk of the trial court, two copies
35 to counsel on each side, and retain the remaining copies
36 in his office. He shall cause all copies of the printed
37 record remaining in his office to be compared with the
38 typewritten transcript certified to the supreme court of
39 appeals and correct all errors that may appear therein.
40 The cost of such printing, unless otherwise ordered by
41 the court, shall be taxed against the unsuccessful party,
42 if the judgment, decree or order appealed from be re-
43 versed. And should the appellant or plaintiff in error fail
44 for three months after his case has been docketed in the
45 court of appeals to deposit with the clerk of the said court,
46 the sum estimated by said clerk, to pay for the printing
47 of the record, he shall be deemed to have abandoned his
48 appeal or writ of error and the same shall be dismissed;
49 but it may be renewed at any time within eight months
50 from the date of the judgment, order or decree appealed
51 from, according to the provisions of section four of this
52 article. In every felony case, the clerk shall have the
53 usual number of records printed at a cost not exceeding

54 the amount fixed by this section, and dispose of the same
55 as in other cases; and upon the certificate of the presi-
56 dent of the supreme court of appeals stating that such
57 record has been printed, and the amount said clerk is
58 entitled to, the cost of printing the same shall be paid to
59 said clerk out of the treasury of the state, and the auditor
60 shall draw his warrant on the treasury for the payment
61 thereof out of the fund for criminal charges.

62 The increased rate for printing records as provided
63 herein shall apply to all cases now docketed in the
64 Supreme Court of Appeals, pending printing of the rec-
65 ord. Such latter cases, however, shall not be subject to
66 dismissal because of said increased rate, where statement
67 for estimated costs has been rendered and paid as pro-
68 vided in this section, but they shall not be placed upon
69 the argument docket until the increased cost of printing
70 provided for herein shall have been paid in full.

CHAPTER 8

(Com. Sub. for Senate Bill No. 1—Originating in the Senate Committee on Finance)

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 10, 1951; in effect from passage.]

Title

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

Title 1. General Provisions.

Section

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

Be it enacted by the Legislature of West Virginia:

Section 1. *General Policy.*—The purpose of this act is to
2 appropriate money necessary for economical and efficient
3 discharge of the duties and responsibilities of the state
4 and its agencies during the fiscal years one thousand nine
5 hundred fifty-two and one thousand nine hundred fifty-
6 three. To give effect to this purpose, the board of public
7 works shall supervise the fiscal policy, control the assump-
8 tion of obligations, and regulate the expenditures of the
9 agencies of the state, to the end that same may as nearly
10 as practicable conform to the budget document: *Provided,*
11 *however,* That notwithstanding any provision of this sec-
12 tion or any other statute to the contrary, expenditures of
13 departments and educational institutions under the West
14 Virginia University board of governors and under the
15 West Virginia board of education shall be determined and
16 regulated by such boards, except that no salary shall be
17 increased in an amount which would exceed ten per cent
18 of the amount approved by the board of public works in
19 the budget document, without prior approval of the board
20 of public works.

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 fifty-two”
6 shall mean the period from July first, one thousand nine
7 hundred fifty-one through June thirtieth, one thousand
8 nine hundred fifty-two, and the “fiscal year one thousand
9 nine hundred fifty-three” shall mean the period from July
10 first, one thousand nine hundred fifty-two through June
11 thirtieth, one thousand nine hundred fifty-three.

12 “From collections” shall mean that part of the total ap-
13 propriation which must be collected by the spending unit
14 to be available for expenditure. If the authorized amount
15 of collections is not collected, the total appropriation for
16 the spending unit shall be reduced automatically by the
17 amount of the deficiency in the collection. If the amount
18 collected exceeds the amount designated “from collections”
19 the excess shall be set aside in a special surplus fund and

20 may be expended for the purpose of the spending unit as
21 provided by chapter thirty-nine, acts of the Legislature,
22 regular session, one thousand nine hundred thirty-nine.

Sec. 3. *Classification of Appropriations.*—An appropria-
2 tion for:

3 “Personal services” shall be expended only for the pay-
4 ment of salaries, wages, fees, and other compensation for
5 skill, work, or employment;

6 “Current expenses” shall be expended only for operating
7 costs other than personal services or capital outlay;

8 “Repairs and alterations” shall include all expenditures
9 for materials, supplies and labor used in repairing and
10 altering buildings, grounds and equipment;

11 “Equipment” shall be expended only for things which
12 have an appreciable and calculable period of usefulness in
13 excess of one year;

14 “Buildings” shall include construction and alteration of
15 structures and the improvement of lands, sewer and water
16 improvements, and shall include shelter, support, storage,
17 protection, or the improvement of a natural condition;

18 “Lands” shall be expended only for the purchase of land
19 or interest in lands.

20 Building and/or lands and equipment appropriations
21 are not transferable to other items of appropriation.

22 Unclassified appropriations shall be expended only
23 where the distribution of expenditures for different pur-
24 poses cannot well be determined in advance or it is neces-
25 sary or desirable to permit the spending unit freedom to
26 spend an appropriation for more than one of the above
27 purposes.

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

Sec. 5. *Limitations on Expenditures.*—The expenditure
2 of money appropriated by this act shall be limited to the
3 specific amount appropriated to each item. There shall be
4 no transfer of amounts between items of the appropriation

5 of the spending unit without prior authorization by the
6 board of public works, as provided by chapter five, article
7 five, code of West Virginia.

Sec. 6. *Maximum Expenditures.*—No authority or re-
2 quirement of law shall be interpreted as requiring or per-
3 mitting an expenditure in excess of the appropriations set
4 out in this act.

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12. Contingent fund.
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16. Appropriations to pay costs of publication of delinquent corporations.
17. Appropriations for local governments.
18. Printing costs.
19. Total appropriation.
20. General school fund.

Section 1. *Appropriation from General Revenue.*—From 2 the state fund, general revenue, there is hereby appro- 3 priated conditionally upon the fulfillment of the provisions 4 set forth in chapter thirty-nine, acts of Legislature, regular 5 session, one thousand nine hundred thirty-nine, the fol- 6 lowing amounts, as itemized, for expenditures during the 7 fiscal years one thousand nine hundred fifty-two and one 8 thousand nine hundred fifty-three.

LEGISLATIVE

1—Senate

Acct. No. 101

	<i>Fiscal Years</i>	
	1951-52	1952-53
1 Salaries of Members.....\$	16,000.00	\$ 16,000.00
2 To pay Clerk of the Senate		
3 for compiling and publishing		
4 the West Virginia Blue Book,		
5 the distribution of which		
6 shall be made by the Clerk		
7 of the Senate and shall in-		
8 clude seventy-five copies for		
9 each member of the Legisla-		
10 ture and two copies to each		
11 classified and approved high		

12	and junior high school and			
13	one to each elementary			
14	school within the state, in-			
15	cluding all expenses incurred			
16	in the employment of con-			
17	tributors, preparation of mat-			
18	ter, clerical hire, steno-			
19	graphic services and proof-			
20	reading	\$ 10,000.00	\$	8,000.00
21	To pay cost of printing 1951 and			
22	1952 editions of Blue Book...	41,500.00	\$	41,500.00
23				<i>Fiscal Year 1950-51</i>
24	Mileage of Members.....		\$	829.20
25	Compensation and per diem of			
26	officers and attaches.....		\$	70,000.00
27	Current Expenses and Contin-			
28	gent Fund		\$	75,000.00
29	Joint Committee on Govern-			
30	ment and Finance and other			
31	committees		\$	25,000.00

32 The above appropriations for
 33 the fiscal year 1950-51 are to
 34 remain in full force and effect
 35 until the convening of the
 36 regular session of the Legis-
 37 lature, 1953.

38 The Clerk of the Senate is
 39 authorized to draw his war-
 40 rants upon the Auditor, pay-
 41 able out of the contingent
 42 fund of the Senate, for any
 43 bills for supplies and serv-
 44 ices that may have been in-
 45 curred by the Senate and
 46 not included in the appropria-
 47 tion bill, and for bills for sup-
 48 plies and services incurred
 49 after adjournment, and for
 50 the necessary operation of his
 51 offices, the requisition for
 52 same to be accompanied by

53 bills to be filed with the
54 Auditor.

2—House of Delegates

Acct. No. 102

1	Salaries of Members.....	\$ 47,054.95	\$ 47,000.00
2		<i>Fiscal Year 1950-1951</i>	
3	Mileage of Members ..*	\$	2,513.30
4	Compensation and per diem of		
5	attaches and officers	\$	88,740.00
6	Contingent Fund	\$	85,000.00
7	Contingent Fund:		
8	Legislative Drafting Office	\$	5,000.00
9	Joint Committee on Govern-		
10	ment and Finance and other		
11	authorized Legislative Com-		
12	mittees	\$	25,000.00
13	House Resolution No. 20.....	\$	10,000.00
14	House Resolution No. 21	\$	20,000.00

15 The above appropriations for
16 the fiscal year 1950-51 are to
17 remain in full force and ef-
18 fect until the convening of
19 the regular session of the
20 Legislature, 1953.

21 With the approval of the Speak-
22 er, an amount, not to exceed
23 three thousand dollars per
24 year, is hereby authorized to
25 be expended from the contin-
26 gent fund of the House of Del-
27 egates for janitor service, etc.
28 An amount, not to exceed five
29 thousand dollars, is hereby
30 authorized to be expended
31 from the contingent fund of
32 the House of Delegates by the
33 House Committee on Rules
34 for the purpose of establish-
35 ing a House Legislative
36 Drafting Office, employing, if

37 deemed advisable by the
38 Committee, in connection
39 therewith, technical and cler-
40 ical assistants, who shall be
41 available to the Members and
42 Committees of the House of
43 Delegates, at such times as
44 may be determined by the
45 Committee on Rules, for the
46 purpose of assisting in the
47 preparation and editing of
48 bills and resolutions, and in
49 such other legislative draft-
50 ing and editing as the Com-
51 mittee on Rules may deem
52 proper.

53 The Clerk of the House is au-
54 thorized to draw his warrants
55 upon the Auditor, payable
56 out of the contingent fund of
57 the House for any bills for
58 supplies and services that
59 may have been incurred by
60 the House and not included
61 in the appropriation bill, and
62 for bills for supplies and
63 services incurred after ad-
64 journment, the requisition
65 for same to be accompanied
66 by bills to be filed with the
67 Auditor.

68 For duties imposed by law and
69 by the House of Delegates,
70 including the salary allowed
71 by law as keeper of the rolls,
72 the Clerk of the House of
73 Delegates shall be paid a
74 monthly salary at the rate of
75 \$675.00 per month, payable
76 from the contingent fund of
77 the House of Delegates, and

78 the Clerk may employ a sec-
 79 retary at a salary of not to
 80 exceed \$275.00 per month,
 81 payable monthly from the
 82 same fund.

3—*Joint Expenses*

Acct. No. 103

1 To pay the cost of legislative		
2 printing and stationery, the		
3 appropriation is to be avail-		
4 able for the year ending June		
5 thirty, one thousand nine		
6 hundred fifty-one. If this		
7 work is not completed prior		
8 to June thirty, one thousand		
9 nine hundred fifty-one, then		
10 the appropriation shall con-		
11 tinue in full until com-		
12 pleted	\$	97,500.00
13 Commission on Interstate Co-		
14 operation	\$	16,500.00

JUDICIAL

4—*Supreme Court of Appeals*

Acct. No. 110

1 Salaries of Judges	\$	62,500.00	\$	62,500.00
2 Other Personal Services	\$	66,820.00	\$	66,820.00
3 Current Expenses		20,000.00		20,000.00
4 Equipment		2,000.00		2,000.00
5 Total	\$	151,320.00	\$	151,320.00

5—*Circuit Courts*

Acct. No. 111

1 Salaries of Judges of the Cir-				
2 cuit Courts	\$	226,500.00	\$	226,500.00
3 Current Expenses		54,000.00		54,000.00
4 Total	\$	280,500.00	\$	280,500.00

6—Judges' Retirement System

Acct. No. 112

1	To be transferred to the Judges'			
2	Retirement Fund, in accord-			
3	ance with the law relating			
4	thereto, upon requisition of			
5	the State Auditor.....	\$ 25,000.00	\$	25,000.00

7—State Law Library

Acct. No. 114

1	Personal Services, including			
2	Salaries of Librarian and As-			
3	sistants	\$ 8,580.00	\$	8,580.00
4	Current Expenses	1,000.00		1,000.00
5	Equipment	6,000.00		6,000.00
6	Total	\$ 15,580.00	\$	15,580.00

8—The Judicial Council

Acct. No. 118

1	Personal Services	\$ 8,060.00	\$	8,060.00
2	Current Expenses	3,300.00		3,300.00
3	Equipment	250.00		250.00
4	Total	\$ 11,610.00	\$	11,610.00

9—Auditor's Office—Criminal Charges

Acct. No. 119

1	Criminal Charges	\$ 125,000.00	\$	125,000.00
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EXECUTIVE

10—Governor's Office

Acct. No. 120

1	Salary of Governor.....	\$ 10,000.00	\$	10,000.00
2	Other Personal Services, includ-			
3	ing Salaries of Secretaries,			
4	Stenographers and Assist-			
5	ants	30,780.00		30,780.00

6	Current Expenses _____	10,375.00	10,375.00
7	One hundred dollars annual		
8	dues to the Governor's Con-		
9	ference shall be included in		
10	this item.		
11	Equipment _____	2,200.00	2,200.00
12	Civil Contingent Fund _____	150,000.00	150,000.00
13	Of this appropriation there may		
14	be expended an amount not		
15	to exceed \$5,000.00 in each		
16	year to provide instruction,		
17	care and maintenance for per-		
18	sons who are deaf and blind,		
19	and for whom the state pro-		
20	vides no facilities.		
21	Out of this appropriation there		
22	may be expended, at the dis-		
23	cretion of the Governor, an		
24	amount not to exceed \$1,-		
25	000.00 in each year of the bi-		
26	ennium as West Virginia's		
27	contribution to the Interstate		
28	Oil Compact Commission.		
29	Any unexpended balance re-		
30	maining in the Civil Contin-		
31	gent Fund at the close of the		
32	fiscal year 1951-52 is hereby		
33	reappropriated for expendi-		
34	ture during the fiscal year		
35	1952-53.		
36	Custodial _____ \$	31,350.00	\$ 31,350.00
37	To be used for current general		
38	expenses, including compen-		
39	sation of servants and em-		
40	ployees, household mainte-		
41	nance, cost of official func-		
42	tions, and any additional		
43	household expenses occa-		
44	sioned by such official func-		
45	tions. In the event Napoleon		
46	Gardner, now and for many		

47 years in the service of the
 48 Governor and his predeces-
 49 sors in office, shall become un-
 50 able to perform such services
 51 for which he may earn com-
 52 pensation, an amount not in
 53 excess of \$50.00 per month
 54 may be expended out of this
 55 appropriation by the Gov-
 56 ernor at his discretion, for the
 57 use and benefit of the said
 58 Napoleon Gardner.

59	Total	\$ 234,705.00	\$	234,705.00
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11—*Parole and Probation Investigation and Supervision*

Acct. No. 123

1 Personal Services, including				
2	Salary of Director.....	\$ 68,840.00	\$	69,440.00
3	Current Expenses	26,200.00		26,200.00
4	Equipment	1,000.00		500.00
<hr/>				
5	Total	\$ 96,040.00	\$	96,140.00

FISCAL

12—*Auditor's Office—General Administration*

Acct. No. 150

1	Salary of State Auditor.....	\$ 6,000.00	\$	6,000.00
2	Other Personal Services	99,200.00		99,200.00
3	Current Expenses	9,900.00		9,900.00
4	Equipment	4,900.00		4,900.00
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5	Total	\$ 120,000.00	\$	120,000.00

13—*Insurance Commissioner*

Acct. No. 151

1	Personal Services	\$ 51,800.00	\$	51,800.00
2	Current Expenses	11,800.00		11,800.00
3	Equipment	1,100.00		600.00
<hr/>				
4	Total	\$ 64,700.00	\$	64,200.00

14—*Treasurer's Office*

Acct. No. 160

1	Salary of State Treasurer.....\$	6,000.00	\$	6,000.00
2	Other Personal Services.....	53,660.00		54,260.00
3	Current Expenses	8,500.00		11,600.00
4	Equipment	7,500.00		7,500.00
5	Total	\$ 75,660.00	\$	79,360.00

15—*Sinking Fund Commission*

Acct. No. 170

1	Personal Services	\$ 11,780.00	\$	11,780.00
2	Current Expenses	600.00		600.00
3	Equipment	3,000.00		
4	Total	\$ 15,380.00	\$	12,380.00

16—*State Tax Commissioner*

Acct. No. 180

1	Salary of Tax Commissioner...\$	8,000.00	\$	8,000.00
2	Other Personal Services.....	525,960.00		525,960.00
3	Current Expenses	200,130.00		165,130.00
4	Equipment	20,000.00		15,000.00
5	Legal and Technical Services...	17,900.00		17,900.00
6	Total	\$ 771,990.00	\$	731,990.00
7	This appropriation shall include			
8	all expenditures for the op-			
9	eration of the Gasoline De-			
10	partment formerly appropri-			
11	ated from the State Road			
12	Fund.			

17—*West Virginia Board of Control*

Acct. No. 190

1	Salaries of the three members			
2	of the Board of Control.....\$	21,000.00	\$	21,000.00
3	Other Personal Services.....	38,640.00		38,640.00
4	Current Expenses	11,800.00		11,800.00

5	Equipment	700.00	700.00
6	Total	\$ 72,140.00	\$ 72,140.00

18—*Director of the Budget*

Acct. No. 210

1	Personal Services, including		
2	Salary of the Director of the		
3	Budget	\$ 64,020.00	\$ 64,020.00
4	Current Expenses	6,930.00	15,430.00
5	Equipment	2,500.00	1,250.00
6	Total	\$ 73,450.00	\$ 80,700.00

19—*Director of the Budget—Inventory Control*

Acct. No. 211

1	Personal Services	\$ 18,320.00	\$ 18,320.00
2	Current Expenses	4,500.00	4,500.00
3	Total	\$ 22,820.00	\$ 22,820.00
4	To be expended in cooperation		
5	with the Director of Pur-		
6	chases to establish an inven-		
7	tory control of all physical		
8	property of the state.		

LEGAL

20—*Attorney General*

Acct. No. 240

1	Salary of Attorney General ...	\$ 7,500.00	\$ 7,500.00
2	Other Personal Services.....	52,550.00	52,550.00
3	Current Expenses	7,590.00	7,590.00
4	Equipment	4,250.00	3,750.00
5	To protect the resources or tax		
6	structure of the State in con-		
7	troversies or legal proceed-		
8	ings affecting same. Any un-		
9	expended balance remaining		
10	in this fund at the close of the		
11	fiscal year 1951-52 is hereby		

12	reappropriated for expendi-		
13	ture during the fiscal year		
14	1952-53	8,000.00	
15	Total	\$ 79,890.00	\$ 71,390.00

21—State Court of Claims

Acct. No. 243

1	Personal Services	\$ 16,950.00	\$ 16,950.00
2	Current Expenses	3,800.00	5,800.00
3	Equipment	200.00	
4	Total	\$ 20,950.00	\$ 22,750.00

22—Commission on Uniform State Laws

Acct. No. 245

1	Total	\$ 500.00	\$ 500.00
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INCORPORATING AND RECORDING

23—Secretary of State

Acct. No. 250

1	Salary of Secretary of State ...	\$ 6,000.00	\$ 6,000.00
2	Other Personal Services	27,840.00	27,840.00
3	Current Expenses	4,350.00	5,850.00
4	Equipment	1,000.00	1,000.00
5	Total	\$ 39,190.00	\$ 40,690.00

CUSTODIAL AND SERVICE

24—Capitol Building and Grounds

Acct. No. 270

1	Personal Services	\$ 139,200.00	\$ 139,200.00
2	Current Expenses	63,500.00	63,500.00
3	Repairs and alterations	35,000.00	35,000.00
4	Equipment	4,000.00	4,000.00
5	Total	\$ 241,700.00	\$ 241,700.00

6 The above appropriation for
7 repairs and alterations shall

8 be expended at the discretion
 9 of the Board of Control and
 10 shall include all painting and
 11 decorating for the capitol
 12 buildings and the apartments
 13 therein.

25—*Central Mailing Office*

Acct. No. 280

1 Personal Services	\$ 11,820.00	\$ 11,820.00
2 Current Expenses	58,740.00	58,740.00
3 Equipment	2,500.00	200.00

4 Total	\$ 73,060.00	\$ 70,760.00
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5 The Workmen's Compensation
 6 Commission, Department of
 7 Public Assistance, West Vir-
 8 ginia Public Service Commis-
 9 sion, Conservation Commis-
 10 sion, Department of Motor
 11 Vehicles, State Road Com-
 12 mission and State Health De-
 13 partment shall reimburse the
 14 Current Expense appropri-
 15 ation of the Central Mailing
 16 Office monthly for all meter
 17 service. Any spending unit
 18 receiving reimbursement for
 19 postage costs from the Fed-
 20 eral Government shall refund
 21 to the Current Expense ac-
 22 count of the Central Mailing
 23 Office such amounts. Should
 24 this appropriation for Cur-
 25 rent Expense be insufficient
 26 to meet the mailing require-
 27 ments of the State spending
 28 units as set out above, any ex-
 29 cess postage meter service re-
 30 quirements shall be a proper
 31 charge against the units, and

32 each spending unit shall re-
 33 fund to the Current Expense
 34 appropriation of the Central
 35 Mailing Office any amounts
 36 required for that Department
 37 for postage in excess of this
 38 appropriation.

26—*Department of Purchases*

Acct. No. 290

1 Salary of Director of Pur-			
2 chases _____	\$ 7,000.00	\$	7,000.00
3 Other Personal Services.....	65,280.00		66,960.00
4 Current Expenses	13,180.00		12,510.00
5 Equipment	6,500.00		500.00
6 Total _____	\$ 91,960.00	\$	86,970.00

EDUCATIONAL

27—*Department of Education—State Aid to Schools*

Acct. No. 295

1 State aid to supplement the			
2 General School Fund.....	\$42,000,000.00	\$42,500,000.00	
3 To be transferred to the gen-			
4 eral school fund upon the			
5 requisition of the Governor.			
6 To be distributed according			
7 to law except an amount not			
8 to exceed \$60,000.00 for each			
9 year of the biennium, which			
10 sum shall be available to the			
11 State Board of School Fi-			
12 nance to aid counties in pro-			
13 viding instruction for home-			
14 bound physically and men-			
15 tally handicapped children			
16 under such rules and regula-			
17 tions for instruction of home-			
18 bound physically and men-			
19 tally handicapped children			
20 as may be adopted by the			

21 State Board of Education as
 22 provided by chapter 18, arti-
 23 cle 2, section 5, of the West
 24 Virginia code, one thousand
 25 nine hundred thirty-one, as
 26 amended.

27 In making distribution of state
 28 aid to counties as provided by
 29 law, the state board of school
 30 finance may at its discretion
 31 increase the allocation to any
 32 county that is otherwise un-
 33 able with all available reve-
 34 nues to maintain a full nine
 35 months' term, such increase
 36 not to be greater than is re-
 37 quired to provide for a nine
 38 months' term of school on a
 39 minimum program: *Provided*,
 40 That the total that may be
 41 distributed under this special
 42 provision shall not exceed
 43 \$100,000.00 in any year.

28—*Department of Education—Textbook Aid*

Acct. No. 297

1	Textbooks for School.....	\$ 100,000.00	\$ 200,000.00
2	To be distributed according to		
3	chapter 51, Acts of Legisla-		
4	ture, regular session, 1939.		

29—*Teachers Retirement Board*

Acct. No. 298

1	Benefit Fund — Payments to		
2	Retired Teachers	\$ 1,047,700.00	\$ 1,115,900.00
3	Expense Fund	42,100.00	40,300.00
4	Employer's Accumulation Fund		
5	—To match contribution of		
6	members	2,360,000.00	2,360,000.00
7	Total	\$ 3,449,800.00	\$ 3,516,200.00

30—*West Virginia University*

Acct. No. 300

1	Personal Services, including		
2	Salary of President.....	\$ 3,211,010.00	\$ 3,219,610.00
3	Current Expenses	513,000.00	569,600.00
4	Repairs and alterations.....	237,500.00	237,500.00
5	Equipment	237,000.00	227,000.00
6	State aid to medical students...	56,450.00	62,500.00
7	Total	\$ 4,254,960.00	\$ 4,316,210.00
8	Out of the above appropria-		
9	tion for Personal Services		
10	there shall be available a sum		
11	not to exceed \$30,000.00 each		
12	year of the biennium for ad-		
13	ditional retirement benefits		
14	as provided by Acts of the		
15	Legislature, 1951.		

31—*West Virginia University—Mining and Industrial Extension*

Acct. No. 301

1	Personal Services	\$ 44,620.00	\$ 44,620.00
2	Current Expenses	18,750.00	18,750.00
3	Repairs and Alterations.....	500.00	500.00
4	Equipment	1,500.00	1,000.00
5	Total	\$ 65,370.00	\$ 64,870.00

32—*West Virginia University—Agricultural, Horticultural and Home Economics Extension*

Acct. No. 302

1	Personal Services	\$ 78,550.00	\$ 78,550.00
2	Current Expenses	11,910.00	11,910.00
3	Repairs and alterations	1,600.00	1,600.00
4	Equipment	700.00	2,100.00
5	Total	\$ 92,760.00	\$ 94,160.00

33—*West Virginia University—Jackson's Mill 4-H Camp*

Acct. No. 303

1 Personal Services	\$ 23,160.00	\$ 23,160.00
2 Current Expenses	14,400.00	14,400.00
3 Repairs and Alterations	12,500.00	12,500.00
4 Equipment	4,500.00	3,400.00
5 Total	\$ 54,560.00	\$ 53,460.00

34—*West Virginia University—Cooperation with Oglebay Institute*

Acct. No. 304

1 Unclassified—Total	\$ 3,700.00	\$ 3,700.00
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35—*West Virginia University—Extension Division*

Acct. No. 305

1 To pay Salaries and Traveling		
2 Expenses of County Agricultural Agents	\$ 117,660.00	\$ 117,660.00
4 To Pay Salaries and Expenses of County Home Dem. Agts.	72,000.00	72,000.00
6 Total	\$ 189,660.00	\$ 189,660.00

36—*West Virginia University—Engineering Experiment Station*

Acct. No. 306

1 Personal Services	\$ 19,390.00	\$ 19,390.00
2 Current Expenses	3,000.00	3,000.00
3 Equipment	4,000.00	4,000.00
4 Total	\$ 26,390.00	\$ 26,390.00

37—*West Virginia University—Gas and Petroleum Research*

Acct. No. 309

1 Personal Services	\$ 12,200.00	\$ 12,200.00
2 Current Expenses	3,200.00	3,200.00

3	Equipment	1,000.00	1,000.00
4	Total	\$ 16,400.00	\$ 16,400.00

38—*West Virginia University—Agricultural Experiment Station*

Acct. No. 310

1	Personal Services	\$ 114,520.00	\$ 114,520.00
2	Current Expenses	14,610.00	14,610.00
3	Repairs and Alterations	5,500.00	5,500.00
4	Equipment	10,100.00	10,100.00
5	Total	\$ 144,730.00	\$ 144,730.00
6	Provided that \$6,000.00 is ap-		
7	propriated in the year 1951-52		
8	and \$6,000.00 is appropriated		
9	in the year 1952-53 out of the		
10	Personal Services item—Line		
11	1—for the employment of a		
12	spray specialist who shall be		
13	stationed only at the West		
14	Virginia University Experi-		
15	ment Farm at Kearneysville.		

39—*West Virginia University—Experiment Farm—Kearneysville*

Acct. No. 311

1	Current Expense	\$ 12,000.00	\$ 12,000.00
2	Repairs and Alterations	3,200.00	3,200.00
3	Equipment	9,000.00	2,800.00
4	Total	\$ 24,200.00	\$ 18,000.00

40—*West Virginia University—Reymann Memorial Farm*

Acct. No. 312

1	Current Expenses	\$ 10,200.00	\$ 10,200.00
2	Repairs and Alterations	3,400.00	2,400.00
3	Equipment	3,200.00	1,000.00
4	Total	\$ 16,800.00	\$ 13,600.00

41—*West Virginia University—Ohio Valley Sub-Station*

Acct. No. 313

1	Current Expenses	\$ 4,800.00	\$ 4,800.00
2	Repairs and Alterations	1,500.00	1,000.00
3	Equipment	5,700.00	2,200.00
4	Total	\$ 12,000.00	\$ 8,000.00

42—*West Virginia University Experiment Farm—Reedsville*

Acct. No. 314

1	Current Expenses	\$ 6,250.00	\$ 6,350.00
2	Repairs and Alterations	10,000.00	5,000.00
3	Equipment	3,500.00	4,400.00
4	Total	\$ 19,750.00	\$ 15,750.00

43—*Potomac State School of West Virginia University*

Acct. No. 315

1	Personal Services, including		
2	Salary of President	\$ 198,900.00	\$ 198,900.00
3	Current Expenses	34,900.00	37,700.00
4	Repairs and Alterations	20,400.00	20,400.00
5	Equipment	12,500.00	12,500.00
6	Total	\$ 266,700.00	\$ 269,500.00

44—*Marshall College*

Acct. No. 320

1	Personal Services, including		
2	Salary of President	\$ 1,141,120.00	\$ 1,142,560.00
3	Current Expenses	97,760.00	97,760.00
4	Repairs and Alterations	51,400.00	48,400.00
5	Equipment	63,500.00	63,500.00
6	Flood Wall Assessment	4,200.00	4,200.00
7	Total	\$ 1,357,980.00	\$ 1,356,420.00

45—*Fairmont State College*

Acct. No. 321

1	Personal Services, including		
2	Salary of President	\$ 389,520.00	\$ 389,720.00

3	Current Expenses	45,980.00	44,780.00
4	Repairs and Alterations	20,100.00	17,300.00
5	Equipment	20,550.00	19,750.00
6	Total	\$ 476,150.00	\$ 471,550.00

46—*Glenville State College*

Acct. No. 322

1	Personal Services, including		
2	Salary of President	\$ 235,490.00	\$ 235,760.00
3	Current Expenses	33,880.00	33,500.00
4	Repairs and Alterations	13,900.00	13,500.00
5	Equipment	18,350.00	18,350.00
6	Total	\$ 301,620.00	\$ 301,110.00

47—*West Liberty State College*

Acct. No. 323

1	Personal Services, including		
2	Salary of President	\$ 204,930.00	\$ 204,930.00
3	Current Expenses	28,690.00	28,690.00
4	Repairs and Alterations	12,800.00	12,800.00
5	Equipment	13,600.00	13,600.00
6	Total	\$ 260,020.00	\$ 260,020.00

48—*Shepherd College*

Acct. No. 324

1	Personal Services, including		
2	Salary of President	\$ 182,890.00	\$ 182,890.00
3	Current Expenses	33,580.00	32,080.00
4	Repairs and Alterations	15,800.00	15,800.00
5	Equipment	12,300.00	12,300.00
6	Total	\$ 244,570.00	\$ 243,070.00

49—*Concord College*

Acct. No. 325

1	Personal Services, including		
2	Salary of President	\$ 352,560.00	\$ 352,560.00

3	Current Expenses	42,800.00	42,300.00
4	Repairs and Alterations.....	20,500.00	20,500.00
5	Equipment	22,000.00	22,000.00
6	Total	\$ 437,860.00	\$ 437,360.00

50—*West Virginia Institute of Technology*

Acct. No. 327

1	Personal Services, including		
2	Salary of President	\$ 287,460.00	\$ 287,460.00
3	Current Expenses	49,600.00	49,600.00
4	Repairs and Alterations	20,000.00	20,000.00
5	Equipment	30,000.00	30,000.00
6	Total	\$ 387,060.00	\$ 387,060.00

51—*West Virginia State College*

Acct. No. 328

1	Personal Services, including		
2	Salary of President.....	\$ 595,710.00	\$ 595,710.00
3	Current Expenses	87,150.00	87,150.00
4	Repairs and Alterations.....	40,600.00	40,600.00
5	Equipment	52,000.00	52,000.00
6	Total	\$ 775,460.00	\$ 775,460.00

52—*Bluefield State College*

Acct. No. 329

1	Personal Services, including		
2	Salary of President	\$ 238,380.00	\$ 238,380.00
3	Current Expenses	40,900.00	43,900.00
4	Repairs and Alterations.....	24,500.00	24,500.00
5	Equipment	23,000.00	23,000.00
6	Total	\$ 326,780.00	\$ 329,780.00

53—*West Virginia State College—4-H Camp for Colored Boys and Girls*

Acct. No. 330

1	Personal Services	\$ 11,510.00	\$ 11,510.00
2	Current Expenses	4,500.00	4,500.00

3	Repairs and Alterations	3,000.00	3,000.00
4	Equipment	3,200.00	3,200.00
5	Total	\$ 22,210.00	\$ 22,210.00

54—*West Virginia Schools for the Deaf and Blind*

Acct. No. 333

1	Personal Services, including		
2	Salary of Superintendent.....	\$ 221,820.00	\$ 226,070.00
3	Current Expenses	106,490.00	106,190.00
4	Repairs and Alterations.....	14,900.00	14,900.00
5	Equipment	16,400.00	11,000.00
6	Total	\$ 359,610.00	\$ 358,160.00

55—*West Virginia School for the Colored Deaf and Blind*

Acct. No. 334

1	Personal Services, including		
2	Salary of Superintendent.....	\$ 34,480.00	\$ 34,570.00
3	Current Expenses	20,250.00	20,250.00
4	Repairs and Alterations.....	4,500.00	4,500.00
5	Equipment	4,000.00	4,000.00
6	Total	\$ 63,230.00	\$ 63,320.00

56—*State Board of Education—Storer College*

Acct. No. 338

1	To pay Storer College for use		
2	of Plant and Facilities for		
3	West Virginia Students	\$ 20,000.00	\$ 20,000.00
4	To be expended by the State		
5	Board of Education on a per		
6	capita cost basis for West Vir-		
7	ginia students only.		

57—*Department of Archives and History*

Acct. No. 340

1	Personal Services, including		
2	Salary of State Archivist and		
3	Historian	\$ 17,380.00	\$ 17,500.00

APPROPRIATIONS

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4	Current Expenses	4,430.00	4,430.00
5	Equipment	6,000.00	6,000.00
6	Total	\$ 27,810.00	\$ 27,930.00

58—West Virginia Library Commission

Acct. No. 350

1	Personal Services	\$ 39,980.00	\$ 39,980.00
2	Current Expenses	9,430.00	9,430.00
3	Equipment	10,500.00	500.00
4	Books and Periodicals	30,000.00	30,000.00
5	Total	\$ 89,910.00	\$ 79,910.00

CHARITIES AND CORRECTION

59—West Virginia Industrial School for Boys

Acct. No. 370

1	Personal Services, including		
2	Salary of Superintendent.....	\$ 132,420.00	\$ 133,380.00
3	Current Expenses	78,000.00	78,000.00
4	Repairs and Alterations	8,900.00	8,900.00
5	Equipment	8,400.00	8,400.00
6	Total	\$ 227,720.00	\$ 228,680.00

60—West Virginia Industrial School for Colored Boys

Acct. No. 371

1	Personal Services, including		
2	Salary of Superintendent.....	\$ 28,150.00	\$ 28,150.00
3	Current Expenses	27,790.00	27,790.00
4	Repairs and Alterations.....	3,500.00	3,500.00
5	Equipment	5,100.00	5,100.00
6	Total	\$ 64,540.00	\$ 64,540.00

61—West Virginia Industrial Home for Girls

Acct. No. 372

1	Personal Services, including		
2	Salary of Superintendent.....	\$ 65,020.00	\$ 65,240.00

3	Current Expenses	50,430.00	50,430.00
4	Repairs and Alterations.....	6,000.00	6,000.00
5	Equipment	6,100.00	6,100.00
6	Total	\$ 127,550.00	\$ 127,770.00

62—*West Virginia Industrial Home for Colored Girls*

Acct. No. 373

1	Personal Services, including		
2	Salary of Superintendent	\$ 8,050.00	\$ 8,050.00
3	Current Expenses	9,050.00	9,050.00
4	Repairs and Alterations.....	2,200.00	2,200.00
5	Equipment	1,050.00	1,050.00
6	Total	\$ 20,350.00	\$ 20,350.00

63—*West Virginia State Prison for Women*

Acct. No. 374

1	Personal Services, including		
2	Salary of Superintendent	\$ 27,100.00	\$ 27,100.00
3	Current Expenses	29,500.00	29,500.00
4	Repairs and Alterations.....	4,000.00	3,500.00
5	Equipment	4,000.00	2,300.00
6	Total	\$ 64,600.00	\$ 62,400.00

64—*West Virginia Penitentiary*

Acct. No. 375

1	Personal Services, including		
2	Salary of Warden	\$ 291,780.00	\$ 291,840.00
3	Current Expenses	331,200.00	331,200.00
4	Repairs and Alterations.....	20,000.00	20,000.00
5	Equipment	20,100.00	15,000.00
6	Total	\$ 663,080.00	\$ 658,040.00

65—*Medium Security Prison*

Acct. No. 376

1	Personal Services	\$ 123,680.00	\$ 123,680.00
2	Current Expenses	148,200.00	148,200.00

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3	Repairs and Alterations.....	9,500.00	9,500.00
4	Equipment	12,000.00	12,000.00
5	Total	\$ 293,380.00	\$ 293,380.00

66—West Virginia Children's Home

Acct. No. 380

1	Personal Services, including		
2	Salary of Superintendent	\$ 23,040.00	\$ 23,040.00
3	Current Expenses	18,720.00	18,720.00
4	Repairs and Alterations.....	4,300.00	2,800.00
5	Equipment	4,050.00	1,350.00
6	Total	\$ 50,110.00	\$ 45,910.00

67—West Virginia Colored Children's Home

Acct. No. 381

1	Personal Services, including		
2	Salary of Superintendent	\$ 11,620.00	\$ 11,620.00
3	Current Expenses	14,000.00	14,000.00
4	Repairs and Alterations.....	4,590.00	2,500.00
5	Equipment	4,450.00	2,300.00
6	Total	\$ 34,570.00	\$ 30,420.00

68—West Virginia Home for Aged and Infirm Colored
Men and Women

Acct. No. 382

1	Personal Services, including		
2	Salary of Superintendent	\$ 19,640.00	\$ 19,640.00
3	Current Expenses	35,600.00	35,600.00
4	Repairs and Alterations.....	6,700.00	6,700.00
5	Equipment	4,150.00	4,150.00
6	Total	\$ 66,090.00	\$ 66,090.00

69—West Virginia Training School

Acct. No. 383

1	Personal Services, including		
2	Salary of Superintendent	\$ 70,860.00	\$ 70,860.00

3	Current Expenses	52,600.00	52,600.00
4	Repairs and Alterations.....	6,500.00	6,500.00
5	Equipment	6,600.00	6,600.00
6	Total	\$ 136,560.00	\$ 136,560.00

70—Andrew S. Rowan Memorial Home

Acct. No. 384

1	Personal Services, including		
2	Salary of Superintendent	\$ 112,980.00	\$ 113,160.00
3	Current Expenses	130,700.00	130,700.00
4	Repairs and Alterations.....	6,500.00	6,500.00
5	Equipment	6,500.00	5,000.00
6	Total	\$ 256,680.00	\$ 255,360.00

HEALTH AND WELFARE

71—State Health Department

Acct. No. 400

1	Personal Services, including		
2	Salary of State Director	\$ 564,980.00	\$ 579,950.00
3	Current Expenses	133,380.00	129,880.00
4	Equipment	25,000.00	25,000.00
5	Cancer Control and treatment	90,000.00	90,000.00
6	Tuberculosis Field Clinic and		
7	Nursing Service—To be ex-		
8	pended in cooperation with		
9	West Virginia Tuberculosis		
10	and Health Association	10,000.00	10,000.00
11	Out - Patient Pneumothorax—		
12	Treatment	25,000.00	25,000.00
13	Hospitalization of Needy Tuber-		
14	cular Children	5,000.00	5,000.00
15	Total	\$ 853,360.00	\$ 864,830.00

72—State Water Commission

Acct. No. 401

1	Personal Services	\$ 21,530.00	\$ 21,590.00
2	Current Expenses	12,980.00	12,980.00

3	Equipment	1,000.00	1,000.00
4	For cooperation with the U. S.		
5	Geological Survey for a pro-		
6	gram of stream gauging	4,000.00	4,000.00
7	Total	\$ 39,510.00	\$ 39,570.00

74—Bureau of Negro Welfare and Statistics

Acct. No. 403

1	Salary of Director.....	\$ 4,800.00	\$ 4,800.00
2	Other Personal Services.....	9,260.00	9,260.00
3	Current Expenses	3,950.00	5,150.00
4	Equipment	250.00	250.00
5	Total	\$ 18,260.00	\$ 19,460.00

75—West Virginia Department of Veterans Affairs

Acct. No. 404

1	Personal Services, including		
2	Salary of Director.....	\$ 131,170.00	\$ 132,130.00
3	Current Expenses	46,970.00	46,370.00
4	Equipment	1,500.00	1,500.00
5	To provide Educational Oppor-		
6	tunities for Children of War		
7	Veterans as provided by		
8	Chapter 39, Acts of the Leg-		
9	islature, 1943	10,000.00	10,000.00
10	Total	\$ 189,640.00	\$ 190,000.00

76—Department of Public Assistance

Acct. No. 405

1	Personal Services	\$ 850,000.00	\$ 850,000.00
2	Current Expenses	243,320.00	238,220.00
3	Equipment	25,000.00	14,000.00
4	Public Assistance Grants (Clas-		
5	sified Aid)	7,400,000.00	7,400,000.00
6	Aid to Crippled Children	325,000.00	325,000.00
7	General Medical and Hospitali-		
8	zation	600,000.00	600,000.00
9	Conservation of Vision and Pre-		
10	vention of Blindness	25,000.00	25,000.00

11	Child Welfare Services	75,000.00	75,000.00
12	General Relief	700,000.00	700,000.00
13	Boarding Care	400,000.00	400,000.00
14	Commodity Distribution	29,660.00	30,260.00
15	Total	\$10,672,980.00	\$10,657,480.00
16	Any unexpended balances re-		
17	maining in the appropriations		
18	for this department as of		
19	June 30, 1951, are hereby re-		
20	appropriated for expenditure		
21	in the fiscal years 1951-52 and		
22	1952-53: <i>Provided, however,</i>		
23	That no part of any amounts		
24	so reappropriated shall be		
25	used for personal services,		
26	current expenses, or equip-		
27	ment.		

77—Weston State Hospital

Acct. No. 420

1	Personal Services, including		
2	Salary of Superintendent	\$ 710,120.00	\$ 728,820.00
3	Current Expenses	500,000.00	500,000.00
4	Repairs and Alterations	25,000.00	25,000.00
5	Equipment	20,000.00	20,000.00
6	Total	\$ 1,255,120.00	\$ 1,273,820.00

78—Spencer State Hospital

Acct. No. 421

1	Personal Services, including		
2	Salary of Superintendent	\$ 251,480.00	\$ 256,280.00
3	Current Expenses	227,920.00	227,920.00
4	Repairs and Alterations	12,500.00	12,500.00
5	Equipment	10,000.00	10,000.00
6	Total	\$ 501,900.00	\$ 506,700.00
7	All revenue collected by the		
8	above spending unit in excess		

- 9 of the amount required to pay
 10 the principal and interest on
 11 outstanding Clinic Bonds
 12 shall be deposited to the State
 13 Fund—General Revenue.

79—*Huntington State Hospital*

Acct. No. 422

1 Personal Services, including		
2 Salary of Superintendent	\$ 365,420.00	\$ 373,160.00
3 Current Expenses	347,100.00	347,100.00
4 Repairs and Alterations	18,000.00	18,000.00
5 Equipment	12,500.00	12,500.00
6 Total	\$ 743,020.00	\$ 750,760.00
7 All revenue collected by the		
8 above spending unit in excess		
9 of the amount required to		
10 pay the principal and inter-		
11 est on outstanding Clinic		
12 Bonds shall be deposited to		
13 the State Fund — General		
14 Revenue.		

80—*Lakin State Hospital*

Acct. No. 423

1 Personal Services, including		
2 Salary of Superintendent	\$ 160,900.00	\$ 161,380.00
3 Current Expenses	118,650.00	118,650.00
4 Repairs and Alterations.....	10,500.00	10,500.00
5 Equipment	9,000.00	9,000.00
6 Total	\$ 299,050.00	\$ 299,530.00

81—*Barboursville State Hospital*

Acct. No. 424

1 Personal Services, including		
2 Salary of Superintendent	\$ 134,600.00	\$ 137,140.00
3 Current Expenses	118,050.00	118,050.00

4	Repairs and Alterations.....	6,000.00	6,000.00
5	Equipment	6,200.00	6,200.00
6	Total	\$ 264,850.00	\$ 267,390.00

82—Fairmont Emergency Hospital

Acct. No. 425

1	Personal Services, including		
2	Salary of Superintendent	\$ 89,660.00	\$ 89,660.00
3	Current Expenses	63,500.00	63,500.00
4	Repairs and Alterations.....	7,500.00	7,500.00
5	Equipment	5,900.00	5,900.00
6	Total	\$ 166,560.00	\$ 166,560.00

83—Welch Emergency Hospital

Acct. No. 426

1	Personal Services, including		
2	Salary of Superintendent	\$ 89,020.00	\$ 89,020.00
3	Current Expenses	115,330.00	115,330.00
4	Repairs and Alterations.....	5,000.00	5,000.00
5	Equipment	4,300.00	4,300.00
6	Total	\$ 213,650.00	\$ 213,650.00

84—Hopemont Sanitarium

Acct. No. 430

1	Personal Services, including		
2	Salary of Superintendent	\$ 310,540.00	\$ 310,720.00
3	Current Expenses	250,900.00	250,900.00
4	Repairs and Alterations.....	18,500.00	18,500.00
5	Equipment	11,000.00	11,000.00
6	Total	\$ 590,940.00	\$ 591,120.00

85—Pinecrest Sanitarium

Acct. No. 431

1	Personal Services, including		
2	Salary of Superintendent	\$ 476,660.00	\$ 476,660.00

3	Current Expenses	439,950.00	439,950.00
4	Repairs and Alterations.....	25,000.00	25,000.00
5	Equipment	15,100.00	15,100.00
6	Total	\$ 956,710.00	\$ 956,710.00

86—Denmar Sanitarium

Acct. No. 432

1	Personal Services, including		
2	Salary of Superintendent	\$ 126,680.00	\$ 126,680.00
3	Current Expenses	124,000.00	124,000.00
4	Repairs and Alterations.....	8,000.00	8,000.00
5	Equipment	8,000.00	6,000.00
6	Total	\$ 266,680.00	\$ 264,680.00

87—Berkeley Springs Sanitarium

Acct. No. 436

1	Personal Services, including		
2	Salary of Superintendent	\$ 25,570.00	\$ 25,570.00
3	Current Expenses	6,240.00	6,240.00
4	Repairs and Alterations.....	2,500.00	2,500.00
5	Equipment	1,500.00	1,500.00
6	Total	\$ 35,810.00	\$ 35,810.00

88—Non-State Institutions

Acct. No. 437

1	Morris Memorial Hospital.....	\$ 10,000.00	\$ 10,000.00
2	Marmet Hospital, Inc.	7,500.00	7,500.00
3	Total	\$ 17,500.00	\$ 17,500.00
4	To be expended by the Depart-		
5	ment of Public Assistance to		
6	meet actual per capita costs		
7	for hospitalization of needy		
8	West Virginia patients at		
9	these institutions.		

BUSINESS AND INDUSTRIAL RELATIONS

89—Bureau of Labor and Department of Weights and Measures

Acct. No. 450

1	Salary of Commissioner.....	\$ 7,000.00	\$ 7,000.00
2	Personal Services	166,780.00	171,580.00
3	Current Expenses	73,780.00	73,780.00
4	Equipment	4,000.00	4,000.00
5	Total	\$ 251,560.00	\$ 256,360.00

90—Department of Mines

Acct. No. 460

1	Salary of Chief	\$ 7,000.00	\$ 7,000.00
2	Other Personal Services	517,720.00	507,280.00
3	Current Expenses	159,800.00	156,500.00
4	Equipment	22,200.00	22,200.00
5	Total	\$ 706,720.00	\$ 692,980.00

92—Commission on Interstate Cooperation

Acct. No. 472

1	Total	\$ 8,500.00	\$ 8,500.00
2	Out of the above appropriation		
3	the sum of \$6,000.00 may be		
4	made available for West Vir-		
5	ginia's membership in the		
6	Council of State Govern-		
7	ments.		

93—Interstate Commission on Potomac River Basin

Acct. No. 473

1	West Virginia's contribution to		
2	Potomac River Basin Inter-		
3	state Commission	\$ 3,600.00	\$ 3,600.00

94—Ohio River Valley Water Sanitation Commission

Acct. No. 474

1	West Virginia's contribution to		
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2	the Ohio River Valley Water			
3	Sanitation Commission.....	\$	12,250.00	\$ 12,250.00

95—Department of Banking

Acct. No. 480

1	Salary of Commissioner.....	\$	6,800.00	\$ 6,800.00
2	Other Personal Services.....		42,000.00	42,000.00
3	Current Expenses		21,710.00	21,710.00
4	Equipment		870.00	870.00
5	Total	\$	71,380.00	\$ 71,380.00

96—West Virginia State Aeronautics Commission

Acct. No. 485

1	Personal Services	\$	10,880.00	\$ 10,880.00
2	Current Expenses		8,900.00	8,300.00
3	Equipment		500.00	500.00
4	Total	\$	20,280.00	\$ 19,680.00

97—West Virginia Industrial and Publicity Commission

Acct. No. 486

1	Personal Services	\$	24,020.00	\$ 24,020.00
2	Current Expenses		50,500.00	50,500.00
3	Equipment		1,000.00	1,000.00
4	Total	\$	75,520.00	\$ 75,520.00

98—West Virginia Non-Intoxicating Beer Commission

Acct. No. 490

1	Personal Services	\$	111,020.00	\$ 111,020.00
2	Current Expenses		70,100.00	69,500.00
3	Equipment		1,000.00	1,000.00
4	Total	\$	182,120.00	\$ 181,520.00

99—West Virginia Racing Commission

Acct. No. 495

1	To pay per diem of members			
2	and other general expenses....	\$	50,000.00	\$ 50,000.00

AGRICULTURE

100—*Department of Agriculture*

Acct. No. 510

1	Salary of Commissioner.....	\$ 6,000.00	\$ 6,000.00
2	Other Personal Services.....	121,600.00	121,600.00
3	Current Expenses	71,220.00	71,220.00
4	Equipment	9,950.00	9,950.00
5	For the Eradication and Pre-		
6	vention of Livestock Diseases		
7	—To be expended at the dis-		
8	cretion of the Commissioner		
9	of Agriculture	115,000.00	115,000.00
10	Aid to Dairy Development Pro-		
11	gram	55,000.00	55,000.00
12	Eradication and Control of Jap-		
13	anese beetle and other plant		
14	pests	20,000.00	20,000.00
15	Total	\$ 398,770.00	\$ 398,770.00

101—*Department of Agriculture—Soil Conservation
Committee*

Acct. No. 512

1	To pay per diem and travel ex-		
2	penses of District Supervisors		
3	and Other General Expenses		
4	of the Soil Conservation Com-		
5	mittee	\$ 50,000.00	\$ 50,000.00

102—*Department of Agriculture—Marketing and Research*

Acct. No. 513

1	For cooperation with the Fed-		
2	eral Government in a pro-		
3	gram of marketing and re-		
4	search	\$ 50,000.00	\$ 50,000.00
5	Any part or all of this appro-		
6	priation may be transferred		
7	to Special Revenue Fund for		

8 the purpose of matching fed-
 9 eral funds for the above
 10 named purpose.

103—*Department of Agriculture—Agricultural Awards*

Acct. No. 515

1 Incorporated County and Dis-			
2 trict Fairs, 4-H Fairs and Ex-			
3 hibits and Vocational Agri-			
4 cultural Fairs and Exhibits...\$	12,500.00	\$	12,500.00
5 State Agricultural Fairs and			
6 Agricultural and Industrial			
7 Exhibits	25,000.00		25,000.00
8 West Virginia State Fair.....	25,000.00		25,000.00
9 Mountain State Forest Festival	7,500.00		7,500.00
10 Total	\$ 70,000.00	\$	70,000.00
11 To be expended at the discre-			
12 tion of the Commissioner of			
13 Agriculture and in accord-			
14 ance with law.			

CONSERVATION AND DEVELOPMENT

104—*West Virginia Geological Survey*

Acct. No. 520

1 Personal Services, including			
2 Salary of State Geologist.....\$	66,420.00	\$	66,420.00
3 Current Expenses	20,400.00		20,400.00
4 Equipment	2,950.00		2,950.00
5 Total	\$ 89,770.00	\$	89,770.00
6 Of the above appropriation for			
7 Current Expenses not more			
8 than \$5,000.00 may be used			
9 each year of the biennium to			
10 cooperate with the United			
11 States Geological Survey in			
12 Ground Waters Resources			
13 Study.			

105—*Conservation Commission—Division of Game,
Fish and Forestry*

Acct. No. 521

1	Personal Services	\$ 187,000.00	\$ 187,000.00
2	Current Expenses	60,000.00	60,000.00
3	White Pine Blister Rust Con-		
4	trol	3,000.00	3,000.00
5	To Match Pittman-Robertson		
6	Appropriation	80,000.00	80,000.00
7	To match Dingell-Johnson Ap-		
8	propriation	16,667.00	16,667.00
9	Total	\$ 346,667.00	\$ 346,667.00

106—*Conservation Commission—Division of State Parks*

Acct. No. 522

1	Personal Services	\$ 49,160.00	\$ 49,160.00
2	Current Expenses	60,000.00	60,000.00
3	Repairs and Alterations.....	5,000.00	5,000.00
4	Equipment	7,000.00	7,000.00
5	Total	\$ 121,160.00	\$ 121,160.00

107—*Conservation Commission—Clarke-McNary*

Acct. No. 523

1	For cooperation with the		
2	United States Department of		
3	Agriculture in Fire Preven-		
4	tion and Control	\$ 75,000.00	\$ 75,000.00

108—*Point Pleasant Battle Monument Commission*

Acct. No. 561

1	For Maintenance of Historical		
2	Monument	\$ 3,200.00	\$ 3,200.00

109—*Rumseyan Society*

Acct. No. 562

1	For Maintenance of Historical		
2	Monument	\$ 300.00	\$ 300.00

110—*Morgan Morgan Memorial*

Acct. No. 563

1	For Maintenance of Historical			
2	Monument	\$	25.00	\$ 25.00

111—*Grafton G. A. R. Post*

Acct. No. 564

1	In aid of Memorial Day Patri-			
2	otic Exercises	\$	1,000.00	0 1,000.00
3	To be expended subject to the			
4	approval of the Board of			
5	Public Works upon presenta-			
6	tion of satisfactory plans by			
7	the Grafton G. A. R. Post,			
8	American Legion, Veterans			
9	of Foreign Wars and Sons of			
10	Veterans.			

PROTECTION

112—*Department of Public Safety*

Acct. No. 570

1	Salary of Superintendent	\$	7,000.00	\$ 7,000.00
2	Other Personal Services.....	\$	779,560.00	\$ 782,200.00
3	Current Expenses		501,250.00	501,750.00
4	Repairs and Alterations.....		16,000.00	16,000.00
5	Equipment	\$	44,400.00	\$ 44,400.00
6	Total	\$	1,348,210.00	\$ 1,351,350.00

113—*Adjutant General—State Militia*

Acct. No. 580

1	Salary of Adjutant General.....	\$	6,000.00	\$ 6,000.00
2	Other Personal Services.....		45,600.00	45,600.00
3	Current Expenses		145,660.00	137,160.00
4	Repairs and Alterations.....		2,800.00	2,800.00
5	Equipment		3,600.00	3,600.00
6	Compensation of Commanding			

7	Officers, Clerical Services and		
8	Care of Property.....	65,000.00	65,000.00
9	Total	\$ 268,660.00	\$ 260,160.00

114—*Division of Civilian Defense*

Acct. No. 581

1	Personal Services	\$ 19,600.00	\$ 19,600.00
2	Current Expenses	9,870.00	7,470.00
3	Equipment	3,350.00	2,200.00
4	Total	\$ 32,820.00	\$ 29,270.00

115—*State Armory Board*

Acct. No. 582

1	For Insurance, maintenance		
2	and repair of state owned		
3	Armories	\$ 20,000.00	\$ 20,000.00

116—*State Board of Education—Insurance*

Acct. No. 584

1	Fire Insurance Premiums.....	\$ 60,000.00
2	To pay insurance premiums on	
3	buildings and contents there-	
4	of at state colleges.	
5	The above appropriation for	
6	premiums is for a three-year	
7	period.	

117—*West Virginia Board of Control—Insurance*

Acct. No. 585

1	Fire Insurance Premiums.....	\$ 125,000.00
2	To pay insurance premiums on	
3	buildings and contents there-	
4	of at state institutions. The	
5	above appropriation for pre-	
6	miums is for a three-year	
7	period.	

118—*State Board of Examiners of Accountants*

Acct. No. 586

1	To pay the per diem of mem-			
2	bers and other general ex-			
3	penses	\$ 1,200.00	\$	1,200.00
4	<i>From Collections</i>	1,200.00		1,200.00

119—*State Athletic Commission*

Acct. No. 587

1	To pay per diem of members			
2	and other general expenses.	\$ 3,500.00	\$	3,500.00
3	<i>From Collections</i>	3,500.00		3,500.00

120—*State Board of Examiners of Registered Nurses*

Acct. No. 588

1	To pay the per diem of mem-			
2	bers and other general ex-			
3	penses	\$ 16,450.00	\$	16,450.00
4	<i>From Collections</i>	16,450.00		16,450.00

121—*State Board of Dental Examiners*

Acct. No. 589

1	To pay the per diem of mem-			
2	bers and other general ex-			
3	penses	\$ 1,500.00	\$	1,500.00
4	<i>From Collections</i>	1,500.00		1,500.00

122—*State Board of Pharmacy*

Acct. No. 590

1	To pay the per diem of mem-			
2	bers and other general ex-			
3	penses	\$ 10,000.00	\$	10,000.00
4	<i>From Collections</i>	10,000.00		10,000.00

123—*State Board of Osteopathy*

Acct. No. 591

1	To pay the per diem of mem-			
2	bers and other general ex-			
3	penses	\$ 1,000.00	\$	1,000.00
4	<i>From Collections</i>	1,000.00		1,000.00

124—*State Board of Optometry*

Acct. No. 592

1 To pay the per diem of mem-			
2 bers and other general ex-			
3 penses	\$ 2,000.00	\$	2,000.00
4 <i>From Collections</i>	2,000.00		2,000.00

125—*State Board of Embalmers and Funeral Directors*

Acct. No. 593

1 To pay the per diem of mem-			
2 bers and other general ex-			
3 penses	\$ 9,000.00	\$	9,000.00
4 <i>From Collections</i>	9,000.00		9,000.00

126—*State Board of Registration for Professional Engineers*

Acct. No. 594

1 To pay the per diem of mem-			
2 bers and other general ex-			
3 penses	\$ 9,890.00	\$	11,000.00
4 <i>From Collections</i>	9,890.00		11,000.00

127—*State Board of Examiners for Architects*

Acct. No. 595

1 To pay the per diem of mem-			
2 bers and other general ex-			
3 penses	\$ 2,000.00	\$	2,000.00
4 <i>From Collections</i>	2,000.00		2,000.00

128—*State Board of Examiners for Veterinarians*

Acct. No. 596

1 To pay the per diem of mem-			
2 bers and other general ex-			
3 penses	\$ 500.00	\$	500.00
4 <i>From Collections</i>	500.00		500.00

129—*State Board of Law Examiners*

Acct. No. 597

1 To pay the per diem of mem-			
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2	bers and other general ex-				
3	penses	\$	2,400.00	\$	2,400.00

130—Auditor's Office—Social Security

Acct. No. 598

1	To match contributions of state				
2	employees for social security				
3	tax	\$	150,000.00	\$	150,000.00

4 The above appropriation is in-
 5 tended to cover the state's
 6 share of social security costs
 7 for those departments oper-
 8 ating from General Revenue
 9 Fund and General School
 10 Fund appropriations. The
 11 State Road Commission, De-
 12 partment of Motor Vehicles,
 13 Workmen's Compensation
 14 Commission, Public Service
 15 Commission, and other de-
 16 partments operating from
 17 Special Revenue Funds and/or
 18 Federal Funds shall pay their
 19 proportionate share of the
 20 social security cost for their
 21 respective divisions. Such
 22 payments may be made from
 23 the balances in the various
 24 Special Revenue Funds in
 25 excess of specific appropria-
 26 tions.

131—Treasurer's Office—Bonded Obligations

Acct. No. 599

1	To pay the principal and inter-				
2	est requirements of refund-				
3	ing bonds authorized under				
4	Chapter 58 of the First Ex-				
5	traordinary Session of the				
6	1933 Legislature to pay non-				
7	bonded debts existing at the				

- 8 time of the adoption of the
 9 tax limitation amendment..... \$ 270,000.00 \$ 260,000.00

Sec. 2. *Appropriations from Other Funds.*—From the 2 funds designated there is hereby appropriated conditionally upon the fulfillment of the provisions set forth in 3 chapter 39, acts of the Legislature, regular session, one 4 thousand nine hundred thirty-nine, the following amounts, 5 as itemized, for expenditure during the fiscal years one 6 thousand nine hundred fifty-two and one thousand nine 7 hundred fifty-three.

132—*Department of Agriculture*

Acct. Nos. 654 and 655

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services	\$ 105,360.00	\$ 107,560.00
2 Current Expenses and Equip-		
3 ment	\$ 65,000.00	\$ 65,000.00
4 Total	\$ 170,360.00	\$ 172,560.00

5 The total amount of this appro-
 6 priation shall be paid from
 7 Special Revenue Fund out of
 8 collections made by the De-
 9 partment of Agriculture as
 10 provided by law. It is the
 11 intention that special funds
 12 in excess of the amounts
 13 hereby appropriated shall be
 14 made available by budget
 15 amendment upon request of
 16 the Commissioner of Agricul-
 17 ture.

133—*Insurance Commissioner—Fire Marshal*

Acct. No. 660

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services	\$ 58,740.00	\$ 60,700.00
2 Current Expenses	27,970.00	26,470.00

3	Equipment	6,300.00	5,300.00
4	Buildings	40,000.00	
5	Total	\$ 133,010.00	\$ 92,470.00

6 The total amount of this approp-
7 priation shall be paid from
8 Special Revenue Fund out of
9 collections of the special tax
10 of one-half of one per cent of
11 premium receipts of fire in-
12 surance companies as pro-
13 vided by law.

134—Public Service Commission

Acct. No. 661

TO BE PAID FROM SPECIAL REVENUE FUND

1	Salaries of Commissioners	\$ 18,000.00	\$ 18,000.00
2	Other Personal Services	178,300.00	178,300.00
3	Current Expenses	28,700.00	28,700.00
4	Equipment	5,000.00	5,000.00
5	Total	\$ 230,000.00	\$ 230,000.00

6 The total amount of this approp-
7 priation shall be paid from
8 Special Revenue Fund out of
9 collections for special license
10 fees from public service cor-
11 porations as provided by law.
12 Out of the above appropriation
13 \$5,000.00 may be transferred
14 annually to the State Water
15 Commission for use in coop-
16 eration with the U. S. Geo-
17 logical Survey in a program
18 of stream gauging.

135—Public Service Commission—Motor Carrier Division

Acct. No. 662

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 166,170.00	\$ 166,170.00
2	Current Expenses	42,800.00	42,800.00

3	Equipment	3,500.00	3,500.00
4	Total	\$ 212,470.00	\$ 212,470.00
5	The total amount of this appro-		
6	piation shall be paid from		
7	Special Revenue Fund out of		
8	receipts collected for or by		
9	the Public Service Commis-		
10	sion pursuant to and in the		
11	exercise of regulatory au-		
12	thority over motor carriers as		
13	authorized by law.		

136—*Conservation Commission—General Administration*

Acct. No. 663

TO BE PAID FROM SPECIAL REVENUE FUND

1	Salary of Director	\$ 7,000.00	\$ 7,000.00
2	Other Personal Services	36,120.00	36,120.00
3	Current Expenses	41,000.00	41,000.00
4	Equipment	3,000.00	3,000.00
5	Total	\$ 87,120.00	\$87,120.00
6	The total amount of this appro-		
7	piation shall be paid from		
8	special revenue fees col-		
9	lected by the conservation		
10	commission.		
11	All items are for administra-		
12	tion purposes only and shall		
13	not be construed as a limit		
14	upon the expenditures from		
15	the Special Revenue collec-		
16	tions of said department, ex-		
17	cept for administration. In		
18	addition to the above appro-		
19	piation the sum of \$5,000.00		
20	may be transferred annually		
21	from the special revenue col-		
22	lections of said department		
23	to the state water commis-		

24 sion for use in cooperation
 25 with the U. S. Geological
 26 Survey in a program of
 27 stream gauging.

136a—*State Committee of Barbers and Beauticians*

Acct. No. 664

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services, including		
2	Salary of Director	\$ 20,500.00	\$ 21,000.00
3	Current Expenses	13,000.00	13,000.00
4	Total	\$ 33,500.00	\$ 34,000.00

5 The total amount of this appro-
 6 priation shall be paid from
 7 Special Revenue Fund out of
 8 collections made by the State
 9 Committee of Barbers and
 10 Beauticians as provided by
 11 law.

137—*West Virginia Liquor Control Commission*

Acct. No. 667

TO BE PAID FROM SPECIAL REVENUE FUND

1	Salaries of three members of		
2	the Commission	\$ 21,000.00	\$ 21,000.00
3	Other Personal Services.....	2,897,430.00	2,897,430.00
4	Current Expenses	935,200.00	941,910.00
5	Repairs and Alterations.....	18,000.00	18,000.00
6	Equipment	100,000.00	77,500.00
7	Contingent Fund—Liquor Ra-		
8	tioning	150,000.00	150,000.00
9	Total	\$ 4,121,630.00	\$ 4,105,840.00

10 The total amount of this appro-
 11 priation shall be paid from
 12 the Special Revenue Fund
 13 out of liquor revenues.
 14 The above appropriation in-

15 cludes the salaries of store
 16 personnel, store inspectors,
 17 store operating expenses and
 18 equipment, and equipment
 19 for administration offices.
 20 There is hereby appropriated
 21 from liquor revenues, in ad-
 22 dition to the above appropri-
 23 ation, the necessary amount
 24 for purchase of liquor.

138—*State Road Commission—General Administration
 and Engineering*

Acct. No. 670

TO BE PAID FROM STATE ROAD FUND

1	Salary of Commissioner.....	\$ 8,000.00	\$ 8,000.00
2	Other Personal Services.....	393,160.00	393,160.00
3	Current Expenses	86,200.00	84,520.00
4	Equipment	50,000.00	25,000.00
5	Total	\$ 537,360.00	\$ 510,680.00

6 In addition to the foregoing ap-
 7 propriations or claims, as au-
 8 thorized by this act or by law
 9 to be paid from the state road
 10 fund, the balance or residue
 11 of the annual receipts of the
 12 state road fund are hereby
 13 appropriated first for the pay-
 14 ment of interest on and prin-
 15 cipal of outstanding road
 16 bonds, and thereafter for
 17 maintenance, construction
 18 and reconstruction of state
 19 roads, in accordance with the
 20 provisions of chapter seven-
 21 teen, code of West Virginia,
 22 1931, as amended.

139—*Department of Motor Vehicles*

Acct. No. 671

TO BE PAID FROM STATE ROAD FUND

1	Salary of Commissioner	\$ 7,000.00	\$ 7,000.00
2	Other Personal Services	399,840.00	394,840.00
3	Current Expenses	167,465.00	167,465.00
4	Equipment	32,000.00	17,000.00
5	Total	\$ 606,305.00	\$ 586,305.00

140—*State Board of Education*

Acct. No. 700

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services	\$ 22,220.00	\$ 22,220.00
2	Current Expenses	12,700.00	12,700.00
3	Equipment	500.00	500.00
4	Out-of-State aid to Negroes.....	12,500.00	12,500.00
5	Total	\$ 47,920.00	\$ 47,920.00

141—*State Board of Education—Vocational Division*

Acct. No. 701

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services	\$ 23,310.00	\$ 23,310.00
2	Current Expenses	8,000.00	8,000.00
3	Equipment	1,000.00	1,000.00
4	Vocational Aid	200,000.00	200,000.00
5	Equipment for FFA-FHA Camp		
6	and Conference Center.....	6,000.00	6,000.00
7	Total	\$ 238,310.00	\$ 238,310.00

142—*State Board of Education—Rehabilitation Division*

Acct. No. 702

TO BE PAID FROM GENERAL SCHOOL FUND

1	Vocational Rehabilitation Case		
2	Services	\$ 243,000.00	\$ 243,000.00

3	To Provide Management and		
4	Supervisory Services for		
5	Vending Stand Program for		
6	the Blind	7,000.00	7,000.00
7	Total	\$ 250,000.00	\$ 250,000.00

143—Department of Education

Acct. No. 703

TO BE PAID FROM GENERAL SCHOOL FUND

1	Salary of State Superintend-		
2	ent	\$ 6,000.00	\$ 6,000.00
3	Other Personal Services.....	113,950.00	113,950.00
4	Current Expenses.....	59,320.00	59,320.00
5	Equipment	4,500.00	2,000.00
6	Salaries of County Superin-		
7	tendents	61,500.00	62,000.00
8	Total	\$ 245,270.00	\$ 243,270.00

144—State Board of School Finance

Acct. No. 704

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services.....	\$ 12,780.00	\$ 12,780.00
2	Current Expenses.....	5,000.00	5,000.00
3	Total	\$ 17,780.00	\$ 17,780.00

145—Department of Education—Hot Lunches

Acct. No. 705

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services.....	\$ 37,320.00	\$ 37,320.00
2	Current Expenses.....	10,630.00	10,630.00
3	Aid to Counties—Includes hot		
4	lunches and canning for hot		
5	lunches	125,000.00	125,000.00
6	Total	\$ 172,950.00	\$ 172,950.00

146—Auditor's Office—Land Department

Acct. No. 709

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services.....	\$ 61,200.00	\$ 61,200.00
2	Current Expenses.....	1,500.00	1,500.00
3	Equipment	1,000.00	1,000.00
4	Total	\$ 63,700.00	\$ 63,700.00

147—Workmen's Compensation Commission

Acct. No. 900

TO BE PAID FROM WORKMEN'S COMPENSATION FUND

1	Salary of Commissioner	\$ 7,000.00	\$ 7,000.00
2	Other Personal Services.....	496,410.00	496,410.00
3	Current Expenses	199,875.00	264,175.00
4	Equipment	22,000.00	22,000.00
5	Total	\$ 725,285.00	\$ 789,585.00

6 There is hereby authorized to
 7 be paid out of the above ap-
 8 propriation for Current Ex-
 9 penses the amount necessary
 10 for the premiums on bonds
 11 given by the State Treasurer
 12 and bond custodian for the
 13 protection of the Workmen's
 14 Compensation Fund.

Sec. 3. *Supplemental Appropriations.*—From the State
 2 Fund, General Revenue, except as otherwise provided,
 3 there is hereby appropriated the following amounts, as
 4 itemized, for expenditure during the fiscal year one thou-
 5 sand nine hundred and fifty-one to supplement the 1950-51
 6 appropriations, and to be available for expenditure upon
 7 date of passage.

148—Teachers Retirement Board

Acct. No. 298

1	Employer's Accumulation	
2	Fund—To Match Contribu-	
3	tion of Members.....	\$ 677,470.00

149—*West Virginia State Prison for Women*

Acct. No. 374

1 Current Expenses..... \$ 6,250.00

150—*West Virginia Penitentiary*

Acct. No. 375

1 Current Expenses..... \$ 90,000.00

151—*Medium Security Prison*

Acct. No. 376

1 Current Expenses..... \$ 30,000.00

152—*Department of Public Assistance*

*Acct. No. 405

1 Public Assistance Grants

2 (Classified Aid) \$ 1,410,000.00

154—*West Virginia Racing Commission*

Acct. No. 495

1 Totals \$ 13,000.00

155—*Auditor's Office—Social Security*

Acct. No. 598

1 To match contributions of

2 State employees for social

3 security tax to June 30, 1951 \$ 40,000.00

156—*Department of Agriculture*

Acct. Nos. 654 and 655

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services..... \$ 25,000.00

2 Current Expenses and Equip-

3 ment 11,000.00

4 Repairs and Alterations..... 9,000.00

5 Total \$ 45,000.00

157—*State Board of Education*

Acct. No. 700

TO BE PAID FROM GENERAL SCHOOL FUND

1 Out-of-State Aid to Negroes.....	\$	700.00
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Sec. 4. *Awards for Claims Against the State.*—Appropriations to pay awards for claims against the State as approved and certified by the State Court of Claims are for the remainder of the fiscal year 1950-51, and to remain in effect until June 30, 1953.

Claims Versus State Board of Control

TO BE PAID FROM GENERAL REVENUE FUND

1 Fisher, B. E.	\$	2,759.43
2 Goldsboro, Luther		880.45

Claims Versus State Adjutant General

TO BE PAID FROM GENERAL REVENUE FUND

1 Epperly, Robert E.	\$	37.84
2 Kipp, John		78.39
3 Pelfrey, H. A.		65.85
4 Radford, C. E.		500.60
5 Garten, Billie G.		215.94
6 Nuckolls, George R.		250.00
7 Salpini, Benny		50.00

-Claims Versus State Auditor—Criminal Charges

TO BE PAID FROM GENERAL REVENUE FUND

1 Chambers, Thurman, Sheriff of		
2 Mingo County	\$	14.60

Claims Versus State Board of Education

TO BE PAID FROM GENERAL REVENUE FUND

1 Town of Romney.....	\$	872.38
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Claims Versus State Department of Public Safety

TO BE PAID FROM GENERAL REVENUE FUND

1 Hannas, Clearsin	\$	700.00
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Claims Versus State Tax Commissioner

TO BE PAID FROM GENERAL REVENUE FUND

1	Hylton, D. K.	\$	508.41
2	Continental Foundry and Ma-		
3	chine Company	\$	14,836.80
4	Caplan, Ben, dba National Tow-		
5	el Supply		944.27
6	Raleigh County Bank		472.83
7	Davis, I. S., dba Fairmont		
8	Linen Supply Company.....		685.96
9	Total Claims from Gen-		
10	eral Revenue Fund.....	\$	23,873.75

Claims Versus State Conservation Commission

TO BE PAID FROM SPECIAL REVENUE FUND

1	Jackson, R. C.	\$	390.00
2	Kilmer, Pearl Marie and Kline,		
3	Phyllis		3,000.00

Claims Versus State Road Commission

TO BE PAID FROM STATE ROAD FUND

1	Proctor & Gamble Distributing		
2	Company	\$	13.84
3	Weirton Cigar & Candy Co.....		75.38
4	Spradling, Dalton		96.33
5	Freeman, Rosa Webb.....		100.00
6	Reynolds Transportation Co.....		160.88
7	Charleston National Bank,		
8	Committee for Carl A. Urban,		
9	incompetent		200.00
10	Green Hill Church, by Orr Min-		
11	near, Trustee		36.22
12	Caplinger, W. T.		4.08
13	Webb, Arnold P. and Emmco		
14	Insurance Co.		295.90
15	Cox, J. A., et al.....		21,080.71
16	Brown, Albert and Odessie.....		2,134.20
17	Huffman, J. E.		12.95
18	Taylor & Mann Lumber Co....		22.50

19	Sabol, Russell D. and Travelers	
20	Fire Insurance Co.....	25.50
21	Kennan, Kenneth	100.00
22	Byard, Carter O.....	197.27
23	Clark, C. H.....	42.08
24	Cramer, H. E.....	36.11
25	Daniels, Claire	57.34
26	Gant, A. L.....	25.00
27	Garrison, Charles	35.60
28	Linkinogger, H. H.....	56.80
29	McBride, M. L.....	109.14
30	Resides, John B.....	60.46
31	Roberts, Orban, father of Gary	
32	Roberts	200.00
33	Smith, Kenneth G. and Calvert	
34	Fire Insurance Co.....	164.63
35	Tabor, Woodrow	150.00
36	Taylor, L. C.....	60.69
37	Utterback, A. W. and Mrs. A.	
38	W. and Cremeans, Frances....	2,800.00
39	Pratt, Effie Savage.....	480.00
40	Bowling, J. Otis.....	1,500.00
41	Gribble, L. G.....	250.00
42	Marks, Jimmie.....	400.00
43	Total Claims from State	
44	Road Fund	\$ 30,983.61

Claims Versus Department of Public Assistance

TO BE PAID FROM PUBLIC ASSISTANCE FUND

1	Brannon, Dorsey, M. D.....	\$	256.00
2	Maxwell, Ralph, M. D.....		165.00
3	Total Claims from Public		
4	Assistance Fund	\$	421.00

Sec. 5. *Appropriations from Surplus Revenues.*—

2 The following items are appropriated from the general
3 revenue fund, subject to the following terms and condi-
4 tions:

5 (a) The following items are hereby appropriated and
6 are to be available for expenditure only out of the surplus

7 in the treasury on the first day of July, 1951, or at the time
8 release or encumbrance of any such items is made, sub-
9 ject to the conditions and limitations hereinafter expressed.

10 Before making funds available or encumbering such sur-
11 plus for expenditure hereunder, except as otherwise pro-
12 vided, the board of public works shall review the revenues
13 of the state from the first day of July, 1951, to the date that
14 appropriations hereunder are expected to be made avail-
15 able or encumbered for expenditure hereunder, and de-
16 termine whether, in its opinion, revenues then in prospect
17 or on hand will be sufficient to meet all appropriations un-
18 der this section, and make a finding with respect thereto.

19 (b) The order in which the items of this section are
20 named does not indicate a preference as to priority of ex-
21 penditure. The board of public works may authorize the
22 expenditure of any one or more of said items without re-
23 gard to the order in which they are listed.

24 (c) The amounts of the several items are suggestive,
25 and are not to be considered as absolute. The board may
26 revise or reduce any item downward, without restriction,
27 or eliminate it entirely, and may increase any one or more
28 of the items by not more than twenty-five per cent, so long
29 as such increases, if any, as to items so increased and re-
30 leased do not exceed the total amount made available
31 under this section, and corresponding decreases or elimina-
32 tions are made to offset increases.

33 (d) Expenditures authorized, which are for construc-
34 tion purposes, shall be for a complete and usable unit or
35 project, and in any case where additional funds are avail-
36 able, by aid from a federal agency or other source, such
37 fact may be considered by the board in determining what
38 items should at any time be encumbered or released for
39 expenditure, provided, that in making such release the
40 board shall first determine that all funds available will
41 provide for completion of a complete and usable unit or
42 project.

43 (e) Any of the items under this section may be released
44 or encumbrances made therefor at any time after the first
45 day of July, 1951, as the board may deem proper, subject
46 to the limitations of subsection (a) herein.

47 Subject to the foregoing conditions, the following ap-

48	ropriations are made for the purposes named in this sec-	
49	tion.	
50	Item 1: State Tax Commis-	
51	sioner, for purchase of equip-	
52	ment. A part or all of this	
53	appropriation may be made	
54	available for expenditure from	
55	the date of passage of this act....	\$ 200,000.00
56	Item 2: Potomac State	
57	School of West Virginia Uni-	
58	versity, for equipment for new	
59	science building; a part or all	
60	of this appropriation may be	
61	made available for expenditure	
62	from the date of passage of this	
63	act	\$ 150,000.00
64	Item 3: West Virginia Pen-	
65	itentiary, for new mine shaft....	60,000.00
66	Item 4: West Virginia Peni-	
67	tentiary, for new roofs on north	
68	and south halls.....	\$ 10,400.00
69	Item 5: Medium Security	
70	Prison, for waterproofing main	
71	building	25,000.00
72	Item 6: West Virginia	
73	Training School, for superin-	
74	tendent's residence.....	25,000.00
75	Item 7: West Virginia State	
76	Aeronautics Commission for	
77	airway beacons (3).....	\$ 10,000.00
78	Item 8: State Health De-	
79	partment, for laboratory build-	
80	ing. Release of funds for con-	
81	struction of said building shall	
82	be contingent upon approval of	
83	plans and specifications by the	
84	board of public works.....	200,000.00
85	Item 9: Conservation Com-	
86	mission, for the acquisition for	
87	the State of lands in Jefferson	
88	County necessary for the estab-	

89	ishment and development of	
90	the Harpers Ferry National	
91	Monument	350,000.00
92	Item 10: State Board of Edu-	
93	cation—Vocational Division, for	
94	dam and reservoir, water sys-	
95	tem, sewerage system, electrical	
96	system, roadways and land-	
97	scaping, fencing, engineering	
98	and architectural fees for State	
99	FFA-FHA Camp.....	225,000.00
100	Item 11: The Board of Pub-	
101	lic Works, Contingent Fund.....	300,000.00
102	The foregoing appropriation of \$300,000.00 may be re-	
103	leased by the board of public works only for the following	
104	purpose: The amount of \$300,000.00 may be released by	
105	the board of public works to supplement the appropriation	
106	to the Department of Public Assistance should it become	
107	necessary to reduce the percentage of grants below the	
108	amount upon which the regular appropriation is pred-	
109	icated. A part or all of this appropriation may be made	
110	available from the date of passage of this act.	

Sec. 6. *Reappropriations.*—The date for expiring 2 unexpended balances, if any, in the appropriations made 3 by and under authority of Section 5 of the 1949 budget act 4 is hereby extended to June 30, 1953, and such items except 5 item 55, are hereby reappropriated from their respective 6 dates of expiration to June 30, 1953: *Provided, That,* (1) 7 the sum of \$75,000.00 from Item No. 24 as herein reappro- 8 priated may be expended for repairs to the administration 9 building of Bluefield State College; (2) any unexpended 10 balance in Item No. 2 of Sec. 5 of the 1949 budget act as 11 herein reappropriated may be expended by the State Of- 12 fice Building Commission for the purchase of additional 13 land and for the acquisition or construction of additional 14 parking facilities near the capitol buildings; (3) any unex- 15 pended balance in Item No. 17, Sec. 5 of the 1949 budget 16 act as herein reappropriated may be expended for major 17 repairs and alterations to buildings and grounds; (4) any 18 unexpended balances in Items Nos. 49, 50 and 51 of Sec.

19 5 of the 1949 budget act as herein reappropriated shall be
20 expended as follows:

21 (a) For development of pic-	
22 nic and recreation areas, Ka-	
23 nawha State Forest.....	\$ 75,000.00
24 (b) For development of pic-	
25 nic and recreation areas, Camp	
26 Creek State Forest.....	100,000.00
27 (c) For development and im-	
28 provement of state parks.....	365,246.35
29 (d) For development and im-	
30 provement of state forests.....	204,000.00
31 (e) For purchase of forest	
32 lands and development and im-	
33 provement of state parks and	
34 state forests	125,500.00
35 (f) For construction and im-	
36 provement of road leading	
37 from State Route No. 51 to	
38 Coonskin Park in Kanawha	
39 County; expenditure to be	
40 made by the State Road Com-	
41 mission in consultation with the	
42 Kanawha County Court.....	40,000.00

Sec. 7. *Special Revenue Appropriations.*—There is here-
2 by appropriated for expenditure during the fiscal years
3 one thousand nine hundred fifty-two and one thousand
4 nine hundred fifty-three appropriations made by general
5 law from special revenue which is not paid into the state
6 fund as general revenue under the provisions of section
7 two, article two, chapter twelve of the code of West Vir-
8 ginia, one thousand nine hundred thirty-one: *Provided,*
9 *however,* That none of the moneys so appropriated by this
10 section shall be available for expenditure except in com-
11 pliance with and in conformity to the provisions of articles
12 2 and 3, of chapter 12, code of West Virginia, and chapter
13 39, acts of the Legislature, regular session, one thousand
14 nine hundred thirty-nine, and unless the spending unit
15 has filed with the state director of the budget and the state
16 auditor prior to the beginning of each fiscal year:

- 17 (a) An estimate of the amount and sources of all reve-
18 nues accruing to such fund;
19 (b) A detailed expenditure schedule showing for what
20 purposes the fund is to be expended.

Sec. 8. *Appropriations Revived and Extended.*—A part
2 of an appropriation to a spending unit that remains unex-
3 pended at the end of the fiscal year one thousand nine hun-
4 dred fifty-two may, by order of the board of public works,
5 be revived and extended only to meet unforeseen contin-
6 gencies arising during the fiscal year one thousand nine
7 hundred fifty-three.

Sec. 9. *Specific Statutory Appropriations.*—Whenever
2 the specific payment of a definite sum of money is required
3 by general law such sum shall be paid from the proper
4 item appropriated by this act.

Sec. 10. *Specific Funds and Collection Accounts.*—A fund
2 or collection account, which by law is dedicated to a spe-
3 cific use is hereby appropriated in sufficient amount to
4 meet all lawful demands upon the fund or collection ac-
5 count, and shall be expended according to the provisions
6 of article three, chapter twelve of the code of West Vir-
7 ginia, one thousand nine hundred thirty-one.

Sec. 11. *Appropriations for Refunding Erroneous Pay-
2 ments.*—Money that has been erroneously paid into the
3 state treasury is hereby appropriated out of the fund into
4 which it was paid for refund to the proper person.
5 When the officer authorized by law to collect money for
6 the state finds that a sum has been erroneously paid he
7 shall issue his requisition upon the auditor for the refund-
8 ing of the proper amount. The auditor shall issue his war-
9 rant to the treasurer and the treasurer shall pay the war-
10 rant out of the fund into which the amount was originally
11 paid.

Sec. 12. *Contingent Fund.*—A contingent fund may be ex-
2 pended as appropriated, with the approval of the board of
3 public works, when the expenditure will improve the gov-
4 ernmental service and care for unexpected contingencies.
5 A part of a contingent fund that remains unexpended at

6 the end of the first fiscal year shall automatically become
7 available for expenditure during the second fiscal year.
8 The expenditure of the governor's civil contingent fund,
9 and the legislative contingent funds shall not be condi-
10 tioned upon the approval of the board of public works.

Sec. 13. *Sinking Fund Deficiencies.*—There is hereby
2 appropriated to the board of public works a sufficient
3 amount to meet a deficiency that may arise in the fund of
4 the state sinking fund commission because of the failure
5 of any state agency or local taxing district to remit funds
6 necessary for the payment of interest and sinking fund
7 requirements. The board of public works is authorized to
8 transfer from time to time such amounts to the state sink-
9 ing fund commission as may be necessary for this purpose.
10 The state sinking fund commission shall reimburse the
11 State of West Virginia through the Board of Public Works
12 from the first remittance collected from any state agency
13 or local taxing district for which the board of public
14 works advanced funds, with interest at the rate carried by
15 the bonds for which the advance was made.

Sec. 14. *Appropriations from Taxes and License Fees.*—
2 There is hereby appropriated from all chain store tax fees
3 and general license taxes collected by the state tax com-
4 missioner, all necessary salaries and expenses, not to ex-
5 ceed twenty-five per cent of the gross collections author-
6 ized by law to be expended in the collection of such chain
7 store tax fees and general license taxes. There is hereby
8 appropriated from the cigarette tax for administration and
9 enforcement of the law relating to said tax a sum not to
10 exceed one and one-half per cent of the tax collected or
11 stamps sold. There is hereby appropriated from the soft
12 drink tax revenues for administration and enforcement of
13 the law relating to said tax, a sum not to exceed two and
14 one-half per cent of the total revenues collected. All such
15 salaries and expenses, authorized by law as aforesaid, shall
16 be paid by the tax commissioner through the state treas-
17 urer out of gross collections.

Sec. 15. *Appropriations to Pay Premiums on Bonds of
2 County Clerks.*—There is hereby appropriated out of the

3 general school fund, to be paid upon the requisition of
4 the auditor, a sum sufficient to pay premiums on bonds
5 of county clerks to protect funds belonging to the said
6 general school fund, and out of the special revenue fund
7 of the conservation commission, to be paid upon the requi-
8 sition of the commissioner, a sum sufficient to pay pre-
9 miums on bonds of county clerks to protect funds belong-
10 ing to the said conservation commission.

Sec. 16. *Appropriations to Pay Costs of Publication of De-
2 linquent Corporations.*—There is hereby appropriated out
3 of the state fund, general revenue, out of funds not other-
4 wise appropriated to be paid upon requisition of the audi-
5 tor and/or the governor, as the case may be, a sum suffi-
6 cient to pay the cost of publication of delinquent corpora-
7 tions as provided by sections seventy-five and seventy-
8 seven of article twelve, chapter eleven, code of West
9 Virginia.

Sec. 17. *Appropriations for Local Governments.*—There
2 is hereby appropriated for payment to counties, districts,
3 and municipal corporations such amounts as will be neces-
4 sary to pay taxes due county, district, and municipal cor-
5 porations and which have been paid into the treasury:
6 1. For the redemption of lands;
7 2. By public service corporations;
8 3. For tax forfeitures.

Sec. 18. *Printing Costs.*—The cost of printing, binding
2 and stationery for each spending unit shall be paid from
3 the current expense appropriation for the spending unit.

Sec. 19. *Total Appropriation.*—Where only a total sum is
2 appropriated to a spending unit that total sum shall in-
3 clude personal services, current expenses, and capital out-
4 lay, except as otherwise provided in Title I, Section 3.

Sec. 20. *General School Fund.*—The balance of the pro-
2 ceeds of the general school fund remaining after the pay-
3 ment of the appropriations made by this act is appropri-
4 ated for expenditure in accordance with section six, article
5 nine, chapter eighteen of the code of West Virginia, one
6 thousand nine hundred thirty-one, as amended.

Title 3. Administration.**Section**

1. Appropriations conditional.
2. Suspension of certain acts.
3. Limitation on spending.
4. Limitation on publicity.
5. Limitation on expenditures for insurance.
6. Constitutionality.

Section 1. *Appropriations Conditional.*—The expenditures of the appropriations made by this act, except those appropriations made to the legislative and judicial branches of the state government, are conditioned upon the compliance by the spending unit with the requirements of article five, chapter five, of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by chapter thirty-nine, acts of the Legislature, regular session, one thousand nine hundred thirty-nine.

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

Sec. 3. *Limitation on Spending.*—The appropriations made by this act are made for the maintenance and operation of the departments, services, and institutions, humane, educational, eleemosynary, and penal, as heretofore established by the Legislature, and may be expended only for the maintenance and operation of the departments, services, and institutions as so established; and no part of any appropriation, including contingent and emergency appropriations, made by this act for any institution, humane, educational, eleemosynary, or penal, shall be expended for any purpose or at any place other than for the maintenance and operation of such institution at the geographical place or location at which such institution has heretofore been established by the Legislature, and for no other purpose and at no other place: *Provided, however,* That where any appropriation appears in the name of an institution, the name of which has been changed by an act of this session of the Legislature, the funds appropriated for the old institution shall be applied to the institution operating

20 under the new name and succeeding to the possession of
21 the physical plant of the former institution, and any officer
22 or person who shall expend or shall participate in the
23 expenditure of any part of any appropriation made by this
24 act in violation of any of the provisions hereof shall be
25 personally liable therefor.

Sec. 4. *Limitation on Publicity.*—Spending units other
2 than the West Virginia industrial and publicity commis-
3 sion, shall not expend funds appropriated to them here-
4 under, or receivable as special revenues or otherwise as a
5 result of acts of the Legislature, in advertising the state as
6 a whole, or in the employment of personnel whose major
7 duties are publicity or promotional work to that end.
8 Spending units which conduct advertising or promotional
9 work as a part of their functioning shall, in any case where
10 expenditures therefor exceed five hundred dollars, have
11 the program first approved by the director of said com-
12 mission before any expense in excess of five hundred dol-
13 lars in any one year is incurred: *Provided, however,* That
14 no funds shall be spent by any agency, unit, department,
15 state officer or employee, publicizing any individual, state
16 officer or employee.

Sec. 5. *Limitation on Expenditures for Insurance.*—Not
2 more than ten per cent of the total amount which may be
3 expended from all appropriations of this act for the pay-
4 ment of premiums on fire, casualty or fidelity insurance
5 shall be paid to insurance agents or agencies in any one
6 county, and of such total amount not more than five per
7 cent shall be paid to any one insurance agent or agency.

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

CHAPTER 9

(House Bill No. 190—By Mr. Kidd, of Gilmer)

AN ACT to amend and reenact section three, article three, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to assistant attorneys general.

[Passed February 27, 1951; in effect ninety days 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, as amended, be amended and reenacted to read as follows:

Section 3. *Assistants to Attorney General.*—The attorney general may appoint four assistants to serve at his pleasure and to perform such duties as he may require of them. One of such assistants shall receive a salary not in excess of six thousand three hundred dollars per annum, and three of them shall each receive a salary not in excess of six thousand dollars per annum. And upon finding of the necessity therefor by the governor and attorney general, the attorney general may appoint not more than one special assistant to serve at his pleasure and to perform such duties as he may require of him for such time as the governor and attorney general determine the necessity to continue, and he shall for the time actually employed receive a salary not to exceed five hundred dollars per month.

CHAPTER 10

(Senate Bill No. 216—By Mr. Love)

AN ACT to amend article ten, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one,

by adding thereto two new sections to be designated sections two and three, relating to the recordation of orders and decrees in bankruptcy, and for the recordation of orders approving trustees in bankruptcy, and providing for fees therefor.

[Passed March 5, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 10. Federal Tax Liens.

Section

2. Recordation of orders and decrees in bankruptcy; fee.
3. Recordation of orders approving trustees in bankruptcy; fee.

Be it enacted by the Legislature of West Virginia:

That article ten, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto two new sections, to be numbered two and three, to read as follows:

Sec. 2. *Recordation of Orders and Decrees in Bankruptcy; Fee.*—Certified copies of orders or decrees of adjudication of bankruptcy, made pursuant to the acts of congress relating to bankruptcy, shall be filed in the office of the clerk of the county court of any county wherein any real estate owned by the bankrupt is situated. Such decrees shall be recorded in the deed books and indexed in the name of the bankrupt. For each such recordation the clerk shall be paid a fee of fifty cents.

Sec. 3. *Recordation of Orders Approving Trustees in Bankruptcy; Fee.*—Certified copies of orders approving the bonds of trustees in bankruptcy, made by referees in bankruptcy or United States courts pursuant to the acts of congress relating to bankruptcy, shall be filed in the office of the clerk of the county court of any county wherein any property of the bankrupt (the bond of the trustee of whose estate in bankruptcy is approved by such order) is situated or located. Such orders shall be recorded in the deed books and indexed in the names of the trustees in bankruptcy and the bankrupt. For each such recordation the clerk shall be paid a fee of fifty cents.

CHAPTER 11

(Senate Bill No. 131—By Mr. Bean)

AN ACT to amend and reenact section one, article one, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to state board of control, appointment of members, term of office, salary, secretary and assistants, oath and bond of members.

[Passed March 8, 1951: in effect July 1, 1951. Approved by the Governor.]

Article 1. Organization; General Powers and Duties; Supervision of State Institutions.

Section

1. State board of control; appointment of members; term of office; salary; secretary and assistants; oath and bond of members.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *State Board of Control; Appointment of Members; Term of Office; Salary; Secretary and Assistants; Oath and Bond of Members.*—There shall be a state board of control, known as the "West Virginia Board of Control," which shall be a corporation, and as such may contract and be contracted with, and shall have a common seal. The board shall consist of three members, not more than two of whom shall at any one time belong to the same political party, who shall be appointed by the governor by and with the advice and consent of the senate. The members in office on the date this code takes effect shall, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and have qualified. Beginning on the first day of July, nineteen hundred and thirty-one, and on the first day of July of each alternate year thereafter, a member shall be appointed to serve for a term of six years, and any member shall be eligible for reappointment.

20 The salary of each member shall be seven thousand

21 dollars per annum to be paid monthly; and each member
22 shall be paid his actual traveling and other necessary
23 expenses while absent from the state capitol on official
24 business. The board shall be provided with offices at the
25 state capitol and with necessary furniture. The mem-
26 bers of the board shall give their entire time to the dis-
27 charge of the duties of their office. The board shall
28 elect one of its members as president and another as
29 treasurer, and shall appoint a competent secretary and
30 such clerical and other assistants as may be necessary to
31 the proper conduct of its business. The offices of treas-
32 urer and secretary may be held by the same member of
33 the board. The salaries or compensation of the employees
34 of the board shall be fixed by it, but no salary or com-
35 pensation shall be increased to exceed the amount ap-
36 propriated by the legislature to pay the same.

37 Before entering upon the duties of his office, each mem-
38 ber of the board shall take and subscribe the oath of of-
39 fice prescribed by section five, article four of the con-
40 stitution of this state, the certificate whereof shall be
41 filed in the office of the secretary of state, and he shall
42 give bond in the penalty of ten thousand dollars, condi-
43 tioned as required by law. The board may require the
44 surety in any of such bonds to be a surety or bonding
45 company authorized to do business in this state, and may
46 pay the premiums thereon out of its current or con-
47 tingent expense fund. All such bonds shall be approved
48 by the attorney general as to form, and by the governor
49 as to sufficiency, and, when so approved, shall be filed
50 and recorded in the office of the secretary of state. In
51 the absence of the president or the treasurer from the
52 state capitol, or in case of the disability of either, the
53 duties of his office may be performed by another member
54 of the board.

CHAPTER 12

(House Bill No. 157—By Mr. Davis)

AN ACT to amend and reenact section ten-a, article one, chap-
ter twenty-five of the code of West Virginia, one thousand

nine hundred thirty-one, as amended, relating to care, control and custody of capitol buildings and grounds.

[Passed February 14, 1951: in effect ninety days from passage. Approved by the Governor.]

Article 1. Organization; General Powers of Duties; Supervision of State Institutions.

Section

10-a. Care, control and custody of capitol buildings and grounds.

Be it enacted by the Legislature of West Virginia:

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

Section 10-a. *Care, Control and Custody of Capitol*

2 *Buildings and Grounds.*—The state board of control shall
3 be charged with full responsibility for the care, control
4 and custody of the capitol buildings and grounds, and
5 in this connection the board shall:

6 (1) Furnish guards and janitors for the capitol build-
7 ings and grounds, together with all the apartments
8 therein, or connected therewith, regardless of the budget
9 or budgets, departmental or otherwise, from which such
10 guards and janitors are paid, and shall furnish janitorial
11 supplies, light, heat and ventilation for all the rooms
12 and corridors of the building. Under the direction of the
13 president of the senate and speaker of the house of dele-
14 gates, the board of control shall have charge of the halls
15 and committee rooms of the two houses and keep the
16 same properly cleaned, warmed and in good order, and
17 shall do and perform such other duties in relation thereto
18 as either house may require;

19 (2) Furnish part-time messenger service to the var-
20 ious state departments. Department heads shall be con-
21 sulted with reference to the amount of messenger service
22 required for their departments and an agreed amount
23 for such service shall be paid by the department directly
24 to the board of control. Janitor-messengers, or part-time
25 messengers, shall receive from the board of control com-
26 pensation for total services in the same manner as other

27 employees are paid. Any state department shall, how-
28 ever, have authority to furnish its own messenger service
29 without using employees of the board of control;

30 (3) Have immediate control and direction of the
31 switchboard telephone service for the various depart-
32 ments of the state capitol. Changes in telephone instru-
33 ments or equipment in the various departments of the
34 state capitol shall be referred to the board of control and
35 payment for any such changes will not be honored by the
36 state auditor unless such changes have been approved
37 by the board of control. A simple accounting system shall
38 be installed and maintained by the board of control for
39 all telephone service to the state departments;

40 (4) Landscape and take care of lawns and gardens;

41 (5) Direct the making of all minor repairs to and alter-
42 ations of the capitol buildings and grounds. Major repairs
43 and alterations shall be made under the supervision of
44 the board of control, subject to the direction of the board
45 of public works.

46 The board of control shall appoint such assistants and
47 employees as may be necessary for the performance of
48 the duties imposed upon it by this section, subject to the
49 provisions of law and regulations pertaining to the classi-
50 fication and uniform compensation of personnel.

51 The offices of such employees shall be located where
52 designated by the board of public works, except that they
53 shall not be located in any of the legislative chambers,
54 offices, rooms or halls. Office hours shall be so arranged
55 that emergency or telephone service shall be available
56 at all times. The hours of employment shall be so ar-
57 ranged that janitorial service shall not interfere with
58 other employment during regular office hours.

CHAPTER 13

(House Bill No. 152—By Mr. Davis)

AN ACT to amend and reenact section sixteen, article one,
chapter twenty-five of the code of West Virginia, one thou-

sand nine hundred thirty-one, relating to the transfer of inmates of state institutions.

[Passed February 14, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 1. Organization; General Powers and Duties; Supervision of State Institutions.

Section

16. Transfer of inmates of state institutions.

Be it enacted by the Legislature of West Virginia:

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

Section 16. Transfer of Inmates of State Institutions.—

2 The state board of control shall have authority to cause
3 the transfer of any patient, or inmate, from any state
4 institution, except the penitentiary, to any other state
5 institution which is better fitted for the care or treatment
6 of such patient or inmate, or for other good cause or
7 reason.

8 In case of convicts in state prisons becoming mentally
9 diseased the wardens shall proceed in accordance with
10 section thirty-one, article five, chapter twenty-eight of
11 the code of West Virginia, as amended by chapter thirty-
12 seven, acts of the Legislature, regular session, one thou-
13 sand nine hundred fifty-one.

14 In case of convicts in state prisons needing medical
15 attention, other than mental care, not available at said
16 prisons, the wardens or superintendents of said prisons
17 shall immediately notify the board of control, which
18 after proper investigation, shall cause the transfer of
19 said convicts to a hospital within the state of West Vir-
20 ginia properly equipped to render the medical attention
21 necessary. Such convicts while receiving treatment in
22 said hospital shall be under guard at all times and shall
23 forthwith be returned to prison upon their recovery.

CHAPTER 14

(House Bill No. 105—By Mr. Ambler)

AN ACT to amend and reenact section one, article one-a, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the collection and refund of enrollment and other fees at state educational institutions.

[Passed February 20, 1951: in effect ninety days from passage. Approved by the Governor.]

Article 1-a. Fees and Other Money Collected at State Institutions.

Section

1. Enrollment and other fees at educational institutions; refund of fees.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Enrollment and Other Fees at Educational Institutions; Refund of Fees.*—The governing boards of state educational institutions shall fix enrollment, tuition, registration, and other fees for each semester or school term for the different classes or categories of students enrolling at the state educational institutions, and may include among such fees any one or more of the following: (1) Health service fees; (2) infirmary fees, and (3) student activities, recreational, athletic and extra curricular fees. All other fees collected under (1), (2) and (3), shall be paid into special funds and shall be used only for the purposes for which the fees are collected: *Provided*, That the maximum fees to be collected under this section for resident students shall not exceed one hundred fifty dollars per semester, and for non-resident students, three hundred fifty dollars per semester. The schedule of fees, and any changes therein, shall be entered in the minutes of the meetings of the governing board, and the governing board shall file with the

20 state auditor and state budget director a certified copy of
21 such schedule and changes.

22 Refund, as an erroneous payment, may be made of any
23 such fees, upon the voluntary or involuntary withdrawal
24 from classes of any student, until eight weeks of the
25 school semester or term have expired, but no refund may
26 be made thereafter.

CHAPTER 15

(Senate Bill No. 50—By Mr. Johnston, Mr. President)

AN ACT to amend and reenact section three, article five, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the compensation of the director of the bureau of negro welfare and statistics.

[Passed March 8, 1951: in effect July 1, 1951. Approved by the Governor.]

Article 5. Bureau of Negro Welfare and Statistics.

Section

3. Salary.

Be it enacted by the Legislature of West Virginia:

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

Section 3. *Salary.*—The salary of the director shall be
2 four thousand eight hundred dollars per year and actual
3 necessary traveling expenses, to be paid in the same man-
4 ner as other state officers are paid.

CHAPTER 16

(Senate Bill No. 185—By Mr. Love)

AN ACT finding and declaring certain claims against the State of West Virginia to be moral obligations of the state, and

directing the auditor to issue warrants for the payment thereof.

[Passed March 10, 1951; in effect ninety days from passage. Approved by the Governor.]

Section

1. Finding and declaring certain claims against the state tax commissioner to be moral obligations of the state, and directing payment thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. *Finding and Declaring Certain Claims Against the State Tax Commissioner to be Moral Obligations of the State, and Directing Payment Thereof.*—The legislature has considered the findings of fact and recommendations reported to it by the court of claims concerning the two following claims against the state tax commissioner, and in respect to each of the following claims the legislature adopts those findings of fact as its own, and hereby declares it to be the moral obligation of the state to pay each such claim in the amount specified below, and directs the auditor to issue warrants for the payment thereof out of any fund appropriated and available for the purpose.

14	Continental Foundry and Machine Company	\$14,836.80
15	Ben Caplan, dba National Towel Supply	944.27

CHAPTER 17

(House Bill No. 346—By Mr. Doring)

AN ACT to make an appropriation out of the treasury, state fund general revenue, for the purpose of reimbursing I. S. Davis, doing business as Fairmont Linen Supply Company, for business and occupation taxes overpaid by him.

[Passed March 8, 1951; in effect July 1, 1951. Approved by the Governor.]

Section

1. Appropriation for I. S. Davis, doing business as Fairmont Linen Supply Company.
2. Finding of moral obligation.

Be it enacted by the Legislature of West Virginia:

Section 1. *Appropriation for I. S. Davis, Doing Business as Fairmont Linen Supply Company.*—There is hereby appropriated from the state fund general revenue, the sum of six hundred eighty-five and ninety-six one hundredths dollars to I. S. Davis, doing business as Fairmont Linen Supply Company, to repay him for overpaid business and occupational taxes as described in the above recitals.

Sec. 2. *Finding of Moral Obligation.*—It is hereby declared to be the finding of the Legislature that this reimbursement is necessary to discharge a moral obligation of the state of West Virginia.

CHAPTER 18

(Senate Bill No. 167—By Mr. Stemple)

AN ACT finding and declaring the claim of L. G. Gribble against the state of West Virginia and its agency, the state road commission, to be a moral obligation of the state and directing the auditor to issue a warrant for the payment thereof.

[Passed March 10, 1951; in effect ninety days from passage. Approved by the Governor.]

Section

1. Finding and declaring the payment of the claim of L. G. Gribble against the state road commission to be the moral obligation of the state, and directing payment thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. *Finding and Declaring the Payment of the Claim of L. G. Gribble Against the State Road Commission to Be the Moral Obligation of the State, and Directing Payment Thereof.*—The Legislature has considered the findings of fact and the recommendations reported by the court of claims concerning the claim of L. G. Gribble against the state road commission, such findings of fact and recommendations being contained in the opinion of

9 the said state court of claims in Case No. 560, said claim
10 being for trees and rose bushes belonging to the said L. G.
11 Gribble, negligently cut down by employees of the state
12 road commission of West Virginia, and in respect to the
13 said claim the Legislature adopts those findings of fact as
14 its own and hereby declares it to be the moral obligation
15 of the state to pay the said claim of L. G. Gribble in the
16 amount of two hundred fifty dollars, hereby appropriates
17 from the treasury, state fund general revenue, the sum
18 of two hundred fifty dollars in order to pay such claim,
19 and hereby directs the auditor to issue a warrant for the
20 payment thereof.

CHAPTER 19

(Senate Bill No. 186—By Mr. Love)

AN ACT finding and declaring the claim of D. K. Hylton against the state of West Virginia to be a moral obligation of the state and directing the auditor to issue a warrant for the payment thereof.

[Passed March 10, 1951: in effect ninety days from passage. Approved by the Governor.]

Section

1. Finding and declaring the payment of the claim of D. K. Hylton against the state road commission to be the moral obligation of the state, and directing payment thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. *Finding and Declaring the Payment of the*
2 *Claim of D. K. Hylton Against the State Tax Commis-*
3 *sioner to Be the Moral Obligation of the State, and Di-*
4 *recting Payment Thereof.*—The Legislature has consid-
5 ered the claim of D. K. Hylton against the state tax com-
6 missioner, said claim being for over-payment of business
7 and occupation tax for the last three quarters of one
8 thousand nine hundred forty-four and for the years one
9 thousand nine hundred forty-five and one thousand nine
10 hundred forty-six, and in respect to the said claim the

11 Legislature declares it to be the moral obligation of the
12 state to pay the said claim of D. K. Hylton in the amount
13 of five hundred eight and forty-one one hundredths dol-
14 lars, and hereby appropriates from the treasury, state
15 fund general revenue, the sum of five hundred eight and
16 forty-one one hundredths dollars in order to pay such
17 claim, and hereby directs the auditor to issue a warrant
18 for the payment thereof.

CHAPTER 20

(House Bill No. 428—By Mr. Kidd, of Braxton)

AN ACT to make an appropriation out of the treasury, state fund general revenue, for the purpose of reimbursing Jimmie Marks for injuries suffered by him while crossing over a defective bridge on a state-controlled highway.

[Passed March 10, 1951; in effect July 1, 1951. Approved by the Governor.]

Section

1. Appropriation for Jimmie Marks.
2. Finding of moral obligation.

WHEREAS, Jimmie Marks suffered a broken arm while crossing over a defective bridge on a state-controlled highway; and

WHEREAS, The state court of claims awarded Jimmie Marks four hundred dollars in its decision of Case No. 545; and

WHEREAS, The Legislature, in chapter twenty-four, acts of the Legislature, regular session, one thousand nine hundred forty-seven, made an appropriation of four hundred dollars to reimburse Jimmie Marks; and

WHEREAS, The appropriation was never paid, and a new appropriation is necessary to discharge this moral obligation of the state; therefore,

Be it enacted by the Legislature of West Virginia:

- Section 1. *Appropriation for Jimmie Marks.*—It appearing from a statement of the revenues and appropriations for the fiscal year one thousand nine hundred fifty—one thousand nine hundred fifty-one, that there remains in

5 the treasury, state fund general revenue, revenue in ex-
6 cess of the amount hereby appropriated, there is hereby
7 appropriated from the state road fund, the sum of four
8 hundred dollars to Jimmie Marks, to reimburse him for
9 injuries suffered as described in the above recitals.

Sec. 3. *Finding of Moral Obligation.*—It is hereby de-
2 clared to be the finding of the Legislature that this re-
3 imbursement is necessary to discharge a moral obligation
4 of the state of West Virginia.

CHAPTER 21

(Senate Bill No. 280—By Mr. Love)

AN ACT finding and declaring a certain claim against the state to be a moral obligation of the state and making an appropriation for the payment thereof.

[Passed March 10, 1951; in effect July 1, 1951. Approved by the Governor.]

Section

1. Appropriation for George R. Nuckolls.
2. Finding that a moral obligation exists.

WHEREAS, On the sixth of August, one thousand nine hundred forty-nine, George R. Nuckolls, a member of the national guard of the state of West Virginia, on active duty at an authorized encampment of the national guard, was in the performance of his official duties in the service of the state, operating a vehicle which collided with a vehicle owned and driven by a resident of the state of Kentucky on U. S. Route No. 460, three miles east of West Liberty, in the state of Kentucky; and

WHEREAS, Witnesses to the accident from the state of West Virginia made affidavit and were prepared to testify that the said George R. Nuckolls was in no sense negligent but that there was negligence by the other party, although this was contradicted by witnesses from the state of Kentucky; and

WHEREAS, In a settlement of the suit against the said George R. Nuckolls brought in the state of Kentucky by the other party for damages to his vehicle and injuries to other persons

riding in his vehicle at the time of the accident, it became necessary for the said George R. Nuckolls to expend from his personal funds the sum of two hundred fifty dollars, five hundred dollars being paid by the National Guard Bureau to which amount it was limited by law, said settlement amounting to a total of seven hundred fifty dollars and being for the property damage claim; and

WHEREAS, The said George R. Nuckolls was acting for and on behalf of the state as one of the state's agents at the time of the accident; and

WHEREAS, The said George R. Nuckolls paid the above mentioned amount which would have been the liability and obligation of the state of West Virginia but for its constitutional immunity from suit; therefore

Be it enacted by the Legislature of West Virginia:

Section 1. *Appropriation for George R. Nuckolls.*—It
2 appearing from a statement of the revenues and appropri-
3 ations for the fiscal year one thousand nine hundred forty-
4 nine—one thousand nine hundred fifty, that there remains
5 in the treasury, current expenses fund, adjutant general,
6 revenue in excess of the amount hereby appropriated,
7 there is hereby appropriated from the treasury, current
8 expenses fund, adjutant general, the sum of two hundred
9 fifty dollars to George R. Nuckolls to reimburse him for
10 the aforesaid expenditure.

Sec. 2. *Finding that a Moral Obligation Exists.*—It is
2 hereby declared to be the finding of the Legislature, based
3 upon its conclusion of facts, that this appropriation is for
4 the payment of a moral obligation of the state of West
5 Virginia.

CHAPTER 22

(House Bill No. 337—By Mr. White, of Cabell, by request)

AN ACT to compensate Effie Savage Pratt by the state of an award recommended by the state court of claims and included in chapter twenty-five, acts of the Legislature, reg-

ular session, one thousand nine hundred forty-seven, and setting forth a legislative finding that the payment of said claim is a moral obligation of the state.

[Passed March 8, 1951; in effect July 1, 1951. Approved by the Governor.]

Section

1. Payment of claim of Effie Savage Pratt.
2. Claim a moral obligation of the state.

WHEREAS, The court of claims recommended to the Legislature that the sum of two hundred forty dollars be paid to Effie Savage Pratt for the use and benefit of her two infant children; and,

WHEREAS, As result of such recommendation the Legislature embraced within chapter twenty-five various claims against the state road commission, including the claim of Effie Savage Pratt in the sum of two hundred forty dollars (to be paid in monthly installments of ten dollars each from 1-1-'47 to 12-31-'48; and,

WHEREAS, The Honorable Edgar B. Sims, auditor of the state of West Virginia, refused to honor a requisition addressed to him by the state road commission based on said appropriation; therefore,

Be it enacted by the Legislature of West Virginia,

- Section 1. *Payment of Claim of Effie Savage Pratt.*—The
- 2 Legislature reaffirms and approves the recommendation
 - 3 of the court of claims of the state of West Virginia that
 - 4 there should be paid the following claim, and makes the
 - 5 following award, as a proper claim against the state road
 - 6 commission;
 - 7 To Effie Savage Pratt, for the use and benefit of her
 - 8 two infant children, Charles Laymon Savage and Elaine
 - 9 Savage, the sum of four hundred eighty dollars.

- Sec. 2. *Claim a Moral Obligation of the State.*—The Leg-
- 2 islatre declares hereby as a finding of fact that the fore-
 - 3 going award, and the payment thereof, is necessary, under
 - 4 the circumstances involved in the claim and the finding
 - 5 of the court of claims of West Virginia, to satisfy a moral
 - 6 obligation of the state of West Virginia.

CHAPTER 23

(Senate Bill No. 289—By Mr. Love)

AN ACT finding and declaring the claim of Raleigh County Bank against the state of West Virginia to be a moral obligation of the state and directing the auditor to issue a warrant for the payment thereof.

[Passed March 9, 1951; in effect July 1, 1951. Approved by the Governor.]

Section

1. Declaring it to be the moral obligation of the state to pay the claim of the Raleigh County Bank against the state tax commissioner, and directing the payment thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. *Declaring It to Be the Moral Obligation of the State to Pay the Claim of the Raleigh County Bank Against the State Tax Commissioner, and Directing the Payment Thereof.*—The Legislature has considered the claim of Raleigh County Bank against the state tax commissioner, said claim being for overpayment of gross sales tax, and in respect to the said claim the Legislature declares it to be the moral obligation of the state to pay the said claim of Raleigh County Bank in the amount of four hundred seventy-two and eighty-three one hundredths dollars, and hereby appropriates from the treasury, state fund general revenue, the sum of four hundred seventy-two and eighty-three one hundredths dollars in order to pay such claim, and hereby directs the auditor to issue a warrant for the payment thereof.

CHAPTER 24

(Senate Bill No. 176—By Mr. Mitchell)

AN ACT finding and declaring the claim of Benny Salpini against the state of West Virginia and its agency, the adjutant general's department, to be a moral obligation of the state and directing the auditor to issue a warrant for the payment thereof.

[Passed March 10, 1951; in effect ninety days from passage. Approved by the Governor.]

Section

1. Declaring the payment of the claim of Benny Salpini against the adjutant general's department to be the moral obligation of the state and directing the payment thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. *Declaring the Payment of the Claim of Benny Salpini Against the Adjutant General's Department to Be the Moral Obligation of the State and Directing the Payment Thereof.*—The Legislature has considered the claim of Benny Salpini against the adjutant general's department, said claim being for damages to an automobile belonging to the said Benny Salpini, caused by the negligent driving of one William Crouse, a member of the West Virginia national guard, who drove into the parked car of said Benny Salpini, and in respect to the said claim the Legislature declares it to be the moral obligation of the state to pay the said claim of Benny Salpini in the amount of fifty dollars, and hereby appropriates from the treasury, state fund general revenue, the sum of fifty dollars in order to pay such claim, and hereby directs the auditor to issue a warrant for the payments thereof.

CHAPTER 25

(House Bill No. 17—By Mr. Bowles, by request)

AN ACT to provide compensation to A. W. Utterback, Mrs. A. W. Utterback and Frances Cremeans for damages sustained by them by reason of a collision with a motor vehicle owned by the state road commission and operated by one of its employees.

[Passed March 9, 1951; in effect July 1, 1951. Approved by the Governor.]

Section

1. Appropriation for A. W. Utterback, for Mrs. A. W. Utterback and for Frances Cremeans.
2. Finding of moral obligation.

Be it enacted by the Legislature of West Virginia:

Section 1. *Appropriation for A. W. Utterback, for Mrs. A. W. Utterback and for Frances Cremeans.*—There is hereby appropriated, it appearing from the budget that there is sufficient revenue available for the purpose, the sum of five hundred dollars to A. W. Utterback, the sum of two thousand dollars to Mrs. A. W. Utterback and the sum of three hundred dollars to Frances Cremeans, to compensate them for damages sustained while traveling in an automobile owned by the said A. W. Utterback, on the twentieth day of March, one thousand nine hundred forty-four, in the city of Huntington, West Virginia, which damages were caused by failure of an employee of the state road commission while engaged in the work of, and while driving an automobile owned by, the said state road commission, to observe the traffic rules of the said city of Huntington in failing to stop said motor vehicle so driven by him in obedience to a proper stop sign.

Sec. 2. *Finding of Moral Obligation.*—It is hereby declared to be the finding of the Legislature, based upon its conclusion of fact, that the appropriation made in section one hereof is for a public purpose and for the payment of a moral obligation of the state of West Virginia.

CHAPTER 26

(Senate Bill No. 258—By Mr. McKown)

AN ACT to compensate J. Kerr Whitfield for services rendered as business manager of the athletic department of Marshall College of Huntington, West Virginia, during the period from July one, one thousand nine hundred forty-one, to June thirty, one thousand nine hundred forty-two.

[Passed March 5, 1951; in effect from passage. Approved by the Governor.]

Section

1. Marshall college authorized to pay certain money to J. Kerr Whitfield, former business manager of the athletic department of said college.

WHEREAS, On July one, one thousand nine hundred forty-one, J. Kerr Whitfield of Huntington was employed by Marshall College of Huntington, West Virginia, as business manager of the athletic department of said college, at an annual salary of two thousand six hundred dollars; and

WHEREAS, Said J. Kerr Whitfield served as such business manager of the athletic department of said college during the period from July one, one thousand nine hundred forty-one, to June thirty, one thousand nine hundred forty-two, and was compensated and paid for his services the sum of five hundred ninety dollars and ninety cents, and there is now due and owing to said J. Kerr Whitfield, for his services rendered as aforesaid, a balance in the sum of two thousand nine dollars and ten cents; therefore

Be it enacted by the Legislature of West Virginia:

Section 1. *Marshall College Authorized to Pay Certain Money to J. Kerr Whitfield, Former Business Manager of the Athletic Department of Said College.*—Marshall College, of Huntington, West Virginia, is hereby authorized to pay to J. Kerr Whitfield, former business manager of the athletic department of said college, out of its unused personal service fund, special fund, or any other proper available fund, the sum of two thousand nine dollars and ten cents if the authorities of said college shall be of opinion that such sum is due and unpaid on his services rendered as such business manager of the athletic department of said college during the period from July one, one thousand nine hundred forty-one to June thirty, one thousand nine hundred forty-two.

CHAPTER 27

(Senate Bill No. 184—By Mr. Love)

AN ACT finding and declaring certain claims against the state and its agencies to be moral obligations of the state, and directing the auditor to issue warrants for the payment thereof.

[Passed March 10, 1951: in effect July 1, 1951. Approved by the Governor.]

Section

1. Finding and declaring certain claims against the state road commission, the state board of education, the state auditor, the state department of employment security and the state department of public safety to be moral obligations of the state, and directing payment thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. *Finding and Declaring Certain Claims Against the State Road Commission, the State Board of Education, the State Auditor, the State Department of Employment Security and the State Department of Public Safety to be Moral Obligations of the State, and Directing Payment Thereof.*—The Legislature has considered the findings of fact and recommendations reported to it by the court of claims concerning various claims against the state and the agencies thereof, and in respect to each of the following claims the Legislature adopts those findings of fact as its own, and hereby declares it to be the moral obligation of the state to pay each such claim in the amount specified below, and directs the auditor to issue warrants for the payment thereof out of any fund appropriated and available for the purpose.

(a) Claims versus State Road Commission.

(1) Carter O. Byard.....	\$197.27
(2) C. H. Clark.....	42.08
(3) H. E. Cramer.....	36.11
(4) Claire Daniels.....	57.34
(5) A. L. Gant.....	25.00
(6) Charles Garrison.....	35.60
(7) H. H. Linkinogger.....	56.80
(8) M. L. McBride.....	109.14
(9) John B. Resides.....	60.46
(10) Orban Roberts, father of Gary Roberts.....	200.00
(11) Kenneth G. Smith and Calvert Fire Insurance Co.....	164.63
(12) Woodrow Tabor.....	150.00
(13) L. C. Taylor.....	60.69

(b) Claims versus State Board of Education.

(1) Town of Romney.....	872.38
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33	(c) Claims versus State Auditor.	
34	(Criminal Claims Department)	
35	(1) Thurman Chambers, Sheriff of	
36	Mingo County.....	14.60
37	(d) Claims versus State Department of	
38	Employment Security.	
39	(1) Dena Cohen.....	825.00
40	(e) Claims versus State Department of Public Safety.	
41	(1) Clearsin Hannas.....	700.00

CHAPTER 28

(Senate Bill No. 82—By Mr. Love)

AN ACT finding and declaring certain claims against the state and its agencies to be moral obligations of the state, and directing the auditor to issue warrants for the payment thereof.

[Passed March 10, 1951: in effect July 1, 1951. Approved by the Governor.]

Section

1. Finding and declaring certain claims against the state road commission, the adjutant general's department, the state board of control, the state department of public assistance and the state conservation commission to be moral obligations of the state, and directing payment thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. *Finding and Declaring Certain Claims Against the State Road Commission, the Adjutant General's Department, the State Board of Control, the State Department of Public Assistance and the State Conservation Commission to Be Moral Obligations of the State, and Directing Payment Thereof.*—The Legislature has considered the findings of fact and recommendations reported to it by the court of claims concerning various claims against the state and the agencies thereof, and in respect to each of the following claims the Legislature adopts those findings of fact as its own, and hereby declares it to be the moral obligation of the state to pay each such claim in the amount specified below, and di-

14 rects the auditor to issue warrants for the payment
15 thereof out of any fund appropriated and available for
16 the purpose.

17 (a) Claims versus State Road Commission.

18	(1) Albert and Odesie Brown.....	\$ 2,134.20
19	(2) W. T. Caplinger.....	4.08
20	(3) Charleston National Bank, committee for	
21	Carl A. Urban, incompetent.....	200.00
22	(4) J. A. Cox and North British and Mer-	
23	cantile Insurance Co.; North River In-	
24	surance Co.; Standard Fire Insurance Co.;	
25	Firemen's Insurance Co., and Mechanics	
26	and Traders Insurance Company.....	21,080.71
27	(5) Rosa Webb Freeman.....	100.00
28	(6) Green Hill Church, by Orr Minear, Trus-	
29	tee	36.22
30	(7) J. E. Huffman.....	12.95
31	(8) Kenneth Kennan	100.00
32	(9) Proctor & Gamble Distributing Co.....	13.84
33	(10) Reynolds Transportation Co.....	160.88
34	(11) Russell D. Sabol and Travelers Fire In-	
35	surance Co.	25.50
36	(12) Dalton Spradling	96.33
37	(13) Taylor & Maun Lumber Company.....	22.50
38	(14) Arnold P. Webb and Emmco Insurance Co.	295.90
39	(15) Weirton Cigar and Candy Co.....	75.38

40 (b) Claims versus State Department of Public
41 Assistance.

42	(1) Dorsey Brannan, M. D.....	256.00
43	(2) Ralph Maxwell, M. D.....	165.00

44 (c) Claims versus Adjutant General's Department.

45	(1) Robert E. Epperly.....	37.84
46	(2) John Kipp	78.39
47	(3) H. A. Pelfrey.....	65.85
48	(4) C. E. Radford.....	500.60
49	(5) Billie G. Garten.....	215.94

50 (d) Claims versus State Conservation Commission.

51	(1) R. C. Jackson.....	390.00
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52 (e) Claims versus State Board of Control.

53	(1) B. E. Fisher.....	2,759.43
54	(2) Luther Goldsboro	880.45

CHAPTER 29

(Senate Bill No. 199—By Mr. Love)

AN ACT to amend and reenact section seventy-nine, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the conditions for doing business in this state by foreign corporations.

[Passed March 3, 1951: in effect from passage. . . Approved by the Governor.]

Article 1. Provisions Relating to Corporations Generally.

Section

79. Foreign corporations; conditions for doing business in this state.

Be it enacted by the Legislature of West Virginia:

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

Section 79. *Foreign Corporations; Conditions for Doing Business in this State.*—Any corporation duly incorporated by the laws of any other state or territory of the United States, the District of Columbia, or of any foreign country, may, unless it be otherwise expressly provided, hold property and transact business in this state, upon complying with the provisions of this section and not otherwise. Such corporations so complying shall have the rights, powers and privileges, and be subject to the same regulations, restrictions and liabilities conferred and imposed on corporations chartered under the laws of this state. Every such corporation shall file with the secretary of state a copy of its articles of association or certificate of incorporation, with all amendments thereto, certified either by the secretary of state of the state of incorporation or the president or vice president of the corporation. The secretary of state shall thereupon issue to such corporation a certificate of the fact of its having done so, which certificate, together with a copy of its articles of association or certificate of incorporation and all prior and subsequent amendments shall be recorded in the

22 office of the clerk of the county court of the county, or one
23 of the counties, in which its business is to be conducted.

24 A copy of every other amendment, certified as herein-
25 above provided, made to such articles of agreement or
26 certificate of incorporation and becoming effective subse-
27 quent to the filing of such articles of association or cer-
28 tificate of incorporation in the office of the secretary of
29 state of this state shall also be filed with the secretary
30 of state of this state who shall issue to such corporation
31 a certificate showing the filing of such amendment and
32 collect a fee of five dollars for such certificate.

33 Every railroad corporation now or hereafter engaged
34 in business in this state under the provisions of this
35 section, or under a charter granted by laws passed by the
36 state of Virginia before the formation of this state, or of
37 this state, is hereby declared to be, as to its works, prop-
38 erty, operations, acts and business in this state, a domestic
39 corporation, and shall be so held and treated in all suits
40 and legal proceedings which may be commenced or car-
41 ried on by or against any such railroad corporation, as
42 well as in all other matters relating to corporations, ex-
43 cept as to the right to sue in, or remove actions into, the
44 courts of the United States, but such corporation shall
45 not be required to file a copy of its charter or any writ-
46 ing with the secretary of state as provided in this sec-
47 tion.

48 No corporation chartered under the laws of any other
49 state or jurisdiction shall hold any property or transact
50 any business or bring or maintain any action, suit or
51 proceeding in this state without having complied with
52 the requirements hereinbefore stated, and, in addition
53 thereto, having filed in the office of the secretary of state
54 a writing duly executed under its corporate seal, ac-
55 cepting the provisions of this section and agreeing to be
56 governed thereby and by the laws of this state with
57 respect to corporations chartered under the laws of this
58 state for similar purposes; and its failure so to do may
59 be pleaded in abatement of any action, suit or proceed-
60 ing instituted by it; but nothing herein contained shall
61 be construed to lessen the liability of any corporation
62 which may not have complied with the requirements

63 of this section upon any contract or for any wrong. No
64 such corporation shall hold any property or transact
65 any business, or bring or maintain any action, suit or
66 proceeding in this state, where the cause of action arises
67 out of the holding of property or doing business therein,
68 without first complying with the provisions hereof.
69 Every corporation which shall hold property or do busi-
70 ness in this state without having complied with the pro-
71 visions of this section shall be guilty of a misdemeanor,
72 and, upon conviction thereof, shall be fined not less than
73 five hundred nor more than one thousand dollars for
74 each month its failure so to comply shall continue, and
75 prosecutions hereunder shall be in the county in which
76 the seat of government is.

CHAPTER 30

(Senate Bill No. 283—By Mr. Eddy)

AN ACT to amend and reenact sections one, two, six, seven, eight, nine, ten and fourteen, article seven, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said article seven, chapter thirty-one, by adding thereto a new section to be designated section nine-a, all relating to industrial loan companies.

[Passed March 9, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 7. Industrial Loan Companies.

Section

1. Definition.
2. Incorporators; name; capital stock.
6. Powers.
7. Limitations.
8. Cash reserve.
9. Annual and special meeting of stockholders; voting; proxy; fiscal year.
- 9-a. Directors.
10. Chief executive officer to be bonded.
14. Amendments to by-laws.

Be it enacted by the Legislature of West Virginia:

That sections one, two, six, seven, eight, nine, ten and fourteen, article seven, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that said article seven, chapter thirty-one, be further amended by adding thereto a new section to be designated section nine-a, all to read as follows:

Section 1. *Definition.*—The term “industrial loan company,” as used in this chapter, shall mean any corporation formed under the provisions of this article with the approval of the commissioner of banking of this state.

Sec. 2. *Incorporators; Name; Capital Stock.*—Any number of persons, not fewer than thirteen, citizens of this state, may become an industrial loan company on the terms and conditions and subject to the liabilities prescribed by this article. The name of any corporation formed under this article may contain the words “industrial loan company,” but such name shall not be that of any other existing corporation of this state. The capital stock of any such corporation shall not be less than twenty-five thousand dollars, and shall consist of shares of common stock. The voting power and control of the corporation during its life shall be vested in the common stock only if more than one class of stock is to be issued. Such common stock, with which it will commence business, shall be paid in before such corporation shall be authorized to engage in business, except such business as is incidental and necessarily preliminary to its organization.

Sec. 6. *Powers.*—In addition to the general powers conferred upon corporations by the laws of this state, each industrial loan company shall have power to exercise by its board of directors or duly authorized officers or agents, subject to law, all such powers as shall be necessary to:

(a) Lend money to any person, firm or corporation, secured by the obligation of such person, firm or corporation, or otherwise; and, in addition, to receive and require uniform periodical installments for the repayment of the loan;

11 (b) Sell or offer for sale its secured or unsecured evi-
12 dences or certificates of indebtedness;

13 (c) Buy and sell bonds or choses in action of any
14 person, firm or corporation;

15 (d) Impose a charge of five cents for each default in
16 the payment of one dollar, or fraction thereof, at the time
17 at which any periodical installment for the repayment of
18 a loan becomes due;

19 (e) Demand and receive for loans or for notes, bills of
20 evidences of debt discounted or purchased, such rate of
21 interest as may be agreed upon by the parties, not exceed-
22 ing the lawful rate of interest, and it shall be lawful to
23 receive such interest in advance;

24 (f) Charge for a loan made pursuant to this section,
25 one dollar for each fifty dollars, or fraction thereof,
26 loaned, for expenses including any examination or in-
27 vestigation of the character and circumstances of the bor-
28 rower, co-maker or surety, and the drawing and taking
29 the acknowledgment of necessary papers, or other ex-
30 penses, incurred in making the loan. No additional charge
31 shall be made except to reimburse the corporation for
32 money actually expended for additional service actually
33 rendered the borrower. No charge shall be collected unless
34 a loan shall have been made as the result of such exami-
35 nation or investigation;

36 (g) Purchase, hold and convey real estate as follows:

37 (1) Such as shall be necessary for the convenient
38 transaction of its business, including with its office other
39 apartments or offices to rent as a source of income, which
40 investment shall not exceed twenty-five per cent of its
41 paid in capital stock and surplus;

42 (2) Such as is mortgaged to it in good faith by way of
43 security for loans made by or money due to such industrial
44 loan company;

45 (3) Such as is conveyed to it in satisfaction of debts
46 previously contracted in the course of its dealings;

47 (4) Such as it acquired by sale on execution or judg-
48 ment or decree of any court in its favor.

49 Industrial loan companies shall not purchase, hold or
50 convey any real estate in any other case or for any other
51 purpose whatever. Real estate shall be conveyed only by

52 authority of the board of directors of such industrial loan
53 company. No real estate acquired in the cases contem-
54 plated in the second, third and fourth paragraphs of sub-
55 division (g) shall be held for a longer time than five years,
56 unless such period shall be extended by the commissioner
57 of banking.

Sec. 7. *Limitations.*—A corporation under the provi-
2 sions of this article shall not:

3 (a) Make any loan under the provisions of this article
4 for a longer period than two years from the date thereof,
5 except upon express authorization of the board of direc-
6 tors of such company;

7 (b) Hold at any one time the primary obligation or
8 obligations of any one person, firm or corporation, for
9 more than ten per cent of the amount of the paid up capi-
10 tal and surplus of such industrial loan company;

11 (c) Hold at any one time the obligation or obligations
12 of persons, firms or corporations purchased from any per-
13 son, firm or corporation in excess of twenty per cent of
14 the aggregate paid up capital and surplus of such indus-
15 trial loan company;

16 (d) Hold at any one time the obligation or obligations
17 of persons, firms or corporations secured by real estate
18 aggregating more than one-third of the aggregate paid
19 up capital and surplus of such industrial loan company;

20 (e) Make any loan or discount on the security of its
21 own capital stock (controlling and voting stock, if there
22 be more than one class), unless such security or purchase
23 shall be necessary to prevent loss upon a debt previously
24 contracted in good faith. Stock so purchased or acquired
25 shall be sold at public or private sale or otherwise dis-
26 posed of within ninety days from the time of its purchase
27 or acquisition;

28 (f) Have outstanding at any time its evidences or
29 certificates of indebtedness, in an aggregate sum in excess
30 of ten times the aggregate amount of its paid up capital
31 (voting and controlling stock) and surplus;

32 (g) Deposit any of its funds with any other moneyed
33 corporation unless such corporation has been designated

34 as such depository by a vote of the majority of the board
35 of directors;

36 (h) Pledge or hypothecate any of its securities to any
37 creditor, except that such companies shall have the power
38 to rediscount or to borrow money from any source in addi-
39 tion to selling its evidences or certificates of indebtedness,
40 but the aggregate amount of such rediscounting and
41 borrowing shall at no time exceed the sum total of the
42 capital, surplus and reserve funds of such company, and
43 the security so pledged therefor shall not exceed two
44 times the amount borrowed and rediscounted;

45 (i) Pay any fees, bonuses, commissions, rewards, or
46 other consideration to any person, firm or corporation for
47 the privilege of using any plan of operation, scheme or
48 device for the organization or carrying on of business
49 under this article, or the use of any name, trade-mark or
50 copyright to be so used; nor shall any corporation under
51 this article enter into any contract for such purpose or
52 purposes, or for the purpose of giving to or vesting in any
53 other corporation any power or authority over the organ-
54 ization or management of corporations under this article.

Sec. 8. *Cash Reserve.*—Every industrial loan company,
2 under the provisions of this article, shall at all times
3 maintain a cash reserve equal to five per cent of its issued
4 and outstanding evidences or certificates of indebtedness.

Sec. 9. *Annual and Special Meeting of Stockholders;*
2 *Voting; Proxy; Fiscal Year.*—The stockholders of each
3 industrial loan company shall meet annually in the month
4 of January, a majority of the outstanding voting stock
5 to constitute a quorum; and it shall be the duty of the
6 secretary to prepare and submit to the stockholders a
7 clear and concise statement of the financial condition of
8 the corporation as of the close of business on the first
9 day of the month next preceding. At such meeting the
10 stockholders shall elect a board of directors of not less
11 than five, a majority of which shall be bona fide residents
12 of the state of West Virginia. Special meetings may be
13 called by order of the board of directors or by request
14 in writing of ten per centum of the stockholders.

15 In all elections of directors of the corporation each

16 stockholder shall have the right to cast one vote for each
17 share of stock owned by him and entitled to vote, and
18 he may cast the same in person or by proxy, for as many
19 persons as there are directors to be elected, or he may
20 cumulate such votes and give one candidate as many
21 votes as the number of directors to be elected multiplied
22 by the number of his shares of stock shall equal; or he
23 may distribute them on the same principle among as
24 many candidates and in such manner as he may desire,
25 and the directors shall not be elected in any other man-
26 ner, and on any other question to be determined by a vote
27 of shares at any meeting of stockholders each stockholder
28 shall be entitled to one vote for each share of stock owned
29 by him and entitled to vote, and he may exercise this
30 right in person or by proxy, but if by proxy, in no in-
31 stance can it be voted in any meeting other than which it
32 was first intended.

Sec. 9-a. *Directors.*—The affairs of every industrial
2 loan company shall be managed by a board of not less
3 than five directors who shall meet at least once each
4 month, a majority of whom shall at all times be bona
5 fide residents of this state, and shall own and hold in his
6 own name at least five hundred dollars par value in un-
7 pledged shares of the capital stock or voting stock of such
8 company.

9 Immediately upon the adjournment of the stockhold-
10 ers' meeting or as soon thereafter as convenient, they
11 shall meet and every director elected shall take an oath
12 that he will, so far as duty devolves on him, diligently
13 and honestly administer the affairs of such company,
14 and will not knowingly and willingly violate, or permit
15 to be violated, any of the provisions of this article, and
16 that he is the owner in good faith, and in his own right,
17 of at least five hundred dollars par value in shares of the
18 capital stock of the company, as required by this section,
19 subscribed by him or standing in his name on the books
20 of said company, and that the same are not hypothecated
21 or in any way pledged as security for any loan or debt.
22 Such oath, when subscribed by the director making it,
23 and certified by the officer before whom it was taken,
24 shall immediately be transmitted to the commissioner of

25 banking, and shall be filed and preserved in his office.
26 Should a director fail to subscribe to the oath herein pro-
27 vided for within sixty days after notice of his election or
28 at any time after qualifying as such, sell or dispose of,
29 or in any manner hypothecate or pledge as security for
30 a debt or obligation, such qualifying shares, or any num-
31 ber thereof, necessary for his qualification, or due to
32 death, resignation or inability to serve of any elected
33 director, thereupon the remaining directors shall elect
34 another director in his stead.

35 It shall be the duty of the board at their organization
36 meeting or as soon thereafter as convenient to elect a
37 president who shall be a director, one or more vice presi-
38 dents, a secretary or manager, treasurer and such other
39 officers necessary for the conduct of business as may be
40 designated in the by-laws.

Sec. 10. *Chief Executive Officer to be Bonded.*—The
2 directors of every industrial loan company shall require
3 the manager or other chief executive officer appointed
4 by them in lieu of a manager, before he performs or
5 enters upon any duties as such manager or chief executive
6 officer, to give a bond or bonds, with a surety company
7 authorized to transact business in this state as surety
8 thereon, the amount to be fixed by them, but in no case
9 shall the penalty be less than five thousand dollars. Other
10 officers and personnel to be bonded in amounts com-
11 mensurate with their duties and responsibilities, to be
12 fixed by the board of directors, and all bonds to be ap-
13 proved by the commissioner of banking and a copy filed
14 with his department; and it shall be the duty of the
15 directors of such industrial loan company, as often as
16 once in every year, to pass upon the sufficiency of such
17 bond or bonds, and if insufficient, to require without
18 delay new and additional bonds and securities to be given.
19 If the directors of such industrial loan company shall fail
20 to perform any or all of the requirements of this section,
21 they shall be jointly and severally liable to the industrial
22 loan company to the extent of any defalcation of or de-
23 ficiency in the funds of such company created or caused
24 by such manager, not in excess of the penalty of his bond,

25 the same to be recovered by such industrial loan com-
26 pany in any court of competent jurisdiction of this state.

Sec. 14. *Amendments to By-Laws.*—The stockholders
2 at any regular, or special meeting called for that purpose,
3 may amend the by-laws of any industrial loan company
4 organized under the provisions of this article, but before
5 they become operative must be approved by the commis-
6 sioner of banking.

CHAPTER 31

(House Bill No. 51—By Mr. Davis)

AN ACT to amend and reenact section two, article eight, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the term, compensation, oath and bond of the commissioner of banking, the deputy commissioner of banking, bank examiners and assistant bank examiners.

[Passed March 8, 1951: in effect from passage. Approved by the Governor.]

Article 8. Business Operations and Supervision of Banking Institutions, Industrial Loan Companies and Building and Loan Associations.

Section

2. Terms; compensation, oath; bond.

Be it enacted by the Legislature of West Virginia:

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

Section 2. *Terms; Compensation; Oath; Bond.*—The
2 commissioner of banking shall be appointed for a term of
3 four years and until his successor is appointed and
4 qualifies.
5 The commissioner of banking shall receive a salary of
6 six thousand eight hundred dollars a year. The commis-
7 sioner shall appoint or employ a deputy commissioner,

8 bank examiners, assistant bank examiners and such em-
9 ployees as may be necessary for the efficient operation of
10 his department. The commissioner shall fix the compen-
11 sation of persons whom he appoints or employs subject to
12 provisions of law and regulations pertaining to the classi-
13 fication and uniform compensation of personnel. Ap-
14 pointees and employees of the commissioner shall serve
15 during his will and pleasure.

16 The commissioner and deputy commissioner of banking
17 and each bank examiner and assistant bank examiner,
18 before entering upon the discharge of his duties, shall
19 take and subscribe the oath prescribed by section five,
20 article four of the constitution.

21 The commissioner of banking shall enter into a bond in
22 the penalty of twenty-five thousand dollars and the deputy
23 commissioner and each bank examiner and assistant bank
24 examiner shall enter into a bond in the penalty of five
25 thousand dollars, with an indemnity company as surety,
26 conditioned for the faithful performance of his official
27 duties. Such bonds shall be filed and recorded in the
28 office of the secretary of state. The premiums on such
29 bonds shall be paid out of the state treasury.

CHAPTER 32

(House Bill No. 361—By Mr. White, of Boone)

AN ACT to amend and reenact section three, chapter one hundred thirteen, acts of the Legislature, regular session, one thousand nine hundred thirty-five, relating to the application of other laws to loans and investments eligible for federal housing insurance under the national housing act.

[Passed March 10, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 8. Business Operations and Supervision of Banking Institutions, Industrial Loan Companies and Building and Loan Associations.

Section

3. Application of other laws to such loans or investments.

Be it enacted by the Legislature of West Virginia:

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

Section 3. *Application of Other Laws to Such Loans or*
 2 *Investments.*—No law of this state requiring security
 3 upon which loans or investments may be made or pre-
 4 scribing the nature, amount or form of such security or
 5 prescribing or limiting interest rates upon loans or in-
 6 vestments or prescribing or limiting the period for which
 7 loans or investments may be made shall be deemed to
 8 apply to loans or investments made pursuant to sections
 9 one and two of this chapter, as amended by chapter four,
 10 acts of the Legislature, regular session, one thousand nine
 11 hundred thirty-seven, or to similar loans and investments
 12 made by federal savings and loan associations; and all
 13 such loans and investments may bear such rate of interest
 14 or be discounted at such rate as is permitted under the
 15 national housing act and the regulations promulgated
 16 from time to time by the federal housing administrator.



CHAPTER 33

(House Bill No. 229—By Mr. Meadows)

AN ACT to amend and reenact section five, article thirteen, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to supervision of hospital and medical service corporations, providing that the expenses of examination by the insurance commissioner shall be borne by the nonprofit hospital or medical service corporation being examined.

[Passed March 5, 1951; in effect from passage. Approved by the Governor.]

Article 13. Hospital Service Corporations and Medical Service Corporations.

Section

5. Supervision by insurance commissioner; annual reports.

Be it enacted by the Legislature of West Virginia:

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

Section 5. *Supervision by Insurance Commissioner; Annual Reports.*—The insurance commissioner shall, to the extent specified in this article, have general supervisory control over every such corporation, and it shall be his duty to see that the provisions hereof are properly executed and administered.

No such corporation shall, without the prior approval of the commissioner, make any change in the terms of its contract with subscribers or in the form of its applications, renewals, riders or endorsements; nor, after the first year of its operation, shall any such corporation use for administrative expenses more than twenty per cent of its gross collections without first having obtained the approval of the commissioner. No such corporation shall include in its name the words "insurance", "casualty", "surety", "health and accident", "mutual", or any other words descriptive of the insurance or surety business; nor shall such name be so similar to that of any insurance or surety company, which was doing business in the state when such corporation was formed, as to tend, in the opinion of the insurance commissioner, to confuse the public.

The insurance commissioner, or his accredited examiners shall, at least once in every four years, visit every such corporation, and thoroughly examine its financial condition and shall have free access to all books, papers and documents relating to the business of the corporation, and may administer oaths and compel the attendance of witnesses, including any officer, agent or employee of the corporation, in connection with any inquiry by him concerning the affairs or condition of the corporation. All the expenses of such examination shall be borne by the corporation examined.

The insurance commissioner shall pass upon the actuarial soundness of the schedule of rates to be charged subscribers and fees to be paid hospitals and physicians by every such corporation. If in his opinion the schedule

37 of rates and fees is not actuarially sound, the schedule
38 shall be returned to the corporation, together with a state-
39 ment setting forth the reasons for the disapproval. If the
40 corporation fails to submit an approved revised schedule
41 within sixty days after the schedule is returned to it, the
42 insurance commissioner shall fix such rates or fees as will
43 in his opinion render the service plan actuarially sound.
44 On or before the first day of March of each year, every
45 such corporation shall file with the insurance commis-
46 sioner an annual report for the preceding calendar year,
47 in such form as may be prescribed by him. Such report
48 shall show the financial condition of the corporation on
49 the last day of the preceding year, and shall be verified
50 by at least two of the principal officers of the corporation.



CHAPTER 34

(House Bill No. 233—By Mr. Meadows)

AN ACT to amend and reenact section seven, article thirteen, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to required provisions in contracts made by nonprofit hospital and nonprofit medical service corporations with hospitals and physicians, providing for the proration of available funds and the determination of the amounts to be prorated based upon the third month next preceding the month of accounting.

[Passed March 9, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 13. Hospital Service Corporations and Medical Service Corporations.

Section

7. Required provisions in contracts made by the corporation with hospitals and physicians.

Be it enacted by the Legislature of West Virginia:

That section seven, article thirteen, chapter thirty-one of

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

Section 7. *Required Provisions in Contracts Made by the Corporation with Hospitals and Physicians.*—Each contract made by the corporation with participating hospitals and physicians shall contain the following provisions:

(1) That the hospital or physician will render to any subscriber such service as he may be entitled to under the terms and conditions of the contract issued to the subscriber by the corporation.

(2) That in submitting bills to the corporation for services rendered to subscribers under the terms of their contract, the hospital or physicians will make only such charges as are set forth in an agreed schedule of fees to be paid by the corporation.

(3) That, in case of a deficit in available funds of the corporation, each participating hospital or physician will, on the basis stated in this section, accept a pro rata share of available funds in full settlement of any bill submitted.

On or before the twentieth day of each month, every corporation shall make an accounting with all participating hospitals and physicians, at which time all bills incurred during the third month next preceeding the month of accounting to be paid in full or prorated and paid to the extent of available funds. On or before the first day of each April, every corporation shall make a special accounting, at which time the prorated settlements for any bills incurred during the preceding calendar year shall be adjusted, and any deficits thereon shall be made up to the extent of available funds. At such annual accounting, settlements with all participating hospitals or physicians shall be equalized for the entire preceding year.

Any surplus remaining after an annual accounting may be used by a corporation, upon an affirmative vote of a majority of its board of directors, for the following purposes, in the order of priority stated below:

(1) To liquidate on a pro rata basis any losses incurred

38 by hospitals or physicians upon the settlement of bills in
39 previous years.

40 (2) To return the original contributions for working
41 capital, or any part thereof on a pro rata basis.

42 (3) To reduce rates charged subscribers, or to expand
43 services rendered them.

CHAPTER 35

(House Bill No. 162—By Mr. Davis)

AN ACT to amend and reenact section three-a, article five, chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by section eleven, chapter eighty-two, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, relating to the salary of the warden of the West Virginia penitentiary.

[Passed March 10, 1951; in effect from passage. Approved by the Governor.]

Article 5. The Penitentiary.

Section

3-a. Salary of warden.

Be it enacted by the Legislature of West Virginia:

That section three-a, article five, chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by section eleven, chapter eighty-two, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, be amended and reenacted to read as follows:

Section 3-a. *Salary of Warden.*—The salary of the warden of the West Virginia penitentiary shall be fixed by the board of control, not to exceed five thousand five hundred dollars per annum.

CHAPTER 36

(House Bill No. 155—By Mr. Davis)

AN ACT to amend and reenact section twenty-seven-a, article five, chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to extra good time allowance for certain convicts in the West Virginia penitentiary.

[Passed February 15, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 5. The Penitentiary.

Section

27-a. Extra good time allowance for certain convicts.

Be it enacted by the Legislature of West Virginia:

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

Section 27-a. *Extra Good Time Allowance for Certain Convicts.*—The warden may, with the approval of the governor, allow, in addition to that now permitted by law, such good time to convicts, except life prisoners, working either outside or inside the walls of the penitentiary, as he may deem proper: *Provided, however,* That the same shall not exclude those who are physically or mentally incapacitated from working, from receiving such good time allowances.

CHAPTER 37

(House Bill No. 153—By Mr. Davis)

AN ACT to amend and reenact section thirty-one, article five, chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to mentally diseased convicts.

[Passed February 14, 1951: in effect ninety days from passage. Approved by the Governor.]

Article 5. The Penitentiary.

Section

31. Mentally diseased convicts.

Be it enacted by the Legislature of West Virginia:

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

Section 31. *Mentally Diseased Convicts.*—When any
2 convict in any of the state's prisons becomes mentally ill
3 before his or her term of sentence expires, it shall be the
4 duty of the warden or superintendent of such prison to
5 notify the board of control which in turn shall cause said
6 convict to be transferred to the department for the crim-
7 inal mentally ill at the Weston state hospital. It shall then
8 be the duty of the examining board of the Weston state
9 hospital to observe said convict for a period of thirty days.
10 If it be determined that said convict is not mentally dis-
11 eased he or she shall forthwith be returned to prison. If
12 it be determined that such convict is mentally diseased
13 then the examining board shall proceed in accordance with
14 section three, article four, chapter twenty-seven of the
15 code of West Virginia.

16 When it is determined that such mentally diseased con-
17 vict has recovered he or she shall be returned forthwith
18 to prison. Any time spent in the Weston state hospital
19 shall be computed as part of the term for which he or she
20 was sentenced. If the sentence of such convict expire
21 while said convict is at the Weston state hospital then
22 upon his or her recovery he or she shall be discharged
23 from said hospital in accordance with section seven, ar-
24 ticle four, chapter twenty-seven of the code of West Vir-
25 ginia.

CHAPTER 38

(House Com. Sub. for Eng. Senate Bill No. 66—Originating in the House Committee on the Judiciary)

AN ACT to amend and reenact section three-a, article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the powers of county courts with respect to improvements outside of municipalities including construction of waterworks, the laying of sanitary sewer lines and assessment of the cost thereof, the improvements of streets, alleys and sidewalks and assessment of the cost thereof.

[Passed March 10, 1951: in effect ninety days from passage. Approved by the Governor.]

Article 1. County Courts Generally.

Section

3-a. Powers with respect to construction of waterworks, sewers, sewage disposal plants, improvement of streets, alleys and sidewalks and the assessment of the cost of sanitary sewers and improved streets.

Be it enacted by the Legislature of West Virginia:

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

Section 3-a. *Powers With Respect to Construction of*
2 *Waterworks, Sewers, Sewage Disposal Plants, Improve-*
3 *ment of Streets, Alley and Sidewalks and the Assessment*
4 *of the Cost of Sanitary Sewers and Improved Streets.—*
5 In addition to all other powers and duties now conferred
6 by law upon county courts, such courts are hereby au-
7 thorized and empowered to install, construct, repair,
8 maintain and operate water works, water mains, sewer
9 lines and sewage disposal plants in connection therewith
10 within their respective counties: *Provided*, That the coun-
11 ty court of Webster is authorized to expend county funds
12 in the opening of, and upkeep of, a sulphur well now sit-
13 uate on county property: *Provided*, That such authority
14 and power as herein conferred upon county courts shall

15 not extend into the territory within any municipal corpo-
16 ration: *Provided, however,* That any county court is here-
17 by authorized to enter into contracts or agreements with
18 any municipality within the county, or with a municipality
19 in an adjoining county, with reference to the exercise of
20 the powers vested in such court by this section.

21 In addition to the foregoing, the county court shall have
22 the power to improve streets, sidewalks and alleys and lay
23 sewers as follows: upon petition in writing duly verified,
24 of the persons, firms or corporations owning not less than
25 sixty per cent of the frontage of the lots abutting on both
26 sides of any street or alley, between any two cross-streets,
27 or between a cross-street and an alley in any unincorpor-
28 rated community, requesting the county court so to do ac-
29 cording to plans and specifications submitted with such pe-
30 tition and offering to have their property so abutting as-
31 sessed not only with their portion of the cost of such im-
32 provement abutting upon their respective properties, but
33 also offering to have their said properties proportionately
34 assessed with the total cost of paving, grading and curbing
35 the intersections of such streets and alleys, the county
36 court may cause any such street or alley to be improved or
37 paved or repaved substantially with the materials and ac-
38 cording to such plans and specifications as hereinafter
39 provided.

40 The total cost including labor and materials, engineer-
41 ing, and legal service of grading and paving, curbing, im-
42 proving any such street or alley (including the cost of the
43 intersections) and assessing the cost thereof shall be borne
44 by the owners of the land abutting upon such street or al-
45 ley when the work is completed and accepted according to
46 the following plan, that is to say, payment is to be made by
47 all landowners on either side of such street or alley so
48 paved or improved, in such proportion of the total cost as
49 the frontage in feet of each owner's land so abutting bears
50 to the total frontage of all the land so abutting on such
51 street or alley, so paved or improved as aforesaid, which
52 computation shall be made by the county engineer or sur-
53 veyor and certified by him to the clerk of said court.

54 Upon petition in writing, duly verified, of the persons,
55 firms or corporations owning not less than sixty per cent of

56 the frontage of the lots abutting on one side of any street
57 between any two cross-streets or between a cross-street
58 and an alley in any unincorporated community requesting
59 the county court so to do according to plans and specifica-
60 tions submitted with such petition and offering to have
61 their property so abutting assessed with the total cost
62 thereof, the county court may cause any sidewalk to be im-
63 proved, or paved, or repaved, substantially with such ma-
64 terials according to such plans and specifications and the
65 total cost including labor, materials, engineering and legal
66 service of improving, grading, paving, or repaving such
67 sidewalk and assessing the cost thereof shall, when the
68 work is completed and accepted, be assessed against the
69 owners of the lots or fractional part of lots abutting on
70 such sidewalk, in such portion of the total cost as the front-
71 age in feet of each owner's land so abutting bears to the to-
72 tal frontage of all lots so abutting on such sidewalk so
73 paved or improved, as aforesaid, which computation shall
74 be made by the county engineer or surveyor and certified
75 by him to the clerk of said court.

76 Upon petition in writing, duly verified, of the persons,
77 firms or corporations owning not less than sixty per cent of
78 the frontage of the lots abutting on both sides of any street
79 or alley, in any unincorporated community requesting the
80 county court so to do according to plans and specifications
81 submitted with such petition and offering to have their
82 property so abutting assessed with the cost, as hereinafter
83 provided, the county court may lay and construct sanitary
84 sewers in any street or alley with such materials and sub-
85 stantially according to such plans and specifications and
86 when such sewer is completed and accepted, the county
87 engineer or surveyor shall report to the county court, in
88 writing, the total cost of such sewer and a description of
89 the lots and lands, as to the location, frontage, depth and
90 ownership liable for such sewer assessment, so far as the
91 same may be ascertained, together with the amount charge-
92 able against each lot and owner, calculated in the follow-
93 ing manner: The total cost of constructing and laying the
94 sewer including labor, materials, legal and engineering
95 services shall be borne by the owners of the land abutting
96 upon the streets and alleys, in which the sewer is laid ac-

97 cording to the following plan: payment is to be made by
98 each landowner on either side of such portion of a street or
99 alley in which such sewer is laid, in such proportions as the
100 frontage of his land upon said street or alley bears to the
101 total frontage of all lots so abutting on such street or alley.
102 In case of a corner lot frontage is to be measured along the
103 longest dimension thereof abutting on such street or alley
104 in which such sewer is laid. Any lot having a depth of two
105 hundred feet or more, and fronting on two streets, or al-
106 leys, one in the front and one in the rear of said lot, shall
107 be assessed on both of said streets or alleys if a sewer is
108 laid in both such streets and alleys. Where a corner lot has
109 been assessed on the end it shall not be assessed on the side
110 for the same sewer, and where it has been assessed on the
111 side it shall not be assessed on the end for the same sewer.

112 If the petitioners request the improvement of any such
113 street, alley, or sidewalk in a manner which does not re-
114 quire the permanent paving, or repaving, thereof, the
115 county court shall likewise have authority to improve
116 such street, alley or sidewalk, substantially as requested
117 in such petition, and the total cost thereof including
118 labor, materials, engineering and legal service shall be
119 assessed against the abutting owners in the proportion
120 which the frontage of their lots abutting upon such street,
121 alley, or sidewalk bears to the total frontage of all lots
122 abutting upon such street, alley or sidewalk, so improved.

123 Upon the filing of such petition and before work is
124 begun, or let to contract, the county court shall fix a
125 time and place for hearing protests and shall require the
126 petitioners to post notice of such hearing in at least two
127 conspicuous places on the street, alley or sidewalk af-
128 fected, and to give notice thereof by publication in a
129 newspaper of general circulation in the county in which
130 the improvement is to be made at least once before said
131 hearing, which hearing shall be held not less than ten
132 nor more than thirty days after the filing of such petition.

133 At the time and place set for hearing protests the county
134 court may examine witnesses and consider other evidence
135 to show that said petition was filed in good faith; that the
136 signatures thereto are genuine; and that the proposed im-
137 provement, paving, repaving, or sewerage, will result in

138 special benefits to all owners of property abutting on said
139 street, alley or sidewalk in an amount at least equal in
140 value to the cost thereof. The court shall within ten days
141 thereafter enter a formal order stating its decision and if
142 the petition be granted shall proceed after due advertise-
143 ment, reserving the right to reject any or all bids, let a con-
144 tract for such work and materials to the lowest respon-
145 sible bidder.

146 Any owner of property abutting upon said street, alley
147 or sidewalk aggrieved by such order shall have the right
148 to review the same on the record made before the county
149 court by filing within ten days after the entry of such
150 order, a petition with the clerk of the circuit court as-
151 signing errors and giving bond in a penalty to be fixed
152 by the circuit court to pay any costs or expenses incurred
153 upon such appeal should the order of the county court be
154 affirmed. The circuit court shall proceed to review the
155 matter as in other cases of appeal from the county court:

156 All assessments made under this section shall be certi-
157 fied to the county clerk and recorded in a proper trust deed
158 book and indexed in the name of the owner of any lot or
159 fractional part of a lot so assessed. The assessment so made
160 shall be a lien on the property liable therefor, and shall
161 have priority over all other liens except those for taxes,
162 and may be enforced by suit in equity in the name of the
163 contractor performing the work in the same manner as
164 provided for other liens for permanent improvements.
165 Such assessment shall be paid in not more than ten equal
166 annual installments, bearing interest at the rate of six per
167 cent per annum as follows: the first installment, together
168 with interest on the whole assessment, shall be paid not
169 later than one year from the date of such assessment, and
170 a like installment with interest on the whole amount
171 remaining unpaid each year thereafter until the principal
172 and all interest shall have been paid in full.

173 The county court may issue coupon-bearing certificates
174 payable in not more than ten equal annual installments
175 for the amount of such assessment and the interest there-
176 on, to be paid by the owner of any lot or fractional part
177 thereof, fronting on such street, alley, or sidewalk which
178 has been improved, paved, or repaved or in which a

179 sewer has been laid, as aforesaid, and the holder of said
180 certificate shall have a lien having priority over all other
181 liens except those for taxes upon the lot or part of lot
182 fronting on such street, alley, or sidewalk, and such cer-
183 tificate shall likewise draw interest from the date of
184 assessment at the rate of six per cent per annum, and
185 payment thereof may be enforced in the name of the
186 holder of said certificate by proper suit in equity in any
187 court having jurisdiction to enforce such lien.

188 Certificates authorized under this section may be issued,
189 sold or negotiated to the contractor doing the work, or to
190 his assignee, or to any person, firm, or corporation, pro-
191 vided that the county court in issuing such certificates
192 shall not be held as a guarantor, or in any way liable for
193 the payment thereof. Certificates so issued shall contain
194 a provision to the effect that in the event of default in
195 the payment of any one or more of said installments,
196 when due, said default continuing for a period of sixty
197 days, all unpaid installments shall thereupon become
198 due and payable, and the owner of said certificates may
199 proceed to collect the unpaid balance thereof in the
200 manner hereinbefore provided.

201 In all cases where petitioners request paving or re-
202 paving, or the laying of sewers under the provisions of
203 this section, the county court shall let the work of grad-
204 ing, paving, curbing or sewerage to contract to the lowest
205 responsible bidder. In each such case the county court
206 shall require a bond in the penalty of the contract price
207 guaranteeing the faithful performance of the work and
208 each such contract shall require the contractor to repair
209 any defects due to defective workmanship or materials
210 discovered within one year after the completion of the
211 work.

212 Upon presentation to the clerk of the county court of
213 the certificates evidencing the lien, duly cancelled and
214 marked paid by the holder thereof, or evidence of pay-
215 ment of the assessment if no certificates have been issued,
216 said clerk shall execute and acknowledge a release of the
217 lien which release may be recorded, as other releases in
218 the office of the clerk of the county court.

219 The owner of any lot or fractional part of a lot abutting

220 upon such street, alley or sidewalk so improved, paved,
221 repaved or sewered shall have the right to anticipate the
222 payment of any such assessment or certificate by paying
223 the principal amount due, with interest accrued thereon
224 to date of payment, and also to pay the entire amount,
225 without interest at any time, within thirty days following
226 the date of the assessment.

227 Nothing in this section contained shall be construed to
228 authorize the county courts of the various counties to
229 acquire any road construction, ditching, or paving equip-
230 ment. The county courts are hereby authorized to rent
231 from the state road commissioner or any other person,
232 firm or corporation such equipment as may be necessary
233 from time to time, to improve any street or sidewalk
234 which petitioners do not desire to have paved in a per-
235 manent manner, and for such purpose to employ such
236 labor as may be necessary but no expense connected
237 therewith shall be charged to any county funds.

238 No county court shall be under any duty after the
239 paving, repaving or improvement of any street, alley
240 or sidewalk or the laying of any sanitary sewer under
241 the provisions of this section, to maintain or repair the
242 same, but any such court shall have authority upon
243 petition duly verified signed by at least sixty per cent of
244 the owners of property abutting upon any improvement
245 made under this section to maintain or repair such im-
246 provement or sewer and to assess the cost thereof against
247 the owners of such abutting property in the same manner
248 as the cost of the original improvement.

CHAPTER 39

(Senate Bill No. 225—By Mr. Mitchell)

AN ACT to amend article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be designated section three-b, relating to the power of the county court to purchase radio mobile communication equipment and appliances for use by county sheriffs and their deputies.

[Passed March 5, 1951: in effect ninety days from passage. Approved by the Governor.]

Article 1. County Courts Generally.

Section

3-b. Powers with respect to the purchase, installation and maintenance of radio mobile communication equipment and appliances for use by county sheriffs and their deputies.

Be it enacted by the Legislature of West Virginia:

That article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section to be designated section three-b to read as follows:

Section 3-b. *Powers with Respect to the Purchase, Installation and Maintenance of Radio Mobile Communication Equipment and Appliances for Use by County Sheriffs and Their Deputies.*—In addition to all other powers and duties now conferred by law upon county courts, such courts are hereby authorized and empowered to purchase, install and maintain radio mobile communication equipment and appliances for the use of the sheriff and his deputies in their respective counties and to pay therefor and for the maintenance thereof out of the county treasury.

CHAPTER 40

(Senate Bill No. 226—By Mr. Mitchell)

AN ACT to amend article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be designated section three-c, relating to the power of the county court to purchase equipment, appliances and supplies for copying photographically any deed or other writing, plats or maps.

[Passed March 5, 1951: in effect ninety days from passage. Approved by the Governor.]

Article 1. County Courts Generally.**Section**

3-c. Powers with respect to the purchase, installation and maintenance of photo copying equipment, appliances and supplies.

Be it enacted by the Legislature of West Virginia:

That article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section to be designated section three-c to read as follows:

Section 3-c. *Powers With Respect to the Purchase, Installation and Maintenance of Photo Copying Equipment, Appliances and Supplies.*—In addition to all other powers and duties now conferred by law upon county courts, such courts are hereby authorized and empowered to purchase, install and maintain photo copying equipment, appliances and supplies designed for copying photographically any deed or other writing, or plats or maps, for use by the clerks of the several county courts and to pay therefor and for the maintenances thereof out of the county treasury. The actions of the county courts in heretofore purchasing and maintaining such equipment is now ratified.

CHAPTER 41

(Com. Sub. for Senate Bill No. 33—Originating in the Senate Committee on the Judiciary)

AN ACT to amend article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be designated section three-d, relating to establishment, maintenance and levy therefor by any county court of fire prevention units for prevention of fires in the county, and providing for financial aid and levy therefor by county courts to public fire protection facilities operated in the county for general benefit of public in prevention of fires.

[Passed February 22, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 1. County Courts Generally.

Section

3-d. Powers of county court with respect to levy, establishment and operation of fire prevention units, and contributions therefor, and levy therefor.

Be it enacted by the Legislature of West Virginia:

That article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section to be designated section three-d to read as follows:

Section 3-d.—*Powers of County Court with Respect to Levy, Establishment and Operation of Fire Prevention Units, and Contributions Therefor, and Levy Therefor.*—
The county court in any county is authorized to levy for and may erect, maintain and operate fire stations and fire prevention units and equipment therefor in the county: *Provided, however,* That should a county court establish a separate fire protection unit in any city in West Virginia which is now operating under the provisions of the State Civil Service Act for paid fire departments then such new unit shall be operated in accordance with the provisions of said Civil Service Act. Any county court may render financial aid to any one or more public fire protection facilities in operation in the county for the general benefit of the public in the prevention of fires.

CHAPTER 42

(House Bill No. 85—By Mr. Hutton)

AN ACT to amend and reenact section five and sections five-(one) to section five-(fifty-four), inclusive, article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by

chapter fourteen, acts of the Legislature, regular session, one thousand nine hundred forty-one, and as further amended by chapter twenty-two, acts of the Legislature, regular session, one thousand nine hundred forty-three, and as further amended by chapter thirty-three, acts of the Legislature, regular session, one thousand nine hundred forty-five, and as further amended by chapter forty-five, acts of the Legislature, regular session, one thousand nine hundred forty-seven, and as last amended and reenacted by chapter twenty-seven, acts of the Legislature, regular session, one thousand nine hundred forty-nine, relating to compensation of county commissioners for services other than services in court.

[Passed March 9, 1951: in effect ninety days from passage. Approved by the Governor.]

Article 1. County Courts Generally.

Section

5. Duties of county commissioners and payment for services other than services in court.
5-(1) to 5-(54). Salaries of county commissioners of the various counties of the state.
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Be it enacted by the Legislature of West Virginia:

That section five and sections five-(one) to section five-(fifty-four), inclusive, article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter fourteen, acts of the Legislature, regular session, one thousand nine hundred forty-one, and as further amended by chapter twenty-two, acts of the Legislature, regular session, one thousand nine hundred forty-three, and as further amended by chapter thirty-three, acts of the Legislature, regular session, one thousand nine hundred forty-five, and as further amended by chapter forty-five, acts of the Legislature, regular session, one thousand nine hundred forty-seven, and as last amended and reenacted by chapter twenty-seven, acts of the Legislature, regular session, one thousand nine hundred forty-nine, be amended and reenacted to read as follows:

Section 5. Duties of County Commissioners and Pay-

2 *ment for Services other Than Services in Court.*—It shall
3 be the duty of the county commissioners of each county
4 to visit each quarter and inspect institutions within their
5 county for housing and caring for the poor, to inspect
6 the jails, and to arrange for the feeding and care of the
7 prisoners therein, and to investigate the conditions of the
8 poor within their county not housed within such insti-
9 tutions; to visit detention homes for children within
10 their counties, if any, and to visit and inspect bridges and
11 bridge approaches under their control; to provide for and
12 have general supervision over the repair and maintenance
13 of the county courthouse, jails, houses for the poor and
14 other county property, so as to prevent the undue deter-
15 ioration thereof; to supervise and control the mainten-
16 ance and operation of airport or airports owned and/or
17 operated by the county court; and to supervise and con-
18 trol the purchase, erection and maintenance of airport
19 facilities; to supervise and control the purchase of fur-
20 niture, fixtures and equipment, and janitors' and other
21 supplies, for their county; to attend the annual meeting
22 of county assessors, and such district meetings as may
23 be called by the state tax commissioner, on matters per-
24 taining to the work of the county assessors and county
25 courts as boards of review and equalization; to review
26 and equalize the assessments made by the assessors; to
27 inspect and review the lists of property, both real and
28 personal, made up by the assessor and his deputies for
29 taxable purposes, and to point out to the assessor any
30 property, real or personal, which the said assessors of
31 their respective counties may have overlooked or omitted
32 to place on said tax lists; to call to the attention of the
33 assessor all real estate or personal property belonging
34 to churches, lodges, schools or other charitable institu-
35 tions which may have been overlooked or omitted by
36 the assessor or his deputies in making up his lists of prop-
37 erty for entry on the land and personal property books,
38 to cooperate with the county public assistance council and
39 supervise the general management of the fiscal affairs
40 and business of each county.

41 Compensation shall be allowed and paid out of the
42 county treasury, in the same manner as salaries are paid,

43 to each county commissioner of each county (except as
44 otherwise provided by law for the county of Ohio), for
45 services performed for such county concerning the visit-
46 ing of the poor, inspection of jails, bridges and bridge ap-
47 proaches, and for visiting detention homes for children;
48 and for providing for and supervising the repair and
49 maintenance of the county courthouse, jails, houses for
50 the poor, and other county property, for supervising and
51 controlling the maintenance and operation of airport or
52 airports owned and/or operated by the county court; and
53 supervising and controlling the purchase, erection and
54 maintenance of air port facilities; and for supervising and
55 controlling the purchase of furniture, fixtures and equip-
56 ment and janitors' and other supplies of their county;
57 and for attending the annual meeting of assessors and
58 such district meetings as may be called by the state tax
59 commissioner, on matters pertaining to the work of asses-
60 sors and county courts as boards of review and equaliza-
61 tion; for reviewing and equalizing the assessments made
62 by the assessors; for inspecting and reviewing the lists
63 of property, both real and personal, made up by the
64 assessor and his deputies for taxable purposes, and for
65 pointing out to the assessor any property, real or personal
66 which the said assessors of their respective counties may
67 have overlooked or omitted to place on said tax lists; for
68 calling to the attention of the assessor all real estate or
69 personal property belonging to churches, lodges, schools
70 or other charitable institutions which may have been
71 overlooked or omitted by the assessor or his deputies in
72 making up his lists of property for entry on the land and
73 personal property books; and for duties of the county
74 commissioners in cooperating with the county public
75 assistance council, and for supervising the general man-
76 agement of the fiscal affairs and business of each county,
77 within their counties, and other business by such com-
78 missioners, in addition to compensation for services in
79 court, the sums of money hereinafter provided in the
80 following sections, five-(one) to five-(fifty-four), inclu-
81 sive.

2 Sec. 5-(1). *Barbour County*.—For the county of Bar-
bour, seventy-five dollars per month.

2 Sec. 5-(2). *Berkeley County*.—For the county of Berke-
3 ley, the president of the court seventy-five dollars and the
3 other members of the court fifty dollars per month.

2 Sec. 5-(3). *Boone County*.—For the county of Boone,
2 the president of the court eighty-five dollars and the other
3 members of the court seventy-five dollars per month.

2 Sec. 5-(4). *Braxton County*.—For the county of Brax-
2 ton, sixty dollars per month.

2 Sec. 5-(5). *Brooke County*.—For the county of Brooke,
2 seventy-five dollars per month.

2 Sec. 5-(6). *Cabell County*.—For the county of Cabell,
2 two hundred dollars per month.

2 Sec. 5-(7). *Calhoun County*.—For the county of Cal-
2 houn, thirty-five dollars per month.

2 Sec. 5-(8). *Clay County*.—For the county of Clay,
2 forty-five dollars per month.

2 Sec. 5-(9). *Doddridge County*.—For the county of Dod-
2 dridge, thirty-five dollars per month.

2 Sec. 5-(10). *Fayette County*.—For the county of Fay-
2 ette, two hundred fifty dollars per month.

2 Sec. 5-(11). *Gilmer County*.—For the county of Gilmer,
2 fifty dollars per month.

2 Sec. 5-(12). *Grant County*.—For the county of Grant,
2 thirty dollars per month.

2 Sec. 5-(13). *Greenbrier County*.—For the county of
2 Greenbrier, seventy-five dollars per month.

2 Sec. 5-(14). *Hampshire County*.—For the county of
2 Hampshire, fifty dollars per month.

2 Sec. 5-(15). *Hancock County*.—For the county of Han-
2 cock, one hundred dollars per month.

2 Sec. 5-(16). *Hardy County*.—For the county of Hardy,
2 fifty dollars per month.

2 Sec. 5-(17). *Harrison County*.—For the county of Har-
2 rison, two hundred twenty-five dollars per month.

2 Sec. 5-(18). *Jackson County*.—For the county of Jack-
son, seventy-five dollars per month.

2 Sec. 5-(19). *Jefferson County*.—For the county of Jef-
3 ferson, the president of the court seventy-five dollars and
the other members of the court fifty dollars per month.

2 Sec. 5-(20). *Kanawha County*.—For the county of Ka-
nawha, three hundred fifty dollars per month.

2 Sec. 5-(21). *Lewis County*.—For the county of Lewis,
one hundred dollars per month.

2 Sec. 5-(22). *Lincoln County*.—For the county of Lin-
coln, one hundred twenty-five dollars per month.

2 Sec. 5-(23). *Logan County*.—For the county of Logan,
two hundred twenty-five dollars per month.

2 Sec. 5-(24). *Marion County*.—For the county of Marion,
3 the president of the county court two hundred fifty dol-
lars and the other members of the court two hundred
4 twenty-five dollars per month.

2 Sec. 5-(25). *Marshall County*.—For the county of Mar-
shall, one hundred dollars per month.

2 Sec. 5-(26). *Mason County*.—For the county of Mason,
seventy-five dollars per month.

2 Sec. 5-(27). *McDowell County*.—For the county of Mc-
Dowell, two hundred dollars per month.

2 Sec. 5-(28). *Mercer County*.—For the county of Mercer,
3 the president of the court two hundred dollars and the
other members of the court one hundred seventy-five
4 dollars per month.

2 Sec. 5-(29). *Mineral County*.—For the county of Min-
eral, fifty dollars per month.

2 Sec. 5-(30). *Mingo County*.—For the county of Mingo,
one hundred seventy-five dollars per month.

2 Sec. 5-(31). *Morgan County*.—For the county of Mor-
gan, fifty dollars per month.

2 Sec. 5-(32). *Monroe County*.—For the county of Mon-
roe, twenty-five dollars per month.

2 Sec. 5-(33). *Monongalia County*.—For the county of
2 Monongalia, two hundred dollars per month.

2 Sec. 5-(34). *Nicholas County*.—For the county of Nicho-
2 las, fifty dollars per month.

2 Sec. 5-(35). *Pendleton County*.—For the county of
2 Pendleton, thirty dollars per month.

2 Sec. 5-(36). *Pleasants County*.—For the county of
2 Pleasants, thirty-five dollars per month.

2 Sec. 5-(37). *Pocahontas County*.—For the county of
2 Pocahontas, twenty-five dollars per month.

2 Sec. 5-(38). *Preston County*.—For the county of Pres-
2 ton, the president of the county court fifty-five dollars,
3 and other members of the court forty dollars per month.

2 Sec. 5-(39). *Putnam County*.—For the county of Put-
2 nam, fifty dollars per month.

2 Sec. 5-(40). *Raleigh County*.—For the county of Ra-
2 leigh, the president of the county court two hundred dol-
3 lars per month and other members of the court one hun-
4 dred ninety dollars per month.

2 Sec. 5-(41). *Randolph County*.—For the county of Ran-
2 dolf, seventy-five dollars per month.

2 Sec. 5-(42). *Ritchie County*.—For the county of Ritchie,
2 fifty dollars per month.

2 Sec. 5-(43). *Roane County*.—For the county of Roane,
2 forty dollars per month.

2 Sec. 5-(44). *Summers County*.—For the county of Sum-
2 mers, forty-five dollars per month.

2 Sec. 5-(45). *Taylor County*.—For the county of Taylor,
2 forty-five dollars per month.

2 Sec. 5-(46). *Tucker County*.—For the county of Tucker,
2 twenty-five dollars per month.

2 Sec. 5-(47). *Tyler County*.—For the county of Tyler,
2 fifty dollars per month.

Sec. 5-(48). *Upshur County*.—For the county of Upshur,
2 fifty dollars per month.

Sec. 5-(49). *Wayne County*.—For the county of Wayne,
2 one hundred fifty dollars per month.

Sec. 5-(50). *Webster County*.—For the county of Web-
2 ster, fifty dollars per month.

Sec. 5-(51). *Wetzel County*.—For the county of Wetzel,
2 sixty-five dollars per month.

Sec. 5-(52). *Wirt County*.—For the county of Wirt,
2 thirty dollars per month.

Sec. 5-(53). *Wood County*.—For the county of Wood,
2 two hundred dollars per month.

Sec. 5-(54). *Wyoming County*.—For the county of Wy-
2 oming, one hundred dollars per month.



CHAPTER 43

(House Bill No. 211—By Mr. Wyson)

AN ACT to amend article three, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding four sections, to be designated sections fourteen, fifteen, sixteen and seventeen, authorizing counties to procure and operate county public hospital facilities on a self-sustaining basis, and to issue revenue bonds in connection therewith payable exclusively from revenues from such operation.

[Passed February 16, 1951; in effect from passage. Approved by the Governor.]

Article 3. County Property.

Section

14. Authority to acquire and operate hospitals; financing.
15. Board of hospital trustees.
16. Operation with bonds outstanding.
17. Construction.

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, as amended, be amended by adding four sections, to be designated sections fourteen, fifteen, sixteen and seventeen, to read as follows:

Section 14. *Authority to Acquire and Operate Hospitals; Financing.*—The county court of any county is hereby authorized and empowered to acquire by purchase or construction and to thereafter own, equip, furnish, operate, improve and extend a county public hospital with all appurtenances, including the necessary real estate as a site therefor. Any such county public hospital may include a nurses home and nurses training school. For the purpose of paying all or any part of the cost not otherwise provided of acquiring, completing, equipping, furnishing, improving or extending such hospital, such county court is hereby authorized and empowered by order duly entered of record to issue and sell the negotiable revenue bonds of such county, which shall be payable solely and only from all or such part of the net revenues from the operation of such county public hospital as may be provided by said order; and each such revenue bond so issued shall contain a recital that payment or redemption of the bond and payment of the interest thereon is secured by the revenues pledged therefor, and that such bond does not constitute an indebtedness of such county or the county court thereof within the meaning of any constitutional or statutory limitation or provision. Such revenue bonds may bear such date or dates, may mature at such time or times not exceeding thirty-four years from their respective dates, may bear interest at such rate or rates not exceeding five per cent per annum, may be of such denomination or denominations, may be in such form, may carry such registration privileges, may be made subject to such terms of redemption with or without premium, and may contain such other terms and covenants not inconsistent with this act as may be provided in such order. Such revenue bonds shall be exempt from taxation by the state of West Virginia and the other taxing bodies of the state. In deter-

36 mining the amount of revenue bonds to be issued, there
37 may be included any expenses in connection with and
38 incidental to the issuance and sale of bonds and for the
39 preparation of plans, specifications, surveys and estimates,
40 interest during the estimated construction period and for
41 six months thereafter, and a reasonable amount for
42 working capital and prepaid insurance. Such bonds may
43 be sold in such manner, at such times and upon such
44 terms as may be determined by the county court to be
45 for the best interests of the county: *Provided*, That no
46 bonds may be sold upon terms which will result in a net
47 interest cost of more than six per cent per annum com-
48 puted to maturity of the bonds according to standard
49 tables of bond values. There may be included in any
50 such order authorizing the issuance of revenue bonds
51 such covenants, stipulations and conditions as may be
52 deemed necessary with respect to the expenditure of the
53 bond proceeds, the operation and maintenance of the
54 county public hospital and the custody and application
55 of the revenues from such operation. The holder of any
56 bond or bonds may, by mandamus or other appropriate
57 proceedings, require and compel performance of any
58 duties imposed by law in connection with the hospital
59 or any covenant, stipulation or condition that may have
60 been expressed in such bond order.

2 Sec. 15. *Board of Hospital Trustees.*—The administra-
3 tion and management of any county public hospital
4 acquired, equipped, furnished, improved or extended
5 under section fourteen of this article shall be vested in
6 a board of hospital trustees, consisting of not less than
7 five members appointed by the county court. Prior to the
8 issuance of any bonds under the provisions of section four-
9 teen of this article, the county court shall appoint two of
10 such trustees for a term of two years, two trustees for a
11 term of four years, and one trustee for a term of six years
12 from the first day of the month during which appointed.
13 Upon the expiration of such initial appointments, the term
14 of each new appointee shall be six years, except that any
15 person appointed to fill a vacancy occurring prior to the
expiration of the term for which his predecessor was ap-

16 pointed shall be appointed only for the remainder of such
17 term. Any trustee shall be eligible for reappointment
18 upon the expiration of his term. The trustees shall receive
19 no compensation for their services, but shall be reim-
20 bursed for any expenses incurred in the performance of
21 their duties. Any trustee may be removed by the county
22 court for incompetency, neglect of duty or malfeasance in
23 office after an opportunity to be heard at a public hearing
24 before the county court. At the first meeting of the board
25 of trustees, and annually thereafter, it shall organize by
26 designating one of its members as chairman and by ap-
27 pointing a secretary who may, but need not, be a trustee.
28 The sheriff of the county shall be ex officio treasurer of
29 the board.

30 Such board of trustees shall provide for the employ-
31 ment and shall fix the compensation and remove at
32 pleasure all professional, technical and other employees,
33 skilled or unskilled, as it may deem necessary for the
34 operation and maintenance of the hospital; and disburse-
35 ment of funds in such operation and maintenance shall
36 be made only upon order and approval of such board.
37 The board of trustees shall make all rules and regulations
38 governing its meetings and the operation of the hospital.

Sec. 16. *Operation with Bonds Outstanding.*—So long
2 as any revenue bonds remain outstanding under the pro-
3 visions of section fourteen of this article, the hospital
4 and all appurtenances shall be operated and maintained
5 on a revenue producing and self-sustaining basis; and
6 the board of trustees shall charge, collect and account for
7 revenues therefrom which will be sufficient to pay the
8 interest on such bonds as the same becomes due, to create
9 and maintain a sinking fund to pay and retire the prin-
10 cipal at or before maturity, and to pay the costs of op-
11 erating and maintaining the hospital. The order author-
12 izing such bonds shall definitely fix and determine the
13 amount of the revenues which shall be necessary and set
14 apart in a special fund to pay such interest and to pay
15 and retire such principal; and all or such portion of the
16 balance of such revenues as may be necessary shall be
17 set apart in a special fund to pay the costs of operation
18 and maintenance of the hospital.

Sec. 17. *Construction.*—The provisions of sections four-
2 teen, fifteen, and sixteen of this article shall be construed
3 as conferring separate and additional powers as herein
4 set forth and shall be deemed full authority for the acqui-
5 sition, improvement, extension, maintenance and opera-
6 tion of the hospital, and for the issuance and sale of the
7 bonds by this act authorized: *Provided*, That all perti-
8 nent functions, powers and duties of the state department
9 of health shall remain in effect.

CHAPTER 44

(House Bill No. 373—By Mr. Blankenship)

AN ACT to amend and reenact sections one through one- (fifty-
five), article seven, chapter seven of the code of West Vir-
ginia, one thousand nine hundred thirty-one, as amended,
relating to salaries of sheriffs.

[Passed March 10, 1951: in effect ninety days from passage. Approved by the
Governor.]

Article 7. Salaries; Deputies and Assistants and Their Salaries.

Section

1. Salaries of sheriffs.

1-(1) to 1-(55). Salaries of sheriffs of the various counties of the
state.

Be it enacted by the Legislature of West Virginia:

That sections one through one- (fifty-five), article seven, chap-
ter seven of the code of West Virginia, one thousand nine hun-
dred thirty-one, as amended, be amended and reenacted to read
as follows:

Section 1. *Salaries of Sheriffs.*—The annual compensa-
2 tion of the sheriff of each county shall on and after Janu-
3 ary first, one thousand nine hundred fifty-three, be in the
4 amount set forth in sections one- (one) to one- (fifty-five),
5 inclusive, of this article.

Sec. 1-(1). *Barbour County.*—For the county of Bar-
2 bour, three thousand three hundred dollars.

2 Sec. 1-(2). *Berkeley County*.—For the county of Berkeley, four thousand dollars.

2 Sec. 1-(3). *Boone County*.—For the county of Boone, four thousand dollars.

2 Sec. 1-(4). *Braxton County*.—For the county of Braxton, four thousand dollars.

2 Sec. 1-(5). *Brooke County*.—For the county of Brooke, three thousand six hundred dollars.

2 Sec. 1-(6). *Cabell County*.—For the county of Cabell, seven thousand five hundred dollars.

2 Sec. 1-(7). *Calhoun County*.—For the county of Calhoun, two thousand dollars.

2 Sec. 1-(8). *Clay County*.—For the county of Clay, two thousand dollars.

2 Sec. 1-(9). *Doddridge County*.—For the county of Doddridge, two thousand five hundred dollars.

2 Sec. 1-(10). *Fayette County*.—For the county of Fayette, seven thousand five hundred dollars.

2 Sec. 1-(11). *Gilmer County*.—For the county of Gilmer, two thousand four hundred dollars.

2 Sec. 1-(12). *Grant County*.—For the county of Grant, two thousand dollars.

2 Sec. 1-(13). *Greenbrier County*.—For the county of Greenbrier, three thousand six hundred dollars.

2 Sec. 1-(14). *Hampshire County*.—For the county of Hampshire, three thousand dollars.

2 Sec. 1-(15). *Hancock County*.—For the county of Hancock, three thousand eight hundred dollars.

2 Sec. 1-(16). *Hardy County*.—For the county of Hardy, two thousand dollars.

2 Sec. 1-(17). *Harrison County*.—For the county of Harrison, six thousand dollars.

2 Sec. 1-(18). *Jackson County*.—For the county of Jack-
2 son, two thousand four hundred dollars.

2 Sec. 1-(19). *Jefferson County*.—For the county of Jef-
2 ferson, three thousand two hundred dollars.

2 Sec. 1-(20). *Kanawha County*.—For the county of Kan-
2 awha, seven thousand five hundred dollars.

2 Sec. 1-(21). *Lewis County*.—For the county of Lewis,
2 three thousand three hundred dollars.

2 Sec. 1-(22). *Logan County*.—For the county of Logan,
2 seven thousand five hundred dollars.

2 Sec. 1-(23). *Lincoln County*.—For the county of Lincoln,
2 four thousand two hundred dollars.

2 Sec. 1-(24). *Marion County*.—For the county of Marion,
2 six thousand five hundred dollars.

2 Sec. 1-(25). *Marshall County*.—For the county of Mar-
2 shall, three thousand eight hundred dollars.

2 Sec. 1-(26). *Mason County*.—For the county of Mason,
2 three thousand dollars.

2 Sec. 1-(27). *Mercer County*.—For the county of Mercer,
2 six thousand dollars.

2 Sec. 1-(28). *Mineral County*.—For the county of Min-
2 eral, three thousand six hundred dollars.

2 Sec. 1-(29). *Mingo County*.—For the county of Mingo,
2 six thousand dollars.

2 Sec. 1-(30). *Monongalia County*.—For the county of
2 Monongalia, five thousand dollars.

2 Sec. 1-(31). *Monroe County*.—For the county of Monroe,
2 one thousand eight hundred dollars.

2 Sec. 1-(32). *McDowell County*.—For the county of Mc-
2 Dowell, seven thousand dollars.

2 Sec. 1-(33). *Morgan County*.—For the county of Morgan,
2 not less than one thousand five hundred dollars nor more
3 than two thousand dollars, to be fixed by the county court.

2 Sec. 1-(34). *Nicholas County*.—For the county of Nicho-
2 las, three thousand six hundred dollars.

2 Sec. 1-(35). *Ohio County*.—For the county of Ohio, five
2 thousand dollars.

2 Sec. 1-(36). *Pendleton County*.—For the county of Pen-
2 dleton, one thousand six hundred dollars.

2 Sec. 1-(37). *Pleasants County*.—For the county of Pleas-
2 ants, two thousand four hundred dollars.

2 Sec. 1-(38). *Pocahontas County*.—For the county of Po-
2 cahontas, two thousand five hundred dollars.

2 Sec. 1-(39). *Preston County*.—For the county of Pres-
2 ton, three thousand five hundred dollars.

2 Sec. 1-(40). *Putnam County*.—For the county of Putnam,
2 two thousand four hundred dollars.

2 Sec. 1-(41). *Raleigh County*.—For the county of Raleigh,
2 seven thousand dollars.

2 Sec. 1-(42). *Randolph County*.—For the county of Ran-
2 dolph, three thousand six hundred dollars.

2 Sec. 1-(43). *Ritchie County*.—For the county of Ritchie,
2 three thousand dollars.

2 Sec. 1-(44). *Roane County*.—For the county of Roane,
2 two thousand eight hundred dollars.

2 Sec. 1-(45). *Summers County*.—For the county of Sum-
2 mers, three thousand four hundred dollars.

2 Sec. 1-(46.) *Taylor County*.—For the county of Taylor,
2 three thousand dollars.

2 Sec. 1-(47). *Tucker County*.—For the county of Tucker,
2 two thousand seven hundred dollars.

2 Sec. 1-(48). *Tyler County*.—For the county of Tyler,
2 three thousand dollars.

2 Sec. 1-(49). *Upshur County*.—For the county of Upshur,
2 three thousand dollars.

Sec. 1-(50). *Wayne County*.—For the county of Wayne,
2 four thousand eight hundred dollars.

Sec. 1-(51). *Webster County*.—For the county of Web-
2 ster, three thousand dollars.

Sec. 1-(52). *Wetzel County*.—For the county of Wetzel,
2 three thousand six hundred dollars.

Sec. 1-(53). *Wirt County*.—For the county of Wirt, two
2 thousand five hundred dollars.

Sec. 1-(54). *Wood County*.—For the county of Wood,
2 five thousand four hundred dollars.

Sec. 1-(55). *Wyoming County*.—For the county of Wyo-
2 ming, six thousand dollars.

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CHAPTER 45

(Senate Bill No. 265—By Mr. Bean)

AN ACT to amend and reenact section four, article seven, chap-
ter seven of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to the salaries of
joint clerks of county and circuit courts.

[Passed March 10, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 7. Salaries; Deputies and Assistants and Their Salaries.

Section

4. Salaries of joint clerks of county and circuit courts.

Be it enacted by the Legislature of West Virginia:

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

Section 4. *Salaries of Joint Clerks of County and Cir-
2 cuit Courts*.—The annual compensation of the clerks of
3 the courts in the counties where both the office of the
4 clerk of the county court and the clerk of the circuit

5 court are held by the same person shall be as follows:
 6 Hardy county, two thousand six hundred dollars; Grant
 7 county, two thousand five hundred dollars; Pendleton
 8 county, two thousand five hundred dollars.

9 By reason of additional duties imposed upon the clerks
 10 of the courts by virtue of legislation passed during the
 11 one thousand nine hundred fifty-one regular session of
 12 the Legislature, the county court of each of the above
 13 mentioned counties may pay to the clerk of each county
 14 additional compensation not to exceed four hundred dol-
 15 lars per year as compensation for such additional services.

CHAPTER 46

(Com. Sub. for Senate Bill No. 77—Originating in the Senate Committee
 on the Judiciary)

AN ACT to amend and reenact section five and sections five-
 (one) to five-(fifty-five), inclusive, article seven, chapter
 seven of the code of West Virginia, one thousand nine
 hundred thirty-one, as amended, relating to salaries of
 prosecuting attorneys.

[Passed March 10, 1951; in effect ninety days from passage. Approved by the
 Governor.]

Article 7. Salaries; Deputies and Assistants and Their Salaries.

Section

5. Salaries of prosecuting attorneys.

5-(1) to 5-(55). Salaries of prosecuting attorneys of the various
 counties of the state.

Be it enacted by the Legislature of West Virginia:

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

Section 5. *Salaries of Prosecuting Attorneys.*—The an-
 2 nual compensation of the prosecuting attorney in each
 3 county, including the compensation provided by law for

4 his services as attorney for boards of education and other
5 administrative boards and officers in the county, shall,
6 on and after July one, one thousand nine hundred forty-
7 nine, be in the amounts set forth in sections five-(one) to
8 five-(fifty-five), inclusive, of this article.

2 Sec. 5-(1). *Barbour County*.—For the county of Bar-
bour, two thousand seven hundred dollars.

2 Sec. 5-(2). *Berkeley County*.—For the county of Berk-
eley, three thousand dollars.

2 Sec. 5-(3). *Boone County*.—For the county of Boone,
three thousand six hundred dollars.

2 Sec. 5-(4). *Braxton County*.—For the county of Brax-
ton, two thousand four hundred dollars.

2 Sec. 5-(5). *Brooke County*.—For the county of Brooke,
three thousand dollars.

2 Sec. 5-(6). *Cabell County*.—For the county of Cabell,
five thousand four hundred dollars.

2 Sec. 5-(7). *Calhoun County*.—For the county of Cal-
houn, one thousand two hundred dollars.

2 Sec. 5-(8). *Clay County*.—For the county of Clay, one
thousand six hundred dollars.

2 Sec. 5-(9). *Doddridge County*.—For the county of
Doddridge, one thousand five hundred dollars.

2 Sec. 5-(10). *Fayette County*.—For the county of Fay-
ette, not less than four thousand two hundred dollars
3 nor more than four thousand eight hundred dollars, to
4 be fixed by the county court.

2 Sec. 5-(11). *Gilmer County*.—For the county of Gil-
mer, one thousand seven hundred forty dollars.

2 Sec. 5-(12). *Grant County*.—For the county of Grant,
one thousand two hundred dollars.

2 Sec. 5-(13). *Greenbrier County*.—For the county of
Greenbrier, three thousand dollars.

2 Sec. 5-(14). *Hampshire County*.—For the county of
Hampshire, two thousand dollars.

2 Sec. 5-(15). *Hancock County*.—For the county of Hancock, three thousand six hundred dollars.

2 Sec. 5-(16). *Hardy County*.—For the county of Hardy, one thousand four hundred dollars.

2 Sec. 5-(17). *Harrison County*.—For the county of Harrison, five thousand dollars.

2 Sec. 5-(18). *Jackson County*.—For the county of Jackson, one thousand six hundred dollars.

2 Sec. 5-(19). *Jefferson County*.—For the county of Jefferson, three thousand six hundred dollars.

2 Sec. 5-(20). *Kanawha County*.—For the county of Kanawha, eight thousand five hundred dollars.

2 Sec. 5-(21). *Lewis County*.—For the county of Lewis, not less than two thousand dollars nor more than two thousand four hundred dollars.

2 Sec. 5-(22). *Lincoln County*.—For the county of Lincoln, three thousand six hundred dollars.

2 Sec. 5-(23). *Logan County*.—For the county of Logan, four thousand eight hundred dollars.

2 Sec. 5-(24). *Marion County*.—For the county of Marion, six thousand dollars.

2 Sec. 5-(25). *Marshall County*.—For the county of Marshall, three thousand six hundred dollars.

2 Sec. 5-(26). *Mason County*.—For the county of Mason, two thousand four hundred dollars.

2 Sec. 5-(27). *McDowell County*.—For the county of McDowell, six thousand dollars.

2 Sec. 5-(28). *Mercer County*.—For the county of Mercer, five thousand dollars.

2 Sec. 5-(29). *Mineral County*.—For the county of Mineral, two thousand six hundred dollars.

2 Sec. 5-(30). *Mingo County*.—For the county of Mingo, four thousand eight hundred dollars.

2 Sec. 5-(31). *Monongalia County*.—For the county of Monongalia, five thousand five hundred dollars.

2 Sec. 5-(32). *Monroe County*.—For the county of Mon-
2 roe, one thousand two hundred dollars.

2 Sec. 5-(33). *Morgan County*.—For the county of Mor-
2 gan, not less than one thousand two hundred dollars nor
3 more than one thousand four hundred dollars.

2 Sec. 5-(34). *Nicholas County*.—For the county of
2 Nicholas, three thousand three hundred dollars.

2 Sec. 5-(35). *Ohio County*.—For the county of Ohio,
2 six thousand dollars.

2 Sec. 5-(36). *Pendleton County*.—For the county of
2 Pendleton, one thousand two hundred dollars.

2 Sec. 5-(37). *Pleasants County*.—For the county of
2 Pleasants, one thousand two hundred dollars.

2 Sec. 5-(38). *Pocahontas County*.—For the county of
2 Pocahontas, two thousand dollars.

2 Sec. 5-(39). *Preston County*.—For the county of Pres-
2 ton, three thousand dollars.

2 Sec. 5-(40). *Putnam County*.—For the county of Put-
2 nam, two thousand one hundred dollars.

2 Sec. 5-(41). *Raleigh County*.—For the county of Ra-
2 leigh, not less than three thousand nor more than five
3 thousand dollars.

2 Sec. 5-(42). *Randolph County*.—For the county of
2 Randolph, three thousand six hundred dollars.

2 Sec. 5-(43). *Ritchie County*.—For the county of Ritchie,
2 one thousand eight hundred dollars.

2 Sec. 5-(44). *Roane County*.—For the county of Roane,
2 one thousand five hundred dollars.

2 Sec. 5-(45). *Summers County*.—For the county of
2 Summers, two thousand four hundred dollars.

2 Sec. 5-(46). *Taylor County*.—For the county of Taylor,
2 two thousand six hundred dollars.

2 Sec. 5-(47). *Tucker County*.—For the county of Tucker,
2 two thousand two hundred dollars.

2 Sec. 5-(48). *Tyler County*.—For the county of Tyler,
2 one thousand seven hundred dollars.

2 Sec. 5-(49). *Upshur County*.—For the county of Up-
2 shur, two thousand four hundred dollars.

2 Sec. 5-(50). *Wayne County*.—For the county of Wayne,
2 three thousand six hundred dollars.

2 Sec. 5-(51). *Webster County*.—For the county of Web-
2 ster, two thousand four hundred dollars.

2 Sec. 5-(52). *Wetzel County*.—For the county of Wetzel,
2 two thousand two hundred dollars.

2 Sec. 5-(53). *Wirt County*.—For the county of Wirt,
2 one thousand two hundred dollars.

2 Sec. 5-(54). *Wood County*.—For the county of Wood,
2 four thousand dollars.

2 Sec. 5-(55). *Wyoming County*.—For the county of
2 Wyoming, not less than three thousand, nor more than
3 five thousand four hundred dollars.

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CHAPTER 47

(Senate Bill No. 272—By Mr. Stemple)

AN ACT to amend and reenact section six, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to assistants, stenographers and clerks for prosecuting attorney.

[Passed March 9, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 7. Salaries; Deputies and Assistants and Their Salaries.

Section

6. Assistants, stenographers and clerks 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, as amended, be amended and reenacted to read as follows:

Section 6. *Assistants, Stenographers and Clerks 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, except as hereinafter provided, appoint one (and Ohio county, three and Harrison, Kanawha, Fayette, Raleigh, Cabell and McDowell 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 removed. The compensation of such assistant shall be paid by the principal, except in the counties of Barbour, Berkeley, Boone, Brooke, Cabell, Calhoun, Clay, Fayette, Harrison, Hancock, Kanawha, Lewis, Lincoln, Logan, Marion, Marshall, Mason, McDowell, Mercer, Mineral, Mingo, Monongalia, Nicholas, Ohio, Putnam, Raleigh, Randolph, Summers, Taylor, Upshur, Wayne, Webster, Wetzell, Wood and Wyoming, and in the said counties the county court thereof shall allow annually to such assistants such compensation to be paid out of the county treasury as is deemed reasonable by the court, except that in Hancock county the salary of such assistant shall not be less than one thousand two hundred dollars nor more than one thousand eight hundred dollars; in Ohio county for the first assistant, three thousand six hundred dollars, for the second assistant three thousand dollars and for the third assistant two thousand dollars; in Kanawha county for the first assistant, not less than five thousand nor more than six thousand dollars, and for the second assistant not less than five thousand nor more than six thousand dollars; in Cabell county for the first assistant four thousand dollars, and for the second assistant three thousand dollars; in McDowell county, not less than three thousand dollars nor more than four thousand two hundred dollars for each assistant; in Marion county,

41 not less than four thousand two hundred nor more than
42 four thousand eight hundred dollars; in Raleigh county,
43 four thousand two hundred dollars; in Mingo county, not to
44 exceed four thousand dollars; in Harrison county, not less
45 than one thousand five hundred nor more than four thou-
46 sand five hundred dollars; in Mercer county, four thousand
47 two hundred dollars; in Summers and Wood counties, not
48 less than one thousand nor more than two thousand dollars;
49 in Logan county, not less than three thousand dollars nor
50 more than three thousand six hundred dollars; in Fayette
51 county for the first assistant, not less than three thousand
52 six hundred nor more than four thousand two hundred
53 dollars, and for the second assistant not to exceed two
54 thousand eight hundred dollars; in Boone county, not less
55 than two thousand dollars nor more than three thousand
56 dollars; in Wyoming county, not less than one thousand
57 five hundred nor more than two thousand seven hundred
58 dollars; in Barbour county, one thousand dollars; in Mon-
59 ongalia county, three thousand dollars; in Wayne county,
60 two thousand five hundred dollars; in Lincoln county,
61 not to exceed one thousand eight hundred dollars; in
62 Berkeley county, not to exceed two thousand dollars; in
63 Lewis, Marshall, Mineral, Nicholas and Upshur counties,
64 not to exceed twelve hundred dollars, and in Randolph
65 county, not to exceed two thousand seven hundred dollars;
66 in Webster and Wetzel counties, not less than six hun-
67 dred nor more than nine hundred dollars; in Taylor
68 county, not to exceed six hundred dollars; in Putnam
69 county, one thousand two hundred dollars; and Calhoun
70 county, three hundred dollars. In each case such compen-
71 sation shall include the compensation provided by law for
72 such assistant's services as attorney for boards of educa-
73 tion, and other administrative boards and officers of the
74 county.

75 In any case in which it would, in the opinion of the
76 court, be improper for the prosecuting attorney and his
77 assistant (if he has one), to act, or if the prosecuting
78 attorney and his assistant be unable to act, such court
79 shall appoint some competent practicing attorney to
80 prosecute such cases; and upon the performance of the
81 service for which he was appointed; the court shall certify

82 that fact, with its opinion of what would be a reasonable
83 allowance to such attorney for the service rendered, to
84 the county court of the county, and such sum, when al-
85 lowed by the county court, shall be paid out of the
86 county treasury: *Provided*, That nothing in this section
87 shall be construed to prohibit the employment by any
88 person of a competent attorney or attorneys to assist in
89 the prosecution of any person or corporation charged
90 with crime.

91 In each of the counties herein named, except Harrison,
92 Cabell, Wayne and Fayette and including Greenbrier,
93 Hampshire, Pocahontas, Putnam, Ritchie and Upshur,
94 the prosecuting attorney may employ a stenographer for
95 his office at a salary, payable out of the county treasury,
96 of not less than nine hundred nor more than two thousand
97 dollars per annum; except, the annual salary of such
98 stenographer in Greenbrier county shall not exceed two
99 thousand three hundred and forty dollars; except, the
100 annual salary of such stenographer in Pocahontas county
101 shall not exceed one thousand two hundred dollars; in
102 Calhoun, Putnam and Upshur counties, shall not exceed
103 nine hundred dollars; in Hampshire and Ritchie counties
104 shall not be less than one thousand dollars nor more than
105 twelve hundred dollars; in Lewis county, shall not be
106 less than six hundred dollars, nor exceed one thousand
107 five hundred dollars; in Berkeley county, shall be not less
108 than eighteen hundred dollars nor more than two thou-
109 sand dollars in the discretion of the county court; in
110 Monongalia county, shall be two thousand one hundred
111 dollars; in Boone county, shall be two thousand four
112 hundred dollars; and in Braxton county, shall be four-
113 teen hundred dollars; in Taylor county, shall not be less
114 than one thousand two hundred dollars nor more than
115 one thousand eight hundred dollars; in Webster county,
116 shall be nine hundred dollars; in Gilmer county, shall
117 not exceed nine hundred dollars: *Provided*, That in each
118 of the last two named counties the prosecuting attorney
119 may not employ a stenographer except with the consent
120 of the county court entered of record.

121 In the county of Jefferson the prosecuting attorney
122 may employ a stenographer for his office at a salary of

123 not more than one thousand dollars per annum, payable
124 out of the county treasury to be fixed by the said prose-
125 cuting attorney of said county of Jefferson.

126 In the county of Harrison, the prosecuting attorney
127 may employ two stenographers for his office at a salary
128 for each stenographer of not less than nine hundred nor
129 more than two thousand dollars per annum, payable out
130 of the county treasury.

131 In the county of Cabell the prosecuting attorney may
132 employ two stenographers for his office, one at a salary
133 of two thousand four hundred dollars per year and one
134 at a salary of one thousand eight hundred dollars per
135 year, payable out of the county treasury.

136 In the county of Clay, the prosecuting attorney may
137 employ a clerk or stenographer for his office at a salary
138 of one thousand two hundred dollars per annum, pay-
139 able out of the county treasury; except, that in lieu of the
140 appointment of such clerk or stenographer, the prosecut-
141 ing attorney may employ a practicing attorney of said
142 county as his assistant at a salary of not less than one
143 thousand nor more than one thousand five hundred dol-
144 lars per annum, payable out of the county treasury.

145 In the counties of Mingo and Preston, the prosecuting
146 attorney may employ one stenographer for his office at
147 a salary not to exceed three thousand six hundred dol-
148 lars per annum for the county of Mingo and one thou-
149 sand eight hundred dollars per annum for the county of
150 Preston, payable out of the county treasury.

151 In the county of Jackson, the prosecuting attorney may
152 employ one stenographer or clerk for his office at a salary
153 of not to exceed nine hundred dollars per annum, pay-
154 able out of the county treasury.

155 In the county of Mercer, the prosecuting attorney may
156 employ one stenographer or clerk for his office at a
157 salary of not to exceed the sum of two thousand four
158 hundred dollars per annum, payable out of the county
159 treasury.

160 In the counties of Hardy, Pendleton and Grant, the
161 prosecuting attorney may employ one stenographer or
162 clerk for his office at a salary not to exceed eight hundred
163 forty dollars per annum, payable out of the county treas-

164 ury as salaries of county officials are paid. In the county
165 of Pendelton, the prosecuting attorney may employ one
166 stenographer or clerk for his office at a salary not to ex-
167 ceed seven hundred eighty dollars per annum, payable
168 out of the county treasury as salaries of county officials
169 are paid.

170 In the county of Wyoming, the prosecuting attorney
171 may employ one stenographer at a salary to be fixed
172 by the county court and payable out of the treasury
173 of said county, and in the counties of Mason and Roane
174 the prosecuting attorney may employ one stenographer
175 at a salary of not less than eleven hundred dollars nor
176 more than fifteen hundred dollars per annum, payable
177 out of the treasury of said county.

178 In the county of Kanawha, the prosecuting attorney
179 may employ two stenographers, one at a salary not to
180 exceed three thousand dollars per annum, and one at a
181 salary not to exceed two thousand seven hundred dol-
182 lars per annum, to be fixed by the county court and pay-
183 able out of the treasury of said county.

184 In the county of Hancock, the prosecuting attorney
185 may employ one stenographer at a salary of not more
186 than two thousand four hundred dollars per annum,
187 payable out of the treasury of said county.

188 In the county of Wayne, the prosecuting attorney may
189 employ one stenographer at a salary of not less than
190 twenty-four hundred dollars nor more than twenty-
191 seven hundred dollars per annum, to be fixed by the
192 county court and payable out of the treasury of the
193 county.

194 In the county of Randolph, the prosecuting attorney
195 may employ one stenographer at a salary of not less
196 than one thousand five hundred dollars per annum and
197 not more than two thousand four hundred dollars per
198 annum to be fixed by the county court and payable out of
199 the treasury of said county.

200 In the county of Fayette, the prosecuting attorney may
201 employ one stenographer at a salary of not to exceed
202 twenty-seven hundred dollars per year to be fixed by the
203 county court and payable out of the treasury of said
204 county.

205 In the county of McDowell, the prosecuting attorney
206 may employ one stenographer at a salary of not less than
207 one thousand five hundred dollars nor more than three
208 thousand dollars per year to be fixed by the county court
209 and payable out of the treasury of such county.

210 The prosecuting attorney may employ a clerk or a
211 stenographer for his office in the counties of Tyler, Wet-
212 zel and Marshall at an annual salary not to exceed the
213 following: In the county of Tyler, nine hundred dollars;
214 in the county of Wetzel, eighteen hundred dollars; in
215 the county of Marshall, not less than two thousand dol-
216 lars nor more than twenty-four hundred dollars, payable
217 out of the treasury of the respective counties.

218 In the county of Lincoln, the prosecuting attorney may
219 employ one stenographer or clerk for his office at a sal-
220 ary of not to exceed the sum of two thousand two hun-
221 dred dollars per annum, payable out of the county treas-
222 ury.

223 In the county of Logan, the prosecuting attorney may
224 employ one stenographer for his office at a salary of
225 not to exceed the sum of two thousand seven hundred
226 dollars per annum, payable out of the county treasury.
227 In the county of Marion, the prosecuting attorney may
228 employ one stenographer at a salary not to exceed two
229 thousand eight hundred dollars per annum, payable out
230 of the county treasury.

231 In the county of Raleigh, the prosecuting attorney may
232 employ one stenographer at a salary not to exceed three
233 thousand dollars per annum, payable out of the county
234 treasury.

235 In the county of Ohio, the prosecuting attorney may
236 employ one stenographer for his office at a salary of not
237 to exceed two thousand four hundred dollars per annum,
238 payable out of the county treasury.

239 In the county of Barbour, the prosecuting attorney may
240 employ a stenographer for his office at a salary of not
241 less than one thousand two hundred nor more than one
242 thousand eight hundred dollars per annum, to be fixed
243 by the county court of said county, payable out of the
244 county treasury.

CHAPTER 48

(House Bill No. 358—By Mr. Kidd, of Gilmer, and Mr. Morgan)

AN ACT to amend and reenact section twelve, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to allowance for expense of sheriff.

[Passed March 10, 1951: 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

12. Allowance for expenses of sheriff.

Be it enacted by the Legislature of West Virginia:

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

Section 12. *Allowance for Expenses of Sheriff.*—The
2 county court, or tribunal in lieu thereof, of every county
3 having thirty thousand or less population which, as pro-
4 vided in section two-a, article eight of this chapter, has
5 directed the sheriff as jailer to feed prisoners shall, in
6 addition to the salary herein provided, allow to the sheriff
7 for keeping and feeding each prisoner, other than federal
8 prisoners or prisoners held under civil process as provided
9 by law, an amount to be computed in accordance with
10 the following schedule, based on the population figures
11 appearing in the latest official census, in counties having
12 a population of thirty thousand or less, eighty-four cents
13 per day.

14 The limitation per day shall not include cost of personal
15 service, bed or bedding, soaps and disinfectants and items
16 of like kind, the cost of all of which shall be paid out of the
17 allowance fixed by the county court under the provisions
18 of present law.

19 All supplies of whatever kind for keeping and feeding
20 prisoners shall be purchased upon the requisition of the

21 sheriff under such rules and regulations as may be pre-
22 scribed by the county court. At the end of each month
23 the sheriff shall file with the county court a detailed state-
24 ment showing the name of each prisoner, date of com-
25 mitment and date of discharge, and number of days in
26 jail, and shall also file an itemized statement showing each
27 purchase and the cost thereof for keeping and feeding
28 prisoners.

29 The county court of every county shall allow the actual
30 and necessary expenses incurred or expended by the sher-
31 iff in arresting, pursuing, or transporting persons accused
32 or convicted of crimes and offenses, including the cost of
33 law enforcement and safety equipment, and in convey-
34 ing or transferring any person to or from any state insti-
35 tution to which he may be committed from his county,
36 where by law the sheriff is authorized to convey or trans-
37 fer such person, and shall allow the actual and necessary
38 expenses incurred or expended in serving summonses,
39 notices, or other official papers in connection with the
40 sheriff's office, including an allowance of seven cents per
41 mile for each mile a sheriff or deputy sheriff is required
42 to drive his personally owned car in the performance of
43 his duties hereunder. Every sheriff shall file monthly,
44 under oath, a full and accurate account of all his actual
45 and necessary expenses mentioned in this section, sup-
46 ported by verified accounts for his deputies for amounts
47 expended or incurred by each, before payment thereof
48 shall be allowed by the county court.



CHAPTER 49

(House Bill No. 429—By Mr. Warden)

AN ACT to amend and reenact section one, article eight, chap-
ter seven of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to jails and
compensation by county for use of city jail.

[Passed March 10, 1951; in effect ninety days from passage. Approved by the
Governor.]

Article 8. Jail and Jailer.**Section**

1. Jail; temporary jail; compensation by county for use of city jail.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Jail; Temporary Jail; Compensation by County for Use of City Jail.*—The jail of the county shall be the jail provided by the county court as required by law. When a county is without a sufficient jail, or its jail is to be removed, rebuilt or repaired, the circuit court, or the judge thereof in vacation, may adopt the jail of another county as its jail until a sufficient jail is obtained by building or repairing. And persons committed, or to be committed, to the jail of the first mentioned county, at or after such adoption, and before a sufficient jail is so obtained, shall be conveyed to the jail so adopted. The jail of any county in which the supreme court of appeals may sit may be used as a jail for said court.

The county court of each county, or tribunal created in lieu thereof, shall have authority to provide for and pay to any city, town or village in this state in which no county jail or other place of imprisonment is owned by the county, not more than one dollar fifty cents for the first day and not more than one dollar for each subsequent day that any person charged with a criminal offense may be temporarily held in the jail or lockup belonging to such city, town or village: *Provided*, That the provisions of this paragraph shall not apply to any person imprisoned for a violation of the ordinances of any city, town or village: *Provided, further*, That in no case shall such payment be made for a period of more than five days for the detention of any one person held under any charge or charges at any one time. No such payment shall be made unless the amount of such charge is certified by the justice or other authority under whose jurisdiction such person is detained in the same manner as

32 other costs in criminal cases are now required by law to
33 be certified. The payment provided for in this section
34 shall be made, in cases of persons charged with felonies
35 or misdemeanors, in the manner and from the proper
36 fund, according to the character of the offense charged,
37 as provided by law for the payment of other costs pay-
38 able by the county courts in criminal cases.



CHAPTER 50

(House Bill No. 357—By Mr. Kidd, of Gilmer, and Mr. Morgan)

AN ACT to amend and reenact section two-a, article eight, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to feeding and care of prisoners.

[Passed March 10, 1951: in effect ninety days from passage. Became a law without the approval of the Governor.]

Article 8. Jail and Jailer.

Section

2-a. Feeding and care of prisoners; purchase of food and supplies; records; payment of costs.

Be it enacted by the Legislature of West Virginia:

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

Section 2-a. *Feeding and Care of Prisoners; Purchase of Food and Supplies; Records; Payment of Costs.*—On and after the first day of January, one thousand nine hundred forty-nine, the county court of each county shall provide wholesome and sufficient food and clean and sufficient bedding for all prisoners confined in the county jail, and shall furnish the soaps, disinfectants and other supplies needed by the jailer in the performance of his duties. The county court may require the jailer to act

10 as its agent for the purpose of purchasing, preparing and
11 serving food for prisoners. If, however, the jailer is not
12 named as such agent, he shall make available to the county
13 court, for use in the preparation and serving of food for
14 prisoners, the services of prisoners, to the number re-
15 quested by the county court. The county court may em-
16 ploy a cook and such other employees as may be neces-
17 sary in the performance of duties required of it by this
18 section.

19 All purchases of food, bedding, and other supplies shall
20 whenever practicable be made at wholesale. Invoices or
21 itemized statements of account from each vendor of food,
22 bedding, and other supplies shall be obtained, and pay-
23 ment of such statements or invoices shall not be author-
24 ized by the county court unless and until the county court
25 has ascertained that the merchandise has been received
26 and that the terms of the purchase have been complied
27 with on the part of the vendor. The county court shall
28 not provide for the feeding of prisoners on a contract or
29 fee basis.

30 The county court shall keep or cause to be kept a daily
31 record showing the total number of prisoners confined in
32 the jail of the county, the number of prisoners admitted,
33 the number released, and the time of each such admit-
34 tance and of each such release. Such record shall show
35 such information separately as to the prisoners of the
36 county, of each municipality, and of the United States.
37 The county court shall also keep or cause to be kept such
38 other accounts and records as will enable it to show the
39 per capita daily cost of the feeding and care of prisoners
40 in each calendar month.

41 The county court shall require to be kept a daily record
42 of food served prisoners and in all counties having a
43 county health officer, said health officer shall, at least once
44 a month, inspect such lists and make such recommenda-
45 tions and suggestions as he may deem proper regarding
46 daily diets and foods.

47 All actual costs incurred by the county court for salaries
48 and for the purchase of food, bedding and other supplies
49 shall be paid out of the same funds as payments to sheriffs

50 of fees for the feeding and care of prisoners were made
51 immediately prior to the effective date of this act: *Pro-*
52 *vided*, That in counties having thirty thousand population
53 or less, the sheriff, or the jailer duly appointed as provided
54 in section two, article eight, chapter seven of this code,
55 shall, if so directed by the county court, furnish each
56 prisoner with wholesome and sufficient food.

CHAPTER 51

(House Bill No. 393—By Mr. Warden)

AN ACT to amend article eight, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be numbered section eleven, relating to deduction from sentence for good conduct of prisoners sentenced and confined to the county jail.

[Passed March 9, 1951: in effect ninety days from passage. Approved by the Governor.]

Article 8. Jail and Jailer.

Section

11. Deduction from sentence for good conduct.

Be it enacted by the Legislature of West Virginia:

That article eight, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, to be numbered section eleven, to read as follows:

Section 11. *Deduction from Sentence for Good Conduct.*

2 —Every prisoner sentenced to the county jail for a term
3 exceeding six months who, in the judgment of the sheriff,
4 shall faithfully comply with all rules and regulations of
5 said county jail during his term of confinement shall be
6 entitled to a deduction of five days from each month of
7 his sentence.

CHAPTER 52

(House Bill No. 446—By Mr. Knight)

AN ACT to amend chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new article, designated article eleven, relating to creation of a board of park commissioners by county courts in counties having a population in excess of two hundred thousand persons, to establish, maintain, develop and operate a recreation park, providing its name, defining its powers, providing for the appointment and qualification of its members; the term of office of the members and their qualifications; and the powers and authority of such board of commissioners.

[Passed March 10, 1951; in effect from passage. Approved by the Governor.]

Article 11. Board of Park Commissioners.

Section

1. County courts authorized to create board of park commissioners.
2. Board, a body corporate; perpetual existence; name; powers.
3. Members; qualifications; appointment; terms; disqualifications.
4. Oath of members; organization of board; secretary.
5. General powers of the board.

Be it enacted by the Legislature of West Virginia:

That chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new article, designated article eleven, to read as follows:

Section 1. *County Courts Authorized to Create Board of Park Commissioners.*—The county court of any county in the state of West Virginia having a population in excess of two hundred thousand persons is hereby authorized and empowered, by order entered of record, to create a board of park commissioners for the purpose of establishing, improving, developing, operating and maintaining a county public park system.

Sec. 2. *Board, a Body Corporate; Perpetual Existence; Name; Powers.*—The board of park commissioners created by the county court, enacted pursuant to the author-

4 ity of this article, shall be a public corporate board, with
5 perpetual existence and a corporate seal. It shall be known
6 as the board of park commissioners of such county. It
7 shall have the power to receive any gift, grant, donation
8 and bequest or devise; sue and be sued; contract and be
9 contracted with and to do any and all things which may
10 be necessary or convenient to carry out and effectuate the
11 purposes and provisions of this article.

Sec. 3. *Members; Qualifications; Appointment; Term; Disqualifications.*—The board shall consist of five members, a majority of whom shall constitute a quorum for the transaction of business. Each member of said board shall be a bona fide resident of the county and shall own real estate within such county. The term of the board membership shall be for six years and until their successors have been appointed and qualified: *Provided, however,* That the county court in appointing the members of the first board, shall appoint one member for a term of one year, one member for a term of two years, one member for a term of three years, one member for a term of four years and one member for a term of five years. The order of the county court shall fix the date on which the term of such board members shall begin. Any member of the board, who shall cease to be a bona fide resident of the county or a free holder thereof, shall thereby be disqualified as a member of said board and his office shall become vacant. When a vacancy occurs on said board by reason of death, resignation, change of residence from the county or expiration of term, the county court shall appoint a successor or successors who shall fill out the unexpired term of such member of the board whose term has been vacated.

Sec. 4. *Oath of Members; Organization of Board; Secretary.*—After appointment, the members of the board shall qualify by taking and filing with the clerk of the county court the oath prescribed by law of public officials; one of the members of said board shall be elected as president, another as vice president, and a secretary shall be elected who need not be a member of the board. Said board of park commissioners shall maintain an office at

9 any place they may designate in the county and have con-
10 trol of the management and operations of all properties
11 which shall be operated in connection with the public park
12 system of such county and shall have power to employ
13 such persons as, in its opinion, may be necessary for the
14 construction, operation, and maintenance of the property
15 under its control, subject, however, to the appropriation
16 of money for such purpose by the county court of such
17 county and its written approval thereof.

Sec. 5. *General Powers of the Board.*—The board of
2 park commissioners of any county shall have the neces-
3 sary powers and authority to manage and control all pub-
4 lic parks, and recreation facilities owned by the county
5 and used as a part of such public park system, including
6 the right to make rules and regulations concerning the
7 management and control of such parks and to enforce any
8 such rules and regulations so promulgated.

CHAPTER 53

(Senate Bill No. 125—By Mr. Bean and Mr. Love)

AN ACT to amend and reenact section eleven, article one,
chapter fifty-one of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to
clerk, deputy and assistant clerks, compensation, crier and
messenger of the supreme court of appeals.

[Passed March 8, 1951: in effect from passage. Approved by the Governor.]

Article 1. Supreme Court of Appeals.

Section

11. Clerk; deputy; associate; assistant proofreader; other clerical as-
sistants; compensation.

Be it enacted by the Legislature of West Virginia:

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

Section 11. *Clerk; Deputy; Associate; Assistant; Proof-reader; Other Clerical Assistants; Compensation.*—The
2 supreme court of appeals, or judges thereof in vacation,
3 may appoint a clerk, who shall give bond as required by
4 article two, chapter six of this code. The annual compen-
5 sation of the clerk shall be fixed by the court, and shall be
6 not less than seven thousand dollars, payable in equal
7 monthly installments out of the state treasury, and shall
8 be in lieu of all other fees, costs, allowances, compensa-
9 tion, perquisites and income of whatever kind by virtue
10 of his office. The supreme court of appeals, or judges
11 thereof in vacation, may appoint one deputy clerk, one
12 associate clerk, one assistant clerk, one proofreader and
13 such other full-time and part-time clerical assistants as
14 are deemed necessary to perform properly the functions
15 and duties of the office of the clerk. And the said court or
16 judges thereof in vacation, shall fix their compensation
17 which shall be payable out of the biennium appropria-
18 tions made by the Legislature of West Virginia, personal
19 service account, for the spending unit of the supreme
20 court of appeals, by requisitions drawn against the audi-
21 tor of the state of West Virginia according to law. All of
22 such officers shall be removable at the pleasure of the
23 court or judges. Vacancies in the office of the clerk oc-
24 ccurring during vacation may be filled by appointment, in
25 writing, made by the judges of the court or a majority
26 thereof.
27

CHAPTER 54

(House Bill No. 311—By Mr. Fox)

AN ACT to amend and reenact section five, article three, chapter twenty-five-a of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter forty-two, acts of the Legislature, regular session, one thousand nine hundred forty-five, relating to publication of the reports of the supreme court of appeals.

[Passed March 1, 1951: in effect ninety days from passage. Approved by the Governor.]

Article 3. Public Printing and Stationery; State Publications.

Section

5. Publication of reports of supreme court of appeals.

Be it enacted by the Legislature of West Virginia:

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

Section 5. *Publication of Reports of Supreme Court of Appeals.*—Notwithstanding any of the provisions of this chapter, the official reporter of the supreme court of appeals shall have charge and supervision of the printing and binding of the reports of the decisions of the supreme court of appeals of the state, and shall contract for their publication within the state of West Virginia, if any West Virginia printer bids on same, in the same manner that the director of purchases contracts under article two of this chapter. Such contract shall provide for the publication of fifteen hundred copies or such additional number as the reporter and supreme court of appeals may jointly direct on such paper and to be bound in accordance with directions and specifications as may be specified by the reporter by and with the concurrence of the court. The size of type and page shall be prescribed by the reporter with the concurrence of the court. A volume shall be published according to the terms of the contract whenever ordered by the court. The reporter shall secure the copyright of each volume for the benefit of the state. The reports shall be styled "West Virginia Reports".

The printing and binding of the reports shall be done under the direction of and in the manner prescribed by the reporter, subject to the control of the court. The reporter shall prefix to the printed report of each case the dates when the same was submitted and decided. Each volume shall, if practicable, contain the reports of

28 at least eighty cases decided by the court, and shall con-
29 tain approximately one thousand pages unless otherwise
30 ordered by the court, exclusive of the index and table of
31 cases reported and cited. Proof sheets shall be furnished
32 by the printer to the reporter and to each judge of the
33 court, and such corrections and modifications shall be
34 made by the printer as the reporter or any of the judges
35 shall direct. If the work is not done in the manner re-
36 quired by law, the reporter shall not approve the volume
37 and shall not accept it.

38 The reports of the decisions of the supreme court of
39 appeals may be published in pamphlet form in advance
40 of the publication of the bound volumes of the "West
41 Virginia Reports", periodically, or at such times as may
42 be directed by the reporter and the supreme court of
43 appeals. The reporter shall secure the copyright of each
44 pamphlet of opinions so published in advance. Each pam-
45 phlet shall contain the report of such number of cases as
46 the supreme court of appeals and the reporter shall deem
47 advisable.

48 The contract for the publication of such advance sheets
49 shall be made in the manner provided for the publication
50 of bound volumes of the "West Virginia Reports".

51 A charge of not less than the actual cost of printing and
52 distribution shall be made for such advance sheets.

CHAPTER 55

(Com. Sub. for Senate Bill Nos. 2, 10, 28 and 40—Originating in the Senate
Committee on the Judiciary)

AN ACT to amend and reenact sections one, one-f, one-i, one-j,
one-o and one-t, article two, chapter fifty-one of the code
of West Virginia, one thousand nine hundred thirty-one,
as amended, and to further amend said article two, chap-
ter fifty-one, by adding thereto three new sections to be
designated sections one-y, one-z and one-aa, relating to
judicial circuits and terms of court.

[Passed March 5, 1951; in effect ninety days from passage. Approved by the
Governor.]

Article 2. Circuit Courts; Circuits; Criminal and Intermediate Judges.**Section**

1. Judicial circuits; judges; terms of court.
- 1-f. Sixth circuit.
- 1-i. Ninth circuit.
- 1-j. Tenth circuit.
- 1-o. Fifteenth circuit.
- 1-t. Twentieth circuit.
- 1-y. Twenty-fifth circuit.
- 1-z. Twenty-sixth circuit.
- 1-aa. Twenty-seventh circuit.

Be it enacted by the Legislature of West Virginia:

That sections one, one-f, one-i, one-j, one-o, and one-t, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that said article two, chapter fifty-one, be further amended by adding thereto three new sections to be designated sections one-y, one-z and one-aa, all to read as follows:

Section 1. *Judicial Circuits; Judges; Terms of Court.*—

- 2 The state shall be divided into judicial circuits as follows:
- 3 The counties of Brooke, Hancock and Ohio shall constitute the first circuit; the counties of Marshall, Tyler and
- 4 Wetzell shall constitute the second circuit; the counties
- 5 of Doddridge, Pleasants and Ritchie shall constitute the
- 6 third circuit; the counties of Wood and Wirt shall constitute the fourth circuit; the counties of Calhoun, Jack-
- 7 son, Mason and Roane shall constitute the fifth circuit;
- 8 the counties of Cabell and Putnam shall constitute the
- 9 sixth circuit; the county of Logan shall constitute the
- 10 seventh circuit; the county of McDowell shall constitute
- 11 the eighth circuit; the county of Mercer shall constitute
- 12 the ninth circuit; the county of Raleigh shall constitute
- 13 the tenth circuit; the counties of Greenbrier, Monroe,
- 14 Pocahontas and Summers shall constitute the eleventh
- 15 circuit; the counties of Fayette and Nicholas shall constitute the twelfth circuit; the county of Kanawha shall
- 16 constitute the thirteenth circuit; the counties of Braxton,
- 17 Clay, Gilmer and Webster shall constitute the fourteenth
- 18 circuit; the county of Harrison shall constitute the fif-
- 19 teenth circuit; the county of Marion shall constitute the
- 20 sixteenth circuit; the county of Monongalia shall consti-
- 21
- 22
- 23

24 tute the seventeenth circuit; the county of Preston shall
25 constitute the eighteenth circuit; the counties of Barbour
26 and Taylor shall constitute the nineteenth circuit; the
27 county of Randolph shall constitute the twentieth cir-
28 cuit; the counties of Grant, Mineral and Tucker shall
29 constitute the twenty-first circuit; the counties of Hamp-
30 shire, Hardy and Pendleton shall constitute the twenty-
31 second circuit; the counties of Berkeley, Jefferson and
32 Morgan shall constitute the twenty-third circuit; the
33 counties of Mingo and Wayne shall constitute the twenty-
34 fourth circuit; the counties of Lincoln and Boone shall
35 constitute the twenty-fifth circuit; the counties of Lewis
36 and Upshur shall constitute the twenty-sixth circuit; the
37 county of Wyoming shall constitute the twenty-seventh
38 circuit.

39 There shall be elected on the Tuesday next after the
40 first Monday in November, one thousand nine hundred
41 fifty-two, and every eighth year thereafter, one judge in
42 each of the circuits herein constituted, except for the
43 first circuit there shall be two judges elected.

44 The terms of the several circuit judges of the counties
45 aforesaid shall commence and be held each year as here-
46 inafter provided.

Sec. 1-f. *Sixth Circuit.*—For the county of Cabell, on
2 the first Monday of January and May; and the second
3 Monday in September. For the county of Putnam, on the
4 first Monday in March, the fourth Monday in June and
5 the fourth Monday in October.

Sec. 1-i. *Ninth Circuit.*—For the county of Mercer, on
2 the second Monday in March, May and August; and the
3 fourth Monday in November.

Sec. 1-j. *Tenth Circuit.*—For the county of Raleigh, on
2 the third Monday in February; on the third Monday in
3 May; on the fourth Monday in August; and on the second
4 Monday in November.

Sec. 1-o. *Fifteenth Circuit.*—For the county of Harri-
2 son, on the first Monday in January, May and September.

Sec. 1-t. *Twentieth Circuit.*—For the county of Ran-

2 dolph, on the third Tuesday in February and May; and
3 the second Tuesday in October.

Sec. 1-y. *Twenty-fifth Circuit.*—For the county of Lin-
2 coln, on the third Monday in March; the fourth Monday
3 in July and the third Monday in November. For the
4 county of Boone, the fourth Monday in January, the
5 second Monday in April, the first Monday in July and
6 the first Monday in October.

Sec. 1-z. *Twenty-sixth Circuit.*—For the county of
2 Lewis, on the first Monday in March; the third Monday
3 in June and the first Monday in November. For the
4 county of Upshur, on the second Monday in January,
5 April and September.

Sec. 1-aa. *Twenty-seventh Circuit.*—For the county of
2 Wyoming, on the second Monday in February, April,
3 July and October.

CHAPTER 56

(Senate Bill No. 29—By Mr. Martin)

AN ACT to amend and reenact section four, article seven,
chapter six of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to salaries
of judges of circuit courts.

[Passed February 12, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 7. Compensation and Allowances.

Section

4. Salaries of judges of circuit courts; additional compensation from counties.

Be it enacted by the Legislature of West Virginia:

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

Section 4. *Salaries of Judges of Circuit Courts; Ad-*

2 *ditional Compensation from Counties.*—The salaries of
3 the judges of the circuit courts shall be paid out of the
4 state treasury and shall, unless otherwise provided by
5 law, be in the following annual amounts:

6 (1) In circuits having more than one hundred thousand
7 population, ten thousand dollars;

8 (2) In circuits having more than eighty thousand and
9 less than one hundred thousand population, nine thou-
10 sand dollars;

11 (3) In circuits having more than sixty thousand and
12 less than eighty thousand population, eight thousand five
13 hundred dollars;

14 (4) In circuits having less than sixty thousand popu-
15 lation, seven thousand five hundred dollars.

16 Any county court or the board of county commissioners
17 of Ohio county may pay the judge of the circuit court
18 additional compensation, but the salary and additional
19 compensation or combined contribution of the several
20 county courts and board of commissioners shall not ex-
21 ceed fifteen thousand dollars.

22 The population shall be according to the United States
23 census, or the estimate of the United States bureau of
24 census, as certified to the state auditor by the United
25 States director of the census.

CHAPTER 57

(House Bill No. 19—By Mr. Gompers)

AN ACT to amend and reenact section twelve, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to compensation of special judges.

[Passed February 6, 1951; in effect from passage. Approved by the Governor.]

Article 2. Circuit Courts; Circuit, Criminal and Intermediate Judges.

Section

12. Compensation of special judge.

Be it enacted by the Legislature of West Virginia:

That section twelve, 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 12. *Compensation of Special Judge.* — The
2 judge so elected or agreed upon shall receive for his ser-
3 vices, while sitting as such judge, twenty-five dollars per
4 day, to be certified by the court and paid out of the state
5 treasury as to circuit courts and out of the county treas-
6 ury as to criminal courts and other courts of record of
7 limited jurisdiction within the county. This and the two
8 next preceding sections shall apply as well to criminal
9 as to civil causes.

CHAPTER 58

(House Bill No. 444—By Mr. Davis)

AN ACT to amend and reenact section four, article three, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to the records of the courts and their officers.

[Passed March 10, 1931: in effect ninety days from passage. Approved by the Governor.]

Article 3. Courts in General.

Section

4. Records.

Be it enacted by the Legislature of West Virginia:

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

Section 4. *Records.*—The law proceedings of every court
2 shall be entered in a book and in the discretion of the court
3 may be caused to be read, and after being corrected,
4 where it is necessary, shall be signed by the judge or

5 presiding officer on the following day, except those of
 6 the last day of the term and of the day on which the
 7 court may adjourn to a future day as prescribed in ar-
 8 ticle two of this chapter, which shall be drawn up and
 9 corrected, where it is necessary, and signed by the judge
 10 or officer on the same day. The chancery proceedings of
 11 each day shall be drawn up at large and signed by the
 12 judge, after being corrected, where it is necessary.

CHAPTER 59

(Senate Bill No. 295—By Mr. Jones)

AN ACT to amend and reenact section eighteen, article eight, chapter sixty-one, of the code of West Virginia, one thousand nine hundred thirty-one, relating to exceptions of labor or employment on Sabbath day.

[Passed March 10, 1951: in effect from passage. Approved by the Governor.]

Article 8. Crimes Against Chastity, Morality and Decency.

Section

18. Limitation of preceding section; contract made on Sabbath day valid.

Be it enacted by the Legislature of West Virginia:

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

Section 18. *Limitation of Preceding Section; Contract Made on Sabbath Day Valid.*—No forfeiture shall be incurred or conviction had under the preceding section for the transportation on the Sabbath day of the mail, or of passengers and their baggage carried by any mode of public conveyance, or for running any railroad train, traction car or system, automobile or other motor car carrying passengers for pleasure or hire, steamboat or other boat used in carrying passengers or freight, manufacturing establishments or any of their employees where

11 the processes of said manufacture require continuous
12 operation and where said employees are on rotating
13 shift schedules, on the Sabbath day, or for carrying fire-
14 arms or shooting on that day, by any person having the
15 right so to do under the laws of the United States or of
16 this state; and no forfeiture shall be incurred or conviction
17 had under the preceding section by or of any person who
18 conscientiously believes that the seventh day of the week
19 ought to be observed as a Sabbath and actually refrains
20 from all secular business and labor on that day, provided
21 he does not compel any apprentice or servant not of his
22 belief to do secular work or business on Sunday, and
23 does not on that day disturb any other person in his ob-
24 servance of the same. No contract shall be deemed void
25 because it is made on the Sabbath day.

CHAPTER 60

(House Bill No. 5—By Mr. May)

AN ACT to amend and reenact section one, article three, chap-
ter sixty-two of the code of West Virginia, one thousand
nine hundred thirty-one, relating to certain particulars of
trials of criminal cases, including counsel for the accused
and remuneration of counsel.

[Passed February 7, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 3. Trial of Criminal Cases.

Section

1. Time for trial; deposition of witnesses for accused; counsel, copy of indictment, and lists of jurors for accused; remuneration of appointed counsel.

Be it enacted by the Legislature of West Virginia:

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

- Section 1. *Time for Trial; Deposition of Witnesses for*
2 *Accused; Counsel, Copy of Indictment, and Lists of*

3 *Jurors for Accused; Remuneration of Appointed Coun-*
4 *sel.*—When an indictment is found in a court having
5 jurisdiction, in any county, against a person for a felony,
6 the accused, if in custody, or if he appear in discharge of
7 his recognizance, or voluntarily, shall, unless good cause
8 be shown for a continuance, be tried at the same term. If
9 any witness for the accused be a nonresident of the state,
10 or absent therefrom in any service or employment, so
11 that service of a subpoena cannot be had upon him in
12 this state, or is aged or infirm so that he can not attend
13 upon the court at the trial, the accused may present to
14 the court in which the case is pending, or to the judge
15 thereof in vacation, an affidavit showing such facts, and
16 stating therein what he expects to prove by any such wit-
17 ness, his name, residence, or place of service or employ-
18 ment; and if such court or judge be of the opinion that
19 the evidence of any such witness, as stated in such affi-
20 davit, is necessary and material to the defense of the
21 accused on his trial, an order may be made by such court
22 or judge for the taking of the deposition of any such wit-
23 ness upon such notice to the prosecuting attorney, of the
24 time and place of taking the same, as the court or judge
25 may prescribe; and in such order the court or judge may
26 authorize the employment of counsel, practicing at or
27 near the place where the deposition is to be taken, to
28 cross-examine the witness on behalf of the state, the
29 reasonable expense whereof shall be paid out of the
30 treasury of the state, upon certificate of the court where-
31 in the case is pending. Every deposition so taken may, on
32 motion of the defendant, so far as the evidence therein
33 contained is competent and proper, be read to the jury
34 on the trial of the case as evidence therein. The accused
35 shall be allowed counsel in a felony case, and if he de-
36 sire it in a misdemeanor case to assist him in his defense,
37 and a copy of the indictment and of the list of the jurors
38 selected or summoned for his trial, as provided in the
39 third section of this article, shall be furnished him, upon
40 his request, at any time before the jury is impaneled; and,
41 in every case where the court appoints counsel for the
42 accused and the accused presents an affidavit showing
43 that he can not pay therefor, the court, may, in its dis-

44 cretion, by order entered of record allow an attorney so
45 appointed a fee of not to exceed twenty-five dollars in
46 any misdemeanor case, and a fee of not to exceed fifty
47 dollars in any felony case. In misdemeanor cases, the fee
48 so allowed shall be paid out of the general county fund,
49 and in felony cases shall be paid by the state auditor as
50 other fees in felony cases are paid. The amount so paid, in
51 the event the accused shall not prevail, shall be and con-
52 stitute a judgement of said court against the accused to be
53 recovered as any other judgement for costs.

CHAPTER 61

(House Bill No. 156—By Mr. Davis)

AN ACT to amend and reenact section three, article seven, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter thirty-seven, acts of the Legislature, regular session, one thousand nine hundred forty-nine, relating to execution of death sentence.

[Passed February 14, 1951; in effect from passage. Approved by the Governor.]

Article 7. Execution of Sentences; Stays.

Section

3. Execution of death sentence.

Be it enacted by the Legislature of West Virginia:

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

Section 3. *Execution of Death Sentence.*—Sentence of
2 death, except for insurrection or rebellion, shall not be
3 executed sooner than thirty days after the sentence is
4 pronounced. The sentence of death shall, in every case,
5 be executed by electrocution of the convict until he is

6 dead. Such punishment shall be executed within the
7 walls of the West Virginia penitentiary and not elsewhere,
8 and within an enclosure to be prepared for that purpose,
9 under the direction of the warden of the penitentiary and
10 the authorities in control thereof, which enclosure shall
11 be so constructed as to exclude public view; and the war-
12 den of the West Virginia penitentiary, or, in case of his
13 death, absence or inability to act, a deputy warden, shall
14 be the executioner; and for his services in executing such
15 sentence, the said warden, or deputy warden, shall receive
16 the sum of twenty-five dollars, to be paid out of any fund
17 on hand appropriated for the maintenance and support
18 of the West Virginia penitentiary.

CHAPTER 62

(Senate Bill No. 26—By Mr. Love)

AN ACT to amend and reenact section four, article seven, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to execution of death sentence.

[Passed February 9, 1951; in effect from passage. Approved by the Governor.]

Article 7. Execution of Sentences; Stays.

Section

4. Certificate of death sentence and indictment to be sent to warden; transfer of convict to penitentiary; persons present at electrocution.

Be it enacted by the Legislature of West Virginia:

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

- Section 4. *Certificate of Death Sentence and Indictment to Be Sent to Warden; Transfer of Convict to Penitentiary; Persons Present at Electrocution.*—The clerk of the court which pronounces the sentence of death shall, as soon as may be, after sentence, deliver a certified

6 copy thereof to the proper officer of such court, who shall
7 retain the custody of the person so sentenced to death un-
8 til delivered to a properly authorized guard sent by the
9 warden for the removal of such person to the penitentiary.
10 And the clerk of such court shall also forthwith transmit,
11 to the warden of the penitentiary, a copy of the indict-
12 ment, conviction and sentence; and if the clerk fail to so
13 transmit such certified copies as here provided, he shall
14 forfeit one hundred dollars. And the warden shall, upon
15 receipt of such copies, as soon as it may be, send a guard,
16 or two guards at the most, to the place where such person
17 is confined, to remove such person so sentenced to the
18 penitentiary and there deliver him. And the said warden,
19 or deputy warden, shall proceed, unless a suspension of
20 execution be ordered, at the time and place named in such
21 sentence, to cause the convict under sentence of death
22 to be electrocuted as provided in the next preceding sec-
23 tion of this article. At the execution there may be present,
24 besides the officers of the court imposing such sentence,
25 such other officers and such guards and assistants as the
26 warden or deputy warden shall see fit. He shall re-
27 quest the presence of the prosecuting attorney in such
28 court, the clerk thereof, and twelve respectable citizens,
29 including a physician and surgeon, and such representa-
30 tives of the press as he may desire, and he shall permit
31 the presence of the counsel of the convict, and such min-
32 isters of gospel as he shall desire, and such of the convict's
33 relations as he shall deem prudent.

CHAPTER 63

(House Bill No. 384—By Mr. Davis)

AN ACT to amend and reenact section ten, article seven, chap-
ter sixty-two of the code of West Virginia, one thousand
nine hundred thirty-one, relating to transmission of com-
mitment paper to warden or superintendent of penal insti-
tutions.

[Passed March 9, 1951: in effect July 1, 1951. Approved by the Governor.]

Article 7. Execution of Sentences; Stays.**Section**

10. Transmission of commitment paper to warden or superintendent of penal institutions.

Be it enacted by the Legislature of West Virginia:

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

Section 10. *Transmission of Commitment Paper to Warden or Superintendent of Penal Institutions.*—The clerk of a court in which a person is sentenced to any penal institution in the state of West Virginia shall transmit to the warden or superintendent of said institution a certified commitment paper. Said paper shall be in the following form:

8 COURT OF
 9 COUNTY, WEST VIRGINIA
 10 STATE OF WEST VIRGINIA }
 11 v. } No.
 12

13 On this.....day of....., 19..... came
 14 the attorney for the State and the defendant appearing
 15 in person and
 16 IT IS ADJUDGED that the defendant has been convicted
 17 (found guilty by a jury)
 18 (upon plea of guilty) of the offense of
 19 as charged

20 and the Court having asked the defendant whether he
 21 has anything to say why judgment should not be pro-
 22 nounced, and no sufficient cause to the contrary being
 23 shown or appearing to the Court,
 24 IT IS ADJUDGED that the defendant is guilty as charged
 25 and convicted.

26 IT IS ADJUDGED that the defendant is hereby committed
 27 to the custody of the
 28 Warden of the West Virginia Penitentiary
 29 Superintendent of the West Virginia State Prison for
 30 Women
 31 or his authorized representative for imprisonment for a
 32 period of

33 Conviction Date:
 34 Sentence Date:
 35 Effective Sentence Date:
 36 IT IS ADJUDGED that
 37 IT IS ORDERED that the Clerk forthwith transmit this
 38 record, duly certified, of the judgment and commitment
 39 to the
 40 Warden of the West Virginia Penitentiary
 41 Superintendent of the West Virginia State Prison for
 42 Women
 43 and that this record serve as the commitment of the de-
 44 fendant.
 45 _____ COUNTY,
 46 _____
 47 _____ Judge
 48 A TRUE COPY. Certified this _____ day of _____,
 49 19_____.
 50 _____
 51 _____ Clerk
 52 SEAL

CHAPTER 64

(House Bill No. 154—By Mr. Davis)

AN ACT to amend and reenact section four, article eight, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter twenty-three, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to the further confinement of convicts for second and third offenses.

[Passed March 5, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 8. Crimes by and Proceedings Against Convicts.

Section

4. Procedure in sentencing convicts to further confinement for second and third offenses.

Be it enacted by the Legislature of West Virginia:

That section four, article eight, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter twenty-three, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be amended and reenacted to read as follows:

Section 4. *Procedure in Sentencing Convicts to Further*
2 *Confinement for Second and Third Offenses.*—When a
3 prisoner convicted of an offense and sentenced to con-
4 finement therefor in the penitentiary, is received therein,
5 if he was before convicted in the United States of a
6 crime punishable by imprisonment in a penitentiary and
7 the record of his conviction does not show that he has
8 been sentenced under sections eighteen or nineteen,
9 article eleven, chapter sixty-one of this code, the warden
10 of the penitentiary may give information thereof, to the
11 circuit court of the county of Marshall, whether it be
12 alleged or not in the indictment on which he was con-
13 victed that he had before been previously so convicted.
14 If such information is given, the court shall cause the
15 convict to be brought before it, and upon an information
16 filed, setting forth the several records of conviction, and
17 alleging the identity of the prisoner with the person
18 named in each, shall require the convict named to say
19 whether he is the same person or not. If he say he is not,
20 or remain silent, his plea, or the fact of his silence, shall
21 be entered of record, and a jury shall be impaneled to
22 inquire whether the convict is the same person mentioned
23 in the several records. If the jury find that he is not the
24 same person, he shall be remanded to the penitentiary;
25 but if they find that he is the same person, or if he ack-
26 nowledge in open court, after being duly cautioned, that
27 he is the same person, the court shall sentence him to
28 such further confinement as is prescribed by article
29 eleven, chapter sixty-one of this code, on a second or
30 third conviction, as the case may be.

CHAPTER 65

(Senate Bill No. 141—By Mr. Bean)

AN ACT to amend and reenact sections twelve and fourteen, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to probation and parole.

[Passed March 8, 1951: in effect July 1, 1951. Approved by the Governor.]

Article 12. Probation and Parole.

Section

12. Director of probation and parole.
14. Officers and staff.

Be it enacted by the Legislature of West Virginia:

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

Section 12. *Director of Probation and Parole.*—The
2 governor, by and with the advice and consent of the
3 senate, shall appoint a director of probation and parole,
4 whose term of office shall be four years. In the event
5 of the inability of the director to act, the governor may
6 appoint some person to act temporarily in his stead. The
7 director shall not engage in any other business or pro-
8 fession, nor hold any other public office, nor shall he hold
9 an office in any political party. He shall receive an an-
10 nual salary, to be fixed by the governor, not to exceed
11 seven thousand dollars and necessary expenses incurred
12 in the discharge of his official duties.

Sec. 14. *Officers and Staff.*—The director of probation
2 and parole shall have authority to appoint such state
3 probation and parole officers and such other clerical as-
4 sistants as may be necessary to the proper administration
5 of this article, and to fix their salaries. He shall determine
6 the qualifications of probation and parole officers and
7 may from time to time conduct competitive examina-
8 tions as a basis for their selection.

9 All persons appointed or employed by the director
10 shall be paid all necessary expenses incurred in the
11 discharge of their duties.

CHAPTER 66

(Senate Bill No. 64—By Mr. Hardesty)

AN ACT to amend and reenact section eight, article one, chapter twenty-five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the salary of the director of the state department of purchases.

[Passed March 8, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 1. General Provisions.

Section

8. Salary and traveling expenses of director.

Be it enacted by the Legislature of West Virginia:

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

Section 8. *Salary and Traveling Expenses of Director.*—

2 The director shall receive an annual salary of seven thou-
3 sand dollars. He shall also receive necessary traveling
4 expenses incident to the performance of his duties.
5 Requisitions for traveling expenses shall be accompanied
6 by a sworn and itemized statement which shall be filed
7 with the auditor and preserved as a public record.

CHAPTER 67

(Senate Bill No. 49—By Mr. Johnston, Mr. President)

AN ACT to amend and reenact section eight, article five, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the compensation of the director of the budget.

[Passed March 8, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 5. State Budget Office.

Section

8. Director; compensation.

Be it enacted by the Legislature of West Virginia:

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

Section 8. *Director; Compensation.*—The director shall
 2 receive an annual compensation to be fixed by the gov-
 3 ernor, but not in excess of seven thousand dollars. He
 4 shall receive, in addition, the necessary traveling ex-
 5 penses incident to the performance of his duties. Requi-
 6 sitions for traveling expenses shall be filed with the audi-
 7 tor and shall be preserved as a public record.

CHAPTER 68

(Senate Bill No. 126—By Mr. Taylor of Mingo)

AN ACT to amend article five, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended by adding thereto a new section, to be designated section forty-eight, relating to the approval of the director of the budget of requests and budgets of state agencies in respect to applications for federal aid.

[Passed February 23, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 5. State Budget Office.

Section

48. Approval by director of requests for federal aid.

Be it enacted by the Legislature of West Virginia:

That article five, chapter five, of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, to be designated section forty-eight, to read as follows:

Section 48.—*Approval by Director of Requests for Fed-
 2 eral Aid.*—Every agency of the state government when
 3 making requests or preparing budgets to be submitted
 4 to the federal government for funds, equipment, material

5 or services, the grant or allocation of which is conditioned
6 upon the use of state matching funds, shall have such
7 request or budget approved in writing by the director of
8 the budget before submitting it to the proper federal
9 authority. When such federal authority has approved
10 the request or budget, the agency of the state govern-
11 ment shall resubmit it to the director of the budget for
12 recording before any allotment or encumbrance of the
13 federal funds can be made. Whenever any agency of
14 the state government shall receive from an agency of
15 the federal government a grant or allocation of funds
16 which do not require state matching, the state agency
17 shall report to the director of the budget for his informa-
18 tion the amount of the federal funds so granted or allo-
19 cated.

CHAPTER 69

(Com. Sub. for House Bill No. 187—Originating in the House Committee on
Agriculture)

AN ACT to repeal and reenact article twenty, chapter nine-
teen of the code of West Virginia, one thousand nine hun-
dred thirty-one, as amended, relating to the registration
and taxation of dogs and dog kennels, and the control of
dogs.

[Passed March 10, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 20. Dogs.

Section

1. Dogs subject to taxation; personal property.
2. Collection of head tax on dogs; duties of assessor and sheriff; registration of dogs; disposition of head tax; taxes on dogs not collected by assessor.
3. Registration of dog kennels; fee.
4. Forms for registration; records; license tags.
5. Wearing of registration tag by dog.
6. Appointment of county dog warden; bond; powers and duties.
7. Dog pounds.
8. Impounding and disposition of dogs; costs and fees.
9. Failure to register dog or kennel; alteration or forging of registration certificate or tag; penalties.
10. Dog and kennel fund; disposition of same.
11. Assessment of dogs as personal property.

12. Dogs protected by law; unlawful killing of same; aggrieved owner's remedy.
13. Dog running at large liability of owner.
14. Dog killing or worrying livestock; recovery of damages from owner of dog or county court.
15. Same; assessment of damages; appraisers.
16. Same; when lawful to kill dog.
17. Same; unlawful to harbor dog; penalty.
18. Same; duty of owner to kill dog; proceeding before justice on failure of owner to kill.
19. Offenses; penalties.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Dogs Subject to Taxation; Personal Property.*—Any dog above the age of six months shall be subject to taxation and shall be and is hereby declared to be personal property within the meaning and construction of the laws of this state.

Sec. 2. *Collection of Head Tax on Dogs; Duties of Assessor and Sheriff; Registration of Dogs; Disposition of Head Tax; Taxes on Dogs Not Collected by Assessor.*—It shall be the duty of the county assessor and his deputies of each county within this state, at the time they are making assessment of the personal property within such county, to assess and collect a head tax of one dollar on each male or spayed female dog and of two dollars on each unspayed female dog; and in addition to the above, the assessor and his deputies shall have the further duty of collecting any such head tax on dogs as may be levied by the ordinances of each and every municipality within the county. In the event that the owner, keeper, or person having in his possession or allowing to remain on any premises under his control any dog above the age of six months, shall refuse or fail to pay such tax, when the same is assessed or within fifteen days thereafter, to the assessor or deputy assessor, then such assessor or deputy assessor shall certify such tax to the county dog warden; if there be no county dog warden he shall certify such tax to the county sheriff, who shall take charge of the dog for which the tax is delinquent and impound the same for a period of fifteen

23 days, for which service he shall be allowed a fee of one
24 dollar and fifty cents to be charged against such delin-
25 quent taxpayer in addition to the taxes herein provided
26 for. In case the tax and impounding charge herein pro-
27 vided for shall not have been paid within the period of
28 fifteen days, then the sheriff may sell the impounded dog
29 and deduct the impounding charge and the delinquent
30 tax from the amount received therefor, and return the
31 balance, if any, to the delinquent taxpayer. Should the
32 sheriff fail to sell the dog so impounded within the time
33 specified herein, he shall kill such dog and dispose of its
34 body.

35 At the same time as the head tax is assessed, the asses-
36 sor and his deputies shall, on the forms prescribed under
37 section four of this article, take down the age, sex, color,
38 character of hair (long or short) and breed (if known),
39 and the name and address of the owner, keeper or harborer
40 thereof. When the head tax, and extra charges, if any,
41 are paid, the officer to whom payment is made shall issue
42 a certificate of registration and a registration tag for
43 such dog.

44 In addition to the assessment and registration above
45 provided for, whenever a dog either is acquired or be-
46 comes six months of age after the assessment of the per-
47 sonal property of the owner, keeper or harborer thereof,
48 the said owner, keeper or harborer of said dog shall, with-
49 in ten days after the acquisition or maturation, regis-
50 ter the said dog with the assessor, and pay the head tax
51 thereon unless the prior owner, keeper or harborer paid
52 the head tax.

53 All certificates of registration and registration tags
54 issued pursuant to the provisions of this section shall
55 be issued for the calendar year and shall be valid from
56 the date on which issued until the thirty-first day of De-
57 cember of the same year, or until reissued by the assessor
58 or his deputy in the regular performance of his duties, but
59 in no case shall previous registration tags be valid after
60 March thirty-first, of the following year.

61 The assessor collecting the head tax on dogs shall be
62 allowed a commission of ten per cent upon all such taxes
63 collected by him, and shall turn in to the county treasury

64 ninety per cent of such taxes so collected, as are levied by
65 this section; and the assessor shall turn over to the treas-
66 urer or other proper officer of each and every munic-
67 ipality within the county ninety per cent of such taxes
68 levied by the ordinances of such municipality. All such
69 dog taxes, except those belonging to municipalities, shall
70 be accredited to the dog and kennel fund provided for
71 in section ten of this article. Such dog taxes as are col-
72 lected for and turned over to municipalities shall be
73 deposited by the proper officer of such municipality to
74 such fund and shall be expended in such manner as the
75 law of such municipality may provide. All taxes on dogs
76 not collected by the assessor shall be collected by the
77 regular tax collecting officer of the county and placed to
78 the credit of the dog and kennel fund.

Sec. 3. *Registration of Dog Kennels; Fee.*—Every owner
2 or operator of a kennel, wherein dogs are bred, kept,
3 boarded or sold as a commercial venture for profit shall
4 annually, between the first day of January and the thirty-
5 first day of March of each year, file with the assessor of the
6 county in which such kennel is located, kept or maintained,
7 an application for the registration of such kennel for the
8 calendar year. Such application shall state the location
9 of the kennel, the name and address of the person actually
10 in charge of and supervising it, and the name and address
11 of the owner of the kennel. Upon the filing of such appli-
12 cation, together with the payment to the assessor of a fee
13 of ten dollars the assessor shall issue a certificate of regis-
14 tration for such kennel. The registration of a kennel, as
15 herein provided, shall entitle the registrant to register
16 and receive certificates and tags for not more than five
17 dogs without the payment of a separate head tax on such
18 dogs. The head tax provided for in section two of this
19 article shall, on such five or less dogs, be included in and
20 charged against the kennel registration fee herein pro-
21 vided.

22 Every person upon becoming the owner or operator of
23 a kennel of dogs as herein described, after the thirty-first
24 day of March of any year shall, within three days after
25 becoming such owner or operator, register such kennel
26 for the remainder of the current year in the manner, and

27 upon the payment of the registration fee, herein provided.
28 All certificates of registration issued pursuant to the
29 provisions of this section shall be issued for the calendar
30 year, and shall be valid from the date on which issued
31 until the thirty-first day of December of that year.

Sec. 4. *Forms for Registration; Records; License Tags.*—

2 The commissioner of agriculture shall prescribe the form
3 of all applications, certificates of registration, and regis-
4 tration tags required by this article. Certificates of regis-
5 tration and registration tags shall bear identifying num-
6 bers.

7 A public record of all certificates of registration and
8 registration tags issued under the provisions of this article
9 shall be kept by the assessor of each county. Such record
10 shall be kept intact and available for inspection for a
11 period of not less than two years following the end of
12 the registration year.

13 Registration tags shall be made of metal or some other
14 suitable substance of a permanent nature. The design of
15 such tags shall be changed from year to year so that
16 identification of the year of issue of any tag may be made
17 without close visual examination. If any registration tag
18 be lost, a duplicate shall be furnished by such assessor
19 upon proper proof of loss and the payment to him of a
20 fee of twenty-five cents.

Sec. 5. *Wearing of Registration Tag by Dog.*—Every

2 registered dog shall at all times wear a valid registration
3 tag issued as provided in this article. The failure to have
4 displayed or worn on any dog, at any time, of such valid
5 tag shall be prima facie evidence that such dog is not
6 registered and such dog shall be subject to be, and shall
7 be, impounded, sold, or destroyed as hereinbefore or here-
8 inafter provided.

Sec. 6. *Appointment of County Dog Warden; Bond;*

2 *Powers and Duties.*—The county court of each county
3 may appoint and employ a county dog warden, and such
4 number of deputies, for such time, and at such compen-
5 sation, as such county court shall deem reasonable and
6 necessary to enforce the provisions of this code with re-
7 spect to the control and registration of dogs, the im-

8 pounding, care and destruction of unlicensed dogs. Such
9 county dog warden may be appointed a deputy assessor
10 for the purpose of collecting the dog tax and registration
11 fees, taking the dog registration and providing the tags
12 authorized by this article. The county dog warden and/or
13 any deputies may, in the discretion of the county court,
14 be regularly employed officers or agents of any humane
15 society or society for the prevention of cruelty to animals,
16 organized and operating under the laws of this state and
17 owning, controlling and operating a suitable place within
18 the county for impounding and destroying dogs. In addi-
19 tion to the compensation provided for above, a bounty of
20 fifty cents per dog shall be paid to the county dog warden
21 or deputy who captures an unregistered dog. Such county
22 dog warden and deputy wardens shall each give bond in
23 a sum of not less than one thousand dollars and not more
24 than two thousand dollars conditioned on the faithful
25 performance of their duties. Such bonds shall be filed
26 with the county court by which such persons are ap-
27 pointed.

28 The county dog warden and his deputies shall patrol
29 the county in which they are appointed and shall seize
30 on sight and impound any dog more than six months of
31 age found not wearing a valid registration tag, except
32 dogs kept constantly confined in a registered dog ken-
33 nel. They shall be responsible for the proper care and
34 final disposition of all impounded dogs. The county dog
35 warden shall make a monthly report, in writing, to the
36 county court of his county. When any dog shall have been
37 seized and impounded, the county dog warden shall forth-
38 with give notice to the owner of such dog, if such owner
39 be known to the warden, that such dog has been im-
40 pounded and that it will be sold or destroyed if not re-
41 deemed within five days. If the owner of such dog be not
42 known to the dog warden, he shall post a notice in the
43 county court house describing the dog and the place
44 where seized and advising the unknown owner that such
45 dog will be sold or destroyed if not redeemed within five
46 days.

Sec. 7. *Dog Pounds.*—The county court of each county,

2 if the court appoints a county dog warden, shall provide
3 the dog warden with nets and other suitable devices for
4 taking dogs in a humane manner, and with facilities
5 for transporting any dog seized to the dog pound, a
6 suitable place for impounding dogs with proper provisions
7 for their feeding and care, and humane equipment, de-
8 vices and methods for destroying dogs: *Provided*, That in
9 any county in which there is a society for the prevention
10 of cruelty to animals or a humane society, incorporated
11 and organized under the laws of this state, and having
12 one or more duly appointed agents, and maintaining an
13 animal home or shelter suitable for impounding dogs and
14 possessing devices for humanely destroying dogs, the
15 county court shall not be required to provide a dog pound,
16 but it may designate such animal home or shelter as the
17 county dog pound, and the county dog warden shall in
18 such case deliver all dogs seized by him and his deputies
19 to such animal home or shelter for impounding and dis-
20 position in the manner provided by this article. The
21 county court shall provide for the payment of reason-
22 able compensation, not to exceed the fees and costs pro-
23 vided for in this article, to such society for the use of its
24 facilities and services in impounding and disposing of
25 dogs. Such compensation to such society shall be paid
26 from the fund provided for in this article.

Sec. 8. Impounding and Disposition of Dogs; Costs and Fees.—All dogs seized and impounded as provided in this
2 article, except dogs taken into custody under section two
3 of this article, shall be kept housed and fed in the county
4 dog pound for five days after notice of seizure and im-
5 pounding shall have been given or posted as required by
6 this article, at the expiration of which time all dogs which
7 have not previously been redeemed by their owners as
8 herein provided, shall be sold or humanely destroyed.
9 No dog sold as herein provided shall be discharged from
10 the pound until such dog shall have been registered and
11 provided with a valid registration tag.

12 The owner, keeper or harbinger of any dog seized and
13 impounded under the provisions of this article may, at
14 any time prior to the expiration of five days from the
15

16 time that notice of the seizure and impounding of the
 17 dog shall have been given or posted as required by this
 18 article, redeem the same by paying to the dog warden
 19 or his authorized agent or deputy all of the costs asses-
 20 sed against such dog, and by providing a valid certificate
 21 or registration and registration tag for such dog.

22 Costs and fees shall be assessed against every dog seized
 23 and impounded under the provisions of this article, ex-
 24 cept dogs taken into custody under section two of this
 25 article, as follows:

26	Seizing dog and delivering to pound.....	\$2.00
27	Serving or posting notice to owner.....	.50
28	Housing and feeding dog, per day.....	.50

29 Such cost shall be a valid claim in favor of the county
 30 against the owner, keeper or harbinger of any dog seized
 31 and impounded under the provisions of this article and
 32 not redeemed or sold as herein provided, and such costs
 33 shall be recovered by the sheriff in a civil action against
 34 such owner, keeper, or harbinger.

35 A record of all dogs impounded, the disposition of such
 36 dogs, and a statement of costs assessed against each dog
 37 shall be kept by the dog warden and a transcript thereof
 38 shall be furnished to the sheriff quarterly.

*Sec. 9. Failure to Register Dog or Kennel; Alteration or
 2 Forging of Registration Certificate or Tag; Penalties.—*

3 Any person who owns, keeps, or harbors a dog, or who
 4 owns or operates a kennel, subject to registration under
 5 the provisions of this article, and who fails, refuses, or
 6 neglects to register such dog or kennel, shall be guilty of
 7 a misdemeanor and upon conviction thereof, shall be
 8 fined not less than twenty-five nor more than one hun-
 9 dred dollars.

10 Any person who shall alter, or forge any certificate or
 11 tag, provided for in this article, or display, present, or
 12 utter such certificate as valid with knowledge that it has
 13 been altered or forged, or who knowingly causes or per-
 14 mits any dog owned, kept or harbored by him to wear
 15 any fictitious, altered, or invalid registration tag in place
 16 of a valid tag as required under the provisions of this
 17 article, shall be guilty of a misdemeanor, and upon con-

18 viction thereof, shall be punished by imprisonment in the
19 county jail for not more than thirty days or by a fine of
20 not less than one hundred dollars nor more than five
21 hundred dollars, or by both such fine and imprison-
22 ment.

Sec. 10. *Dog and Kennel Fund; Disposition of Same.*—

2 All registration fees, head taxes, and fees and costs for
3 impounding and disposing of dogs, as provided in this
4 article, and collected thereunder, shall be paid into the
5 county treasury where they shall constitute and be set
6 aside as a special fund to be designated the “dog and
7 kennel fund”.

8 The county court shall expend such fund, and issue
9 drafts payable therefrom, for the following purposes, and
10 no others: To pay the actual expenses incurred by the
11 county court, the county assessor, and the sheriff in car-
12 rying out the provisions of this article; to pay for the
13 services of the dog warden, his deputies, pound keepers,
14 and such other persons as may be employed, if any, or
15 may render services, in actually carrying out the pro-
16 visions of this article; to pay for the purchase, procure-
17 ment, rental, construction, operation, maintenance and
18 repair of any property, devices or facilities reasonably
19 necessary and required to carry out the provisions of
20 this article; to compensate any department of the state
21 government or any local board of health for any neces-
22 sary service rendered in connection with this article;
23 to pay the costs of any rabies control project or program
24 authorized by law; to compensate any persons who have
25 suffered loss or damage on account of the destruction,
26 loss, or injury by dogs of any sheep, lamb, goat, kid or
27 poultry, when such claims have been proved and allowed
28 as provided in this article.

29 In the event that the dog and kennel fund shall in any
30 year be insufficient to pay the several items set forth in
31 this section, then the county court, may be, and it is
32 hereby authorized and empowered to pay such items out
33 of the county general fund. Any surplus of the dog and
34 kennel fund remaining unexpended in the county treas-
35 ury, and, in the opinion of the county court, not needed

36 for the payment and satisfaction of claims and expenses
37 as herein provided, shall annually be paid into and cred-
38 ited to the county school fund, but the funds thus used
39 shall be in an amount deemed proper and safe in the
40 judgment and discretion of the county court.

Sec. 11. *Assessment of Dogs as Personal Property.*—

2 In addition to the head tax on dogs provided for in this
3 article, the owner of any dog above the age of six months
4 shall be permitted to place a value on such dog and have
5 such dog assessed as personal property in the same man-
6 ner and at the same rate as other personal property.

Sec. 12. *Dogs Protected by Law; Unlawful Killing of Same; Aggrieved Owner's Remedy.*—Any dog which is
2 registered, kept, and controlled as provided in this article
3 shall be protected by law; and any person who shall un-
4 lawfully kill or injure, administer poison to or knowingly
5 expose the same so that it shall be taken by any such
6 dog, or shall, in any other manner, intentionally and un-
7 lawfully cause the death or injury of any such dog shall
8 be guilty of a misdemeanor, and, if such dog be of the
9 assessed value of more than twenty dollars, shall, upon
10 conviction, be imprisoned in the county jail at hard labor,
11 for a period not in excess of twelve months, or fined not
12 in excess of two hundred dollars, or both, in the discre-
13 tion of the court; and if such dog be of twenty dollars or
14 less in assessed value, such person shall be imprisoned
15 in the county jail at hard labor for a period not in ex-
16 cess of six months, or fined not in excess of fifty dollars,
17 or both, in the discretion of the court. Any person whose
18 dog shall be killed or injured wrongfully or unlawfully
19 by any other person shall have a right of action against
20 the person who shall so kill or injure such dog, but in no
21 case can recovery be had in excess of the assessed value
22 of such dog. In no case can any action under the provi-
23 sions of this section be maintained if the dog concerned
24 shall not have been duly registered pursuant to the pro-
25 visions of this article at the time the cause of action shall
26 have arisen.
27

28 It shall be the duty of all members of the department
29 of public safety, sheriffs, constables, and police officers

30 to aid in the enforcement of the provisions of this article,
31 and for services rendered in the enforcement thereof such
32 persons shall be entitled to fees in the amounts set forth
33 in section eight. Such fees shall be paid by the county
34 court from the dog and kennel fund.

Sec. 13. *Dog Running at Large Liability of Owner.*—

2 Any owner or keeper of any dog who permits such dog to
3 run at large shall be liable for any damages inflicted upon
4 the person or property of another by such dog while so
5 running at large.

Sec. 14. *Dog Killing or Worrying Livestock; Recovery*

2 *of Damages from Owner of Dog or County Court.*—If any
3 dog shall have killed or assisted in killing, wounding or
4 worrying any sheep, lambs, goats, kids, or poultry out
5 of the inclosure of the owner of such dog, the owner or
6 keeper of such dog shall be liable to the amount of such
7 sheep, lambs, goats, kids or poultry in the amount of the
8 damages sustained, to be recovered in an action before
9 any court or justice having jurisdiction of such action;
10 and it shall not be necessary to sustain such action to
11 prove that the owner of such dog knew such dog was
12 accustomed to do such worrying, killing or wounding;
13 but a recovery under this section shall bar and preclude
14 the owner of such sheep, lambs, goats, kids or poultry
15 from obtaining compensation from the county court under
16 the provisions of this article. If such person suffering
17 such loss or damage cannot ascertain the owner or keeper
18 of such dog, or if such owner or keeper is not financially
19 responsible, then the person suffering such loss or dam-
20 age may file his claim with, and prove the same before,
21 the county court of the county in which such loss or
22 damage is sustained, in the manner provided in this
23 article, and the court shall pay such loss or damage out
24 of the fund provided for such purposes and according to
25 the provisions of this article. When compensation is so
26 obtained from the county court, said county court is au-
27 thorized to sue under this section and recover as the
28 owner of the sheep, lambs, goats, kids or poultry might
29 have done, and the amount so recovered shall be paid into

30 the county treasury; but no suit shall be commenced un-
31 less authorized by the county court.

Sec. 15. *Same; Assessment of Damages; Appraisers.*—

2 Authority is hereby given to justices of the peace and
3 notaries public within this state, and within their respec-
4 tive jurisdictions, to summon three substantial, upright
5 and worthy bona fide residents, citizens and taxpayers of
6 his county to assess the damages suffered by any person
7 on account of the destruction, loss or injury of any sheep,
8 lambs, goats, kids or poultry by dogs within the county.
9 Such appraisers shall be appointed upon the request of
10 any person suffering damages on account of such destruc-
11 tion, loss or injury, and shall go upon the ground and in-
12 vestigate fully the extent of such destruction, loss or
13 injury, taking all the evidence deemed necessary to ar-
14 rive at the facts to be passed upon in arriving at the
15 amount of damage, if any, suffered by the party making
16 the complaint. Before such appraisers may be summoned
17 by such justice or notary public, such complainant shall
18 be required to make a sworn complaint before such
19 justice or notary public, setting out in plain, easily com-
20 prehended terms the facts concerning his damage to the
21 best of his knowledge. And after making a full investi-
22 gation of the facts involved, such appraisers, with the
23 assistance of such justice or notary public, shall make a
24 sworn statement and report the facts ascertained and the
25 damages suffered, which report and statement shall be
26 filed with the county court or the clerk thereof in vaca-
27 tion. The fees and mileage for services allowed in such
28 cases shall be the same as are allowed justices, witnesses
29 and arbitrators in justices' courts in this state for similar
30 services. In the event that such appraisers find that the
31 complainant has suffered no damage, then the complain-
32 ant shall be responsible for and pay all the costs and ex-
33 penses of such proceeding; and in the event that such
34 complainant has suffered damages on account of the
35 destruction, loss or injury of any such domestic animals,
36 according to the finding of such appraisers, then in such
37 event the owner, keeper or person permitting the dog,
38 or dogs, causing such damage to remain upon premises

39 under his control shall be liable for all damage sustained
40 by the complainant, including all costs and necessary
41 expenses, all of which shall be collectible by an action
42 at law before any court or justice having jurisdiction of
43 the matter. All papers in connection with any such claim
44 shall be filed and preserved in the office of the clerk of
45 the county court.

Sec. 16. *Same; When Lawful to Kill Dog.*—Any person
2 may kill any dog that he may see chasing, worrying,
3 wounding or killing any sheep, lambs, goats, kids or
4 poultry outside of the inclosure of the owner of such
5 dog, unless the same be done by the direction of the owner
6 of such sheep, lambs, goats, kids or poultry.

Sec. 17. *Same; Unlawful to Harbor Dog; Penalty.*—Any
2 person who shall harbor or secrete or aid in secreting
3 any dog which he knows or has reasons to believe has
4 worried, chased or killed any sheep, lambs, goats, kids
5 or poultry not the property of the owner of such dog,
6 out of his inclosure, or knowingly permits the same to
7 be done on any premises under his control, shall be
8 guilty of a misdemeanor, and, upon conviction thereof
9 before any court or justice having jurisdiction thereof
10 in the county in which the offense is committed, shall be
11 fined not less than ten nor more than fifty dollars, and,
12 at the discretion of the court or justice, imprisoned in the
13 county jail not more than thirty days; and each day that
14 such dog is harbored, kept or secreted shall constitute
15 a separate offense.

Sec. 18. *Same; Duty of Owner to Kill Dog; Proceeding
2 before Justice on Failure of Owner to Kill.*—The owner
3 or keeper of any dog that has been worrying, wounding,
4 chasing or killing any sheep, lambs, goats, kids or poultry
5 not the property of such owner or keeper, out of his in-
6 closure, shall, within forty-eight hours after having re-
7 ceived notice thereof in writing from a reliable and trust-
8 worthy source, under oath, cause such dog to be killed.
9 If the owner or keeper refuses to kill said dog as herein-
10 before provided, any justice of the peace, upon infor-
11 mation, shall summon the owner or keeper of such dog,
12 and, after receiving satisfactory proof that his dog did the

13 mischief, shall issue a warrant on application being made
14 by the owner of the sheep, lambs, goats, kids or poultry
15 killed; and give it into the hands of the constable, special
16 constable or sheriff, who shall kill the dog forthwith. The
17 cost of such proceedings shall be paid by the owner or
18 keeper of the dog so killed, including a fee of fifty cents
19 to the officer killing the dog. The owner or keeper of the
20 dog so killed shall, in addition to the costs, be liable to
21 the owner of the sheep, lambs, goats, kids or poultry or
22 to the county court, for the value of the sheep, lambs,
23 goats, kids or poultry so killed or injured.

Sec. 19. *Offenses; Penalties.*—Any person who shall
2 violate any of the provisions of this article for which no
3 specific penalty is prescribed shall be guilty of a misde-
4 meanor, and, upon conviction thereof, shall be fined not
5 more than one hundred dollars, and, in the discretion of
6 the court or justice trying the case, may be confined in
7 the county jail not to exceed thirty days. Justices of the
8 peace shall have concurrent jurisdiction with the circuit,
9 criminal and intermediate courts to enforce the penalties
10 prescribed by this article.

CHAPTER 70

(Senate Bill No. 170—Originating in the Senate Committee on Finance)

AN ACT to amend and reenact section fifteen, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to report to the governor by state board of education.

[Passed February 22, 1951: in effect ninety days from passage. Approved by the Governor.]

Article 2. State Board of Education.

Section

15. Report to the governor by state board.

Be it enacted by the Legislature of West Virginia:

That section fifteen, article two, chapter eighteen of the code

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

Section 15. *Report to the Governor by State Board.*—

- 2 On or before the first day of November preceding each
 3 regular session of the Legislature, the state board, through
 4 the state superintendent, shall make to the governor and
 5 to the Legislature a full report concerning the public
 6 schools and the educational institutions under its control
 7 and management, together with its recommendations in
 8 respect to needed legislation.

CHAPTER 71

(House Bill No. 127—By Mr. Blankenship)

AN ACT to amend and reenact section four, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter eight, acts of the Legislature, extraordinary session, one thousand nine hundred thirty-three, relating to meetings, quorum and compensation of members of district boards of education.

[Passed February 20, 1951: in effect ninety days from passage. Approved by the Governor.]

Article 5. District Board of Education.

Section

4. Meetings; quorum; compensation of members.

Be it enacted by the Legislature of West Virginia:

That section four, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter eight, acts of the Legislature, extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

- Section 4. *Meetings; Quorum; Compensation of Members.*—The board shall meet on the first Monday of July
 2 and on the first and third Tuesdays in August and at
 3 such other times as the board may fix upon its records.
 4

5 The board shall meet at its office on the first Monday in
6 May in each year and shall appoint the teachers for their
7 district. At which time, it shall be the duty of the super-
8 intendent of schools to furnish each member of the board
9 an approved list of all qualified teachers for the schools
10 of said district for the ensuing year. .

11 Special meetings may be called by the president or
12 any three members, but no business shall be transacted
13 other than that designated in the call.

14 A majority of the members shall constitute the quorum
15 necessary for the transaction of official business.

16 Board members shall receive compensation at the rate
17 of ten dollars per meeting. But they shall not receive
18 pay for more than eighteen meetings in any one year.

19 Members shall also be paid, upon the presentation of
20 an itemized sworn statement, for all necessary travel-
21 ing expenses incurred on official business, at the order
22 of the board.

CHAPTER 72

(House Bill No. 239—By Mr. Whitt)

AN ACT to amend and reenact section twelve, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to bonds of contractors in contracts for construction or repair of school buildings.

[Passed March 3, 1951: in effect from passage. Approved by the Governor.]

Article 5. District Board of Education.

Section

12. Bond of contractors.

Be it enacted by the Legislature of West Virginia:

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

Section 12. *Bond of Contractors.*—Boards shall require

- 2 all persons contracting for the building or repairing of
- 3 school property, where the contract exceeds one hundred
- 4 dollars, to execute a bond, with approved security, in the
- 5 amount of the contract price.

CHAPTER 73

(House Bill No. 8—By Mr. Mills)

AN ACT to amend and reenact section thirteen, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter forty-nine, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to general control of schools by the district board of education.

[Passed March 5, 1951: in effect ninety days from passage. Approved by the Governor.]

Article 5. District Board of Education.

Section

13. General control of schools; consolidation; transportation of pupils.

Be it enacted by the Legislature of West Virginia:

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

Section 13. *General Control of Schools; Consolidation;*

- 2 *Transportation of Pupils.*—The boards, subject to the pro-
- 3 visions of this chapter and the rules and regulations of
- 4 the state board, shall have authority:
- 5 (1) To control and manage all of the schools and school
- 6 interests of the county, including the authority to require
- 7 that records be kept of all receipts and disbursements of
- 8 all funds collected or received by any principal, teacher,
- 9 student or other person in connection with any program,
- 10 activity or other endeavor of any nature operated or car-
- 11 ried on by or in the name of the school, or any organiza-

12 tion or body directly connected with the school, and the
13 authority to audit such records;

14 (2) To establish needed high schools;

15 (3) To close any school which is unnecessary and to
16 assign the pupils thereof to other schools;

17 (4) To consolidate schools;

18 (5) To close any elementary school whose average
19 daily attendance falls below twenty pupils for two months
20 in succession, and send the pupils to other schools in the
21 district or to schools in adjoining districts. The compen-
22 sation of teachers in schools so closed shall cease;

23 (6) To provide at public expense adequate means of
24 transportation for all children of school age who live more
25 than two miles distant from school by the nearest avail-
26 able road or path; and to provide at public expense and
27 according to such regulations as the board may establish,
28 adequate means of transportation for school children par-
29 ticipating in athletic, literary and band activities: *Pro-*
30 *vided*, That in all cases the buses or other transportation
31 facilities owned by the board of education shall be driven
32 or operated only by drivers regularly employed by the
33 board of education: *Provided, further*, That buses shall
34 be used for extra curricular activities as herein provided
35 only when the insurance provided for by this section
36 shall have been effected.

37 (7) To provide at public expense for insurance against
38 the negligence of the drivers of school buses, trucks, or
39 other vehicles operated by the board; and if the trans-
40 portation of pupils be let out to contract, then the contract
41 therefor shall provide that the contractor shall carry in-
42 surance against negligence in such an amount as the board
43 shall specify.

44 The board of any district shall expend under such regu-
45 lations as it establishes for each child an amount not to
46 exceed the proportion of all school funds of the district
47 that each child would be entitled to receive if all the
48 funds were distributed equally among all the children
49 of school age in the district upon a per capita basis. No
50 changes in textbooks except those provided for by gen-
51 eral law shall be made as a result of the passage of this

52 act: *Provided, however,* That at least one year of in-
53 struction in the history of the state of West Virginia
54 shall be given prior to the eighth grade.

CHAPTER 74

(Senate Bill No. 255—By Mr. McKown)

AN ACT to amend article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be designated section thirty-five, empowering county boards of education to make deductions from salaries of its employees for premiums on policies under group insurance plans.

[Passed March 6, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 5. District Board of Education.

Section

35. Group insurance.

Be it enacted by the Legislature of West Virginia:

That article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section to be designated thirty-five to read as follows:

Section 35. *Group Insurance.*—Whenever a majority
2 of all the employees of any county board of education
3 shall indicate in writing to such board that it has
4 subscribed to a life, health and accident, hospitaliza-
5 tion or surgery insurance on a group plan, and such
6 majority has selected a licensed insurance company, or
7 companies, to write any one or more of such group insur-
8 ance coverages, the board shall have the authority to
9 make proper periodic premium deductions from the regu-
10 lar salary of any such employee as specified in a written
11 assignment furnished it by each such employee sub-

- 12 scribing thereto, and pay the aggregate of such salary
13 deductions over to the insurance company or companies
14 so selected.

CHAPTER 75

(Senate Bill No. 298—By Mr. Holden and Mr. Moats)

AN ACT authorizing county boards of education to qualify during the next biennium for state aid for repair and construction of public schools.

[Passed March 9, 1951: in effect ninety days from passage. Approved by the Governor.]

Section

1. County boards of education authorized to qualify for school building funds during next biennium.

Be it enacted by the Legislature of West Virginia:

Section 1. *County Boards of Education Authorized to Qualify for School Building Funds During Next Biennium.*—Any county board of education that failed to qualify for a full share of state aid for the repair and construction of public school buildings, allocated to it from the funds appropriated by Item 53, section 5, Title II of the one thousand nine hundred and forty-nine budget act, may qualify at any time during the next biennium for all or any part of such allocation that may be reappropriated by the fiftieth Legislature. Eligibility therefor may be established by any of the methods prescribed in section two, article nine-c, chapter eighteen of the code, or by proof that the total assessed valuations in the county have been increased as much as fifty per cent between the years one thousand nine hundred forty and one thousand nine hundred fifty-three.

CHAPTER 76

(Com. Sub. for Senate Bill No. 106—Originating in the Senate Committee on Finance)

AN ACT to amend and reenact section two, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to basic salaries for public school teachers and advanced salaries for experience.

[Passed March 10, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 7. Teachers.

Section

2. Salaries for teachers; basic salaries; advanced salaries.

Be it enacted by the Legislature of West Virginia:

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

Section 2. *Salaries for Teachers; Basic Salaries; Advanced Salaries.*—For the purpose of this section assistant superintendents, directors and supervisors of instruction, and elementary and secondary principals shall be defined as teachers.

County boards of education shall fix the rate of salary to be paid teachers in accordance with the following classifications and requirements:

(A) Basic salaries shall be the salaries fixed for teachers in accordance with the certification classification of the teachers. Such salaries shall be those set forth in the following schedule:

(1) For teachers holding five-year certificates secured by examination or other first-grade certificates, not less than one hundred sixty-five dollars a month.

(2) For teachers holding short course certificates, not less than one hundred seventy-five dollars a month.

(3) For teachers holding normal school or other certificates which required at the time of issuance at least two years of collegiate work, not less than two hundred dollars a month.

22 (4) For teachers holding certificates which required
23 at the time of issuance at least three years of collegiate
24 training, not less than two hundred ten dollars a
25 month.

26 (5) For teachers holding collegiate elementary, first-
27 class high school, or other certificates of equal rank, based
28 on a bachelor's degree earned in an approved institution,
29 not less than two hundred sixty dollars a month.

30 (6) For teachers who have received a master's degree
31 in an institution qualified and approved to do graduate
32 work, or have completed the requirements therefor, hold-
33 ing the collegiate elementary, first-class high school, or
34 other certificate of equal rank, two hundred eighty-five
35 dollars a month.

36 (7) For teachers who have received a doctor's degree
37 from an institution of university rank qualified and ap-
38 proved to confer the doctor's degree, holding the collegi-
39 ate elementary, first-class high school, or other certificate
40 of equal rank, at least two hundred ninety dollars a
41 month.

42 Basic salaries shall be uniform throughout the state
43 for teachers holding equivalent credentials:

44 A teacher teaching his first regular term of school
45 shall be paid the basic salary in accordance with his
46 certification classification.

47 Upon the change of the certification classification of a
48 teacher, the basic salary of that teacher shall be that of
49 the new certification classification.

50 (B) Advanced salaries shall mean any salaries greater
51 than basic salaries. Advanced salary increments shall
52 be the increments added to the basic salaries of teachers
53 for experience and for such other services as recognized
54 herein. Salary increments for teaching experience shall
55 be those set forth in the following schedule:

56 (1) For teachers who hold the short course or certifi-
57 cate of lower grade, the rate of salary shall be the basic
58 salary plus at least six dollars a month for the second
59 term, and the basic salary plus an additional annual
60 increase of at least six dollars a month for each year
61 taught thereafter to and including the seventh year.

62 (2) For teachers who hold the third-class elementary

63 (standard normal) certificate, the rate of salary shall be
64 the basic salary plus at least six dollars a month for the
65 second term; and the basic salary plus an additional
66 annual increase of at least six dollars a month for each
67 year taught thereafter to and including the ninth year.

68 (3) For teachers who hold the second-class collegiate
69 certificate, the rate of salary shall be the basic salary
70 plus at least six dollars a month for the second term;
71 and the basic salary plus an additional annual increase
72 of at least six dollars a month for each year taught there-
73 after to and including the eleventh year.

74 (4) For teachers who hold the collegiate elementary,
75 first-class high school, or other certificates of equal rank,
76 based on a bachelor's degree earned in an approved in-
77 stitution, the rate of salary shall be the basic salary plus
78 at least six dollars a month for the second term; and the
79 basic salary plus an additional annual increase of at least
80 six dollars a month for each year taught thereafter to and
81 including the fourteenth year.

82 (5) For teachers who have received a master's degree
83 in an institution qualified and approved to do graduate
84 work, holding a collegiate elementary certificate, first-
85 class high school, or other certificate of equal rank, the
86 rate of salary shall be the basic salary plus at least six
87 dollars a month for the second term; and the basic salary
88 plus an additional annual increase of at least six dollars
89 a month for each year taught thereafter to and including
90 the seventeenth year.

91 Boards of education may fix higher salaries for high
92 school and elementary school principals, teachers of one-
93 teacher schools, and any teacher assigned to or employed
94 for duties other than or in addition to his regular in-
95 structional duties, by the addition of further increments
96 consistent with the duties performed. Such additional
97 salary increments shall conform to the regulations of the
98 state board of education.

99 Advanced salaries shall be uniform throughout the
100 district for teachers holding similar credentials and in
101 the same classification as to experience and duties.

102 Upon the change of the certification classification of
103 the teacher, his advanced salary increments as provided

104 in this section shall be added to his new basic salary
105 created by the change in the certification classification.

106 In determining the number of regular terms of school
107 a teacher has taught, boards of education shall credit as
108 regular teaching, service in the armed forces of the United
109 States in the World War, and active work in educational
110 positions other than teaching, but no teacher shall be
111 given credit for teaching more than one regular term
112 in any school year.

113 Any board of education failing to comply with the
114 provisions of this section may be compelled to do so by
115 mandamus.



CHAPTER 77

(House Bill No. 140—By Mrs. Drewry)

AN ACT to amend and reenact section forty, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to educational conventions and professional meetings of a teacher.

[Passed February 21, 1951; in effect from passage. Approved by the Governor.]

Article 7. Teachers.

Section

40. Educational conventions; professional meetings of teachers.

Be it enacted by the Legislature of West Virginia:

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

Section 40. *Educational Conventions; Professional Meetings of Teachers.*—A county board of education may approve the attendance of any or all teachers at educational conventions, conferences, or other professional meetings of teachers on school days when in the judgment of the superintendent it is necessary or desirable. Attendance at

7 such meetings may be substituted for an equal amount of
8 teaching. Teachers so attending shall not suffer loss of
9 pay.

CHAPTER 78

(House Bill No. 139—By Mr. Blankenship)

AN ACT to amend article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, numbered forty-three, relating to substitute teacher.

[Passed February 27, 1951; in effect from passage. Approved by the Governor.]

Article 7. Teachers.

Section

43. The substitute teacher.

Be it enacted by the Legislature of West Virginia:

That article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding a new section to read as follows:

Section 43. *The Substitute Teacher.*—The substitute
2 teacher shall be a duly certified teacher and shall receive
3 pay, which shall be based upon the certificate held by
4 and the experience of said substitute teacher, for said
5 service in accordance with the salary schedule of the
6 regularly employed teachers in said county. The county
7 superintendent, subject to the approval of the county
8 board of education, shall have the authority to assign said
9 substitute teacher to any of the following duties: (a) To
10 fill the temporary absence of any teacher or an unexpired
11 school term made vacant by resignation, death, suspen-
12 sion or dismissal; (b) to fill a teaching position of a reg-
13 ular teacher on leave of absence, and (c) to perform the
14 instructional services of any teacher who is authorized by
15 law to be absent from class without loss of pay, providing
16 such absence is approved by the board of education in
17 accordance with the law.

CHAPTER 79

(House Bill No. 110—By Mr. Moreland)

AN ACT to amend article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be designated section two-a, relating to the authority of governing boards of state educational institutions to pay supplemental retirement benefits to retired employees of the institutions under their control to supplement benefits received by such employees under the state teachers' retirement system.

[Passed February 16, 1951; in effect from passage. Approved by the Governor.]

Article 7-a. State Teachers' Retirement System.

Section

2-a. Governing boards of educational institutions authorized to pay supplemental retirement benefits.

Be it enacted by the Legislature of West Virginia:

That article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, to be designated section two-a to read as follows:

Section 2-a. *Governing Boards of Educational Institutions Authorized to Pay Supplemental Retirement Benefits.*—The governing boards of state educational institutions shall have authority to provide retirement benefits for teachers and other employees who have served at the institutions under their control, to supplement benefits received by such employees under the state teachers' retirement system. Payment therefor shall be made from funds appropriated for personal services at the institution from which the teacher or employee was retired, and the amount thereof shall be determined in accordance with rules promulgated by the governing board of the institution.

CHAPTER 80

(House Bill No. 331—By Mr. White, of Cabell)

AN ACT to amend and reenact article eight, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to compulsory school attendance.

[Passed March 10, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 8. Compulsory School Attendance.

Section

1. Compulsory school attendance; exceptions.
2. Offenses; penalties.
3. County director of school attendance; appointment; assistants; qualifications; removal; powers; salary and traveling expenses.
4. Duties of attendance director; assistant directors of attendance.
5. Duties of principals and teachers.
6. Failure by county attendance director and other persons to perform duties; penalty.
7. Aiding or abetting violations of compulsory attendance; penalty.
8. Child suspended from school for failure to comply with requirements and regulations treated as unlawfully absent.
9. Report and disposition of fines collected.
10. Compulsory education of deaf and blind; offenses; penalties; enumeration of deaf and blind.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Compulsory School Attendance; Exceptions.*

- 2 —Compulsory school attendance shall begin with the
- 3 seventh birthday and continue to the sixteenth birthday.
- 4 Exemption from the foregoing requirements of com-
- 5 pulsory public school attendance shall be made on behalf
- 6 of any child for the following causes or conditions, each
- 7 such cause or condition being subject to confirmation by
- 8 the attendance authority of the county:
- 9 Exemption A—*Instruction in a Private, Parochial or*
- 10 *Other Approved School.* Such instruction shall be in a
- 11 school approved by the county board of education and
- 12 for a time equal to the school term of the county for the

13 year. In all such schools it shall be the duty of the
14 principal or other person in control, upon the request of
15 the county superintendent of schools, to furnish to the
16 county board of education such information and records
17 as may be required with respect to attendance, instruction,
18 and progress of pupils enrolled between the ages of seven
19 and sixteen years;

20 Exemption B—*Instruction in Home or Other Approved*
21 *Place*. Such instruction shall be in the home of such child
22 or children or at some other place approved by the county
23 board of education and for a time equal to the school term
24 of the county. The instruction in such cases shall be con-
25 ducted by a person or persons who, in the judgment of
26 the county superintendent and county board of education,
27 are qualified to give instruction in subjects required to be
28 taught in the free elementary schools of the state. It shall
29 be the duty of the person or persons giving the instruc-
30 tion, upon request of the county superintendent, to furnish
31 to the county board of education, such information and
32 records as may be required from time to time with respect
33 to attendance, instruction, and progress of pupils enrolled
34 between the ages of seven and sixteen years receiving
35 such instruction;

36 Exemption C—*Physical or Mental Incapacity*. Physical
37 or mental incapacity shall consist of incapacity for school
38 attendance and the performance of school work. In all
39 cases of prolonged absence from school due to incapacity
40 of the child to attend, the written statement of a licensed
41 physician or authorized school nurse shall be required
42 under the provisions of this article;

43 Exemption D—*Residence More Than Two Miles from*
44 *School or School Bus Route*. The distance of residence
45 from a school, or school bus route providing free trans-
46 portation, shall be reckoned by the shortest practicable
47 road or path, which contemplates travel through fields by
48 right of permission from the landholders or their agents.
49 It shall be the duty of the county board of education,
50 subject to written consent of landholders, or their agents,
51 to provide and maintain safe footbridges across streams
52 off the public highways where such are required for the
53 safety and welfare of pupils, whose mode of travel from

54 home to school or to school bus route, must necessarily
55 be other than along the public highway in order for said
56 road or path to be not over two miles from home to school
57 or to school bus providing free transportation;

58 Exemption E—*Hazardous Conditions*. Conditions ren-
59 dering school attendance impossible or hazardous to the
60 life, health, or safety of the child;

61 Exemption F—*High School Graduation*. Such exemp-
62 tion shall consist of regular graduation from a standard
63 senior high school;

64 Exemption G—*Granting Work Permits*. The county
65 superintendent may, after due investigation, grant work
66 permits to youths under sixteen years of age, subject to
67 state and federal labor laws and regulations: *Provided*,
68 That a work permit may not be granted on behalf of any
69 youth of normal intelligence who has not completed the
70 eighth grade of school;

71 Exemption H—*Serious Illness or Death in the Imme-
72 diate Family of the Pupil*. It is expected that the county
73 attendance director will ascertain the facts in all cases
74 of such absences about which information is inadequate
75 and report same to the county superintendent of schools;

76 Exemption I—*Destitution in the Home*. Exemption
77 based on a condition of extreme destitution in the home
78 may be granted only upon the written recommendation
79 of the county attendance director to the county superin-
80 tendent following careful investigation of the case. A copy
81 of the report confirming such condition and school exemp-
82 tion shall be placed with the county director of public
83 assistance. This enactment contemplates every reasonable
84 effort that may properly be taken on the part of both
85 school and public assistance authorities for the relief of
86 home conditions officially recognized as being so destitute
87 as to deprive children of the privilege of school attend-
88 ance. Exemption for this cause shall not be allowed when
89 such destitution is relieved through public or private
90 means;

91 Exemption J—*Church Ordinances; Observances of Reg-
92 ular Church Ordinances*. The county board of education
93 may approve exemption for religious instruction upon
94 written request of the person having legal or actual charge

95 of a child or children: *Provided, however,* That such ex-
96 emption shall be subject to the rules and regulations pre-
97 scribed by the county superintendent and approved by the
98 county board of education.

99 The completion of the eighth grade shall not exempt any
100 child under sixteen years of age from the compulsory at-
101 tendance provision of this article: *Provided,* That there
102 is a public high school or other public school of advanced
103 grades or a school bus providing free transportation to any
104 such school the route of which is within two miles of the
105 child's home by the shortest practical route or path as
106 hereinbefore specified under exemption D of this section.

Sec. 2. *Offenses; Penalties.*—Any person who, after due
2 notice has been served upon him as hereinafter provided,
3 shall fail to cause a child or children in his legal or actual
4 charge to attend school as hereinbefore provided, shall be
5 guilty of a misdemeanor, and shall, upon conviction there-
6 of, be fined not less than three nor more than twenty
7 dollars together with the costs of prosecution, or confined
8 in jail not less than five nor more than twenty days. Every
9 day a child is out of school contrary to the provisions of
10 this article shall constitute a separate offense. Justices
11 of the peace shall have jurisdiction of offenses under this
12 section.

13 Whenever a person accused of violating any of the pro-
14 visions of this article has been tried and acquitted, the
15 cost of prosecution shall be paid by the county board of
16 education out of the maintenance fund of the county.

Sec. 3. *County Director of School Attendance; Appoint-
2 ment; Assistants; Qualification; Removal; Powers; Salary
3 and Traveling Expenses.*—The county board of education
4 of every county shall, not later than August first of each
5 year, appoint a county director of school attendance and
6 such assistant attendance directors, as deemed necessary.
7 Such persons shall have the written recommendation of
8 the county superintendent.

9 The county board of education may set up such special
10 and professional qualifications for attendance directors
11 and assistants as are deemed expedient and proper and
12 are consistent with regulations of the state board of educa-

13 tion relating thereto: *Provided*, That those persons who
14 served as attendance directors or assistant directors dur-
15 ing the school year (one thousand nine hundred fifty and
16 fifty-one) or who had previously served at least one year
17 as such shall be eligible for employment.

18 The attendance director or assistant director shall be
19 paid a monthly salary as fixed by the county board. Before
20 receiving his monthly salary the attendance director or
21 assistant director shall file with the county superintendent
22 a certified statement showing the activities of his office
23 in school attendance service for the month and the number
24 of days actually spent in the performance of such duties.

25 The county board of education shall have the authority
26 to reimburse such employees for their necessary traveling
27 expenses upon presentation of a monthly, itemized, sworn
28 statement approved by the county superintendent.

29 The power of removal of the county attendance director
30 or an assistant attendance director shall rest with the
31 county board of education: *Provided, however*, That rea-
32 sons for contemplated dismissal shall be reduced to writ-
33 ing, a copy of which shall be furnished the director in
34 question with opportunity to be heard in his own behalf
35 by the county board of education. The decision of the
36 county board of education shall be final.

Sec. 4. *Duties of Attendance Director; Assistant Direc-*
2 *tors of Attendance.*—The county attendance director and
3 his assistants shall diligently promote regular school at-
4 tendance. They shall ascertain reasons for inexcusable
5 absences from school of pupils of compulsory school age
6 as defined under this act, and shall take such steps as
7 are, in their discretion, best calculated to correct attitudes
8 of parents and pupils which result in absences from school
9 even though not clearly in violation of law.

10 If it is found that absence from school is in violation of
11 law, the attendance director or assistant, in the case of
12 first offense that school year, shall serve written notice
13 to the parent, guardian, or custodian of such child that
14 the attendance of such child at school is required; and if
15 the parent, guardian, or custodian does not comply with
16 the provisions of this article, then the attendance director

17 shall make complaint against such parent, guardian or
18 custodian before a justice of the peace of the county:
19 *Provided*, That for a subsequent offense in any school
20 year no such notice shall be required.

21 When any doubt exists as to the age of a child absent
22 from school, the attendance director shall have authority
23 to require a properly attested birth certificate or an affi-
24 davit from the parent, guardian or custodian of such child,
25 stating age of such child. The county attendance direc-
26 tor or assistant, shall in the performance of his duties,
27 have authority to take without warrant any child absent
28 from school in violation of the provisions of this article
29 and to place such child in the school in which such child
30 is or should be enrolled.

31 The county attendance director shall devote full time
32 to his duties as a school official and shall be responsible
33 under direction of the county superintendent for the effi-
34 cient administration of school attendance in his county.
35 In addition to those duties directly relating to the ad-
36 ministration of attendance, the county attendance director
37 and assistant directors shall also perform the following
38 duties:

39 (a) Assist in directing the taking of the school census
40 to see that it is taken at the time and in the manner pro-
41 vided by law;

42 (b) Advise with principals and teachers on the com-
43 parison of school census and enrollment for the detection
44 of possible non-enrollees;

45 (c) Cooperate with existing state and federal agencies
46 charged with enforcement of child labor laws;

47 (d) Prepare a report for submission by the county
48 superintendent to the state superintendent of schools on
49 school attendance, at such times and in such detail as may
50 be required; also, file with the county superintendent and
51 county board of education at the close of each month a
52 report showing activities of the school attendance office
53 and the status of attendance in the county at the time;

54 (e) Promote attendance in the county by the compila-
55 tion of data for schools and by furnishing suggestions and
56 recommendations for publication through school bulletins

57 and the press, or for such purposes as the county superin-
58 tendant may direct;

59 (f) Participate in school functions such as parent-
60 teacher associations, civic meetings, club meetings, and
61 teachers' conferences;

62 (g) Assist in such other ways as the county superin-
63 tendent may direct for improving school attendance.

Sec. 5. *Duties of Principals and Teachers.*—It shall be
2 the duty of all teachers of one-room schools and all prin-
3 cipals of two or more rooms to make prompt reports to
4 the county attendance director, or proper assistant, of all
5 cases of unexcused absences arising within the community
6 served by the school, which in the judgment of the school
7 requires the services of an attendance worker. Said teach-
8 ers and principals shall report on the form prescribed for
9 such purpose, or by telephone, or in person, giving essen-
10 tial information about the child and the name and resi-
11 dence of any parent, guardian or custodian of a child.

12 It shall also be the duty of each said teacher and each
13 said principal to ascertain and report promptly the name
14 of any parent, guardian or custodian of any child of com-
15 pulsory school age, as herein defined, who belongs to the
16 school reporting and has not enrolled in any school that
17 year. By way of ascertaining the status of school attend-
18 ance each said teacher and principal shall compare the
19 school census with the school enrollment at the opening
20 of the school term, and each month thereafter, or as
21 directed by the county superintendent of schools, and re-
22 port the same to the county attendance director: *Provided,*
23 That any child belonging to a particular school subdistrict,
24 but who is at the time enrolled in another public school or
25 other school outside the same shall be considered as be-
26 longing to the school in which enrolled and will, therefore,
27 be included only in the report of attendance from the
28 school in which he is enrolled at the time.

Sec. 6. *Failure by County Attendance Director and Other*
2 *Persons to Perform Duties; Penalty.*—Any county attend-
3 ance director or other person upon whom a duty is imposed
4 under provisions of this article, who refuses or neglects
5 to perform any duty or duties so imposed upon him, shall

6 be guilty of a misdemeanor, and upon conviction thereof,
7 shall be fined not less than five nor more than fifty dollars,
8 and may be imprisoned not to exceed thirty days. In addi-
9 tion thereto, said director or person having been convicted
10 of refusal or negligence in the performance of duty as
11 imposed by this article shall be subject to removal from
12 office or position at the discretion of the county board of
13 education.

Sec. 7. *Aiding or Abetting Violations of Compulsory*
2 *Attendance; Penalty.*—Any person who induces or at-
3 tempts to induce any child unlawfully to absent himself
4 from school, or who harbors or employs any child of com-
5 pulsory school age while the school to which he belongs
6 and which he is required to attend is in session, or who
7 employs such child within the term of such school on any
8 day such school is in session without the written permis-
9 sion of the county superintendent of schools, or for a
10 longer period than such work permit may specify shall
11 be guilty of a misdemeanor; and, upon conviction thereof,
12 shall be fined not less than twenty-five nor more than fifty
13 dollars and may be confined in jail not less than ten nor
14 more than thirty days.

Sec. 8. *Child Suspended from School for Failure to Com-*
2 *ply with Requirements and Regulations Treated as Un-*
3 *lawfully Absent.*—If a child be suspended from school
4 because of improper conduct or refusal of such child to
5 comply with the requirements of the school, the school
6 shall immediately notify the county superintendent of
7 such suspension, and specify the time or conditions of such
8 suspension. Further admission of the child to school may
9 be refused until such requirements and regulations be
10 complied with. Any such child shall be treated by the
11 school as being unlawfully absent from the school during
12 the time he refuses to comply with such requirements and
13 regulations, and any person having legal or actual control
14 of such child shall be liable to prosecution under the pro-
15 visions of this article for the absence of such child from
16 school: *Provided*, That the county board of education does
17 not exclude or expel the suspended child from school.

Sec. 9. *Report and Disposition of Fines Collected.*—All

2 fines collected under provisions of this article shall be
3 paid on or before the last day of each calendar month by
4 the justice, or other proper official having jurisdiction
5 in the case, to the sheriff and by him credited to the county
6 school fund; and the justice shall file with the county
7 superintendent on the last day of each month an itemized
8 statement of all fines paid over to the sheriff.

Sec. 10. *Compulsory Education of Deaf and Blind; Of-*
2 *fenses; Penalties; Enumeration of Deaf and Blind.*—Every
3 parent, guardian or other person having control of any
4 mentally normal minor over six years of age, who is de-
5 fective in sight or hearing to the extent that he cannot
6 be benefitted by instruction in the public schools, shall
7 be required to send such minor to the West Virginia schools
8 for the deaf and the blind at Romney. Such minor shall
9 continue to attend such schools for a term of at least
10 thirty-six weeks each year until he has completed the
11 course of instruction prescribed for such schools by the
12 state board of education, or has been discharged by the
13 superintendent of said school: *Provided, however,* That
14 minors of the Negro race who come under the require-
15 ments of this section shall be placed in the West Virginia
16 school for the colored deaf and blind.

17 Any such deaf or blind minor shall be exempt from at-
18 tendance at said schools for any of the following reasons:
19 (a) Instruction by a private tutor or in another school
20 approved by the state board of education for a time equal
21 to that required by the first paragraph of this section;
22 (b) physical incapacity for school work; (c) any other
23 reason deemed good and sufficient by the superintendent
24 of such schools, with the approval of the state board of
25 education.

26 Any parent, guardian or other persons in charge of such
27 minor or minors who fails or refuses to comply with the
28 requirements of this section shall be guilty of a misde-
29 meanor, and, upon conviction thereof, shall be fined not
30 less than ten nor more than thirty dollars for each offense.
31 Failure for the period of one week within the school year
32 to send such minor to school shall constitute an offense:
33 *Provided,* That the time necessary for such minor to

34 travel from his home to the school shall not be counted
35 as time absent from school.

36 Any person who induces or attempts to induce such
37 blind or deaf minor to absent himself from school, or who
38 employs or harbors such minor unlawfully, while said
39 school is in session, shall be guilty of a misdemeanor, and,
40 upon conviction thereof, shall be fined not less than twenty
41 nor more than fifty dollars for each offense.

42 It shall be the duty of school attendance directors and
43 assistants, prosecuting attorneys, and any special attend-
44 ance directors appointed by said school for the deaf and
45 the blind to enforce the provisions of this section.

46 It shall be the duty of the public school teachers of each
47 county to furnish to the county superintendent of schools
48 of their county the names of deaf or blind persons in their
49 subdistricts between the ages of six and twenty-five years,
50 together with information as to the age, sex and race of
51 such deaf and blind person. The county superintendent
52 of schools shall certify the names of all such white per-
53 sons, with the names and addresses of their parents and
54 guardians, to the superintendent of the West Virginia
55 schools for the deaf and the blind; and the names of all
56 such persons of the Negro race, with the names and ad-
57 dresses of their parents or guardians, to the superintend-
58 ent of the West Virginia school for the colored deaf and
59 blind.

60 It shall be the duty of the state superintendent of schools
61 to provide suitable blanks for the enumeration of such
62 deaf and blind persons to each county superintendent for
63 distribution among teachers and others responsible for
64 taking the school enumerations. The enumeration of such
65 deaf and blind persons shall be taken at the time the
66 regular school enumeration is taken, and shall be reported
67 to the superintendents of the schools for the deaf and the
68 blind at the time that the regular school enumeration is
69 reported to the state superintendent of schools.

CHAPTER 81

(Com. Sub. for Senate Bill No. 247—Originating in the Senate Committee on Finance)

AN ACT to amend and reenact sections six, seven and eight, article nine-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the allocation of state aid for schools.

[Passed March 10, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 9-a. State Aid for Schools.

Section

6. Computation of local share of revenue.
7. Total of foundation program.
8. Allocation of state aid.

Be it enacted by the Legislature of West Virginia:

That sections six, seven and eight, article nine-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 6. *Computation of Local Share of Revenue.*—

- 2 For the fiscal years one thousand nine hundred fifty-one—
- 3 one thousand nine hundred fifty-two and one thousand
- 4 nine hundred fifty-two—one thousand nine hundred fifty-
- 5 three, the state board shall compute the taxes, by using
- 6 the levies for general current expense purposes, in all
- 7 counties for the preceding year, and total the same. Nine-
- 8 ty-five per cent of the total amount of aforesaid levies for
- 9 the entire state, shall be multiplied by the "index" for
- 10 each respective county. The result of such multiplication
- 11 shall as to the respective counties, constitute their "local
- 12 share of revenue" for the fiscal year.
- 13 The tax commissioner shall, at least once every four
- 14 years, redetermine the true and actual value of property
- 15 in each county of the state. For the fiscal year one thou-
- 16 sand nine hundred fifty-one—one thousand nine hundred
- 17 fifty-two, and thereafter, the commissioner for this pur-

18 pose shall be allowed annually not to exceed fifty thou-
19 sand dollars in any fiscal year from moneys appropriated
20 and available for state aid during the fiscal year.

21 The state board shall for each county compute, by the
22 application of the "levies for general current expense
23 purposes", the amount of revenue which such levies
24 would produce, if levied upon one hundred per cent of the
25 true and actual value of each of the several classes of
26 property contained in the latest report or revised report
27 of such value, made to it by the tax commissioner. It
28 shall deduct from such estimated revenue five per cent as
29 an allowance for the usual losses in collection, due to dis-
30 counts, exonerations, delinquencies, and the like. One-
31 half of the remainder shall constitute the "local share of
32 revenue". The local share of revenue thus computed from
33 the true and actual value shall apply to all fiscal years
34 after the thirtieth day of June, one thousand nine hundred
35 fifty-three: *Provided, however,* That if it is determined by
36 the state board that the application of this formula for
37 determining the local share of revenue for each county
38 will constitute a serious curtailment to the current school
39 program, then the state board shall have authority to
40 change the equalization factor of one-half or forego alto-
41 gether the change from the present formula for distribu-
42 tion until such time as the matter has been acted upon
43 by the Legislature.

Sec. 7. *Total of Foundation Program.*—The state board
2 shall commence and cause to be determined, as soon after
3 the first day of July in each fiscal year as is possible,
4 the foundation program for each county for such year
5 as follows:

6 Step A—The average teacher's salary for the preceding
7 fiscal year for each county shall be divided by thirty-
8 three and one-third and the quotient obtained: *Provided,*
9 *however,* That in computing the average teacher's salary
10 for the preceding fiscal year, there shall be excluded
11 from the computation any basic salary increases pro-
12 vided for teachers by the Fiftieth Legislature.

13 Step B—The quotient resolved from step A shall be
14 multiplied by the "high school factor" mentioned in sec-
15 tion two of this article and the product obtained.

16 Step C—The product resulting from step B shall be
17 multiplied by a number composed of the whole number
18 one plus the “sparsity factor” mentioned in section two
19 of this article and the product obtained.

20 Step D—The product resulting from step C shall be
21 divided by seventy-one hundredths and the quotient ob-
22 tained. This quotient, for the purposes of this article,
23 shall be the total per pupil cost of the foundation pro-
24 gram for such county.

25 Step E—The quotient resulting from step D shall be
26 multiplied by the “net enrollment” for the preceding year,
27 as the same is defined in section two of this article. The
28 product so obtained shall be the foundation program for
29 such county.

2 Sec. 8. *Allocation of State Aid.*—Following computa-
3 tion of the foundation program for each county the state
4 board shall compute and allocate state aid for each county
5 as follows:

6 The amount of state aid for each county shall be the
7 foundation program of such county minus the local
8 share of revenue: *Provided, however,* That for the fiscal
9 years one thousand nine hundred fifty-one—one thousand
10 nine hundred fifty-two and one thousand nine hundred
11 fifty-two—one thousand nine hundred fifty-three, if the
12 amount of state aid computed above is less than the
13 product of twenty-two hundred multiplied by the number
14 of teachers approved for such county by the state board
15 on July tenth, one thousand nine hundred forty-six, the
16 amount of state aid shall be recomputed and shall be as
17 hereinafter computed, to-wit:

18 The product of twenty-two hundred multiplied by the
19 number of teachers approved for such county by the
20 state board, July tenth, one thousand nine hundred forty-
21 six, shall be added to the local share of revenue and the
22 sum so obtained shall then be the adjusted foundation
23 program for such county: *Provided further,* That for the
24 fiscal years one thousand nine hundred fifty-one—one
25 thousand nine hundred fifty-two and one thousand nine
26 hundred fifty-two—one thousand nine hundred fifty-
three, the state aid for any county shall in no case be

27 less than sixty-five per cent for such adjusted foundation
28 program except where further reduced as a result of
29 deficiencies in revenue under the provisions of section
30 thirteen hereof and chapter thirty-nine, acts of the legis-
31 lature, one thousand nine hundred thirty-nine: *And*
32 *provided further*, That at this point in the computation,
33 the state aid, if less than one hundred dollars per pupil
34 in its foundation program, shall be computed to give an
35 amount sufficient to raise the foundation program for
36 any county to one hundred dollars per pupil: *And pro-*
37 *vided further*, That any county at this point in the cal-
38 culation, which has less than one hundred ten dollars
39 per pupil in the foundation program as computed as
40 aforesaid shall receive an additional amount of two dol-
41 lars and forty cents per pupil in net enrollment in its
42 adjusted foundation program: *And provided further*,
43 That additional state aid for the purpose of paying basic
44 salary increases for teachers, provided by the Fiftieth
45 Legislature, shall be allocated to each county in an
46 amount sufficient to pay such increases for the number
47 of teachers actually employed within the county during
48 the preceding school year: *And provided further*, That
49 this formula is to be used as near as practical for the
50 operation of nine months of school as finances permit.

CHAPTER 82

(Senate Bill No. 121—By Mr. McKown)

AN ACT to amend chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article to be designated article ten-b, relating to the establishment, operation and maintenance of centers for the vocational rehabilitation of handicapped or disabled persons, and of workshops for blind and severely disabled persons.

[Passed February 7, 1951; in effect from passage. Approved by the Governor.]

Article 10-b. Vocational Rehabilitation Centers and Workshops.**Section**

1. Definitions.
2. Establishment of state vocational rehabilitation centers and workshops.
3. Establishment of local workshops.
4. Rules and regulations.
5. State board to cooperate with federal government in vocational rehabilitation center and workshop program.
6. Cooperation with state department of health.
7. Personnel.
8. Advisory committee.

Be it enacted by the Legislature of West Virginia:

That chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article to be designated article ten-b to read as follows:

Section 1. Definitions.—As used in this article:

- 2 (1) "Rehabilitation center" means a facility operated
- 3 for the primary purpose of assisting in the rehabilitation
- 4 of disabled persons eligible under article ten-a.
- 5 (a) which provides one or more of the following types
- 6 of services:
- 7 (A) testing, fitting, or training in the use of pros-
- 8 thetic devices;
- 9 (B) prevocational or conditioning therapy;
- 10 (C) physical, corrective, or occupational therapy;
- 11 (D) adjustment training; or
- 12 (E) evaluation or control of special disabilities; or
- 13 (b) in which a coordinated approach is made to the
- 14 physical, mental, and vocational evaluation of disabled
- 15 persons and an integrated program of physical restora-
- 16 tion and prevocational or vocational training is provided
- 17 under competent professional supervision and direction.
- 18 (2) "Workshop" means a place where any manufac-
- 19 ture or handiwork is carried on and which is operated by
- 20 a public agency or by a private corporation or associa-
- 21 tion, no part of the net earnings of which inures or may
- 22 lawfully inure to the benefit of any private shareholder
- 23 or individual, or by a cooperative, for the primary purpose
- 24 of providing remunerative employment to blind and se-

25 verely disabled persons who cannot be absorbed in the
26 competitive labor market.

27 (3) "Cooperative" means an association, or member-
28 ship corporation, whose membership is limited to disabled
29 individuals and which is organized and operated on a
30 cooperative basis for the exclusive benefit of its members
31 and, by its charter or by-laws, is required to divide any
32 profits, realized from the operation of workshops oper-
33 ated by it and not reinvested in such workshops, among
34 its blind and severely disabled members actually working
35 therein.

36 (4) "Non-profit institution" means a corporation or
37 association no part of the net earnings of which inures,
38 or may lawfully inure, to the benefit of any private share-
39 holder or individual.

40 (5) "State board," "Division," and "Director" shall
41 have the same meaning as in article ten-a.

Sec. 2. *Establishment of State Vocational Rehabili-
2 tation Centers and Workshops.*—The state board, through
3 the division, is authorized and empowered to establish,
4 operate, and maintain vocational rehabilitation centers
5 and workshops: *Provided*, That to establish vocational
6 rehabilitation centers and workshops includes the ac-
7 quisition by purchase, lease, gift, or otherwise of neces-
8 sary lands, and the construction, expansion, remodeling,
9 or alteration and equipment of necessary buildings; or,
10 for any particular center or workshop, the making of
11 contracts and agreements with any state, county, or mu-
12 nicipal agency, or non-profit institution providing for the
13 equipment, operation or maintenance by the state board,
14 through the division, of any facility of such agency or
15 institution in accordance with, and for the purpose of
16 this article: *Provided further*, That notwithstanding any
17 other provisions of law, the state board, through the di-
18 vision, shall, itself, properly operate, maintain, repair,
19 and manage and control the fiscal affairs of vocational
20 rehabilitation centers and workshops established pur-
21 suant to this section: *Provided further*, That the state
22 board, through the division, is authorized and empowered
23 to make and enter into all contracts and agreements
24 necessary and incidental to the performance of its powers

25 and duties under this section, in connection with which
26 it is also authorized and empowered to cooperate with
27 other agencies of the state.

Sec. 3. *Establishment of Local Workshops.*—Counties,
2 cities, and towns in accordance with rules, regulations
3 and standards made and adopted by the director, in-
4 dividually or jointly with any one or more such counties,
5 cities, or towns are authorized and empowered to estab-
6 lish, operate, and maintain necessary workshops for blind
7 and severely disabled persons: *Provided*, That to estab-
8 lish workshops includes the acquisition by purchase,
9 lease, gift, or otherwise, of necessary lands, and the con-
10 struction, expansion, remodeling, or alteration and equip-
11 ment of necessary buildings.

Sec. 4. *Rules and Regulations.*—The director shall make
2 and adopt rules, regulations, and standards for the estab-
3 lishment, operation and maintenance, government and
4 control of rehabilitation centers and workshops estab-
5 lished pursuant to this article, including such rules, regu-
6 lations and standards as may be necessary for cooperation
7 under and compliance with any existing or future federal
8 statutes pertaining to grants-in-aid for rehabilitation
9 centers.

Sec. 5. *State Board to Cooperate with Federal Govern-
2 ment in Vocational Rehabilitation Center and Workshop
3 Program.*—The state board, through the division, is hereby
4 designated the sole state agency to cooperate with the
5 federal government in any federal program relating to
6 the establishment, operation and maintenance of voca-
7 tional rehabilitation centers, and workshops; and is here-
8 by authorized and empowered to adopt and supervise the
9 administration of such a state-wide plan, or such state-
10 wide plans, for the establishment of vocational rehabili-
11 tation center or workshop programs as may be necessary
12 to comply with the requirements and conditions of fed-
13 eral law with respect to federal grants-in-aid for such
14 purposes.

Sec. 6. *Cooperation with State Department of Health.*—
2 The state board, through the division, and the state de-

3 partment of health shall cooperate to assure coordination
4 of the rehabilitation center program under this article
5 with the hospital construction program provided for un-
6 der chapter sixteen, article one, section fourteen, of the
7 code of West Virginia, one thousand nine hundred thirty-
8 one, as amended.

Sec. 7. *Personnel.*—The director shall appoint in ac-
2 cordance with chapter eighteen, article ten-a, section five,
3 of the code of West Virginia, one thousand nine hundred
4 thirty-one, as amended, all personnel he deems necessary
5 for the efficient and economical operation and mainten-
6 ance of rehabilitation centers and workshops established,
7 operated and maintained pursuant to section two of this
8 article.

Sec. 8. *Advisory Committee.*—There shall be an ad-
2 visory committee of five members to serve as advisors and
3 consultants to the director of the division. The com-
4 mittee shall meet at least twice each year and at the call
5 of the director of the division. The members of the
6 committee shall annually elect one of its members to
7 serve as chairman.

8 The advisory committee shall be appointed by the di-
9 rector, by and with the advice and consent of the state
10 board, and shall include among its members represent-
11 atives of state and non-governmental agencies concerned
12 with the establishment, operation, or utilization of voca-
13 tional rehabilitation services and facilities, and at least
14 one of the members shall be a person well-versed in
15 problems related to employment of the severely dis-
16 abled.

17 The members shall be appointed for five year terms
18 except that in the original appointments one person shall
19 be appointed for one year, one person for two years, one
20 person for three years, one person for four years, and one
21 person for five years. Thereafter each member shall be
22 appointed for five years or until his successor is appointed.
23 In the case of a vacancy the appointee shall serve the
24 remainder of the unexpired term.

25 Members of the advisory committee shall be eligible
26 to succeed themselves. Members of the advisory com-

27 mittee shall serve without compensation but shall be
 28 entitled to reimbursement for actual expenses incurred
 29 in the performance of the duties of their office.

CHAPTER 83

(House Bill No. 477—By Mr. Speaker, Mr. Flannery)

AN ACT to amend and reenact section four, article eleven chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the colleges, schools, departments and divisions of West Virginia university.

[Passed March 9, 1951; in effect from passage. Approved by the Governor.]

Article 11. West Virginia University.

Section

4. Colleges, schools, departments and divisions of the university.

Be it enacted by the Legislature of West Virginia:

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

Section 4. *Colleges, Schools, Departments and Divisions of the University.*—In consultation with the president of the university, the board of governors shall have authority to establish and maintain in the university such colleges, schools, departments and divisions as from time to time may be expedient, and shall provide for the organization and management of the same. The board of governors is hereby authorized and, as soon as funds shall be available for the purpose, is directed to establish and maintain in the university a four-year school of medicine, dentistry and nursing, to be located at such place within the state as may be designated by the governor.

The governor shall designate the location of the school on or before the first day of July, one thousand nine hundred fifty-one.

CHAPTER 84

(Com. Sub. for House Bill No. 106—Originating in the House Committee on Finance)

AN ACT to amend article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be designated section twenty-three, relating to the establishment of a revolving fund for the purpose of financing the conduct of scientific and other research at West Virginia university under contracts with agencies of the federal government.

[Passed February 20, 1951: in effect from passage. Approved by the Governor.]

Article 11. West Virginia University.

Section

23. Contractual research revolving fund.

Be it enacted by the Legislature of West Virginia:

That article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, to be designated section twenty-three, to read as follows:

Section 23. *Contractual Research Revolving Fund.*—For
2 the purpose of enabling the board of governors of West
3 Virginia university to make and perform contracts with
4 agencies of the federal government for scientific and other
5 research, there is hereby created in the state treasury a
6 revolving fund to be administered by the board of gov-
7 ernors of West Virginia university. The amount of the
8 fund shall be one hundred thousand dollars, to be accu-
9 mulated and administered as follows:

10 (1) The board of public works is hereby authorized to
11 transfer the sum of one hundred thousand dollars from
12 the unexpended balance of excess collections reappropri-
13 ated to West Virginia university by the one thousand nine
14 hundred forty-nine budget act, to a special revolving fund
15 to be designated "West Virginia University Research
16 Fund";

17 (2) Whenever the board of governors of West Virginia
18 university has entered into a research contract with any
19 agency of the federal government, the board of governors
20 of West Virginia university may authorize expenditure
21 from the revolving fund of such sums as may be needed
22 for performance of the contract;

23 (3) From moneys received from the federal govern-
24 ment as payments under the terms of any such research
25 contracts, there shall be deposited in the revolving fund,
26 upon final settlement with the federal agency, an amount
27 sufficient to reimburse the fund for all advances made on
28 any contract;

29 (4) Any money in the revolving fund may be invested
30 by the board of governors of West Virginia university
31 during such time as the money is not needed for advances
32 under existing or anticipated research contracts.

CHAPTER 85

(Com. Sub. for House Bill No. 77—Originating in the House Committee on
the Judiciary)

AN ACT to amend and reenact section five, article two; section fifteen, article four; and section nine, article five, all of chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the registration of voters, appointment of commissioners and clerks for primary and general elections.

[Passed March 9, 1951: in effect from passage. Approved by the Governor.]

Article

2. Registration of Voters.
4. Nomination of Candidates.
5. Conducting Election; Ascertaining and Certifying the Result.

Be it enacted by the Legislature of West Virginia:

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

Article 2. Registration of Voters.**Section**

5. Permanent and uniform registration.

Section 5. *Permanent and Uniform Registration.*—A
2 permanent registration system shall hereby be estab-
3 lished which shall be uniform throughout the state and
4 all of its subdivisions. No voter so registered shall be re-
5 quired to register again for any election while he con-
6 tinues to reside at the same address, or, having moved
7 from such address, is properly transferred according to
8 the provisions of section thirty-three of this article, unless
9 his registration is cancelled as provided in this article. If
10 a voter fails to vote at least once during a period cover-
11 ing two primary and general elections, his registration
12 shall be cancelled and he shall, by letter, be given proper
13 notice thereof by the clerk of the county court, to the
14 effect that in order to vote he must register again or
15 execute and file, not later than thirty days before the
16 next primary or general election, with the clerk, an
17 affidavit, the form of which shall be prescribed by the
18 secretary of state, stating that he desires to be reinstated
19 as a qualified voter at the same address and the clerk
20 shall replace the registration card of the voter in the
21 registration records. A blank form of such affidavit shall
22 be included with and accompany the aforesaid notice to
23 the voter.

Article 4. Nomination of Candidates.**Section**

15. Commissioners and clerks for primary.

Section 15. *Commissioners and Clerks for Primary.*—
2 The county court of every county shall hold a regular or
3 special session at the courthouse of the county on the
4 second Tuesday of the month preceding that in which
5 any primary election is to be held, and shall appoint for
6 each precinct in the county three commissioners of elec-
7 tion and two poll clerks, who shall be legal voters in the
8 magisterial district in which such precinct is located.
9 Such commissioners and poll clerks shall be persons of
10 good standing and character and not addicted to drunken-
11 ness. They shall be selected from the two political parties
12 which, at the last preceding general election, cast the

13 highest and next highest number of votes in the county
14 in which the election is to be held, and not more than
15 two of such commissioners or one clerk shall belong to
16 the same political party: *Provided, however,* That for
17 every precinct in which there are three hundred but
18 not more than four hundred registered voters, there may
19 be two boards of election officers, and for all precincts in
20 which there are more than four hundred registered
21 voters, there shall be two boards of election officers, and
22 where two boards are used, each board shall consist of
23 three election commissioners and two poll clerks, one of
24 which boards shall be designated the "receiving board"
25 and the other the "counting board", and not more than
26 two commissioners and one poll clerk of each board shall
27 be appointed from the same political party. If, at any time
28 prior to or during such session, the county executive com-
29 mittee of either political party from which such commis-
30 sioners of election and poll clerks are to be selected or
31 appointed, as herein provided, shall present to such court
32 a writing signed by them, or by the chairman or secre-
33 tary of such committee on their behalf, requesting the
34 appointment of a qualified voter of their political party,
35 for commissioner and/or poll clerk, who is otherwise
36 qualified to act as such under the provisions of this chap-
37 ter, it shall be the duty of the county court to appoint
38 the person so named in such writing as such commis-
39 sioner and/or poll clerk. No person shall be eligible to
40 appointment as commissioner or poll clerk, or in any
41 way to act as such, who has anything of value bet or
42 wagered on the result of such primary election, or has
43 received a promise, agreement or understanding that he
44 is to receive appointment as deputy by any candidate to
45 be voted for at such primary election, or has any agree-
46 ment, understanding or arrangement that he shall receive
47 any sum of money or any portion of the salary, fees or
48 emoluments of any office, for which any candidate is to
49 be voted for at such primary election, should such candi-
50 date be nominated at such primary election and elected
51 to such office at the ensuing general election, or who is a
52 candidate to be voted for at such primary election.

53 The county court shall by mail notify all commissioners

54 and poll clerks of their appointment, and include with
55 such notice an appropriate form for each person so ap-
56 pointed to return indicating whether or not he will serve
57 as such commissioner or poll clerk. It shall be the duty
58 of all persons so appointed to immediately return said
59 form to the county court. In the event any of the persons
60 so appointed refuse to serve as such commissioners or poll
61 clerks, the county court shall immediately notify the
62 chairman of the county executive committee of the politi-
63 cal party from which such commissioners and poll clerks
64 are to be selected. If the chairman of the political com-
65 mittee so notified promptly recommends persons to be
66 appointed to replace those declining to serve, it shall be
67 the duty of the county court to appoint the persons so
68 recommended. When no such recommendations are made
69 the county court shall proceed to fill the vacancies.

70 If any of the commissioners of election and poll clerks
71 of the receiving board so selected shall fail to appear at
72 the hour appointed for the opening of the polls, the re-
73 mainder of the commissioners of such board may select
74 a commissioner and poll clerk, if necessary, who shall
75 be of the same political party as the absent commissioner
76 or poll clerk; but if the qualified voters of the party of
77 such absent commissioner or poll clerk, present at the
78 opening of the polls, shall nominate a voter, having the
79 qualifications to act under the provisions of this section,
80 for commissioner or poll clerk, or both if necessary, such
81 nominee or nominees shall be appointed. If none of the
82 commissioners of election or poll clerks of such board
83 appear at the hour appointed for opening the polls, the
84 qualified voters present, being at least ten in number, shall

7 [Enr. Com. Sub. for H. B. No. 77

85 elect three commissioners of election and two poll clerks
86 for such board to act in their stead, by a viva voce vote;
87 not more than two of such commissioners and one poll
88 clerk for such board shall belong to or be elected by the
89 voters of the same political party. A vacancy or vacancies
90 on the counting board shall be filled in the manner herein
91 provided for filling a vacancy or vacancies on the receiv-
92 ing board, except that such vacancy or vacancies shall be
93 determined and filled as of the hour appointed in this

94 chapter for the counting board to attend at the polls. A
95 list of all commissioners and poll clerks appointed by the
96 county court, as herein provided, shall be published in
97 two newspapers of general circulation in the county, of
98 opposite politics, if such there be, for at least two weeks
99 prior to such primary election.

Article 5. Conducting Election; Ascertaining and Certifying the Result.

Section

9. Appointment of commissioners and clerks.

Section 9. Appointment of Commissioners and Clerks.—

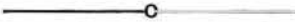
2 The county court of each county shall hold a regular or
3 special session at the court house of the county on the
4 first Tuesday of the month next preceding the date on
5 which any election is to be held and appoint three com-
6 missioners and two clerks to hold the election in each pre-
7 cinct in the county, to be selected from the two political
8 parties which at the last preceding election cast the
9 highest and second highest number of votes in this state:
10 *Provided, however,* That for every precinct in which
11 there are three hundred, but not more than four hun-
12 dred, registered voters, there may be two boards of elec-
13 tion officers, and for all precincts in which there are more
14 than four hundred registered voters, there shall be two
15 boards of election officers, and where two boards are
16 used, each board shall consist of three election commis-
17 sioners and two poll clerks, one of which boards shall be
18 designated the "receiving board" and the other the
19 "counting board", and not more than two commissioners
20 and one poll clerk of each board shall be appointed from
21 the same political party. If, at any time before or during
22 the session of the county court, the county executive
23 committee of either or both of the political parties, from
24 which commissioners and clerks of election are to be
25 selected, shall file with or present to the county court
26 a writing signed by them, or by the chairman or secre-
27 tary of such committee on their behalf, requesting the
28 appointment of a member and of one clerk of each board
29 of the political party for which such committee, chairman

30 or secretary is acting, and designating persons who are
31 qualified under this article for such appointment for each
32 election precinct in the county, the county court shall
33 appoint the persons so designated.

34 The county court shall by mail notify all commissioners
35 and poll clerks of their appointment, and include with
36 such notice an appropriate form for each person so ap-
37 pointed to return indicating whether or not he will serve
38 as such commissioner or poll clerk. It shall be the duty
39 of all persons so appointed to immediately return said
40 form to the county court. In the event any of the persons
41 so appointed refuse to serve as such commissioners or
42 poll clerks, the county court shall immediately notify
43 the chairman of the county executive committee of the
44 political party from which such commissioners and poll
45 clerks are to be selected. If the chairman of the political
46 committee so notified promptly recommends persons to
47 be appointed to replace those declining to serve, it shall
48 be the duty of the county court to appoint the persons so
49 recommended. When no such recommendations are made
50 the county court shall proceed to fill the vacancies.

51 If any person appointed receiving commissioner or
52 clerk of election shall fail to appear at the voting place
53 at the hour for opening the polls, the remaining commis-
54 sioner or commissioners of election of the political
55 party to which the absentee belongs shall select another
56 commissioner or clerk, as the case may be, of such po-
57 litical party. But if the qualified voters of his party pres-
58 ent at the polls shall nominate a voter of his party quali-
59 fied to act under the provisions of this section, such nomi-
60 nee shall be appointed. If none of the receiving commis-
61 sioners of the election or poll clerks shall appear at the
62 voting place at the hour appointed for opening the polls,
63 the qualified voters present, being at least ten in num-
64 ber, of the political party which cast the highest number
65 of votes in the county at the last preceding election, shall
66 select two commissioners and one clerk and those of the
67 political party which cast the next highest number of
68 votes in the county at such election shall select one com-
69 missioner and one clerk of the receiving board of such
70 precinct, and the persons so selected shall constitute the

71 receiving board for the precinct. A vacancy or vacancies
 72 on the counting board shall be filled in the manner herein
 73 provided for filling a vacancy or vacancies on the receiv-
 74 ing board, except that such vacancy of vacancies shall be
 75 determined and filled as of the hour appointed in this
 76 chapter for the counting board to attend at the polls. Any
 77 commissioner of election acting at any election precinct is
 78 hereby empowered and authorized to administer oaths
 79 and to take and certify affidavits in relation to any matter
 80 or thing required or permitted to be done by any of the
 81 provisions of this article in conducting and holding the
 82 election.



CHAPTER 86

(Senate Bill No. 246—By Mr. McKown)

AN ACT to repeal sections twenty-two-a and twenty-three-a, article four, and section four-a, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend and reenact sections five, five-a, six-a, twelve and twenty-five, article four, chapter three thereof, and to further amend said article four by adding thereto a new section to be designated section five-b, all relating to elections and providing for election of school board members.

[Passed March 9, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 4. Nomination or Election of Candidates at Primaries.

Section

- 5. Nomination of candidates for offices.
- 5-a. Announcement of candidacy for membership of board of education.
- 5-b. Election of county board of education.
- 6-a. Filing fees and their disposition.
- 12. Form and contents of ballots.
- 25. Contests; review by the courts.

Be it enacted by the Legislature of West Virginia:

That sections twenty-two-a and twenty-three-a, article four, and section four-a, article five, chapter three of the code of West

Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that sections five, five-a, six-a, twelve and twenty-five, article four, chapter three thereof, be amended and reenacted, and that said article four be further amended by adding thereto a new section to be designated section five-b, all to read as follows:

Section 5. *Nomination of Candidates for Offices.*—At
2 each primary election, the candidate or candidates of each
3 political party for all offices to be filled at the ensuing
4 general election by the voters of the entire state, of each
5 congressional district, of each state senatorial district, of
6 each judicial circuit except the first judicial circuit of
7 West Virginia, of each county except candidates for the
8 office of judge of an inferior court in any county in the
9 first judicial circuit, and of each magisterial district, in
10 the state, shall be nominated by the voters of the different
11 political parties, except that no presidential elector shall
12 be nominated at a primary election. Candidates for the
13 offices of judge of the circuit and inferior courts of the
14 first judicial circuit shall continue to be nominated at
15 party conventions as provided in section twenty-seven of
16 this article, but such section is hereby repealed and super-
17 ceded by this enactment in so far as it relates to the nomi-
18 nation of candidates for the office of judge of courts of
19 record of West Virginia, other than in the first judicial
20 circuit.

21 In any primary election, the person receiving the
22 highest number of votes of each political party in all
23 cases wherein one person only is to be elected, and the
24 persons receiving the highest number of votes, to the
25 number to be elected, in all cases in which two or more
26 persons are to be elected to the same office, in and
27 throughout the political division in which the person is a
28 candidate, and voted for as such, shall be nominated as the
29 party candidate, or candidates, for the office, or offices,
30 for which they are voted for at the primary election:
31 *Provided, however,* That with respect to nominations of
32 commissioners of county courts no two of such commis-
33 sioners shall be nominated as the party candidates from
34 the same magisterial district where more than one such

35 commissioner is to be so nominated at any primary elec-
 36 tion, and if two or more persons residing in the same dis-
 37 trict shall in any case receive the greater number of votes
 38 cast at such primary election, then only the one of such
 39 persons receiving the highest number shall be declared
 40 nominated as the candidate of his party, and the person
 41 living in another district who shall receive the next
 42 highest number of votes shall be declared nominated as
 43 the candidate of his party, and so on to the next highest
 44 in another district; and in no event shall any such candi-
 45 date be nominated from the same magisterial district
 46 wherein an already elected or otherwise qualified member
 47 of such county court resides and who will continue to
 48 hold office after the beginning of the term for which such
 49 nomination is made.

Sec. 5-a. *Announcement of Candidacy for Membership*
 2 *of Board of Education.*—Any person who is eligible to
 3 hold office as a member of a county board of education
 4 may, at least thirty days prior to the day fixed for the
 5 primary election, file a certificate with the clerk of the
 6 circuit court of the county, declaring himself a candidate
 7 for election to such office. Such certificate shall be sub-
 8 stantially in the following form:

9 I _____, hereby certify that I am a
 10 candidate for nonpartisan election to membership on the
 11 _____ County Board of Education, and
 12 desire my name printed on the ballot to be voted at the
 13 primary election to be held on the _____ day of _____,
 14 19 _____; that I am a legally qualified voter of the county
 15 of _____; State of West Virginia; that the
 16 address of my residence in _____; County is _____;
 17 that I am eligible to hold the office; and that I am a
 18 candidate therefor in good faith.

19 _____
 20 Candidate
 21 Signed and acknowledged before me this _____ day of
 22 _____ 19_____.

23 _____
 24 Signature and official title of
 25 Certifying Officer

26 Such announcement shall be signed and acknowledged
27 by the candidate before some officer qualified to admin-
28 ister oaths, who shall certify the same.

2 Sec. 5-b. *Election of County Board of Education.*—An
3 election for the purpose of electing members of the county
4 board of education shall be held on the same date as the
5 primary elections as now provided by law, but upon a
6 non-partisan ballot printed for the purpose. In such non-
7 partisan election the person receiving the highest number
8 of votes, shall be elected for a long term, and if more than
9 one is to be elected for a long term, the one receiving the
10 next highest shall be elected; and if more than two are to
11 be elected the candidate or candidates receiving the next
12 highest votes shall be declared elected for any short term
13 or terms, as the case may be, to fill vacancies; but no more
14 than two such members shall be elected from the same
15 magisterial district, and then only when such magisterial
16 district does not have a hold-over member of said board,
17 and if such magisterial district has one hold-over member
18 on said board only one member shall be elected as afore-
19 said; and if more persons from a magisterial district
20 receive the highest number of votes in said election, then
21 of such persons only the person or persons having the
22 highest vote who do not make the aggregate number of
23 elected members and hold-over members more than two
24 from such magisterial district shall be declared elected,
25 and the remaining members shall be declared from the
26 highest from other magisterial districts; and in no event
27 shall any member be declared elected from the same
28 magisterial district wherein resides two already elected
29 or otherwise qualified members of such board who will
30 continue to hold office after the beginning of the term for
31 which such election was held.

32 It is declared to be the intent of this statute that any
33 person declared to be elected under the preceding provi-
34 sions of the section shall take office as a duly elected mem-
35 ber or members, even though he, she or they may not
36 have received a majority or plurality of all votes cast at
such election.

Sec. 6-a. *Filing Fees and Their Disposition.*—Every

2 person who becomes a candidate for nomination for or
3 election to office in any primary election, shall, at the
4 time of filing the certificate of announcement as required
5 in section five-a or section six of this article, pay a filing
6 fee as follows:

7 (a) A candidate for president of the United States, for
8 vice president of the United States, for United States
9 Senator, for member of the United States house of repre-
10 sentatives, for governor and for all other state elective
11 offices shall pay a fee equivalent to one per cent of the
12 annual salary of the office for which the candidate an-
13 nounces.

14 (b) A candidate for the office of judge of a circuit
15 court and judge of any court of record of limited juris-
16 diction shall pay a fee equivalent to one per cent of the
17 annual salary of the office for which the candidate an-
18 nounces.

19 (c) A candidate for member of the house of delegates
20 shall pay a fee of ten dollars, and a candidate for state
21 senator shall pay a fee of twenty dollars.

22 (d) A candidate for sheriff, prosecuting attorney, cir-
23 cuit clerk, county clerk, assessor, member of the county
24 court and member of the county board of education shall
25 pay a fee equivalent to one per cent of the annual salary
26 of the office for which the candidate announces: *Provided,*
27 *however,* That the fee in no case shall be less than five
28 dollars. A candidate for any other county office shall pay
29 a fee of five dollars.

30 (e) A candidate for justice of the peace in districts
31 having a population of five thousand or less shall pay a
32 fee of ten dollars; in districts having a population of more
33 than five thousand and not more than twenty-five thou-
34 sand, fifteen dollars; and in districts having more than
35 twenty-five thousand population each candidate shall
36 pay a fee of twenty-five dollars.

37 (f) A candidate for constable in districts having a pop-
38 ulation of five thousand or less shall pay a fee of five dol-
39 lars; in districts having a population of more than five
40 thousand and not more than twenty-five thousand, ten
41 dollars; and in all other districts fifteen dollars.

42 (g) Delegates and alternate delegates to the national
43 convention of any political party shall pay the following
44 filing fees:

45 A candidate for delegate-at-large shall pay a fee of
46 twenty dollars; a candidate for alternate delegate-at-large
47 shall pay a fee of ten dollars; a candidate for delegate
48 from a congressional district shall pay a fee of ten dollars;
49 and a candidate for alternate delegate from a congress-
50 sional district shall pay a fee of five dollars.

51 (h) Candidates for members of political executive
52 committees and other political committees shall pay the
53 following filing fees:

54 A candidate for member of a state executive committee
55 of any political party shall pay a fee of ten dollars; a
56 candidate for member of a county executive committee
57 of any political party shall pay a fee of one dollar; and a
58 candidate for member of a congressional, senatorial or
59 judicial committee of any political party shall pay a fee
60 of one dollar.

61 Candidates filing for an office to be filled by the voters
62 of one county shall pay the filing fee to the clerk of the
63 circuit court, and candidates filing for an office to be
64 filled by the voters of more than one county shall pay the
65 filing fee to the secretary of state at the time of filing
66 their certificates of announcement, and no certificate of
67 announcement shall be received until the filing fee is
68 paid.

69 All moneys received by the circuit clerk from such fees
70 shall be credited to the general county fund. Moneys re-
71 ceived by the secretary of state from fees paid by candi-
72 dates for offices to be filled by all the voters of the state
73 shall be deposited in a special fund for that purpose and
74 shall be apportioned and paid by him to the several
75 counties on the basis of population, and that received
76 from candidates from a district or judicial circuit of
77 more than one county shall be apportioned to the counties
78 comprising the district or judicial circuit in like manner.
79 When such moneys are received by sheriffs, it shall be
80 credited to the general county fund.

Sec. 12. *Form and Contents of Ballots.*—The official
2 primary ballot shall contain at the left of each column of

3 names of candidates, a perpendicular column, and shall
4 be so printed as to leave a square at the left of each name
5 on the ballot.

6 On such primary ballot, the names of candidates for
7 president of the United States, for United States senator,
8 for representative in congress, and for delegates and al-
9 ternate delegates to the national convention of the party,
10 shall be placed in the first column of candidates; the
11 names of candidates for all state offices, and all other
12 offices to be filled by the voters of a political division
13 greater than a county, including the state executive com-
14 mittee but excluding candidates for offices of judge of the
15 first judicial circuit, in the second column; the names of
16 all candidates for county offices, including members of
17 the house of delegates, and congressional, judicial and
18 senatorial executive committees but excluding candidates
19 for the office of judge of any inferior court of record in
20 any county of the first judicial circuit, shall be placed
21 in the third column, and the names of all candidates for
22 office in the magisterial districts shall be placed in the
23 fourth column.

24 The face of every primary election ballot shall con-
25 form as nearly as practicable to that used at the general
26 election.

27 The secretary of state, or the circuit court clerk, as the
28 case may be, shall arrange the names of the candidates to
29 be printed on the ballot in alphabetical order, according
30 to the surname, under the title of the respective offices
31 upon the ballot.

32 A separate ballot, in connection with primary election,
33 for election of members of county board of education,
34 shall be printed in bold type, under the caption, "Non-
35 partisan Ballot for Election of Members of the
36 County Board of Education." The names of the candidates
37 for election to the county board of education, and the
38 number of candidates for which each voter is entitled to
39 vote shall be printed beneath the caption, without refer-
40 ence to political party affiliation, and without designation
41 as to a particular term of office.

42 In printing each set of ballots the position of the names
43 of the candidates shall be changed in each office division

44 as many times as there are candidates in that office divi-
45 sion. As nearly as possible an equal number of ballots
46 shall be printed after each change. In making the change
47 of position, the printer shall take the line of type con-
48 taining the first name in the office division concerned and
49 place it at the bottom of the list of names in that division
50 and move up the column so that the name that before
51 was second shall be first after the change. After the bal-
52 lots are printed they shall be kept in separate piles, one
53 pile for each change in position, and shall then be gathered
54 by taking one from each pile. Sample ballots shall be in
55 the same form as the official ballot, but the order of the
56 names thereon need not be alternated.

57 All ballots used in primary elections shall be printed
58 on paper conforming as nearly as practicable in weight,
59 texture, and color to the samples furnished by the secre-
60 tary of state, and the paper shall be sufficiently thick so
61 that the printing cannot be discernible from the back.
62 On the back of the ballot shall be printed in black ink,
63 and in plain, legible, black face pica type, the name of the
64 political party as contained in the heading or "Nonpar-
65 tisan Board of Education", as the case may be, followed
66 by the word "ballot". Under this designation shall be
67 printed two blank lines followed by the words "poll
68 clerks".

2 Sec. 25. *Contests; Review by the Courts.*—Any candi-
3 date for nomination for, or election to, an office to be filled
4 by the voters of a county, school district or of a magisterial
5 district, or any candidate for membership on any county
6 political executive committee, may contest the primary
7 election before the county court of the county. The pro-
8 cedure in such case shall be the same as that governing
9 the contest of a general election by candidates for county
10 offices or offices in school districts or magisterial districts.
11 The decision of the county court upon such contest may
12 be reviewed by the circuit court of the county and by the
13 supreme court of appeals of the state.

14 Any action of a political party executive committee in
15 the discharge of any of the duties imposed upon such
committee by this article, or of any board of election

16 officials in conducting and ascertaining the result of the
17 primary election, or of any board of canvassers in can-
18 vassing and certifying the result of the primary election
19 for the county, may be reviewed by the circuit court of
20 the county, upon the petition of any candidate, political
21 committeeman or delegate voted for at such primary and
22 affected adversely by the action of such committee,
23 board of election officials, or board of canvassers. From
24 the judgment of the circuit court in any such proceeding,
25 an appeal shall lie to the supreme court of appeals of the
26 state.

27 Any such contest, or petition for review, of a candidate
28 for a nomination not finally determined within ten days
29 next preceding the date of the next election after the
30 primary, or of a candidate for delegate to any convention
31 within ten days next preceding the date fixed for holding
32 the convention, shall stand dismissed, and the person
33 shown by the face of the returns of the primary election
34 to be nominated for any office shall be entitled to have
35 his name printed upon the regular ballot to be voted at
36 the election, and the person shown upon the face of the
37 returns to have been elected as a delegate to any conven-
38 tion shall be entitled to sit in such convention as a dele-
39 gate.



CHAPTER 87

(House Bill No. 9—By Mr. Mills)

AN ACT to amend and reenact section twenty-three, article four, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, relating to filing fees with respect to vacancies in nominations.

[Passed February 8, 1951: in effect ninety days from passage. Approved by the Governor.]

Article 4. Nomination of Candidates.

Section

23. Vacancies in nominations; filing fees.

Be it enacted by the Legislature of West Virginia:

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

Section 23. *Vacancies in Nominations; Filing Fees.*—

2 If any vacancy shall occur in the party nomination of
3 candidates for office, caused by death, withdrawal, fail-
4 ure to make a nomination for the office at the primary
5 election, or otherwise, it may be filled and the name of
6 the candidate certified by the executive committee, of the
7 political party for the political division in which the
8 vacancy occurs. If such vacancy be not filled by the execu-
9 tive committee, if it be for an office to be filled by the
10 voters of the entire state, within thirty days next pre-
11 ceding the date of election, or if it be for any other office,
12 within twenty days next preceding the date of election, if
13 such committee fail or refuse to meet, it shall be lawful
14 for the chairman of the political party executive com-
15 mittee for the political division to fill such vacancy and
16 make a certificate thereof and file the same with the
17 officer with whom the original certificate of nomination
18 was, should or might have been, regularly filed. And it
19 shall be the duty of the officer with whom such certificate
20 is filed to receive and proceed with the same in all
21 respect as an original nomination: *Provided*, That where
22 the vacancy exists because of a failure to make a nomi-
23 nation for the office at the primary election, no nomination
24 under this section shall be deemed filed until a filing fee
25 shall have been paid in an equal amount and to the same
26 office that a candidate for the nomination to the position
27 being filled under this section is required to pay under
28 section six-a of this article.

CHAPTER 88

(House Bill No. 43—By Mr. Andrews)

AN ACT to amend and reenact section forty, article five, chap-
ter three of the code of West Virginia, one thousand nine

hundred thirty-one, relating to compensation of election officials.

[Passed February 6, 1951; in effect from passage. Approved by the Governor.]

Article 5. Conducting Election; Ascertaining and Certifying the Result.

Section

40. Compensation of election officers; expenses.

Be it enacted by the Legislature of West Virginia:

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

Section 40. *Compensation of Election Officers; Expenses.*—Each commissioner of election, poll clerk, and ballot commissioner, shall be allowed a sum to be fixed by the county court, not exceeding ten dollars for each day he shall serve as such, including the time necessary to procure from and return to the clerk of the county and circuit courts the ballots, ballot boxes, poll books, tally sheets and other supplies: *Provided*, That the ballot commissioners shall not receive allowance for more than five days each for services at any primary, general or special election. The compensation of election officers, cost of printing ballots, and all other expenses incurred in providing for holding and making the return of elections shall be audited by the county court and paid out of the county treasury.

CHAPTER 89

(Senate Bill No. 108—By Mr. McKown and Mr. Winters)

AN ACT to amend and reenact sections nine, ten, thirteen, eighteen, twenty-five, twenty-six and twenty-seven, article five-a, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said article five-a by adding thereto three

new sections to be designated sections fourteen-a, fourteen-b and thirty-three-a, all relating to the use of voting machines.

[Passed February 16, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 5-a. Voting Machines.

Section

9. Printing of ballot labels; instruction cards; challenge and absentee ballots.
10. Preparation of machines.
13. Appointment of election boards; instructions.
- 14-a. Sample ballots; mailing by ballot commissioners.
- 14-b. Legal advertisement to be facsimile of face of voting machines.
18. Duties of election officers; primary elections; adjustment of machine.
25. How long machines to remain locked after election; court orders for examination of machines; no re-examination of machine totals on recount.
26. Procedure when voting machines do not accurately record and tabulate the votes cast.
27. Number of voters in precinct; changing voting place from precinct.
- 33-a. Compensation of ballot commissioners.

Be it enacted by the Legislature of West Virginia:

That sections nine, ten, thirteen, eighteen, twenty-five, twenty-six and twenty-seven, article five-a, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that said article five-a be further amended by adding thereto three new sections to be designated sections fourteen-a, fourteen-b and thirty-three-a, all to read as follows:

- Section 9. *Printing of Ballot Labels; Instruction Cards; Challenge and Absentee Ballots.*—The ballot commissioners of any county in which voting machines are to be used in any election shall cause to be printed and ready for use at such election two sets of ballot labels for each voting machine to be used in each precinct. Each such set shall contain the name of each candidate and each question to be voted upon. All ballot labels shall be clearly printed or typed in black ink on clear white material of such size as will fit the ballot frames. One set of ballot labels shall be inserted in the machine prior to the delivery of the machine to the polling place.

13 One set of such ballot labels for each machine shall be
14 retained by the clerk of the county court for use in the
15 event the set so inserted in a machine becomes lost,
16 mutilated or damaged.

17 The ballot commissioners shall also cause to be printed
18 a supply of instruction cards, challenge and absentee
19 ballots, sample ballots and facsimile diagrams to be used
20 as is hereinafter provided.

Sec. 10. *Preparation of Machines.*—Upon receiving the
2 printed ballot labels, the county clerk shall place them
3 in the ballot frames of the voting machines in such man-
4 ner as will most nearly conform to the arrangement pre-
5 scribed for paper ballots, and as will clearly indicate
6 the party designation or emblem of each candidate. Each
7 column or row containing the names of the office and
8 candidates for such office shall be so arranged as to clear-
9 ly indicate the office for which the candidate is running.
10 The names of the candidates for each office indicated
11 shall be placed on the ballot in alphabetical order.

12 The county clerk shall then see that the counters re-
13 ferred to in subsection eleven of section six of this article
14 are set at zero (000) and shall lock the operating device
15 and mechanism and devices protecting the counters and
16 ballot labels. The clerk shall then enter in an appropriate
17 book, opposite the number of each precinct, the identi-
18 fying or distinguishing number of the specific voting
19 machine or machines to be used in that precinct.

Sec. 13. *Appointment of Election Boards; Instructions.*
2 —The provisions of section nine, article five, and section
3 fifteen, article four of this chapter, with respect to the
4 number of election officers in each precinct, shall not
5 apply to precincts in counties in which voting machines
6 have been adopted, and the county court of such county
7 shall appoint, subject to all other provisions of section
8 nine, article five and section fifteen, article four of this
9 chapter, a uniform election board, to consist of three
10 election commissioners and two poll clerks, to serve in
11 each precinct: *Provided, however,* That where more than
12 two voting machines are used in a precinct the county
13 court may appoint two additional election commission-

14 ers of different political parties for each such machine
15 over two.

16 The county court shall call the necessary meeting or
17 meetings for the instruction of all election officials in
18 the use of the voting machines. Such meeting or meetings
19 shall be held and the proper instructions given not less
20 than seven (7) days prior to any election in which vot-
21 ing machines are to be used. No election officer, upon
22 being so notified to appear for instruction, shall fail with-
23 out just cause to do so. If any officer does so fail to
24 appear, the county court may appoint some other quali-
25 fied person, and such person, after instruction, shall act
26 in the place of the defaulting officer: *Provided, however,*
27 *That if such defaulting officer was appointed by the*
28 *county court upon the written recommendation of a*
29 *county executive committee as provided in section fif-*
30 *teen, article four and in section nine, article five of this*
31 *chapter, the county court shall give written notice of*
32 *such default to such county executive committee and ap-*
33 *point a person to take the place of such defaulting person*
34 *upon the recommendation of such county executive com-*
35 *mittee. The election officers shall receive the per diem*
36 *mileage rate prescribed by law for attending such in-*
37 *struction meetings.*

2 *Sec. 14-a. Sample Ballots; Mailing by Ballot Commis-*
3 *sioners.—The ballot commissioners may, with the con-*
4 *sent of the county court, or the county court may prepare*
5 *and mail to each qualified voter at his address as shown*
6 *on the registration books a facsimile sample of the ballot*
7 *for his precinct.*

2 *Sec. 14-b. Legal Advertisement to be Facsimile of Face*
3 *of Voting Machines.—In counties where voting machines*
4 *have been adopted, the legal advertisements required by*
5 *section nine, article four of this chapter and section eight,*
6 *article five of this chapter, shall consist of a facsimile of*
7 *the face of the voting machine with the names of the*
8 *candidates and the offices for which they are running*
9 *shown in their proper positions.*

2 *Sec. 18. Duties of Election Officers; Primary Elections;*
3 *Adjustment of Machine.—(1) The election officers shall*

3 constantly and diligently maintain a watch in order to see
4 that no person votes more than once and to prevent any
5 voter from occupying the voting machine for more than
6 three minutes.

7 (2) In primary elections before a voter is permitted
8 to use the voting machine, the election officer represent-
9 ing the party to which the voter belongs shall adjust the
10 machine so that the voter will be able to vote only for the
11 candidates who are seeking nomination on the ticket of
12 the party with which the voter is affiliated.

13 (3) If the machine is so constructed as to require
14 adjustment after one person has voted before another
15 person can vote, the election officers shall so adjust it after
16 each person has voted.

17 (4) The election officers shall issue to each voter
18 when he signs the poll book a card or ticket numbered to
19 correspond to the number on the poll book of such voter,
20 and in the case of a primary election, indicating the
21 party affiliation of such voter, which numbered card or
22 ticket shall be presented to the election officer in charge of
23 the voting machine.

24 *Sec. 25. How Long Machines to Remain Locked After*
25 *Election; Court Orders for Examination of Machines;*
26 *No Reexamination of Machine Totals on Recount.—*(1)
27 The voting machines shall remain locked against voting
28 during the canvass of the returns of the election and for a
29 period of seven days after the canvass is finally concluded,
30 during which time any candidate or the chairman of any
31 county executive committee of any political party or their
32 appointed representatives, shall be permitted to examine
33 the voting machines under the supervision of the county
34 court for the purpose of determining the number of votes
35 cast for any candidate or for and against any question.
36 After the expiration of the seven-day period as herein
37 provided, the voting machines may be unlocked by the
38 clerk of the county court and the registering counters
39 reset at zero (000) unless the board of canvassers or a
40 court of competent jurisdiction by appropriate court order
41 directs otherwise.

42 (2) During the period when such machine is required
43 to be kept locked, the keys thereto shall remain in the

21 possession of the county court. After such period, it shall
22 be the duty of the county court to return such keys to the
23 clerk of the county court.

24 (3) In canvassing the returns of the election, the
25 board of canvassers shall examine all of the voting ma-
26 chines used in such election and shall determine the
27 number of votes cast for each candidate and for and
28 against each question and by such examination shall
29 procure the correct returns and ascertain the true re-
30 sults of the election. Any candidate or his party represen-
31 tative may be present at such examination.

32 (4) If any candidate shall demand a recount of the
33 votes cast at an election, the voting machines shall not
34 be reexamined during such recount for the purpose of
35 re-ascertaining the total number of votes registered on
36 the voting machines for any candidate.

Sec. 26. *Procedure When Voting Machines do not Accurately Record and Tabulate the Votes Cast.*—(1) When
2 during a canvass or a recount of votes cast in an election
3 it appears to the board of canvassers or if it is so alleged
4 in a petition for a recount, that a voting machine used in
5 any precinct has by reason of mechanical failure or im-
6 proper or fraudulent preparation or tampering incorrectly
7 recorded and tabulated the actual votes cast on such ma-
8 chine, the board of canvassers shall proceed to determine
9 the error, if any, in the vote registered on such voting
10 machine. If an error is found, the board of canvassers
11 shall correct the election returns from such precinct so
12 as to accurately reflect the votes cast in such precinct at
13 such election if it is possible to accurately correct such
14 error. If the board of canvassers are unable to accurately
15 correct such errors made by said voting machine and
16 therefore cannot correct the returns from such precinct
17 to accurately reflect the actual votes cast at such election,
18 the total votes registered on such voting machine, despite
19 the fact that such vote may be erroneous, shall be ac-
20 cepted in the canvass and in the recount as the votes cast
21 in such precinct.

22 (2) If it is necessary for the board of canvassers to
23 test any voting machine for its mechanical accuracy in
24 recording and tabulating the votes cast at such election,
25

26 such test shall be conducted by the clerk of the county
27 court in the presence of the board of canvassers and of any
28 candidate or his party representative. The registering
29 counter shall be reset at zero (000) before it is tested and
30 then the machine shall be operated at least 100 times.
31 After the completion of such test the county clerk will
32 then and there prepare and file a statement in writing
33 giving in detail the result of the examination and test.

Sec. 27. *Number of Voters in Precinct; Changing Voting Place From Precinct.*—The provisions of section ten, article one of this chapter, with respect to the number of voters to be contained in each precinct, shall not apply to precincts in counties in which voting machines have been adopted and the county courts of such county, subject to other provisions of this chapter with respect to the altering or changing of the boundaries of voting precincts, may change the boundaries of precincts or consolidate precincts, as practicable, to achieve the maximum advantage from the use of voting machines.

12 The county court may in the urban centers of any
13 county adopting voting machines designate a voting
14 place without the limits of a precinct, provided such
15 voting place is in a public building, and in an adjoining
16 precinct. In such event more than one precinct may vote
17 in any such public building.

Sec. 33-a. *Compensation of Ballot Commissioners.*—In
2 counties which have adopted voting machines the ballot
3 commissioners shall each be paid as compensation for his
4 services a sum to be fixed by the county court not ex-
5 ceeding ten dollars for each day he shall serve: *Provided,*
6 That such ballot commissioners shall not receive compen-
7 sation for more than ten days for services rendered for
8 any primary, general or special election.

CHAPTER 90

(House Bill No. 141—By Mr. Beneke)

AN ACT to amend chapter three of the code of West Virginia one thousand nine hundred thirty-one, as amended, by

adding thereto a new article to be numbered article six-a, relating to the establishment of a practicable system of absentee voting by West Virginia citizens who are members of the armed services of the United States.

[Passed February 27, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 6-a. Absentee Voting by Members of Armed Services.

Section

1. Declaration of legislative purpose.
2. Announcement of candidacy.
3. Certification and posting of candidacies.
4. Appointment of ballot commissioners.
5. Compensation of ballot commissioners.
6. Nominations by party conventions.
7. Preparation, printing and delivery of absent voters' ballots.
8. Persons entitled to vote under the provisions of this article.
9. Temporary registration.
10. Request for absent voter's ballot.
11. Mailing of absent voters' ballots.
12. Ballot envelopes.
13. Affidavit of absent voter; marking and return of ballot.
14. Filing of voted ballots.
15. Canvass of ballots.
16. Details not covered by this article.
17. Temporary suspension of inconsistent provisions; revival.
18. Separability.

Be it enacted by the Legislature of West Virginia:

That chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article to be numbered article six-a, relating to absentee voting, to read as follows:

Section 1. *Declaration of Legislative Purpose.*—In the
 2 enactment of this article, it is the purpose of the Legisla-
 3 ture to make only such temporary changes or modifica-
 4 tions in existing election laws as may be necessary to
 5 provide a practicable means whereby West Virginians
 6 in the armed services may be afforded an opportunity to
 7 vote during the period of time covered by this article.

Sec. 2. *Announcement of Candidacy.*—While this article
 2 is in effect, the fourteenth Saturday rather than the fifth
 3 Saturday preceding the day fixed for the primary elec-
 4 tion shall be the last day on which a person may file
 5 announcement of his candidacy for nomination to any

6 office. In all other respects, an announcement of candi-
7 dacy shall be governed by the provisions of sections
8 five-a and six, article four, chapter three of the code.

Sec. 3. *Certification and Posting of Candidacies.*—The
2 secretary of state shall, on the Monday following the
3 fourteenth Saturday preceding the day fixed for the
4 primary election, proceed with the certification and post-
5 ing of candidacies. Such certification and posting shall in
6 all other respects be governed by the provisions of sec-
7 tion eight, article four, chapter three of the code.

Sec. 4. *Appointment of Ballot Commissioners.*—Between
2 the fifteenth and thirty-first days of January in each year
3 in which a general election is to be held, the clerk of each
4 circuit court shall appoint two ballot commissioners for
5 a term of two years beginning on the first day of Feb-
6 ruary following. In all other respects, including the cus-
7 tomary notice to the county executive committees of the
8 two political parties and the appointment of the person
9 duly designated by the respective chairmen of such com-
10 mittees, the appointment of ballot commissioners shall
11 be governed by the provisions of section two, article five,
12 chapter three of the code.

Sec. 5. *Compensation of Ballot Commissioners.*—The
2 existing five-day limitation on the number of days for
3 which each ballot commissioner may be paid for his
4 services at any election shall, for the duration of this
5 article, be raised to seven days. The compensation of bal-
6 lot commissioners and other election officials shall in all
7 other respects, be governed by the provisions of section
8 forty, article five, chapter three of the code.

Sec. 6. *Nominations by Party Conventions.*—The party
2 conventions provided for in section twenty-seven, article
3 four, chapter three of the code shall be held between the
4 fifteenth and thirty-first days of July. All nominations
5 which, since the enactment of section five, article four,
6 chapter forty-eight, acts of the Legislature, regular ses-
7 sion, one thousand nine hundred forty-three, are still
8 made at such conventions shall be certified to the secre-
9 tary of state or to the clerk of the circuit court, as the
10 case may be, within twenty-four hours after they are

11 made, and the secretary of state, within twenty-four
12 hours after receipt of any such certification, shall certify
13 the nominations to the clerks of the proper circuit courts.
14 In all other respects, such nominations shall be governed
15 by the provisions of section twenty-seven, article four,
16 chapter three of the code.

Sec. 7. *Preparation, Printing and Delivery of Absent
2 Voters' Ballots.*—Upon receipt by the circuit clerk of the
3 list of candidates certified by the secretary of state as
4 provided in sections three and six of this article, the
5 ballot commissioners shall immediately proceed with the
6 preparation of a sample official ballot for each political
7 party, shall estimate and determine the number of absent
8 voters' ballots of each kind which will be required, and
9 shall print and deliver such ballots to the clerk of the
10 circuit court as soon as possible, but not later than the
11 twelfth Saturday preceding the day fixed for the primary
12 election. Between the twenty-fifth day of July and the
13 tenth day of August, both inclusive, for the general elec-
14 tion to be held in the year one thousand nine hundred
15 fifty-two and between the tenth and twenty-fifth days of
16 August, both inclusive, for the general election to be held
17 in the year one thousand nine hundred fifty-four, the
18 ballot commissioners shall prepare, print and deliver to
19 the clerk of the circuit court such absent voters' ballots
20 as will, in their opinion, be required for such elections.

21 In order to lessen the burden of the armed forces in
22 respect to the transportation and distribution of absentee
23 ballots, such ballots may be printed on lightweight paper,
24 if it is available, to the end that the total weight of the
25 ballot and the two envelopes provided for in section
26 twelve of this article shall not exceed eight-tenths of an
27 ounce, if possible, and such ballots shall be valid without
28 regard to other provisions of law respecting weight and
29 quality of paper.

30 If, after the ballots are printed but before they are
31 distributed as provided in the following sections, any
32 change in the names printed thereon should become
33 necessary, the ballot commissioners shall make the
34 necessary changes by the use of stickers or by the printing
35 of additional ballots.

36 Except as otherwise specified in this section, prepara-
 37 tion, printing and delivery of absent voters' ballots shall
 38 be governed by the provisions of section nine, article four,
 39 section three, article five, and section fifteen, article six,
 40 of chapter three of the code.

Sec. 8. *Persons Entitled to Vote Under the Provisions
 2 of This Article.*—Any person, man or woman, who is
 3 registered as a voter in any county of this state, who is a
 4 member of any branch of the armed services of the
 5 United States, and who in the performance of his duties
 6 expects to be absent on election day from the county in
 7 which he is registered, may vote by absent voter's ballot
 8 as provided in this article, whether such person at the
 9 time of voting is within or without the territorial limits
 10 of the United States.

11 Any other person may vote by absent voter's ballot only
 12 as provided in article six, chapter three of the code.

Sec. 9. *Temporary Registration.*—Any person who is
 2 not registered as a voter, and who is entitled to be regis-
 3 tered under the provisions of general law, but who is
 4 otherwise entitled to vote under the provisions of this
 5 article, may apply to the clerk of the county court of the
 6 county in which such person resides for permanent regis-
 7 tration as provided in other sections of the code or for
 8 temporary registration as provided in this section.

9 Application for temporary registration shall be made
 10 upon a simplified form to be furnished by the county
 11 court. Request for such a form may be made by mail or
 12 otherwise by the applicant himself or by any other per-
 13 son.

14 The form shall be substantially as follows:

15 **TEMPORARY REGISTRATION FORM**

16 Name

17 (Last Name) (First Name) (Middle Name)

18 Home Address

19 (Give street number or as specific location as possible)

20

21

22 Political Party Affiliation

23 I,, do solemnly swear (or

24 affirm), to the best of my knowledge and belief, that
 25 though not registered I am legally qualified to vote; that
 26 I am in the armed service of the United States; that I am
 27 now at least twenty-one years of age, or will have reached
 28 that age by the date of the next general election; that I
 29 live at the above address in _____ County,
 30 West Virginia; and that on the basis of these statements
 31 I desire to be registered as a voter of the proper precinct
 32 in the county.

33

 (Signature of Applicant)

34

35 Subscribed and sworn to (or affirmed) before me this
 36 _____ day of _____, 19____.

37

38

39

 (Signature of Officer, Rank, Branch
 of Service and Identification Number)

40

41 Note: This application shall be certified by a commis-
 42 sioned officer, warrant officer, or noncommissioned
 43 officer no lower in rank than sergeant or the equivalent
 44 navy rating, of any branch of the armed service of the
 45 United States, or by some other person qualified to ad-
 46 minister oaths. The certificate need not state the place
 47 where it is made and no seal shall be necessary.

48

49 Please send an absent voter's ballot, for the next elec-
 50 tion, to me at the following address:

51

52

53

54 The applicant shall make the necessary affidavit before
 55 a commissioned officer, warrant officer or noncommis-
 56 sioned officer no lower in rank than sergeant or the
 57 equivalent navy rating, of any branch of the armed ser-
 58 vices of the United States, or before some other person
 59 qualified to administer oaths, at any place either within
 60 or without the territorial limits of the United States.
 61 The certificate need not state the place where it is made
 62 and shall require no seal.

63

64

Upon receipt by the clerk of the county court of such
 an application, duly executed, it shall be his duty to

65 register the applicant as a temporarily qualified voter of
 66 the proper precinct in the county. If the applicant has
 67 filled in that part of the form containing the request for
 68 an absent voter's ballot, the clerk of the county court
 69 shall transmit such request to the clerk of the circuit
 70 court.

71 The temporary registration form, signed by the voter,
 72 shall constitute his registration record and shall be de-
 73 livered by the clerk of the county court to the proper
 74 election commissioners at the same time that he delivers
 75 to them the permanent registration records.

76 Temporary registration as provided in this section may
 77 be made at any time except during the ten days preceding
 78 an election. Such registration shall be valid only for the
 79 duration of this article.

Sec. 10. *Request for Absent Voter's Ballot.*—At any
 2 time except during the ten days preceding an election,
 3 a request that an absent voter's ballot be sent to any per-
 4 son, entitled to vote under the provisions of this article,
 5 may be made to the clerk of the circuit court of the
 6 county in which such person is registered, by such person
 7 himself or by any other person.

8 Such request need not be by certified application. If
 9 the request is by the person himself, it may be made in-
 10 formally, by mail or otherwise; if by anyone else, it shall
 11 be made upon a printed form to be signed by the person
 12 making the request. Such form shall be substantially as
 13 follows:

14 **REQUEST FOR ABSENT VOTER'S BALLOT**

15 _____
 16 Date

17 **TO THE CIRCUIT CLERK OF _____ COUNTY:**

18 Please send an absent voter's ballot to _____
 19 _____, who is on active duty in the armed
 20 services of the United States.

21 Address to which ballot shall be sent:

22 _____
 23 _____
 24 _____
 25 _____
 26 _____

27 Absent voter's home address:

28 _____

29 _____

30 _____

31 The absent voter is registered as a qualified elector of
 32 Precinct No. _____, magisterial district of _____,
 33 county of _____. His political party affiliation
 34 (to be stated only in the case of a primary election) is
 35 _____,

36 _____

37 (Signature of person making request)

38 Upon receipt of a request for an absent voter's ballot,
 39 the clerk of the circuit court shall send the request to
 40 the clerk of the county court, who shall then check such
 41 information as may be stated in the request with the in-
 42 formation appearing on the registration records filed in
 43 this office. After inserting on the request necessary cor-
 44 rections and such of the required information as may
 45 not have been given, the clerk of the county court shall
 46 return the request to the clerk of the circuit court.

47 The circuit clerk shall keep a separate list of such
 48 requests similar in all respects to the list of other applica-
 49 tions for absent voters' ballots which is provided for in
 50 section four, article six, chapter three of the code.

Sec. 11. *Mailing of Absent Voters' Ballots.*—Upon de-
 2 livery of the ballots to the clerk of the circuit court as
 3 provided in section seven of this article, the clerk shall
 4 proceed with the mailing of the ballots. In such mailing,
 5 priority shall be given to ballots which are to be sent to
 6 absent voters outside the territorial limits of the United
 7 States. The ballots may be sent by air mail, postage pre-
 8 paid. In no event shall more than one ballot be sent to
 9 any absent voter.

Sec. 12. *Ballot Envelopes.*—The clerk of the circuit
 2 court shall enclose the ballot in an unsealed envelope to
 3 be furnished by him, which envelope shall have printed
 4 on one side the name, official title and return address of
 5 such clerk and on the other side an affidavit in substan-
 6 tially the following forms:

7 IN THE ARMED SERVICE OF THE UNITED STATES:

8 I, _____, do solemnly swear (or
 9 affirm), to the best of my knowledge and belief, that
 10 I am registered as a voter in _____ County,
 11 West Virginia; that I shall in the performance of my
 12 duties be absent from such county on election day; and
 13 that I am duly qualified to vote the enclosed ballot, which
 14 I have personally marked and sealed in this envelope with-
 15 out exhibiting it to any other person, or which, in the
 16 case of my physical incapacity, has been marked for me
 17 and sealed in the envelope under my personal direction.

18

19

(Signature of Absent Voter)

20

Subscribed and sworn to (or affirmed) before me this

21

_____ day of _____, 19_____.

22

23

24

(Signature of Officer, Rank, Branch of
 Service and Identification Number)

25

26

27

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NOTE: This affidavit shall be certified by a commis-
 sioned officer, warrant officer or noncommissioned officer
 no lower in rank than sergeant or the equivalent navy
 rating, of any branch of the armed services of the United
 States, or by some other person qualified to administer
 oaths. The certificate need not state the place where it
 is made and no seal shall be necessary. If the voter, be-
 cause of physical incapacity, is unable to sign the affi-
 davit, his name may be signed for him by the officer who
 makes the certificate, who shall state on the affidavit
 that he did sign for the voter.

Only the ballot, the ballot envelope and such instruc-
 tion sheet as may be prepared and furnished by the board
 of ballot commissioners, and nothing else, shall be en-
 closed in a sealed carrier envelope addressed to the absent
 voter. Both envelopes may be made of lightweight paper
 and the outer dimensions of the carrier envelope (number
 10 size) may not exceed four and one-eighth inches by
 nine and one-half inches. Each envelope shall have
 printed on its face in large type the words, "OFFICIAL
 WEST VIRGINIA ARMED SERVICE BALLOT."

Sec. 13. Affidavit of Absent Voter; Marking and Return

2 of *Ballot*.—The absent voter shall, upon receipt of a bal-
3 lot, mark it in secret and seal it in the envelope furnished
4 for that purpose. He shall then execute the affidavit ap-
5 pearing on the back of the envelope, after which the ballot
6 shall be sent by any available mail service to the circuit
7 clerk who issued it.

8 The absent voter shall make the necessary affidavit
9 before a commissioned officer, warrant officer or non-
10 commissioned officer no lower in rank than sergeant or
11 the equivalent navy rating, of any branch of the armed
12 services of the United States or before some other person
13 qualified to administer oaths, at any place either within
14 or without the territorial limits of the United States. The
15 certificate need not state the place where it is made and
16 shall require no seal.

17 If the voter, because of his physical incapacity, is un-
18 able to mark his ballot, it may be marked for him by some
19 other person acting under his personal direction. In such
20 case, the person making the certificate may sign the af-
21 fidavit for the voter, and if so, shall so state on the af-
22 davit.

Sec. 14. *Filing of Voted Ballots*.—Upon receipt of an
2 envelope on which the affidavit has been properly exe-
3 cuted and certified as provided in the preceding section,
4 the clerk of the circuit court shall endorse thereon the
5 following statement: "This envelope contains an absent
6 voter's ballot to be voted at precinct No. in
7 district in county, and
8 must be opened only at the polls on election day while
9 such polls are open." The Clerk shall insert the name of
10 the district and the number of the precinct in which the
11 absent voter is registered. He shall thereafter keep the
12 sealed envelope securely in his office until delivered by
13 him to the election commissioners of the proper precinct.
14 The clerk shall deliver such ballot at the same time as
15 is required by section nine, article six, chapter three of
16 the code, for the delivery of other absent voters' ballots.

Sec. 15. *Canvass of Ballots*.—At any time between the
2 opening and closing of the polls on election day the elec-
3 tion commissioners to whom any such absent voters' bal-

4 lots have been delivered shall, in the presence of each
5 other, announce the absent voter's name and compare
6 the signature upon the affidavit on the sealed envelope
7 with the signature on his registration record. If the
8 election commissioners find that the signatures corres-
9 pond and that the affidavit was properly executed and cer-
10 tified as required by section thirteen of this article, they
11 shall, with the exception of those matters mentioned in
12 the following paragraph, then proceed in all other re-
13 spects as is provided in section ten, article six, chapter
14 three of the code.

15 No such absent voter's ballot as is provided for in this
16 article shall be challenged because of the fact that the
17 ballot envelope has been opened and resealed if it clearly
18 appears on the ballot envelope that the opening and re-
19 sealing was done by the proper authorities for the pur-
20 pose of military censorship. In the event of a challenge
21 of any such absent voter's ballot as is provided for in
22 this article, it shall not be necessary for the clerk of the
23 county court to send a notice of the challenge to those
24 absent voters who are outside the territorial limits of
25 the United States. Notwithstanding any other provision
26 of the code, the election officials shall not reject such an
27 absent voter's ballot as is provided for in this article by
28 reason of the fact that the absent voter, because of phys-
29 ical incapacity, was unable to sign the affidavit on the
30 ballot envelope, if the affidavit was signed for him by the
31 person making the certificate as provided in section thir-
32 teen of this article.

Sec. 16. *Details not Covered by This Article.*—The pro-
2 visions of article six, chapter three of the code, in so far
3 as they are not in conflict with the provisions of this
4 article, shall apply as well to voting by members of the
5 armed services as to voting by other absentees.

Sec. 17. *Temporary Suspension of Inconsistent Pro-
2 visions; Revival.*—All provisions of the code which are
3 inconsistent herewith shall be temporarily suspended for
4 the duration of this article. Upon the expiration of this
5 article, however, all such provisions shall again become
6 of full force and effect as if this article had never been
7 passed.

- Sec. 18. *Separability*.—If any part of this article shall
- 2 be declared unconstitutional, such declaration shall not
 - 3 affect any other part thereof.

CHAPTER 91

(Senate Bill No. 48—By Mr. Johnston, Mr. President)

AN ACT to amend and reenact section two, article seven, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the compensation of certain state officials.

[Passed March 2, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 7. Compensation and Allowances.

Section

2. Salaries of certain state officers.

Be it enacted by the Legislature of West Virginia:

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

- Section 2. *Salaries of Certain State Officers*.—The salary of the governor shall be twelve thousand five hundred dollars per year.
- 4 Effective from and after the first Monday after the
 - 5 second Wednesday in January, one thousand nine hundred
 - 6 fifty-three, the salary of the attorney general shall
 - 7 be seven thousand five hundred dollars per year; the salary
 - 8 of the auditor, the secretary of state, the treasurer,
 - 9 the commissioner of agriculture, and the superintendent
 - 10 of free schools, shall be each seven thousand two hundred
 - 11 fifty dollars per year.
 - 12 The salary of each of the judges of the supreme court
 - 13 of appeals shall be twelve thousand five hundred dollars
 - 14 per year.

CHAPTER 92

(House Bill No. 136—By Mr. Davis)

AN ACT to amend and reenact article one, chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section twenty-three, relative to exemption of certain employee trusts from the rule against perpetuities or restraints on powers of alienation.

[Passed February 8, 1951; in effect from passage. Approved by the Governor.]

Article 1. Creation of Estates Generally.

Section

23. Exemption of certain employee trusts from the rule against perpetuities or restraints on powers of alienation.

Be it enacted by the Legislature of West Virginia:

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

Section 23. *Exemption of Certain Employee Trusts from the Rule Against Perpetuities or Restraints on Powers of Alienation.*—That pension, profit sharing, stock bonus, annuity or other employee trusts heretofore or hereafter established by employers for the purpose of distributing the income and principal thereof to some or all of their employees, or the beneficiaries of such employees, shall not be invalid as violating any laws or rules against perpetuities or restraints on the power of alienation of title to property; but such trusts may continue for such period of time as may be required by the provisions thereof to accomplish the purposes for which they are established.

CHAPTER 93

(House Bill No. 66—By Mr. Andrews)

AN ACT to amend and reenact section seven-a, article one, chapter fifty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter ninety-four, acts of the Legislature, regular session, one thousand nine hundred forty-seven, relating to photographing, microphotographing or reproducing on film, records, papers or documents.

[Passed February 2, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 1. Legislative Acts and Resolutions; Public Records.

Section

7-a. Photographing, microphotographing or reproducing on film, records, papers or documents.

Be it enacted by the Legislature of West Virginia:

That section seven-a, article one, chapter fifty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter ninety-four, acts of the Legislature, regular session, one thousand nine hundred forty-seven, be amended and reenacted to read as follows:

Section 7-a. *Photographing, Microphotographing or Reproducing on Film, Records, Papers or Documents.*—
2 Any public officer of the state, with the approval of the
3 board of public works and/or any public officer of any
4 county in the state, with the approval of its county court,
5 may cause any or all records, papers or documents kept
6 by him to be photographed, microphotographed or repro-
7 duced on film. Such photographic film shall be of durable
8 material, and the device used to reproduce such records
9 on such film shall be one which accurately reproduces the
10 original thereof in all details.

11 Such photographs, microphotographs or photographic
12 film shall be deemed to be an original record for all pur-
13 poses, including introduction in evidence in all courts or
14 administrative agencies. A transcript, exemplification or
15 certified copy thereof shall, for all purposes recited here-
16

17 in, be deemed to be a transcript, exemplification, or
18 certified copy of the original. Whenever photographs,
19 microphotographs or reproductions on film have been
20 made and put in conveniently accessible files, and pro-
21 vision has been made for preserving, examining and
22 using the same, the respective heads of the departments,
23 divisions, institutions and agencies of the state and/or
24 counties may, with the approval of the aforesaid govern-
25 ing bodies, cause the records and papers so photographed,
26 microphotographed or reproduced on film, or any part
27 thereof, to be destroyed; but before any such records,
28 papers or documents are authorized to be destroyed, the
29 aforesaid governing bodies shall obtain the advice and
30 counsel of the state historian and archivist, or his desig-
31 nated representative, as to the desirability of placing the
32 said records, papers and documents in the archives of
33 that department, whereupon the aforesaid governing
34 bodies may cause such records, papers and documents
35 to be so transferred.

CHAPTER 94

(Senate Bill No. 34—By Mr. Bean)

AN ACT to amend article three, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be designated section one-a, relating to establishment by state fire marshal of demonstration buildings and equipment for educational purposes in public and private schools and state educational institutions for fire prevention and protection and payment of expenditures therefor.

[Passed March 5, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 3. State Fire Marshal; Protection Against Fire.

Section

1-a. Establishment of demonstration buildings and equipment for educational instruction in fire prevention and protection; payment therefor.

Be it enacted by the Legislature of West Virginia:

That article three, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended, by adding thereto a new section to be designated section one-a to read as follows:

Section 1-a. *Establishment of Demonstration Buildings and Equipment for Educational Instruction in Fire Prevention and Protection; Payment Therefor.*—The state fire marshal is authorized to establish for educational purposes in public and private schools and state educational institutions demonstration buildings and equipment for fire prevention and protection, and such expenditures therefor shall be made from the special fund for maintenance of office of state fire marshal as an incidental expense of the office.

CHAPTER 95

(Senate Bill No. 35—By Mr. Bean)

AN ACT to amend and reenact article three, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be designated section twenty-two, relating to crimes and penalties by persons violating regulations of state fire marshal for fire prevention and protection and vesting concurrent jurisdiction in justices of peace for violations relating thereto.

[Passed February 6, 1951: in effect ninety days from passage. Approved by the Governor.]

Article 3. State Fire Marshal; Protection Against Fire.

Section

22. Failure to comply with fire regulations of fire marshal; penalties, jurisdiction of justices of peace relating thereto.

Be it enacted by the Legislature of West Virginia:

That article three, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended,

be amended, by adding thereto a new section to be designated section twenty-two to read as follows:

Section 22. *Failure to Comply with Fire Regulations of Fire Marshal; Penalties, Jurisdiction of Justices of Peace Relating Thereto.*—Any person violating any of the regulations promulgated by the state fire marshal relating to the fire prevention and protection as provided and as authorized by section four-a of this article shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished with a fine of not less than ten nor more than fifty dollars for each day's neglect. For the purposes of prosecution hereunder, justices of the peace shall have concurrent jurisdiction with the circuit courts for violations of the regulations of the state fire marshal.



CHAPTER 96

(Senate Bill No. 168—By Mr. Wylie)

AN ACT to amend and reenact section five, article one-a, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to salary and traveling expenses of the director of the conservation commission of West Virginia.

[Passed March 8, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 1-a. Director of Conservation.

Section

5. Salary and traveling expenses.

Be it enacted by the Legislature of West Virginia:

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

Section 5. *Salary and Traveling Expenses.*—The director shall receive a salary of seven thousand dollars per annum and the necessary traveling expenses incident to the performance of his duties. Requisition for

- 5 traveling expenses shall be accompanied by a sworn and
- 6 itemized statement which shall be filed with the auditor
- 7 and preserved as a public record.

CHAPTER 97

(Senate Bill No. 188—By Mr. Bowling)

AN ACT to amend article one-a, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section thirteen, providing for cooperation with the federal government in fish restoration and management.

[Passed March 5, 1951; in effect from passage. Approved by the Governor.]

Article 1-a. Director of Conservation.

Section

13. Cooperation with federal government in fish restoration and management.

Be it enacted by the Legislature of West Virginia:

That article one-a, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section to be designated section thirteen to read as follows:

- Section 13. *Cooperation with Federal Government in Fish Restoration and Management.*—The state of West Virginia hereby assents to the provisions of the act of Congress entitled, "An Act to provide that the United States shall aid the states in fish restoration and management projects and for other purposes," (Public law number six hundred eighty-one, eighty-first congress), and the director is hereby authorized, empowered and directed to perform such acts as may be necessary to the conduct and establishment of fish restoration and management projects as defined in said act of Congress, in compliance with said act and with rules and regulations promulgated by the secretary of the interior thereunder.

14 Funds accruing to the state from license fees paid by
15 fisherman shall not be diverted for any purpose other
16 than the activities of this chapter.

CHAPTER 98

(Senate Bill No. 146—By Mr. Traubert)

AN ACT to amend article three, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be designated section two-a, relating to training of dogs on certain game animals and game birds, and firearms in possession during training period.

[Passed February 15, 1951; in effect from passage. Approved by the Governor.]

Article 3. General Provisions Respecting Game, Birds, Fish and Frogs.

Section

2-a. Training of dogs on certain game animals and game birds; firearms in possession during training period.

Be it enacted by the Legislature of West Virginia:

That article three, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section to be designated section two-a to read as follows:

Section 2-a. *Training of Dogs on Certain Game Animals and Game Birds; Firearms in Possession During Training Period.*—It shall be unlawful for the owner of any dog or a dog under his control to permit such dog to chase, pursue or follow upon the track of any game animal or game bird, either day or night, between the first day of May and the fifteenth day of August next following.

Dogs may be trained on game animals and game birds, except deer and wild turkey, during the closed season on such game animals and game birds (the period from May first to August fifteenth excepted), provided the

13 person or persons training said dogs do not have firearms
14 or other implements in their possession whereby game
15 animals or game birds could be taken or killed.

CHAPTER 99

(Com. Sub. for Senate Bill No. 243—Originating in the Senate Committee on Forestry and Conservation)

AN ACT to amend and reenact section three, article four, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to hunting deer, report to director, tagging and penalties.

[Passed March 7, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 4. Game and Fur-Bearing Animals.

Section

3. Hunting deer; report to director; tagging; penalties.

Be it enacted by the Legislature of West Virginia:

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

Section 3. *Hunting Deer; Report to Director; Tagging; Penalties.*—No person shall hunt, capture or kill any deer in this state, except in open season, or as provided under section three-b of this article. A licensed person may hunt or kill deer of any type, antlerless or otherwise, during the open season fixed by the conservation commission of West Virginia for the counties or parts thereof. Antlerless deer seasons may be established by the conservation commission when deemed advisable due to over-population of deer, extreme crop damage, unbalanced sex ratios, or other unusual conditions in various counties or parts thereof. The provisions of this section shall not apply to a licensed owner of deer which are kept in a park or field sufficiently enclosed to prevent escape therefrom, as provided by article three, section twelve-a of this chapter.

16 No person shall:

17 (1) Kill more than one deer in any one calendar year;

18 (2) Have in his possession the fresh skin or any other
19 part of an illegally killed doe, fawn or buck deer;

20 (3) Chase or hunt deer with dogs, or kill or attempt to
21 kill a deer that is being chased by, or is fleeing from
22 dogs;

23 (4) Attempt to catch or kill, or catch or kill any deer by
24 means of poison baits, salt lick, (natural or artificial) trap
25 or snare, or devices of any kind;

26 (5) Hunt, pursue, catch or kill a deer between sunset
27 on one day and sunrise of the next day;

28 (6) Kill, attempt to kill or wound a deer while the deer
29 is in a stream, lake or pond;

30 (7) Participate further in the hunt after having killed
31 the legal limit of deer if he or she has firearms of any de-
32 scription in his or her possession;

33 (8) Hunt deer with any gun other than a shot gun
34 using ammunition loaded with more than one solid ball,
35 or rifle using rim fire ammunition of less than twenty-five
36 calibre.

37 A person who kills or wounds a deer by accident, such
38 as striking it with an automobile, or has knowledge that a
39 deer is in distress for any reason whatever, shall promptly
40 notify a conservation officer or other proper officer of the
41 fact.

42 Any person who kills a legal deer during the open sea-
43 son shall deliver same for inspection and tagging to a
44 conservation officer or an official checking station set up
45 for that purpose by the commission during the open deer
46 season. The deer shall not be dressed (other than hog-
47 dressed) before it is presented to a conservation officer or
48 official checking station for inspection; nor shall such deer
49 be tagged unless the head is attached in a natural way
50 to the carcass of said deer, except as is otherwise provided
51 in this section. The checking station attendant or con-
52 servation officer upon inspecting the deer shall supply
53 the hunter with an official tag which shall be securely
54 attached to the head of the deer before the deer is re-
55 moved from said station. The official tag shall bear the
56 name and address of the hunter and such other informa-
57 tion as the director may designate and shall be counter-

58 signed by the checking station attendant or other duly
59 authorized agent of the director. The official tag shall
60 remain attached to the head of the deer until the animal
61 is dressed, and thereafter with the head or skin until the
62 close of the deer hunting season.

63 An exception to the above outlined tagging procedure
64 is made in that one deer per hunting camp may be com-
65 pletely dressed at camp for camp use, provided a deer
66 camp use permit is affixed to the head as outlined above in
67 this section before starting to skin the deer. The skin and
68 head to which the deer camp use permit is attached
69 shall be presented to either a conservation officer or to an
70 official checking station to be tagged and inspected before
71 the close of the open deer season in which the kill was
72 made.

73 The deer camp use permit shall bear the name and
74 address of the hunter who killed the deer and such other
75 information as the director may designate. Such permits
76 may be obtained on application to the director or his
77 authorized agent. The application for such permits shall
78 give a roster showing the names and addresses of all
79 licensed hunters who are to occupy the camp, the name
80 and specific location of the camp, and the name of the
81 county in which the camp is to be located.

82 Any person who violates any of the provisions of this
83 section shall be guilty of a misdemeanor, and, upon
84 conviction, shall be fined not less than one hundred nor
85 more than three hundred dollars, and confined in the
86 county jail not less than thirty days: *Provided, however,*
87 That any person who kills a deer illegally during the
88 open season thereafter, and voluntarily reports same to a
89 conservation officer or other officer, shall be fined not
90 less than fifty dollars nor more than one hundred dollars.

CHAPTER 100

(Senate Bill No. 242—By Mr. Jackson, of Logan, by request)

AN ACT to amend and reenact section six-a, article four, and section two-d, article seven, chapter twenty of the code of

West Virginia, one thousand nine hundred thirty-one, as amended, relating to trapping beavers and Class D Ohio River hunting and fishing license.

[Passed March 8, 1951: in effect ninety days from passage. Approved by the Governor.]

Article

4. Game and Fur-Bearing Animals.
7. Hunting and Fishing Licenses.

Be it enacted by the Legislature of West Virginia:

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

Article 4. Game and Fur-Bearing Animals.

Section

6-a. Trapping beaver.

Section 6-a. *Trapping Beaver.*—No person shall at any

2 time:

3 (1) Set or maintain more than the number of beaver
4 traps, or groups of beaver traps, established as the season
5 limit in any one year by the director;

6 (2) Set any trap for beavers within fifteen feet of the
7 water line on the structure of any beaver house;

8 (3) Have in his possession an unsealed beaver hide,
9 or part thereof, within the period beginning thirty days
10 after the end of the open season and ending with the
11 first day of the next succeeding open season for beavers;

12 (4) Destroy, disturb, or in any manner interfere with
13 dams, houses or burrows of beavers while trapping for,
14 or attempting to trap for beavers.

15 If any person shall unintentionally trap and kill more
16 beavers than fixed by regulation as the season bag limit,
17 he shall, within twenty-four hours, deliver said beaver
18 or beavers to a representative of the conservation com-
19 mission.

Article 7. Hunting and Fishing Licenses.

Section

2-d. Class D-1 and class D-2, Ohio River hunting and fishing licenses.

Section 2-d. *Class D-1 and Class D-2; Ohio River Hunt-*

2 *ing and Fishing License.*—A class D-1 license shall be an
3 Ohio river hunting license and a class D-2 license shall be
4 an Ohio river fishing license. These licenses shall entitle
5 the licensee to hunt and to fish in the Ohio river only.
6 They shall be issued to citizens of the United States who
7 are residents of the state of Ohio. The fee shall be two
8 dollars for the hunting license and two dollars for the
9 fishing license.

CHAPTER 101

(Senate Bill No. 147—By Mr. Traubert)

AN ACT to amend and reenact section two, article five, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to migratory birds.

[Passed March 10, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 5. Birds and Fowls.

Section

2. Migratory birds.

Be it enacted by the Legislature of West Virginia:

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

Section 2. *Migratory Birds.*—No person shall hunt, 2 pursue, catch, capture, kill, possess, transport, or attempt 3 to hunt, pursue, catch, capture, kill, possess or transport, 4 or use in this state, any migratory game or non-game 5 birds included in the terms of conventions between the 6 United States and Great Britain and between the United 7 States and United Mexican States for the protection of 8 migratory birds and game mammals concluded, respec- 9 tively, August sixteen, one thousand nine hundred six- 10 teen, and February seven, one thousand nine hundred

11 thirty-six, except during the time and manner and num-
12 bers prescribed by the federal migratory bird treaty act
13 and regulations made thereunder.

CHAPTER 102

(Senate Bill No. 84—By Mr. Bean)

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, relating to unlawful fishing and permitting the snaring through the ice of suckers, carp, fallfish and creek chubs.

[Passed February 28, 1951: in effect ninety days from passage. Approved by the Governor.]

Article 6. Fish and Other Aquatic Life.

Section

5. Unlawful 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, be amended and reenacted to read as follows:

Section 5. *Unlawful Fishing.*—No person shall kill,
2 catch, or attempt to kill or catch any fish at any time
3 by:
4 (1) The use of seines, nets, or traps, or devices of like
5 nature without the written consent of the director. A
6 person may use a seine not more than six feet in length,
7 nor more than four feet in depth for securing minnows
8 for angling, other than game fish or protected non-game
9 fish; except any person may use a minnow trap, for the
10 purpose of securing bait, provided the opening is not
11 larger than one inch in diameter. A dip net so used
12 shall not exceed thirty-six square feet in over-all area,
13 and its mesh shall not be smaller than one-quarter inch;
14 (2) Draining water out of any pool, pond, or stream

15 with intent to take or injure fish, except from privately
16 owned farm ponds.

17 (3) The use of dynamite, or any like explosive or ex-
18 plosive mixture;

19 (4) The use of a poisonous drug or substance;

20 (5) The use of electricity or lime;

21 (6) The use of firearms;

22 (7) Gigging, spearing, gaffing, snaring or grappling,
23 except the director may permit gigging of non-game
24 fish in a stream under the supervision of a representative
25 of the director, other than during the months of April,
26 May and June; however, the snaring of any species of
27 suckers, carp, fallfish and creek chubs through the ice
28 shall at all times be lawful;

29 (8) Any other means other than by rod, line and
30 hooks, with natural or artificial lures;

31 A person shall not sell or purchase a seine more than
32 six feet in length without the prior written permission
33 of the director.

34 The provisions of this section shall not prevent the
35 director from using such methods of catching fish as he
36 shall find necessary and proper for the purpose of
37 propagation, protection, or scientific investigation.

CHAPTER 103

(House Bill No. 395—By Mr. Curtis)

AN ACT to amend and reenact section six, article six, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, relating to the pollution of streams with matter deleterious to propagation of fish.

[Passed March 10, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 6. Fish and Other Aquatic Life.

Section

6. Pollution of streams with matter deleterious to propagation of fish; penalty.

Be it enacted by the Legislature of West Virginia:

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

Section 6. *Pollution of Streams with Matter Deleterious to Propagation of Fish; Penalty.*—It shall be unlawful for any person, firm or corporation to throw, discharge or cause to enter into any stream, watercourse or water in this state, sawdust or other matter deleterious to the propagation of fish. Except in the counties of Brooke and Hancock, it shall be lawful for the owner or operator of any mine or coal washery in this state to drain or cause to be drained therefrom the water that naturally collects in such mine, and the water from such coal washery, and to discharge the same into any stream, watercourse or water in the state, in the manner provided in section seventy-nine, article two, chapter twenty-two of this code: *Provided, however,* That any mine owner or operator having one suitable, convenient and sufficient outlet for the water from his or its own mine into one stream shall not cause the same to be drained into any other stream. Any person, firm or corporation violating any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten nor more than one hundred dollars, and such person violating this section, and the officer or agent of any corporation who directs or participates in the violation of this section, may be imprisoned in jail not less than ten nor more than one hundred days, or both such fine and imprisonment may be imposed for such violation.

CHAPTER 104

(Senate Bill No. 159—By Mr. Bowling)

AN ACT to amend article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto two new sections, to be

designated sections two-j and two-k, and to amend and reenact sections three and eleven, article seven, and section ten, article nine of said chapter twenty, all relating to licenses to hunt and fish on national forest lands in West Virginia.

[Passed March 5, 1951; in effect ninety days from passage. Approved by the Governor.]

Article

7. Hunting and Fishing Licenses.
9. Forests.

Be it enacted by the Legislature of West Virginia:

That article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto two new sections to be designated sections two-j and two-k, and that sections three and eleven, article seven, and section ten, article nine of said chapter twenty be amended and reenacted, all to read as follows:

Article 7. Hunting and Fishing Licenses.

Section

- 2-j. Class I; national forest hunting and trapping license.
2-k. Class J; national forest fishing license.
3. Where license applications made; alien permits.
11. Funds allocated for forests and refuges.

Section 2-j. *Class I; National Forest Hunting and Trapping License.*—A class I license shall be a national forest hunting and trapping license and shall entitle the licensee to hunt all game animals and game birds and trap all fur bearing animals in season excepting beaver, on all national forest land in West Virginia. It shall be issued only to a non-resident holding a class E license or to a resident holding a class A or AB license. The fee therefor shall be one dollar. The revenue derived from the sale of this license shall be used for management and propagation of game and fish on national forest land and for no other purpose. The conservation commission of West Virginia shall enter into a cooperative agreement with the United States forest service, such agreement to define the means and methods to be taken to improve the wildlife and fish resources and to pro-

17 gram the expenditure of all funds derived from this
18 license.

Sec. 2-k. *Class J; National Forest Fishing License.*—

2 A Class J license shall be a national forest fishing license
3 and shall entitle the licensee to fish in waters within
4 national forest land in West Virginia. It shall be issued
5 only to a non-resident holding a Class E or Class F license,
6 or to a resident holding a Class B or Class AB license.
7 The fee therefor shall be one dollar. The revenue derived
8 from the sale of this license shall be used only for
9 management and propagation of game and fish on
10 national forest land and for no other purpose. The
11 conservation commission of West Virginia shall enter
12 into a cooperative agreement with the United States
13 Forest Service, and such agreement to define the means
14 and methods to be taken to improve the wildlife and
15 fish resources and to program the expenditure of all
16 funds derived from this license.

Sec. 3. *Where License Applications Made; Alien Per-*
2 *mits.*—Persons eligible for any class license shall make
3 application therefor, either in person or by agent, in writ-
4 ing or orally, as follows:

5 (i) For Class A, B, E, F, H, I, J and K license, to any
6 county clerk.

7 (ii) For Class D license, to the county clerk of any
8 county bordering the Ohio River.

9 (iii) For Class C license, to the commission; and for
10 Class G license, to the commission, or its administrative
11 employees at state parks or state forests.

12 Aliens desiring to procure licenses shall first apply to
13 the director for a permit to secure such license. If the
14 director satisfies himself that the applicant is legally
15 entitled to such license, and will observe the laws of this
16 state, and particularly the provisions of this chapter,
17 he may issue the permit. Permits, once issued, shall
18 remain in force until revoked. No issuing officer shall be
19 required to issue or deliver any license unless the ap-
20 plicant informs him that the licensee is duly qualified and
21 eligible to receive the class of license applied for, and
22 payment of the required fee is made to such officer.

Sec. 11. *Funds Allocated for Forests and Refuges.*—

2 The director shall, each year, allocate ten per cent of
3 the total revenue obtained from all classes of hunting
4 and fishing license, excepting classes I and J, for the
5 purchase of lands and the maintenance of state forests,
6 and game and fish refuges. Not more than fifty per cent
7 of the amount so allocated may be expended for patrol-
8 ling such lands, protecting wild game and fish thereon,
9 the improvement of wildlife habitat, and other necessary
10 maintenance and operation.

Article 9. Forests.

Section

10. Financial assistance from owners of forest lands; expenditures by commission.

Section 10. Financial Assistance from Owners of Forest

2 *Lands; Expenditures by Commission.*—The commission
3 may cooperate with the owners of forest lands and re-
4 ceive financial assistance from them for the purposes
5 aforesaid and do any and all things necessary therefor,
6 including the establishment and maintenance of patrol and
7 lookout stations: *Provided, however,* That the commission
8 shall expend for forestry purposes only such moneys as
9 shall be appropriated therefor by the state, and such
10 moneys as may be contributed therefor by the private
11 owners, and such moneys as may be recovered from per-
12 sons giving origin to forest fires, and such moneys as may
13 be received from the federal government by appropria-
14 tion under the Weeks and Clarke-McNary laws, or oth-
15 erwise; and in addition for the aforementioned purposes,
16 shall provide twenty per cent of the funds derived an-
17 nually from the sale of game and fish licenses, excepting
18 classes I and J.

CHAPTER 105

(Senate Bill No. 119—By Mr. Bowling)

AN ACT to amend and reenact section three-b, article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend

said article seven by adding thereto a new section to be designated section two-i, relating to hunting and fishing licenses and tags.

[Passed March 1, 1951; in effect June 1, 1951. Approved by the Governor.]

Article 7. Hunting and Fishing Licenses.

Section

- 3-b. Size and form of licenses and tags; contents; information by licensee; and impounding license where not filled in.
 2-i. Class I; nonresident six-day state-wide fishing license.

Be it enacted by the Legislature of West Virginia:

That section three-b, article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that said article seven be further amended by adding thereto a new section to be designated section two-i, all to read as follows:

Section 3-b. *Size and Form of Licenses and Tags; Contents; Information by Licensee; and Impounding License Where Not Filled In.*—The size, content and form of licenses and tags shall be prescribed by the commission: *Provided, however,* That in no case shall the tags exceed two and one-half inches square in size, and, if such tags are issued, suitable holders shall be issued therefor, such holders to conform in size to the tags. The license shall contain spaces for information disclosing the age, citizenship and residence of the licensee, and his weight, height, color of hair, eyes, and complexion or skin, and any unusual physical characteristics, if any. The information required by this section shall be placed upon the license by the licensee promptly after delivery of the license to him; and in any event, prior to the time he shall hunt or fish in the fields, forests and streams of the state. Any conservation officer who finds a licensee whose license is either not filled in, or is improperly filled in, may require the licensee to properly fill it in at that time and place; and, in event of the licensee's refusal so to do, the officer is hereby authorized to impound such license and the tags, if any, issued with it, and forward same to the com-

23 mission, with a statement of the facts. The commission
24 in such case may cancel the license, or return it to the
25 licensee as it sees fit. Nothing in this article contained
26 shall subject such licensee to the criminal penalties which
27 are otherwise provided for violations of this article, so long
28 as the license in possession of the licensee was of the
29 proper class, but the licensee may be punished by loss of
30 this license for his failure or refusal to fill it in properly;
31 and, the provisions of section one of this article shall ap-
32 ply to him, after his license has been impounded, until
33 such time as he shall have procured a new license, or the
34 license so impounded has been returned to him.

35 This section, as hereby amended, shall become effective
36 January one, one thousand nine hundred fifty-two.

Sec. 2-i. *Class K; Nonresident Six-Day State-wide Fish-
2 ing License.*—A class K license shall be a nonresident fish-
3 ing license and shall entitle the licensee to fish in all
4 counties of the state for a period not to exceed six days.
5 It shall be issued only to citizens of the United States,
6 and to unnaturalized persons possessing the permit re-
7 quired by section three of this article, who are not resi-
8 dents of this state. The fee therefor shall be three dollars.

CHAPTER 106

(Senate Bill No. 269—By Mr. Bean and Mr. Martin)

AN ACT authorizing the director of conservation to convey to the United States, or to an agency thereof, lands necessary for the establishment and development of a Harpers Ferry National Monument.

[Passed March 6, 1951; in effect ninety days from passage. Approved by the Governor.]

Harper's Ferry National Monument.

Section

1. Director of conservation authorized to convey lands for Harpers Ferry national monument.

Be it enacted by the Legislature of West Virginia:

Section 1. *Director of Conservation Authorized to Convey Lands for Harpers Ferry National Monument.*—If the director of conservation, in the exercise of powers conferred upon him by section seven, article one-a, chapter twenty of the code of West Virginia, shall acquire for the state lands necessary for the establishment and development of a Harpers Ferry National Monument, he shall have the authority, with the approval of the governor, to convey to the United States, or to an agency thereof, any lands so acquired, upon the agreement of the grantee to develop and maintain such lands as a national monument.

CHAPTER 107

(Senate Bill No. 102—By Mr. Eddy)

AN ACT to amend and reenact section two, article one, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to increase of compensation of insurance commissioner.

[Passed March 8, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 1. Insurance Commissioner.

Section

2. Compensation of commissioner; expenses.

Be it enacted by the Legislature of West Virginia:

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

Section 2. *Compensation of Commissioner; Expenses.*—
 2 The insurance commissioner shall receive an annual
 3 salary of seven thousand dollars and actual ex-
 4 penses incurred in the performance of official business
 5 which compensation shall be in full for all services. The
 6 office of the commissioner shall be established and main-

7 tained in the capitol or other suitable place in Charleston.
8 The commissioner may establish such rules and regu-
9 lations as may be necessary or convenient for the dis-
10 charge of his duties, and may employ such persons and
11 incur such expenses as may be necessary in the discharge
12 of his duties as imposed by law, and shall fix the com-
13 pensation of such employees, but such compensation shall
14 not exceed the appropriation therefor. All compensa-
15 tion for salaries of the commissioner, for salaries and
16 wages of employees of the commissioner and for expenses
17 of the commissioner as herein authorized shall be paid
18 monthly out of the state treasury by requisition upon
19 the auditor, properly certified by the insurance commis-
20 sioner.

CHAPTER 108

(House Bill No. 231—By Mr. Meadows)

AN ACT to amend and reenact section five, article two, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to licenses issued by the insurance commissioner, and providing for multiple line underwriting.

[Passed March 5, 1951; in effect from passage. Approved by the Governor.]

Article 2. General Provisions.

Section

5. Issuance of license by insurance commissioner.

Be it enacted by the Legislature of West Virginia:

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

Section 5. *Issuance of License by Insurance Commis-*
2 *sioner.*—(a) Upon receiving such certified copy and state-
3 ment, the insurance commissioner may examine such com-
4 pany or association, and if he finds that it has complied

5 with the terms of its charter or articles of association and
6 the laws of this state, and with all the provisions in other
7 sections of this chapter prescribing conditions precedent
8 to the issuance of a license, or certificate of authority, and
9 is satisfied that it is solvent (or if chartered or organized
10 under the laws of any foreign country, is solvent in the
11 United States), he may issue to it a license, or certificate
12 of authority, stating such facts and authorizing it to issue
13 policies, make contracts of insurance, and transact busi-
14 ness in this state.

15 (b) Such license or certificate of authority, except for
16 life companies, may be issued so as to permit an insurance
17 company to engage in more than one or any combination
18 of the kinds of insurance business mentioned in article
19 five, chapter thirty-one, articles four, six, ten, eleven and
20 thirteen of this chapter: *Provided*, That such company
21 or association can fully meet all the financial and other
22 requirements of each article to be included in its license
23 or certificate of authority.

CHAPTER 109

(House Bill No. 226—By Mr. Meadows)

AN ACT to amend article two, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eleven-a, prohibiting advertising for or on behalf of companies transacting the business of insurance in West Virginia, unless such advertising indicates whether such insurer is licensed to do business in this state.

[Passed March 6, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 2. General Provisions.

Section

11-a. Advertising prohibited.

Be it enacted by the Legislature of West Virginia:

That article two, chapter thirty-three of the code of West

Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section eleven-a, to read as follows:

Section 11-a. *Advertising Prohibited.*—No publication
2 published in this state, or radio, or television broadcaster,
3 or any other agency or means for the dissemination of in-
4 formation operated or located in this state, shall publish,
5 broadcast, or otherwise disseminate within this state
6 advertising for or on behalf of any insurance company, as-
7 sociation, society, exchange or person unless the insur-
8 ance company, association, society, exchange or person so
9 advertising is licensed to do business in this state as pro-
10 vided by this chapter, or chapter thirty-one.

11 Any publisher, or operator of a radio, or television
12 broadcasting station, or any other agency or means for
13 the dissemination of information operating or located in
14 this state, who disseminates within this state advertising
15 for or on behalf of any insurance company, in violation
16 of this section, shall be guilty of a misdemeanor and for
17 each violation shall be fined not less than five hundred
18 dollars nor more than one thousand dollars.

19 This section shall not apply to publications published
20 in this state principally for circulation in other states,
21 wherein advertising by or on behalf of such insurers is
22 not expressly directed toward residents or subjects of in-
23 surance in this state.

CHAPTER 110

(House Bill No. 225—By Mr. Meadows)

AN ACT to amend and reenact section thirteen, article two, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, providing for suspension of an insurance company's certificate of authority to do business in West Virginia, if condition imperils the interest of policyholders or creditors.

[Passed March 9, 1951; in effect from passage. Approved by the Governor.]

Article 2. General Provisions.

Section

13. Refusal to issue, suspension or revocation of license.

Be it enacted by the Legislature of West Virginia:

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

Section 13. *Refusal to Issue, Suspension or Revocation of License.*—The insurance commissioner may refuse to issue a certificate of authority to any domestic or foreign company if in his judgment, such refusal will best promote the interests of the people of this state. When the insurance commissioner upon investigation is satisfied that any company acting under his supervision and holding a license, or certificate of authority, from him, is in such a condition that its further transaction of business in this state would be hazardous to policyholders and creditors in this state and to the public, he may proceed to suspend such license or certificate of authority for a period not to exceed twelve months. When the insurance commissioner upon investigation is satisfied that any company acting under his supervision and holding a license, or certificate of authority, from him, is insolvent, or has failed to comply with or is violating the insurance laws of this state, or is conducting business fraudulently, or is not carrying out its contracts in good faith, he shall proceed to revoke such license, or certificate of authority. When the insurance commissioner, on application, shall refuse to issue any license, or certificate of authority, if upon the hearing the commissioner finds that the reasons stated for refusing, suspending or revoking the license are true, he may refuse to issue, may suspend or may revoke, the license or certificate of authority. Such statement and notice, when the company has been admitted to do business in this state, may be served in the manner provided for the service of process in section forty-three of this article. If the company has not been admitted

31 to do business in this state, such statement and notice
32 may be served as a notice is served under section one,
33 article two, chapter fifty-six of this code, upon any person
34 in this state who shall be designated by the company
35 for such purpose upon the application for such license,
36 or certificate of authority, or by mailing the same ad-
37 dressed to the company at such place as shall be desig-
38 nated by the company on such application, the posting to
39 be at such a time that the statement and notice should
40 reach its destination by due course of mail not less than
41 thirty days before such hearing. The company may ap-
42 pear with witnesses, and may be heard through its
43 officers or agents, or by counsel, or both. The insurance
44 commissioner may take such oral or written proof, for
45 or against the issuance, suspension or revocation, as he
46 may deem advisable. When the insurance commissioner,
47 on application, shall refuse to issue any license or cer-
48 tificate of authority, whether for any of the reasons afore-
49 said or in pursuance of any other provision of this chapter
50 and article five of chapter thirty-one, the company shall
51 be furnished a statement of the reasons for such failure
52 to issue and shall be given thirty days notice of the time
53 and place of a hearing at which the insurance commis-
54 sioner will proceed to determine whether such license or
55 certificate shall be finally refused. When the insurance
56 commissioner upon investigation is satisfied that the li-
57 cense or certificate of authority of any company should be
58 revoked or suspended, whether for any of the reasons
59 aforesaid or in pursuance of any other provision of this
60 chapter and article five of chapter thirty-one, the company
61 shall be furnished a statement for the reasons assigned by
62 the commissioner for such action and shall be ordered to
63 show cause why such suspension or revocation should
64 not be ordered, upon at least thirty days' notice of the
65 time and place of a hearing, at which the insurance com-
66 missioner will proceed to determine whether such license
67 or certificate shall be suspended or revoked, as the case
68 may be.

69 Any company, the application of which for a license has
70 been refused, or the license of which has been suspended
71 or revoked, in the manner aforesaid, may, within thirty

72 days after the decision of the insurance commissioner
73 upon the hearing aforesaid, present its petition in writing
74 to the circuit court of the county in which the seat of
75 government of this state is situated, or to the judge of
76 such court in vacation, praying for a review and reversal
77 of such decision. Before presenting its petition to the
78 court or judge, the petitioner shall mail a copy thereof to
79 the insurance commissioner. Upon the receipt of such
80 copy, the insurance commissioner shall forthwith trans-
81 mit to the clerk of such court the record of the proceed-
82 ings before him. The court or judge shall fix a time for
83 the review of said proceedings at his earliest convenience.
84 Notice in writing of the time and place of such hearing
85 shall be given to the insurance commissioner at least ten
86 days before the date set therefor. The court or judge shall,
87 without a jury, hear and determine the case upon the
88 record of the proceedings before the insurance commis-
89 sioner. The court or judge may enter an order revising
90 or reversing the decision of the insurance commissioner,
91 if it appears that the decision was clearly wrong, or may
92 affirm such decision. The judgment of the circuit court
93 or judge may be reviewed upon appeal in the supreme
94 court of appeals: *Provided*, That nothing contained in this
95 section shall be taken or construed as preventing any such
96 company from continuing in good faith all contracts made
97 in this state during the time such company was legally
98 authorized to transact business therein.

CHAPTER 111

(House Bill No. 228—By Mr. Meadows)

AN ACT to amend and reenact section fifteen, article two, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to examination of insurance companies, to provide for the expenses of such examination to be borne by the company examined.

[Passed March 5, 1951; in effect from passage. Approved by the Governor.]

Article 2. General Provisions.**Section**

15. Insurance companies subject to examination by insurance commissioner.

Be it enacted by the Legislature of West Virginia:

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

Section 15. *Insurance Companies Subject to Examination by Insurance Commissioner.*—Any insurance company now licensed or which may hereafter be licensed by the insurance commissioner to do business in this state, shall, so long as it retains any West Virginia business on its books, be subject to examination by the insurance commissioner. For such purposes, the commissioner, his deputies and agents shall have free access to all books and papers of any insurance company doing business in this state, whether such books or papers be at the home office of the company. or elsewhere, and to all books and papers of its agents, and may examine under oath its officers or agents relative to its condition; and if any company, whether incorporated under the laws of this state or of some other state or country, or its officers or agents, shall refuse to submit to such examination, or to comply with any of the provisions of this chapter, the authority of such company to do business in this state shall be revoked. All the expenses of such examination shall be borne by the company examined.

CHAPTER 112

(House Bill No. 222—By Mr. Meadows)

AN ACT to amend and reenact section twenty-one, article two, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to changes necessary to conform with proposed sections forty-

nine, fifty, fifty-one, fifty-two and fifty-three, article three, chapter thirty-three, group life bill, if enacted by the Legislature.

[Passed March 9, 1951; in effect from passage. Approved by the Governor.]

Article 2. General Provisions.

Section

21. Exemptions from three preceding sections.

Be it enacted by the Legislature of West Virginia:

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

Section 21. *Exemptions from Three Preceding Sections.*

2 —Nothing in the three preceding sections shall be so con-
3 strued as to prohibit any company issuing non-participat-
4 ing insurance from paying bonuses to policyholders or
5 otherwise abating their premium in whole or in part out
6 of surplus accumulated from non-participating insurance;
7 nor to prohibit any company transacting industrial insur-
8 ance on the weekly or monthly payment plan from return-
9 ing to policyholders who have made premium payments
10 for a period of at least one year directly to the company
11 at its home or district office, a percentage of the premium
12 which the company would have paid for the weekly or
13 monthly collection of such premium; nor to prohibit any
14 life insurance company doing business in this state from
15 issuing group policies of life or endowment insurance with
16 or without annuities at rates less than the usual rates of
17 premiums for individual policies; nor to prohibit any in-
18 surance company doing business in this state from issuing
19 group policies of accident and health insurance at rates
20 less than the usual rates of premiums for individual policy-
21 holders; nor to prohibit any person, partnership or cor-
22 poration or stockholders thereof, from carrying their in-
23 surance, at the full premium rate, with and through an
24 insurance agency in which they are interested.

CHAPTER 113

(House Bill No. 227—By Mr. Meadows)

AN ACT to amend article two, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section forty-nine, relating to insurers not authorized to transact business in this state; providing for actions in this state against and for the service of process upon such insurers; prescribing how a defense may be made by such insurers; and providing for the allowance of attorneys fees in actions against such insurers.

[Passed March 5, 1951; in effect from passage. Approved by the Governor.]

Article 2. General Provisions.

Section

49. Service of process on auditor of the state as attorney for unauthorized insurers.

Be it enacted by the Legislature of West Virginia:

That article two, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section forty-nine, to read as follows:

Section 49. *Service of Process on Auditor of the State as Attorney for Unauthorized Insurers.*—(1) The purpose of this section is to subject certain insurers to the jurisdiction of the courts of this state in suits by or on behalf of insureds or beneficiaries under certain insurance contracts. The Legislature declares that it is a subject of concern that many residents of this state hold policies of insurance issued or delivered in this state by insurers while not authorized to do business in this state, thus presenting to such residents the often insuperable obstacle of resorting to distant forums for the purpose of asserting legal rights under such policies. In furtherance of such state interest, the Legislature herein provides a method of substituted service of process upon such insurers and declares that in so doing it exercises its power to protect

16 its residents and to define, for the purpose of this section,
17 what constitutes doing business in this state, and also
18 exercises powers and privileges available to the state by
19 virtue of public law number fifteen, seventy-ninth Con-
20 gress of the United States, chapter twenty, first session,
21 senate number three hundred forty, as amended, which
22 declares that the business of insurance and every person
23 engaged therein shall be subject to the laws of the several
24 states.

25 2. (a) Any of the following acts in this state, effected
26 by mail or otherwise, by an unauthorized foreign or alien
27 insurer; (1) the issuance or delivery of contracts of in-
28 surance to residents of this state or to corporations au-
29 thorized to do business therein, (2) the solicitation of
30 applications for such contracts, (3) the collection of
31 premiums, membership fees, assessments or other con-
32 siderations for such contracts, or (4) any other transac-
33 tion of business, is equivalent to and shall constitute an
34 appointment by such insurer of the auditor of the state
35 and his successor in office, to be its true and lawful attor-
36 ney, upon whom may be served all lawful process in any
37 action, suit, or proceeding instituted by or on behalf of an
38 insured or beneficiary arising out of any such contract
39 of insurance, and any such act shall be signification of
40 its agreement that such service of process is of the same
41 legal force and validity as personal service of process in
42 this state upon such insurer.

43 (b) Such service of process upon any such insurer in
44 any such action or proceeding in any court of competent
45 jurisdiction of this state, may be made by serving the
46 auditor of the state or his chief clerk with two copies
47 thereof and the payment to him of a fee of two dollars.
48 The auditor shall forward a copy of such process by regis-
49 tered mail to the defendant at its last known principal
50 place of business, and shall keep a record of all process so
51 served upon him. Such service of process is sufficient,
52 provided notice of such service and a copy of the process
53 are sent within ten days thereafter by or on behalf of the
54 plaintiff to the defendant at its last known principal place
55 of business by registered mail with return receipt re-
56 quested. The plaintiff shall file with the clerk of the court

57 in which the action is pending, or with the judge or jus-
58 tice of such court, in case there be no clerk, an affidavit
59 of compliance herewith, a copy of the process, and either
60 a return receipt purporting to be signed by the defendant
61 or a person qualified to receive its registered mail in ac-
62 cordance with the rules and customs of the post office
63 department; or, if acceptance was refused by the defend-
64 ant or its agent, the original envelope bearing a notation
65 by the postal authorities that receipt was refused. Service
66 of process so made shall be deemed to have been made
67 within the territorial jurisdiction of any court in this
68 state.

69 (c) Service of process in any such action, suit or pro-
70 ceeding shall in addition to the manner provided in sub-
71 section (b) of this section be valid if served upon any
72 person within this state who, in this state on behalf of
73 such insurer, is

74 (1) soliciting insurance, or

75 (2) making, issuing or delivering any contract of in-
76 surance, or

77 (3) collecting or receiving any premium, membership
78 fee, assessment or other consideration for insurance; pro-
79 vided notice of such service and a copy of such process
80 are sent within ten days thereafter, by or on behalf of
81 the plaintiff to the defendant at the last known principal
82 place of business of the defendant, by registered mail
83 with return receipt requested. The plaintiff shall file
84 with the clerk of the court in which the action is pending,
85 or with the judge or justice of such court in case there be
86 no clerk, an affidavit of compliance herewith, a copy of
87 the process, and either a return receipt purporting to be
88 signed by the defendant or a person qualified to receive
89 its registered mail in accordance with the rules and cus-
90 toms of the post office department; or, if acceptance was
91 refused by the defendant or its agent the original envelope
92 bearing a notation by the postal authorities that receipt
93 was refused.

94 (d) The papers referred to in paragraphs (b) and (c)
95 of this subsection shall be filed within thirty days after
96 the return receipt or other official proof of delivery or
97 the original envelope bearing a notation of refusal, as the

98 case may be, is received by the plaintiff. Service of process
99 shall be complete ten days after such process and the
100 accompanying papers are filed in accordance with this
101 section.

102 (e) Nothing in this section contained shall limit or
103 abridge the right to serve any process, notice or demand
104 upon any insurer in any other manner now or hereafter
105 permitted by law.

106 3. (a) Before any unauthorized foreign or alien insurer
107 shall file or cause to be filed any pleading in any action,
108 suit or proceeding instituted against it, such unauthorized
109 insurer shall either (1) deposit with the clerk of the
110 court in which such action, suit or proceeding is pending,
111 cash or securities or file with such clerk a bond with good
112 and sufficient sureties, to be approved by the court, in an
113 amount to be fixed by the court sufficient to secure the
114 payment of any final judgment which may be rendered
115 in such action: *Provided, however,* That the court may
116 in its discretion make an order dispensing with such
117 deposit or bond where the auditor of the state shall have
118 certified to such court that such insurer maintains within
119 this state funds or securities in trust or otherwise suffi-
120 cient and available to satisfy any final judgment which
121 may be entered in such action, suit or proceeding; or (2)
122 procure a license to do an insurance business in this
123 state.

124 (b) The court in any action, suit, or proceedings, in
125 which service is made in the manner provided in para-
126 graphs (b) or (c) of subsection two may, in its discretion,
127 order such postponement as may be necessary to afford
128 the defendant reasonable opportunity to comply with the
129 provisions of paragraph (a) of this subsection and to de-
130 fend such action.

131 (c) Nothing in paragraph (a) of this subsection is to
132 be construed to prevent an unauthorized foreign or alien
133 insurer from filing a motion to set aside service thereof
134 made in the manner provided in paragraphs (b) or (c)
135 of subsection two hereof on the ground either (1) that
136 such unauthorized insurer has not done any of the acts
137 enumerated in paragraph (a) of subsection two, or (2)
138 that the person on whom service was made pursuant to

139 paragraph (c) of subsection two was not doing any of the
140 acts therein enumerated.

141 4. In any action against an unauthorized foreign or alien
142 insurer upon a contract of insurance issued or delivered
143 in this state to a resident thereof or to a corporation au-
144 thorized to do business therein, if the insurer has failed
145 for thirty days after demand prior to the commencement
146 of the action to make payment in accordance with the
147 terms of the contract, and it appears to the court that
148 such refusal was vexatious and without reasonable cause,
149 the court may allow to the plaintiff a reasonable attorney's
150 fee and include such fee in any judgment that may be
151 rendered in such action. Such fee shall not exceed twelve
152 and one-half per cent of the amount which the court finds
153 the plaintiff is entitled to recover against the insurer, but
154 in no event shall such fee be less than twenty-five dollars.
155 Failure of an insurer to defend any such action shall be
156 deemed prima facie evidence that its failure to make pay-
157 ment was vexatious and without reasonable cause.

158 5. The provisions of this section shall not apply to any
159 suit, action or proceeding against any unauthorized for-
160 eign or alien insurer arising out of any contract of insur-
161 ance effected in accordance with article seven-a of
162 this chapter where any such contract contains a provision
163 designating the auditor or his successor in office its true
164 and lawful attorney upon whom may be served all lawful
165 process in any action, suit or proceeding instituted by or
166 on behalf of an insured or beneficiary arising out of such
167 contract of insurance.

CHAPTER 114

(House Bill No. 235—By Mr. Meadows)

AN ACT to amend and reenact section eighteen-a, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter seventy-seven, acts of the Legislature, regular session, one thousand nine hundred forty-five, relating to nonforfeiture benefits provided in life insurance policies.

[Passed March 6, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 3. Life Insurance.

Section

18-a. Standard nonforfeiture law.

Be it enacted by the Legislature of West Virginia:

That section eighteen-a, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter seventy-seven, acts of the Legislature, regular session, one thousand nine hundred forty-five, be amended and reenacted to read as follows:

Section 18-a. *Standard Nonforfeiture Law.*—(1) In the case of policies issued on or after the operative date of this section, as defined in subsection seven, no policy of life insurance, except as stated in subsection six, shall be issued or delivered in this state unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder:

(a) That, in the event of default in any premium payment, the company will grant, upon proper request not later than sixty days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such value as may be hereinafter specified;

(b) That, upon surrender of the policy within sixty days after the due date of any premium payment in default after premiums have been paid for at least three full years, the company will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified;

(c) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than sixty days after the due date of the premium in default;

(d) That, if the policy shall have become paid up by

28 completion of all premium payments or if it is continued
29 under any paid-up nonforfeiture benefit which became
30 effective on or after the third policy anniversary the com-
31 pany will pay, upon surrender of the policy within thirty
32 days after any policy anniversary, a cash surrender value
33 of such amount as may be hereinafter specified;

34 (e) A statement of the mortality table and interest rate
35 used in calculating the cash surrender values and the paid-
36 up nonforfeiture benefits available under the policy, to-
37 gether with a table showing the cash surrender value, if
38 any, and paid-up nonforfeiture benefits, if any, available
39 under the policy on each policy anniversary either during
40 the first twenty policy years or during the term of the
41 policy, whichever is shorter, such values and benefits to
42 be calculated upon the assumption that there are no divi-
43 dends or paid-up additions credited to the policy and that
44 there is no indebtedness to the company on the policy;

45 (f) A statement of the method to be used in calculating
46 the cash surrender value and the paid-up nonforfeiture
47 benefit available under the policy on any policy anni-
48 versary with an explanation of the manner in which the
49 cash surrender values and the paid-up nonforfeiture bene-
50 fits are altered by the existence of any paid-up additions
51 credited to the policy or any indebtedness to the company
52 on the policy.

53 Any of the foregoing provisions or portions thereof not
54 applicable by reason of the plan of insurance may, to the
55 extent inapplicable, be omitted from the policy.

56 The company shall reserve the right to defer the pay-
57 ment of any cash surrender value for a period of six
58 months after demand therefor with surrender of the
59 policy.

60 (2) Any cash surrender value available under the policy
61 in the event of default in a premium payment due on any
62 policy anniversary, whether or not required by subsection
63 one, shall be an amount not less than the excess, if any,
64 of the present value, on such anniversary, of the future
65 guaranteed benefits which would have been provided for
66 by the policy, including any existing paid-up additions,
67 if there had been no default, over the sum of (i) the then
68 present value of the adjusted premiums as defined in sub-

69 section four, corresponding to premiums which would
70 have fallen due on and after such anniversary, and (ii)
71 the amount of any indebtedness to the company on the
72 policy. Any cash surrender value available within thirty
73 days after any policy anniversary under any policy paid
74 up by completion of all premium payments or any policy
75 continued under any paid-up nonforfeiture benefit,
76 whether or not required by subsection one, shall be an
77 amount not less than the present value, on such anni-
78 versary, of the future guaranteed benefits provided for by
79 the policy, including any existing paid-up additions de-
80 creased by any indebtedness to the company on the
81 policy.

82 (3) Any paid-up nonforfeiture benefit available under
83 the policy in the event of default in a premium payment
84 due on any policy anniversary shall be such that its pres-
85 ent value as of such anniversary shall be at least equal
86 to the cash surrender value then provided for by the
87 policy or, if none is provided for, that cash surrender
88 value which would have been required by this section in
89 the absence of the condition that premiums shall have
90 been paid for at least a specified period.

91 (4) The adjusted premiums for any policy shall be cal-
92 culated on an annual basis and shall be such uniform per-
93 centage of the respective premiums specified in the policy
94 for each policy year that the present value, at the date
95 of issue of the policy, of all such adjusted premiums shall
96 be equal to the sum of (i) the then present value of the
97 future guaranteed benefits provided for by the policy;
98 (ii) two per cent of the amount of insurance, if the insur-
99 ance be uniform in amount, or of the equivalent uniform
100 amount, as hereinafter defined, if the amount of insurance
101 varies with duration of the policy; (iii) forty per cent
102 of the adjusted premium for the first policy year; (iv)
103 twenty-five per cent of either the adjusted premium for
104 the first policy year or the adjusted premium for a whole
105 life policy of the same uniform or equivalent uniform
106 amount with uniform premiums for the whole of life
107 issued at the same age for the same amount of insurance,
108 whichever is less: *Provided, however,* That in applying
109 the percentages specified in (iii) and (iv) above, no ad-

110 justed premium shall be deemed to exceed four per cent
111 of the amount of insurance or level amount equivalent
112 thereto. The date of issue of a policy for the purpose of
113 this subsection shall be the date as of which the rated
114 age of the insured is determined.

115 In the case of a policy providing an amount of insurance
116 varying with duration of the policy, the equivalent level
117 amount thereof for the purpose of this subsection shall
118 be deemed to be the level amount of insurance provided
119 by an otherwise similar policy, containing the same en-
120 dowment benefit or benefits, if any, issued at the same
121 age and for the same term, the amount of which does not
122 vary with duration and the benefits under which have the
123 same present value at the inception of the insurance as
124 the benefits under the policy.

125 All adjusted premiums and present values referred to
126 in this section shall be calculated on the basis of the
127 commissioners one thousand nine hundred forty-one
128 standard ordinary mortality table for ordinary insurance
129 and the one thousand nine hundred forty-one standard
130 industrial mortality table for industrial insurance and the
131 rate of interest, not exceeding three and one-half per cent
132 per annum, specified in the policy for calculating cash sur-
133 render values and paid-up nonforfeiture benefits: *Pro-*
134 *vided*, That in calculating the present value of any paid-
135 up term insurance with accompanying pure endowment,
136 if any, offered as a nonforfeiture benefit, the rates of
137 mortality assumed may be not more than one hundred
138 and thirty per cent of the rates of mortality according
139 to such applicable table: *Provided further*, That for in-
140 surance issued on a sub-standard basis, the calculation of
141 any such adjusted premiums and present values may be
142 based on such other table of mortality as may be specified
143 by the company and approved by the commissioner.

144 (5) Any cash surrender value and any paid-up non-
145 forfeiture benefit, available under the policy in the event
146 of default in a premium payment due at any time other
147 than on the policy anniversary, shall be calculated with
148 allowance for the lapse of time and the payment of frac-
149 tional premiums beyond the last preceding policy anni-
150 versary. All values referred to in subsections two, three

151 and four may be calculated upon the assumption that
152 any death benefit is payable at the end of the policy year
153 of death. The net value of any paid-up additions, other
154 than paid-up term additions, shall be not less than the
155 dividends used to provide such additions. Notwithstand-
156 ing the provisions of subsection two, additional benefits
157 payable (a) in the event of death or dismemberment by
158 accident or accidental means, (b) in the event of total
159 and permanent disability, (c) as reversionary annuity
160 or deferred reversionary annuity benefits, (d) as decreas-
161 ing term insurance benefits provided by a rider or sup-
162 plemental policy provision to which, if issued as a separate
163 policy, this section would not apply and (e) as other
164 policy benefits additional to life insurance and endowment
165 benefits, and premiums for all such additional benefits,
166 shall be disregarded in ascertaining cash surrender values
167 and nonforfeiture benefits required by this section, and
168 no such additional benefits shall be required to be included
169 in any paid-up nonforfeiture benefits.

170 (6) This section shall not apply to any reinsurance,
171 group insurance, pure endowment, annuity or reversion-
172 ary annuity contract, nor to any term policy of uniform
173 amount, or renewal thereof, of fifteen years or less
174 expiring before age sixty-six, for which uniform premiums
175 are payable during the entire term of the policy, nor to
176 any term policy of decreasing amount on which each ad-
177 justed premium, calculated as specified in subsection four,
178 is less than the adjusted premium so calculated, on such
179 fifteen year term policy issued at the same age and for
180 the same initial amount of insurance, nor to any policy
181 which shall be delivered outside this state through an
182 agent or other representative of the company issuing the
183 policy.

CHAPTER 115

(House Bill No. 232—By Mr. Meadows)

AN ACT to amend article three, chapter thirty-three of the
code of West Virginia, one thousand nine hundred thirty-

one, as amended, by adding thereto a new section, designated section eighteen-b, requiring all forms relating to contracts of life insurance to be filed with the insurance commissioner.

[Passed March 5, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 3. Life Insurance.

Section

18-b. Forms of policies to be filed with insurance commissioner; objections; review by court.

Be it enacted by the Legislature of West Virginia:

That article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section eighteen-b, to read as follows:

Section 18-b. *Forms of Policies to be Filed with Insurance Commissioner; Objections; Review by Court.*—No form of policy contract or certificate of life insurance or application, rider or endorsement used in connection therewith, shall be hereafter issued or delivered to any person in this state, until a copy of the forms of the same has been filed with the insurance commissioner, nor shall any of such forms be issued or delivered until the expiration of thirty days after date filed, unless the insurance commissioner shall sooner give his written approval thereto. If the insurance commissioner shall notify in writing the company, corporation, association, or other insurer which has filed such form that it does not comply with the requirements of law, specifying the reasons for his opinion, it shall be unlawful thereafter for any such insurer to issue any policy in such form. The action of the insurance commissioner in this regard shall be subject to review in the mode and manner prescribed by section thirteen, article two of this chapter.

CHAPTER 116

(House Bill No. 236—By Mr. Meadows)

AN ACT to amend and reenact section thirty-four, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred forty-nine, relating to the rights of creditors as to policies in favor of another person and policies assigned.

[Passed March 3, 1951: in effect ninety days from passage. Approved by the Governor.]

Article 3. Life Insurance.

Section

34. Rights of creditors as to policies in favor of another person and policies assigned.

Be it enacted by the Legislature of West Virginia:

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

Section 34. *Rights of Creditors as to Policies in favor of Another Person and Policies Assigned.*—If a policy of insurance, whether heretofore or hereafter issued, is effected by any person on his own life or on another life, in favor of a person other than himself, or, except in cases of transfer with intent to defraud creditors, if a policy of life insurance is assigned or in any way made payable to any such person, the lawful beneficiary or assignee thereof, other than the insured or the person so effecting such insurance or executors or administrators of such insured or the person so effecting such insurance, shall be entitled to its proceeds and avails against the creditors and representatives of the insured and of the person effecting the same, whether or not the right to change the beneficiary is reserved or permitted, and whether or not the policy is made payable to the person whose life is insured if the beneficiary or assignee shall predecease such person: *Provided*, That, subject to the statute of limitation, the amount of any premiums for such insurance paid with intent to defraud creditors, with

21 interest thereon, shall enure to their benefit from the
22 proceeds of the policy; but the company issuing the
23 policy shall be discharged of all liability thereon by pay-
24 ment of its proceeds in accordance with its terms, unless
25 before such payment the company shall have written
26 notice, by or in behalf of a creditor, of a claim to recover
27 for transfer made or premiums paid with intent to de-
28 fraud creditors, with specifications of the amount claimed.

CHAPTER 117

(House Bill No. 240—By Mr. Meadows)

AN ACT to amend article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto five new sections, designated sections forty-nine, fifty, fifty-one, fifty-two and fifty-three, prescribing the manner in which life insurance may be sold on a group basis.

[Passed March 10, 1951; in effect from passage. Approved by the Governor.]

Article 3. Life Insurance.

Section

49. Group life insurance; eligible groups; premium payment requirements.
50. Group life insurance policies and certificates; standard provisions.
51. Notice of conversion rights.
52. Application of dividends; rate reductions.
53. Spouses and children of insured persons.

Be it enacted by the Legislature of West Virginia:

That article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto five new sections, designated sections forty-nine, fifty, fifty-one, fifty-two and fifty-three, to read as follows:

- Section 49. *Group Life Insurance; Eligible Groups;*
2 *Premium Payment Requirements.*—No policy of group
3 life insurance shall be delivered in this state unless it
4 conforms to one of the following descriptions:

5 (a) A policy issued to an employer, or to the trustees
6 of a fund established by an employer, which employer or
7 trustees shall be deemed the policyholder, to insure em-
8 ployees of the employer for the benefit of persons other
9 than the employer, subject to the following requirements:

10 (1) The employees eligible for insurance under the
11 policy shall be all of the employees of the employer, or
12 all of any class or classes thereof determined by condi-
13 tions pertaining to their employment. The policy may
14 provide that the term "employees" shall include the em-
15 ployees of one or more subsidiary corporations, and the
16 employees, individual proprietors, and partners of one or
17 more affiliated corporations, proprietors or partnerships if
18 the business of the employer and of such affiliated cor-
19 porations, proprietors or partnerships is under common
20 control through stock ownership, contract or otherwise.
21 The policy may provide that the term "employees" shall
22 include the individual proprietor or partners if the em-
23 ployer is an individual proprietor or a partnership. The
24 policy may provide that the term "employees" shall in-
25 clude retired employees. No director of a corporate em-
26 ployer shall be eligible for insurance under the policy un-
27 less such person is otherwise eligible as a bona fide em-
28 ployee of the corporation by performing services other
29 than the usual duties of a director. No individual pro-
30 prietor or partner shall be eligible for insurance under the
31 policy unless he is actively engaged in and devotes a sub-
32 stantial part of his time to the conduct of the business of
33 the proprietor or partnership. A policy issued to trustees
34 may provide that the term "employees" shall include the
35 trustees or their employees, or both, if their duties are
36 principally connected with such trusteeship. A policy
37 issued to insure the employees of a public body may pro-
38 vide that the term "employees" shall include elected or
39 appointed officials.

40 (2) The premium for the policy shall be paid by the
41 policyholder, either wholly from the employer's funds or
42 funds contributed by him, or partly from such funds and
43 partly from funds contributed by the insured employees
44 except that the entire premium may be paid from funds
45 contributed by the insured employees if the amount of in-

46 surance does not exceed one thousand dollars on the life
47 of any employee. A policy on which any part of the
48 premium is to be derived from funds contributed by the
49 insured employees may be placed in force only if at least
50 seventy-five per cent of the then eligible employees, ex-
51 cluding any as to whom evidence of individual insurability
52 is not satisfactory to the insurer, elect to make the re-
53 quired contributions. A policy on which no part of the
54 premium is to be derived from funds contributed by the
55 insured employees must insure all eligible employees, or
56 all except any as to whom evidence of individual insur-
57 ability is not satisfactory to the insurer.

58 (3) The policy must cover at least twenty-five em-
59 ployees at date of issue.

60 (4) The amounts of insurance under the policy must
61 be based upon some plan precluding individual selection
62 either by the employees or by the employer or trustees.
63 No policy may be issued which provides term insurance
64 on any employee which together with any other term
65 insurance under any group life insurance policy or policies
66 issued to the employers or any of them or to the trustees
67 of a fund established in whole or in part by the employers
68 or any of them exceeds twenty thousand dollars.

69 (b) A policy issued to a creditor, who shall be deemed
70 the policyholder, to insure debtors of the creditor, subject
71 to the following requirements:

72 (1) The debtors eligible for insurance under the policy
73 shall be all of the debtors of the creditor whose indebted-
74 ness is repayable in installments, or all of any class or
75 classes thereof determined by conditions pertaining to the
76 indebtedness or to the purchase giving rise to the indebted-
77 ness. The policy may provide that the term "debtors"
78 shall include the debtors of one or more subsidiary cor-
79 porations, and the debtors of one or more affiliated cor-
80 porations, proprietors or partnerships if the business of
81 the policyholder and of such affiliated corporations, pro-
82 prietors or partnerships is under common control through
83 stock ownership, contract, or otherwise.

84 (2) The premium for the policy shall be paid by the
85 policyholder, either from the creditor's funds, or from
86 charges collected from the insured debtors, or from both.

87 A policy on which part or all of the premium is to be
88 derived from the collection from the insured debtors of
89 identifiable charges not required of uninsured debtors
90 shall not include, in the class or classes of debtors eligible
91 for insurance, debtors under obligations outstanding at
92 its date of issue without evidence of individual insurability
93 unless at least seventy-five per cent of the then eligible
94 debtors elect to pay the required charges. A policy on
95 which no part of the premium is to be derived from the
96 collection of such identifiable charges must insure all
97 eligible debtors, or all except any as to whom evidence of
98 individual insurability is not satisfactory to the insurer.

99 (3) The policy may be insured only if the group of
100 eligible debtors is then receiving new entrants at the rate
101 of at least one hundred persons yearly, or may reasonably
102 be expected to receive at least one hundred new entrants
103 during the first policy year, and only if the policy reserves
104 to the insurer the right to require evidence of individual
105 insurability if less than seventy-five per cent of the new
106 entrants become insured.

107 (4) The amount of insurance on the life of any debtor
108 shall at no time exceed the amount owed by him which
109 is repayable in installments to the creditor, or five thou-
110 sand dollars whichever is less.

111 (5) The insurance shall be payable to the policyholder.
112 Such payment shall reduce or extinguish the unpaid in-
113 debtedness of the debtor to the extent of such payment.

114 (c) A policy issued to a labor union, which shall be
115 deemed the policyholder, to insure members of such union
116 for the benefit of persons other than the union or any
117 of its officials, representatives or agents, subject to the fol-
118 lowing requirements:

119 (1) The members eligible for insurance under the policy
120 shall be all of the members of the union, or all of any
121 class or classes thereof determined by conditions pertain-
122 ing to their employment, or to membership in the union,
123 or both.

124 (2) The premium for the policy shall be paid by the
125 policyholder, either wholly from the union's funds, or
126 partly from such funds and partly from funds contributed
127 by the insured members specifically for their insurance,

128 except that the entire premium may be paid from funds
129 contributed by the insured members specifically for their
130 insurance if the amount of insurance does not exceed one
131 thousand dollars on the life of any member. A policy
132 on which any part of the premium is to be derived from
133 funds contributed by the insured members specifically
134 for their insurance may be placed in force only if at least
135 seventy-five per cent of the eligible members, excluding
136 any as to whom evidence of individual insurability is
137 not satisfactory to the insurer, elect to make the required
138 contributions. A policy on which no part of the premium
139 is to be derived from funds contributed by the insured
140 members specifically for their insurance must insure all
141 eligible members, or all except any as to whom evidence
142 of individual insurability is not satisfactory to the in-
143 surer.

144 (3) The policy must cover at least twenty-five members
145 at date of issue.

146 (4) The amounts of insurance under the policy must
147 be based upon some plan precluding individual selection
148 either by the members or by the union. No policy may be
149 issued which provides term insurance on any union mem-
150 ber which together with any other term insurance under
151 any group life insurance policies issued to the union ex-
152 ceeds twenty thousand dollars.

153 (d) A policy issued to the trustees of a fund established
154 by two or more employers in the same industry or by one
155 or more labor unions, or by one or more employers and
156 one or more labor unions, which trustees shall be deemed
157 the policyholders, to insure employees of the employers
158 or members of the union for the benefit of persons other
159 than the employers or the unions, subject to the following
160 requirements:

161 (1) The persons eligible for insurance shall be all of the
162 employees of the employers or all of the members of the
163 unions, or all of any class or classes thereof determined
164 by conditions pertaining to their employment, or to mem-
165 bership in the unions, or to both. The policy may provide
166 that the term "employees" shall include retired employees,
167 and the individual proprietor or partner if an employer
168 is an individual proprietor or a partnership. No director

169 of a corporate employer shall be eligible for insurance
170 under the policy unless such person is otherwise eligible
171 as a bona fide employee of the corporation by performing
172 services other than the usual duties of a director. No
173 individual proprietor or partner shall be eligible for in-
174 surance under the policy unless he is actively engaged in
175 and devotes a substantial part of his time to the conduct
176 of the business of the proprietor or partnership. The
177 policy may provide that the term "employees" shall in-
178 clude the trustees or their employees, or both, if their
179 duties are principally connected with such trusteeship.

180 (2) The premium for the policy shall be paid by the
181 trustees wholly from funds contributed by the employer
182 or employers of the insured persons, or by the union or
183 unions, or by both. No policy may be issued on which
184 any part of the premium is to be derived from funds con-
185 tributed by the insured persons specifically for their
186 insurance. The policy must insure all eligible persons,
187 or all except any as to whom evidence of individual in-
188 surability is not satisfactory to the insurer.

189 (3) The policy must cover at date of issue at least one
190 hundred persons and not less than an average of five
191 persons per employer unit; and if the fund is established
192 by the members of an association of employers the policy
193 may be issued only if (a) either (1) the participating
194 employers constitute at date of issue at least sixty per
195 cent of those employer members whose employees are
196 not already covered for group life insurance or (2) the
197 total number of persons covered at date of issue exceeds
198 six hundred; and (b) the policy shall not require that, if
199 a participating employer discontinues membership in the
200 association, the insurance of his employees shall cease
201 solely by reason of such discontinuance.

202 (4) The amounts of insurance under the policy must
203 be based upon some plan precluding individual selection
204 either by the insured persons or by the policyholder, em-
205 ployers, or unions. No policy may be issued which pro-
206 vides term insurance on any person which together with
207 any other term insurance under any group life insurance
208 policy or policies issued to the employers, or any of them,
209 or to the trustees of a fund established in whole or in

210 part by the employers, or any of them, exceeds twenty
211 thousand dollars.

212 (e) The provisions of this act shall not invalidate or
213 otherwise affect any policy or contract of group life in-
214 surance legally in effect on the effective date of this act.
215 All such policies may remain in full force and effect not-
216 withstanding the fact that they do not comply with the
217 provisions of this act.

Sec. 50. *Group Life Insurance Policies and Certificates;*
2 *Standard Provisions.*—No policy of group life insurance
3 shall be delivered in this state unless it contains in sub-
4 stance the following provisions, or provisions which in
5 the opinion of the commissioner are more favorable to
6 the persons insured, or at least as favorable to the per-
7 sons insured and more favorable to the policyholder:
8 *Provided, however,* (a) That provisions (6) to (10), in-
9 clusive shall not apply to policies issued to a creditor to
10 insure debtors of such creditor; (b) that the standard
11 provisions required for individual life insurance policies
12 shall not apply to group life insurance policies; and (c)
13 that if the group life insurance policy is on a plan of in-
14 surance other than the term plan, it shall contain a non-
15 forfeiture provision or provisions which in the opinion
16 of the commissioner is or are equitable to the insured
17 persons and to the policyholder, but nothing herein shall
18 be construed to require that group life insurance policies
19 contain the same nonforfeiture provisions as are re-
20 quired for individual life insurance policies:

21 (1) A provision that the policyholder is entitled to
22 a grace period of thirty-one days for the payment of any
23 premium due except the first, during which grace period
24 the death benefit coverage shall continue in force, unless
25 the policyholder shall have given the insurer written
26 notice of discontinuance in advance of the date of dis-
27 continuance and in accordance with the terms of the
28 policy. The policy may provide that the policyholder shall
29 be liable to the insurer for the payment of a pro rate
30 premium for the time the policy was in force during
31 such grace period.

32 (2) A provision that the validity of the policy shall

33 not be contested, except for nonpayment of premiums,
34 after it has been in force for two years from its date of
35 issue; and that no statement made by any person insured
36 under the policy relating to his insurability shall be used
37 in contesting the validity of the insurance with respect to
38 which such statement was made after such insurance has
39 been in force prior to the contest for a period of two
40 years during such person's lifetime nor unless it is con-
41 tained in a written instrument signed by him.

42 (3) A provision that a copy of the application, if any,
43 of the policyholder shall be attached to the policy when
44 issued, that all statements made by the policyholder
45 or by the persons insured shall be deemed representa-
46 tions and not warranties, and that no statement made by
47 any person insured shall be used in any contest unless
48 a copy of the instrument containing the statement is or
49 has been furnished to such person or to his beneficiary.

50 (4) A provision setting forth the conditions, if any,
51 under which the insurer reserves the right to require a
52 person eligible for insurance to furnish evidence of in-
53 dividual insurability satisfactory to the insurer as a con-
54 dition to part or all of his coverage.

55 (5) A provision specifying an equitable adjustment of
56 premiums or of benefits or of both to be made in the
57 event the age of a person insured has been misstated, such
58 provision to contain a clear statement of the method of
59 adjustment to be used.

60 (6) A provision that any sum becoming due by reason
61 of the death of the person insured shall be payable to the
62 beneficiary designated by the person insured, subject to
63 the provisions of the policy in the event there is no
64 designated beneficiary as to all or any part of such sum
65 owing at the death of the person insured, and subject to
66 any right reserved by the insurer in the policy and set
67 forth in the certificate to pay at its option a part of such
68 sum not exceeding two hundred fifty dollars to any per-
69 son appearing to the insurer to be equitably entitled
70 thereto by reason of having incurred funeral or other
71 expenses incident to the last illness or death of the person
72 insured.

73 (7) A provision that the insurer will issue to the policy-

74 holder for delivery to each person insured an individual
75 certificate setting forth a statement as to the insurance
76 protection to which he is entitled, to whom the insurance
77 benefits are payable, and the rights and conditions set
78 forth in (8), (9) and (10) following.

79 (8) A provision that if the insurance, or any portion of
80 it, on a person covered under the policy, other than the
81 child of an employee insured pursuant to section fifty-
82 three of this article, ceases because of termination of em-
83 ployment or of membership in the class or classes eligible
84 for coverage under the policy, such person shall be en-
85 titled to have issued to him by the insurer, without evi-
86 dence of insurability, an individual policy of life insur-
87 ance without disability or other supplementary benefits,
88 provided application for the individual policy shall be
89 made, and the first premium paid to the insurer, within
90 thirty-one days after such termination: *Provided fur-*
91 *ther, That*

92 (a) the individual policy shall, at the option of such
93 person, be on any one of the forms of insurance then
94 customarily issued by the insurer, except term insurance,
95 at the age and for the amount applied for, except that
96 there shall be available to a person whose term insurance
97 under the group policy ceases, as provided above, pre-
98 liminary or interim term insurance for not more than one
99 year from such termination;

100 (b) the individual policy shall be in an amount not
101 in excess of the amount of life insurance which ceases
102 because of such termination, provided that any amount
103 of insurance which shall have matured on or before the
104 date of such termination as an endowment payable to the
105 person insured, whether in one sum or in installments
106 or in the form of an annuity, shall not, for the purposes
107 of this provision, be included in the amount which is
108 considered to cease because of such termination; and

109 (c) the premium on the individual policy shall be at
110 the insurer's then customary rate applicable to the form
111 and amount of the individual policy, to the class of risk
112 to which such person then belongs, and to his age attained
113 on the effective date of the individual policy.

114 (9) A provision that if the group policy terminates or

115 is amended so as to terminate the insurance of any class
116 of insured persons, every person insured thereunder at
117 the date of such termination, other than a child of an
118 employee insured pursuant to section fifty-three of this
119 article, whose insurance terminates and who has been
120 so insured for at least three years under a group policy
121 issued five years or more prior to such termination date,
122 shall be entitled to have issued to him by the insurer
123 an individual policy of life insurance, subject to the same
124 conditions and limitations as are provided by (8) above,
125 except that term insurance shall not be available and,
126 except that the group policy may provide that the
127 amount of such individual policy shall not exceed the
128 smaller of (a) the amount of the person's life insurance
129 protection ceasing because of the termination or amend-
130 ment of the group policy, less the amount of any life
131 insurance for which he is or becomes eligible under any
132 group policy issued or reinstated by the same or another
133 insurer within thirty-one days after such termination,
134 and (b) two thousand dollars.

135 (10) A provision that if a person insured under the
136 group policy dies during the period within which he
137 would have been entitled to have an individual policy
138 issued to him in accordance with (8) or (9) above and
139 before such an individual policy shall have become ef-
140 fective, the amount of life insurance which he would have
141 been entitled to have issued to him under such individ-
142 ual policy shall be payable as a claim under the group
143 policy, whether or not application for the individual pol-
144 icy or the payment of the first premium therefor has
145 been made.

146 (11) In the case of a policy issued to a creditor to insure
147 debtors of such creditor, a provision that the insurer
148 will furnish to the policyholder for delivery to each
149 debtor insured under the policy a form which shall con-
150 tain a statement that the life of the debtor is insured un-
151 der the policy and that any death benefit paid there-
152 under by reason of his death shall be applied to reduce
153 or extinguish the indebtedness.

2 Sec. 51. *Notice of Conversion Rights.*—If any individual
insured under a group life insurance policy hereafter

3 delivered in this state becomes entitled under the terms
4 of such policy to have an individual policy of life insur-
5 ance issued to him without evidence of insurability, sub-
6 ject to making of application and payment of the first
7 premium within the period specified in such policy, and
8 if such individual is not given notice of the existence of
9 such right at least fifteen days prior to the expiration
10 date of such period, then, in such event the individual
11 shall have an additional period within which to exer-
12 cise such right, but nothing contained in this section shall
13 be construed to continue any insurance beyond the per-
14 iod provided in such policy. Such additional period shall
15 expire fifteen days next after the individual is given
16 such notice but in no event shall such additional period
17 extend beyond sixty days next after the expiration date
18 of the period provided in such policy. Written notice pre-
19 sented to the individual or mailed by the policyholder
20 to the last known address of the individual or mailed by
21 the insurer to the last known address of the individual
22 as furnished by the policyholder shall constitute notice
23 for the purpose of this section.

Sec. 52. *Application of Dividends; Rate Reductions.*—
2 Any policy dividends hereafter declared, or reduction in
3 rate of premiums hereafter made or continued for the
4 first or any subsequent year of insurance, under any
5 policy of group life insurance heretofore or hereafter
6 issued to any policyholder may be applied to reduce the
7 policyholder's part of the cost of such insurance, except
8 that if the aggregate dividends or refunds or credits un-
9 der such group life policy and any other group policy
10 or contract issued to the policyholder exceed the aggre-
11 gate contributions of the policyholder toward the cost of
12 the coverages, such excess shall be applied by the policy-
13 holder for the sole benefit of insured employees or mem-
14 bers.

Sec. 53. *Spouses and Children of Insured Persons.*—Any
2 policy issued pursuant to subsections (a), (c), (d) and
3 (e) of section forty-nine of this article may be extended
4 to insure the employees or members against loss due to
5 the death of their spouses and minor children, or any class

6 or classes thereof, subject to the following requirements:

7 (a) The premium for the insurance shall be paid by the
 8 policyholder, either from the employer's or union's funds
 9 or funds contributed by the employer or union, or from
 10 funds contributed by the insured employees or members,
 11 or from both. If any part of the premium is to be derived
 12 from funds contributed by the insured employees or
 13 members, the insurance with respect to spouses and
 14 children may be placed in force only if at least seventy-
 15 five per cent of the then eligible employees or members,
 16 excluding any as to whose family members evidence of
 17 insurability is not satisfactory to the insurer, elect to make
 18 the required contribution. If no part of the premium is to
 19 be derived from funds contributed by the employees or
 20 members, all eligible employees or members, excluding
 21 any as to whose family members evidence of insurability
 22 is not satisfactory to the insurer, must be insured with
 23 respect to their spouses and children.

24 (b) The amounts of insurance must be based upon some
 25 plan precluding individual selection either by the em-
 26 ployees or members or by the policyholder, employer or
 27 union, and shall not exceed, with respect to any spouse
 28 or child, the amount shown in the following schedule:

	Maximum Amount of Insurance
29 Age of Family Member at Death	
Under 6 months	\$ 100.00
30 6 months and under 2 years	200.00
31 2 years and under 3 years	400.00
32 3 years and under 4 years.....	600.00
33 4 years and under 5 years	800.00
34 5 years and over	1,000.00

35 (c) Upon termination of the insurance with respect to
 36 the members of the family of any employee or member
 37 by reason of the employee's or member's termination of
 38 employment, termination of membership in the class or
 39 classes eligible for coverage under the policy, or death,
 40 the spouse shall be entitled to have issued by the insurer,
 41 without evidence of insurability, an individual policy of
 42 life insurance without disability or other supplementary
 43 benefits, providing application for the individual policy

44 shall be made, and the first premium paid to the insurer,
45 within thirty-one days after such termination, subject to
46 the requirements of subsections (a), (b) and (c) of pro-
47 vision (8) of section fifty of this article. If the group
48 policy terminates or is amended so as to terminate the
49 insurance of any class of employees or members and the
50 employee or member is entitled to have issued an indi-
51 vidual policy under provision (9) of section fifty of this
52 article, the spouse shall also be entitled to have issued by
53 the insurer an individual policy, subject to the conditions
54 and limitations provided above. If the spouse dies within
55 the period during which he would have been entitled to
56 have an individual policy issued in accordance with this
57 provision, the amount of life insurance which he would
58 have been entitled to have issued under such individual
59 policy shall be payable as a claim under the group policy,
60 whether or not application for the individual policy or
61 the payment of the first premium therefor has been made.

62 Notwithstanding provision seven of section fifty of this
63 article, only one certificate need be issued for delivery to
64 an insured person if a statement concerning any depen-
65 dents' coverage is included in such certificate.

— 3 —

CHAPTER 118

(House Bill No. 230—By Mr. Meadows)

AN ACT to amend and reenact section twenty-five, article five, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to examination of farmers' mutual fire insurance companies, providing for the expense of such examination to be borne by the insurance company being examined.

[Passed March 3, 1951; in effect from passage. Approved by the Governor.]

Article 5. Farmers' Mutual Fire Insurance Companies.

Section

25. Examination by insurance commissioner or qualified examiner.

Be it enacted by the Legislature of West Virginia:

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

Section 25. *Examination by Insurance Commissioner or Qualified Examiner.*—Every such company shall be examined by the insurance commissioner or his accredited examiners at least once in every four years and oftener if he deems it necessary. No person shall be considered a qualified examiner unless he is familiar with the underwriting and accounting methods of such companies. He shall have free access to the books, papers and records of the company and is authorized to examine members, officers, and employees of the company under oath touching any matters pertaining to the operation of the company. A written report of each examination, giving consideration to the underwriting methods and financial condition of the company, shall be made and placed on file in the office of the insurance commissioner, where it shall be available to the public, and a copy of such report shall be furnished to the examined company. All the expenses of such examination shall be borne by the company examined. If the insurance commissioner shall find that such company is not paying its losses or is not complying with the law, or is conducting its business in a manner detrimental to the interests of the members or the public he may order the levy of an assessment upon all members liable for assessment, order the company to cease issuing new policies, or take such other action as shall best protect the interests of those insured by the company.

CHAPTER 119

(Senate Bill No. 285—Originating in the Senate Committee on Finance)

AN ACT to amend and reenact section two, article one, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to salary of the commissioner of labor.

[Passed March 8, 1951: in effect July 1, 1951. Approved by the Governor.]

Article 1. State Department of Labor.

Section

2. Commissioner of labor; qualifications; appointment; term of office; salary.

Be it enacted by the Legislature of West Virginia:

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

Section 2. *Commissioner of Labor; Qualifications; Appointment; Term of Office; Salary.*—The state commissioner of labor shall be appointed by the governor, by and with the advice and consent of the Senate. He shall be a competent person, who is identified with the labor interests of the state. The commissioner of labor in office on the effective date of this act shall, unless sooner removed, continue to serve until his term expires and his successor has been appointed and has qualified. On or before the first day of April, one thousand nine hundred forty-one, and on or before the first day of April of each fourth year thereafter, the governor shall appoint a commissioner of labor to serve for a term of four years, commencing on said first day of April. The salary of the commissioner of labor shall be seven thousand dollars per annum.

— c —

CHAPTER 120

(House Bill No. 174—By Mr. Caplan)

AN ACT to authorize the state auditor to expend from collections in the operating fund of the land department of the state auditor's office, an amount not to exceed eight thousand dollars for the compiling, printing and sale of an official index to land grants.

[Passed February 20, 1951: in effect from passage. Approved by the Governor.]

Section

1. Expenditure for printing of index to land grants.

Be it enacted by the Legislature of West Virginia:

Section 1. *Expenditure for Printing of Index to Land Grants.*—The state auditor is hereby authorized to expend from the operating fund of the land department of the state auditor's office, established by section four, article seven, chapter eleven-a of the code of West Virginia, a sum not to exceed eight thousand dollars, for the compiling and printing of an official index to original land grants on file in his office. It shall be the duty of the auditor to provide copies of the index for use in the clerk's office of each county in addition to those for use in the land department. The remaining copies may be sold by his office at a price not to exceed fifteen dollars per copy, the proceeds of such sale to be deposited back into the said operating fund.

CHAPTER 121

(Com. Sub. for Senate Bill No. 31—Originating in the Senate Committee on the Judiciary)

AN ACT to amend article three, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be designated section six-a relating to the commitment of inebriates.

[Passed March 5, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 3. Determination of Mental Disease; Commitment.

Section

6-a. Commitment of inebriates; definition.

Be it enacted by the Legislature of West Virginia:

That article three, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section to be designated section six-a to read as follows:

Section 6-a. *Commitment of Inebriates; Definition.*—

2 The word "inebriate", whenever used in this chapter,
3 shall be construed to mean any person over the age of
4 eighteen years, who is incapable or unfit to properly
5 conduct himself or herself, or his or her affairs, or is
6 dangerous to himself or herself or others, by reason of
7 periodical, frequent, or constant drunkenness, induced
8 either by the use of alcoholic or other liquors, or of opium,
9 morphine, or other narcotic or intoxicating or stupefying
10 substance.

11 If any resident of a county reasonably suspects any
12 person therein to be an inebriate, he may make complaint
13 under oath to the clerk of the county court, giving such
14 information and stating such facts therein as may be
15 required, and he shall further furnish to said clerk the
16 certificate of a reputable physician showing the condi-
17 tion of such suspected person. This complaint and cer-
18 tificate shall be delivered to the clerk of the county court
19 whose duty it shall be to issue a warrant ordering the
20 person suspected and named in such complaint and cer-
21 tificate to be brought before the county mental hygiene
22 commission at a time and place named therein that his
23 condition may be inquired into. All such warrants shall
24 be signed by the clerk of the county court and have im-
25 pressed thereon the seal thereof; and may be addressed
26 to the sheriff of the county or to any constable of any
27 district thereof, or to a special constable appointed for
28 the purpose and named therein; but if any relative or
29 friend of the person so suspected will serve such warrant
30 and cause such suspected person to be brought before
31 the commission, he may be allowed to do so. The of-
32 ficer or person to whom the warrant is addressed shall
33 take the suspected person into custody and bring him or
34 her before the commission at the time and place named
35 therein.

36 Whenever a person apparently an inebriate is so violent
37 as to endanger his or her own safety, or the safety of
38 others, any law enforcement officer may, with or without
39 a warrant, take such person into protective custody.

40 When such suspected person is brought before the
41 county mental hygiene commission, this commission shall
42 proceed to examine such person as outlined in sections

43 four and five of this article. If such person is found to
 44 be an inebriate by the commission after proper hearing,
 45 he or she shall be committed to one of the state mental
 46 hospitals or any other institution hereafter established
 47 for inebriates. He or she shall be discharged therefrom
 48 when, in the opinion of the superintendent of the insti-
 49 tution, he or she has received the maximum benefit from
 50 such hospitalization. In all such cases the law applicable
 51 to mentally diseased persons shall be applicable to such
 52 inebriate, except that such inebriate shall not forfeit
 53 his or her civil rights as in the case of a mentally diseased
 54 person.

—c—

CHAPTER 122

(House Bill No. 158—By Mr. Davis)

AN ACT to amend and reenact section one, article four, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to admission to hospital of committed persons.

[Passed February 16, 1951: in effect ninety days from passage. Approved by the Governor.]

Article 4. Patients in Hospitals; Restoration to Sanity and Discharge.

Section

1. Admission to hospital of committed persons.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Admission to Hospital of Committed Persons.*

- 2 —The superintendent of the hospital to whom application
- 3 is made as hereinbefore provided, shall, on receipt of such
- 4 application, carefully consider the same, and if he be of
- 5 the opinion that the person named is a proper one to be
- 6 admitted to his institution, and there is room for him

7 therein, he shall, without delay, notify the clerk of the
8 county mental hygiene commission making such appli-
9 cation, advising the day and time for the admittance of
10 the patient, and the clerk of said commission upon re-
11 ceipt of such advice, shall notify and direct the sheriff of
12 his county to cause the patient to be transported to the
13 institution. If there be no room in the hospital to which
14 application is made, the superintendent thereof shall im-
15 mediately communicate the fact to the board of control,
16 which he may do when deemed necessary, by telegraph
17 or telephone, and transmit the commitment papers to the
18 board of control, whose duty it shall be to ascertain
19 whether there is room in any one of the other hospitals,
20 and if there is, to cause such person to be admitted thereto
21 as provided herein: *Provided*, That any reputable and
22 trustworthy relative or friend of such person may be
23 allowed by the county mental hygiene commission to de-
24 liver him to the hospital, if such relative or friend will do
25 so without expense to the county or state.

CHAPTER 123

(House Bill No. 159—By Mr. Davis)

AN ACT to amend and reenact section ten, article four, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, relating to return of escapees or parolees to state hospital.

[Passed February 14, 1951: In effect from passage. Approved by the Governor.]

Article 4. Patients in Hospitals; Restoration to Sanity and Discharge.

Section

10. Return of escapees or parolees to state hospital.

Be it enacted by the Legislature of West Virginia:

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

Section 10. *Return of Escapees or Parolees to State Hospital.*—If any person confined in a state hospital escape therefrom, the superintendent thereof shall issue a notice, giving the name and description of the person escaping, and requesting his apprehension and return to the hospital, and may offer such reward for the return of such person as the board of control may authorize. The superintendent may issue a warrant directed to the sheriff of the county, commanding him to arrest and carry such escaped person back to the hospital, which warrant the sheriff may execute in any part of the state. If such person flee to another state, the superintendent shall notify the board of control, and the board shall take such action as it may deem proper in the premises for the return of such person to the hospital. The sheriff or other person making such arrest shall be paid such compensation as is provided for like services in other cases, and such additional compensation in any case as the board of control may think reasonable and just.

The foregoing provision shall likewise apply to any person released from a state hospital on trial visit or parole whose conduct becomes such as to warrant his return to the hospital.

CHAPTER 124

(House Bill No. 304—By Mr. Davis)

AN ACT to repeal section eleven, article four, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, relating to examination and treatment of prisoners in penitentiary.

[Passed March 3, 1951: in effect from passage. Approved by the Governor.]

Article 4. Patients in Hospitals; Restoration to Sanity and Discharge.

Section

1. Repeal.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Repeal.*—Section eleven, article four, chapter
2 twenty-seven of the code of West Virginia, one thousand
3 nine hundred thirty-one, relating to examination and
4 treatment of prisoners in penitentiary is hereby repealed.
-

CHAPTER 125

(House Bill No. 160—By Mr. Davis)

AN ACT to amend and reenact section two, article six, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to how the discharge of a mentally diseased person is obtained.

[Passed March 10, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 6. Mentally Diseased Persons in County Jails.

Section

2. How discharge of a mentally diseased person is obtained.

Be it enacted by the Legislature of West Virginia:

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

- Section 2. *How Discharge of a Mentally Diseased Person is Obtained.*—If any reputable person present to the
2 clerk of the county court of a county wherein a person is
3 confined in jail as a mentally diseased person and who is
4 not charged with or convicted of crime, or wherein a per-
5 son has been adjudicated a mentally diseased person but
6 has not been committed to or confined in a state hospital,
7 or duly licensed private hospital, or has not been com-
8 mitted to the veterans administration of the United States
9 government as provided in section fourteen, article fifteen,
10 chapter forty-four of the code of West Virginia, an appli-
11 cation in writing for the discharge of such mentally dis-
12 eased person on the ground that he has been restored to
13

14 sanity, the mental hygiene commission for the county
15 shall consider the same and may proceed to make an
16 inquest upon such mentally diseased person as is provided
17 in article three of this chapter.

18 If the commission find that such person has been re-
19 stored, they shall make an adjudication of such restora-
20 tion which shall be entered of record, and they shall
21 give a certificate of their finding to the person making
22 the application.

CHAPTER 126

(Senate Bill No. 198—By Mr. Bean)

AN ACT to amend and reenact section three, article one, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to chief of department of mines, qualifications and salary.

[Passed March 8, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 1. Department of Mines.

Section

3. Same; qualifications; salary.

Be it enacted by the Legislature of West Virginia:

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

Section 3. *Same; Qualifications; Salary.*—The chief of
2 the department of mines shall be a male citizen of West
3 Virginia and shall be a competent person, having had
4 at least eight years' experience in the working, ventila-
5 tion and drainage of coal mines, two years of which have
6 been in this state, and having a practical and scientific
7 knowledge of all noxious and dangerous gases found in
8 such mines. A diploma from any accredited engineering
9 school shall qualify as two years' working experience.
10 He shall devote all of his time to the duties of his office,

11 and shall not be directly or indirectly interested in a
12 financial way in any coal mines in this state. The salary
13 of the chief of the department of mines shall be seven
14 thousand dollars per annum, and traveling expenses,
15 which shall be paid monthly out of the state treasury
16 upon a requisition upon the state auditor, properly certi-
17 fied by the chief of the department of mines.

CHAPTER 127

(Senate Bill No. 105—By Mr. Love)

AN ACT to amend article two, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be designated section forty-six-a relating to fire bosses and their authority to perform other duties.

[Passed February 22, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 2. Coal Mines.

Section

46-a. Fire boss; authority to perform other duties.

Be it enacted by the Legislature of West Virginia:

That article two, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section to be designated section forty-six-a and to read as follows:

Section 46-a. *Fire Boss; Authority to Perform Other*
2 *Duties.*—Notwithstanding any other provision in this
3 article contained, any person who holds a certificate
4 issued by the state department of mines certifying his
5 competency to act as fire boss may perform the duties of
6 a fire boss and any other duties, statutory or otherwise,
7 for which he is qualified, in the same mine or section and
8 on the same day or shift.

CHAPTER 128

(House Bill No. 45—By Mr. Harmon)

AN ACT to amend and reenact section two, article six, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to miner's examining boards.

[Passed March 5, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 6. Coal Miners' Examining Boards.

Section

2. Miners' examining boards.

Be it enacted by the Legislature of West Virginia:

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

Section 2. *Miners' Examining Boards.*—The chief of the
2 department of mines with the approval of the governor,
3 shall appoint a board of three members to be known as
4 the miners' examining board, which shall be composed
5 of two practical and experienced miners, one of whom
6 shall be a Negro, and one coal mine operators' representa-
7 tive; not more than two members of the board shall be
8 long to the same political party; they shall serve for a
9 term of four years, unless sooner removed from office by
10 the chief of the department of mines for incompetency,
11 neglect of duty, drunkenness, malfeasance or other good
12 cause.

13 The chief of the department of mines shall designate
14 one member of the board as chairman, and shall furnish
15 said board with a seal of the department of mines. All
16 records, reports, books and papers of the board shall be
17 kept in the department of mines.

18 The salaries of the members of the board shall be not
19 less than thirty-three hundred dollars nor more than
20 forty-eight hundred dollars per annum, and they shall
21 receive their actual traveling expenses, to be paid out of

22 the state treasury; such salary shall be fixed by the chief
23 of the department of mines, and shall be uniform; said
24 chief of the department of mines shall provide for the
25 maintenance of said miners' examining board in the same
26 manner as is provided all other branches of the depart-
27 ment of mines.

CHAPTER 129

(House Bill No. 189—By Mr. Davis)

[Passed March 10, 1951; in effect July 1, 1951. Approved by the Governor.]

AN ACT to repeal sections five, five-a, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, twenty-five, twenty-nine and thirty, article one; article five-a; sections one, two, four-a, four-b, four-c, four-d, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-a, twenty-b, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-eight, twenty-nine, thirty-one, thirty-two, thirty-three and thirty-four, article six; article seven; article eight; sections four, five, six, seven, nine, ten and thirteen-a, article nineteen; and article twenty-one, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend said code by adding thereto three new chapters to be designated chapters seventeen-a, seventeen-b and seventeen-c, all relating to motor and other vehicles, and including, among other things, motor vehicle administration, registration, certificates of title and antitheft provisions, licensing of motor vehicle operators and chauffeurs, traffic regulations and laws of the road, and prescribing penalties for the violation of the provisions thereof.

Be it enacted by the Legislature of West Virginia:

That sections five, five-a, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, twenty-

five, twenty-nine and thirty, article one; article five-a; sections one, two, four-a, four-b, four-c, four-d, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-a, twenty-b, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-eight, twenty-nine, thirty-one, thirty-two, thirty-three and thirty-four, article six; article seven; article eight; sections four, five, six, seven, nine, ten and thirteen-a, article nineteen; and article twenty-one, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that said code be amended by adding thereto three new chapters to be designated chapters seventeen-a, seventeen-b and seventeen-c, all to read as follows:

**CHAPTER 17-A. MOTOR VEHICLE ADMINISTRATION,
REGISTRATION, CERTIFICATE OF TITLE,
AND ANTITHEFT PROVISIONS.**

Article

1. Words and Phrases Defined.
2. Department of Motor Vehicles.
3. Original and Renewal of Registration; Issuance of Certificates of Title.
4. Transfers of Title or Interest.
5. Permits to Nonresident Owners.
6. Issuance of Special Plates to Dealers.
7. Motor Car Dealers and Wreckers Must be Licensed.
8. Special Antitheft Laws.
9. Offenses Against Registration Laws and Suspension or Revocation of Registration.
10. Registration, License and Other Fees.
11. Penalties.
12. Effect of Chapter.

Article 1. Words and Phrases Defined.

Section

1. Definitions.
2. Vehicle.
3. Motor vehicle.
4. Motorcycle.
5. School bus.
6. Bus.
7. Truck tractor.
8. Farm tractor.
9. Road tractor.
10. Truck.
11. Trailer.
12. Semitrailer.
13. Pole trailer.
14. Specially constructed vehicle.
15. Reconstructed vehicle.
16. Essential parts.

Section

17. Foreign vehicle.
18. Implement of husbandry.
19. Special mobile equipment.
20. Pneumatic tire.
21. Solid tire.
22. Metal tire.
23. Commissioner.
24. Department.
25. Person.
26. Owner.
27. Nonresident.
28. Dealer.
29. Transporter.
30. Manufacturer.
31. Established place of business.
32. Street or highway.

Section 1. *Definition of Words and Phrases.*—The following words and phrases when used in this chapter shall, for the purpose of this chapter have the meanings respectively ascribed to them in this article.

Sec. 2. *Vehicle.*—Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

Sec. 3. *Motor Vehicle.*—Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

Sec. 4. *Motorcycle.*—Every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground but excluding a tractor.

Sec. 5. *School Bus.*—Every motor vehicle owned by a public governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school.

Sec. 6. *Bus.*—Every motor vehicle designed for carrying more than seven passengers and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

Sec. 7. *Truck Tractor.*—Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

Sec. 8. *Farm Tractor.*—Every motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

Sec. 9. *Road Tractor.*—Every motor vehicle designed and used for drawing other vehicles and not so con-

3 structed as to carry any load thereon either independent-
4 ly or any part of the weight of a vehicle or load so drawn.

 . Sec. 10. *Truck*.—Every motor vehicle designed, used,
2 or maintained primarily for the transportation of prop-
3 erty.

 Sec. 11. *Trailer*.—Every vehicle with or without motive
2 power designed for carrying persons or property and for
3 being drawn by a motor vehicle and so constructed that
4 no part of its weight rests upon the towing vehicle.

 Sec. 12. *Semitrailer*.—Every vehicle with or without
2 motive power designed for carrying persons or property
3 and for being drawn by a motor vehicle and so con-
4 structed that some part of its weight and that of its load
5 rests upon or is carried by another vehicle.

 Sec. 13. *Pole Trailer*.—Every vehicle without motive
2 power designed to be drawn by another vehicle and at-
3 tached to the towing vehicle by means of a reach, or pole,
4 or by being boomed or otherwise secured to the towing
5 vehicle, and ordinarily used for transporting long or ir-
6 regularly shaped loads such as poles, pipes, or structural
7 members capable, generally, of sustaining themselves as
8 beams between the supporting connections.

 Sec. 14. *Specially Constructed Vehicle*.—Every vehicle
2 of a type required to be registered hereunder not original-
3 ly constructed under a distinctive name, make, model,
4 or type by a generally recognized manufacturer of ve-
5 hicles and not materially altered from its original con-
6 struction.

 Sec. 15. *Reconstructed Vehicle*.—Every vehicle of a
2 type required to be registered hereunder materially
3 altered from its original construction by the removal,
4 addition, or substitution of essential parts, new or used.

 Sec. 16. *Essential Parts*.—All integral and body parts
2 of a vehicle of a type required to be registered here-
3 under, the removal, alteration, or substitution of which
4 would tend to conceal the identity of the vehicle or sub-
5 stantially alter its appearance, model, type, or mode of
6 operation.

2 Sec. 17. *Foreign Vehicle*.—Every vehicle of a type re-
3 quired to be registered hereunder brought into this state
4 from another state, territory, or country other than in
5 the ordinary course of business by or through a manu-
6 facturer or dealer and not registered in this state.

2 Sec. 18. *Implement of Husbandry*.—Every vehicle
3 which is designed for agricultural purposes and ex-
4 clusively used by the owner thereof in the conduct of
5 his agricultural operations.

2 Sec. 19. *Special Mobile Equipment*.—Every vehicle not
3 designed or used for the transportation of persons or
4 property and incidentally operated or moved over the
5 highways, including road construction or maintenance
6 machinery, ditch-digging apparatus, well-boring appa-
7 ratus, and concrete mixers. The foregoing enumeration
8 shall be deemed partial and shall not operate to exclude
9 other such vehicles which are within the general terms
10 of this section.

2 Sec. 20. *Pneumatic Tire*.—Every tire in which com-
3 pressed air is designed to support the load.

2 Sec. 21. *Solid Tire*.—Every tire of rubber or other
3 resilient material which does not depend upon com-
4 pressed air for the support of the load.

2 Sec. 22. *Metal Tire*.—Every tire the surface of which
3 in contact with the highway is wholly or partly of metal
4 or other hard, nonresilient material.

2 Sec. 23. *Commissioner*.—The commissioner of motor
3 vehicles of this state.

2 Sec. 24. *Department*.—The department of motor ve-
3 hicles of this state acting directly or through its duly
4 authorized officers and agents.

2 Sec. 25. *Person*.—Every natural person, firm, copartner-
3 ship, association, or corporation.

2 Sec. 26. *Owner*.—A person who holds the legal title
3 of a vehicle or in the event a vehicle is the subject of an
4 agreement for the conditional sale or lease thereof with
5 the right of purchase upon performance of the conditions

5 stated in the agreement and with an immediate right of
6 possession vested in the conditional vendee or lessee, or
7 in the event a mortgagor of a vehicle is entitled to pos-
8 session, then such conditional vendee or lessee or mort-
9 gator shall be deemed the owner for the purpose of this
10 chapter.

Sec. 27. *Nonresident*.—Every person who is not a resi-
2 dent of this state.

Sec. 28. *Dealer*.—Every person engaged in the business
2 of buying, selling, or exchanging vehicles of a type re-
3 quired to be registered hereunder and who has an estab-
4 lished place of business for such purpose in this state.

Sec. 29. *Transporter*.—Every person engaged in the
2 business of delivering vehicles of a type required to be
3 registered hereunder from a manufacturing, assembling,
4 or distributing plant to dealers or sales agents of a manu-
5 facturer.

Sec. 30. *Manufacturer*.—Every person engaged in the
2 business of constructing or assembling vehicles of a type
3 required to be registered hereunder at an established
4 place of business in this state.

Sec. 31. *Established Place of Business*.—The place ac-
2 tually occupied either continuously or at regular periods
3 by a dealer or manufacturer where his books and records
4 are kept and a large share of his business is transacted.

Sec. 32. *Street or Highway*.—The entire width between
2 boundary lines of every way publicly maintained when
3 any part thereof is open to the use of the public for pur-
4 poses of vehicular travel.

Article 2. Department of Motor Vehicles.

Section

1. Department created.
2. Office of commissioner of motor vehicles created; appointment term.
3. Qualifications.
4. Filling vacancies.
5. Oath and bond.
6. Salary and expenses.
7. Organization of department; assistants and employees.
8. Offices of department.
9. Powers and duties of commissioner.
10. Reciprocal agreements with other states.

11. Delegation of powers and duties.
12. Commissioner to prescribe forms.
13. Authority to administer oaths and certify copies of records.
14. Records of department.
15. Authority to grant or refuse application.
16. Seizure of documents and plates.
17. Distribution of synopsis of motor vehicle laws.
18. Department may summon witnesses and take testimony.
19. Giving of notice.
20. Legal service rendered commissioner.
21. Revenue collected paid to state treasurer.
22. Administrative expense.

Section 1. *Department Created.*—The department of
2 the government of this state, known as the department
3 of motor vehicles, heretofore created, shall be continued.

Sec. 2. *Office of Commissioner of Motor Vehicles Created; Appointment; Term.*—The department of motor
2 vehicles shall be directed by an executive officer to be
3 designated as the commissioner of motor vehicles, who
4 shall be appointed by the governor, with the advice and
5 consent of the senate for a term of four years. The first
6 appointment made hereunder shall be for a four year
7 term to commence on the first day of July, one thousand
8 nine hundred fifty-one. The commissioner shall devote
9 his entire time to the duties of his office.

Sec. 3. *Qualifications.*—The commissioner at the time
2 of his appointment and qualification shall be a citizen
3 of the United States and a resident of the state of West
4 Virginia, shall have been a qualified voter in the state
5 for a period of at least one year next preceding his ap-
6 pointment, and shall be not less than thirty years of
7 age. No commissioner during his period of service as
8 such shall hold any other office under the laws of this
9 state or of the United States.

Sec. 4. *Filling Vacancies.*—All vacancies in the office
2 of the commissioner that occur while the Legislature is
3 not in session shall be filled by appointment by the gov-
4 ernor, which appointment shall expire at the end of
5 thirty days after the date on which the Legislature next
6 convenes. Prior to the expiration of the thirty days the
7 governor shall transmit to the Senate for its approval
8 an appointment for the unexpired portion of the regular
9 term. Vacancies occurring during a session of the Legis-

10 lature shall be filled as regular appointments before the
11 end of the session and for the unexpired portion of the
12 regular term.

Sec. 5. *Oath and Bond.*—The commissioner before en-
2 tering upon the duties of his office shall take and sub-
3 scribe to the oath prescribed by the constitution. He
4 shall also execute a bond in the penalty of twenty-five
5 thousand dollars, conditioned according to law, and ap-
6 proved by the governor. The cost of such bond shall be
7 borne by the department as a part of the operating cost
8 of the department. The bond and the oath shall be filed
9 with the secretary of state.

Sec. 6. *Salary and Expenses.*—The commissioner shall
2 receive a salary of seven thousand dollars and the neces-
3 sary traveling expenses incident to the performance of his
4 duties. Requisition for traveling expenses shall be ac-
5 companied by a sworn and itemized statement which
6 shall be filed with the auditor and permanently preserved
7 as a public record.

Sec. 7. *Organization of Department; Assistants and Em-*
2 *ployees.*—The commissioner shall organize the depart-
3 ment in such manner as he may deem necessary to prop-
4 erly segregate and conduct the work of the department.
5 The commissioner shall employ such assistants and em-
6 ployees as may be necessary for the efficient operation
7 of his department, who shall possess all of the qualifi-
8 cations which may from time to time be prescribed for
9 such positions by the commissioner. The duties and
10 salaries of such assistants and employees shall be fixed
11 by the commissioner, who shall have authority to remove
12 any such assistant or employee at his will and pleasure.
13 The total compensation paid to assistants and employees
14 shall not exceed in any one year the appropriation made
15 by the Legislature for that purpose.

16 The commissioner shall require every employee who
17 collects fees or handles funds or who has custody of
18 equipment and supplies belonging to the state to take
19 the constitutional oath and give an official bond, with
20 corporate surety, properly conditioned and in a sum to be
21 fixed by the commissioner, which bond shall be approved

22 by him and filed in the office of the secretary of state.
23 The cost of such bond shall be borne by the department as
24 a part of the operating cost of the department.

Sec. 8. *Offices of Department.*—The commissioner shall
2 maintain an office in one of the state capitol buildings
3 and in such other places in the state as he may deem
4 necessary properly to carry out the powers and duties
5 vested in the department. The commissioner shall keep
6 his offices open at all reasonable times for the transaction
7 of public business.

Sec. 9. *Powers and Duties of Commissioner.*—(a) The
2 commissioner is hereby vested with and is charged with
3 the duty of observing, administering and enforcing the
4 provisions of this chapter and of all laws the enforcement
5 of which is now or hereafter vested in the department:
6 *Provided, however,* That nothing in this chapter shall
7 deprive the public service commission of West Virginia
8 of any of the duties or powers now vested in it with re-
9 gard to the regulation of motor vehicle carriers.

10 (b) The commissioner is hereby authorized to adopt
11 and enforce such rules and regulations as may be neces-
12 sary to carry out the provisions of this chapter and any
13 other laws the enforcement and administration of which
14 are vested in the department.

15 (c) The commissioner may adopt an official seal for
16 the use of the department.

Sec. 10. *Reciprocal Agreements with Other States.*—
2 The motor vehicle commissioner in cooperation with
3 the state road commissioner, the public service com-
4 mission and the department of public safety may enter
5 into such reciprocal agreements as he may deem proper
6 or expedient with the proper authorities of other states,
7 regulating the use, on the roads and highways of this
8 state, of trucks, automobiles and any other vehicles
9 owned in such other states and duly licensed under
10 the laws thereof. The commissioner may confer and
11 advise with the proper officers and legislative bodies of
12 this and other states and federal districts of the United
13 States, to promote reciprocal agreements under which
14 the registration of vehicles owned in this state, and the

15 licenses of operators and chauffeurs residing in this state
16 shall be recognized by other states and federal districts.

Sec. 11. *Delegation of Powers and Duties.*—All powers
2 and duties vested in the commissioner, except the power
3 to sign contracts and make rules and regulations, may be
4 exercised by the appointees or employees of the com-
5 missioner, under his direction; but the commissioner shall
6 be responsible for their acts.

Sec. 12. *Commissioner to Prescribe Forms.*—The com-
2 missioner shall prescribe and provide suitable forms of
3 applications, certificates of title, registration cards, op-
4 erators' and chauffeurs' licenses, and all other forms
5 requisite or deemed necessary to carry out the provisions
6 of this chapter and any other laws, the enforcement
7 and administration of which are vested in the depart-
8 ment.

Sec. 13. *Authority to Administer Oaths and Certify*
2 *Copies of Records.*—(a) Officers and employees of the de-
3 partment designated by the commissioner are, for the
4 purpose of administering the motor vehicle laws, auth-
5 orized to administer oaths and acknowledge signatures,
6 and shall do so without fee.

7 (b) The commissioner and such officers of the de-
8 partment as he may designate are hereby authorized to
9 prepare under the seal of the department and deliver
10 upon request a certified copy of any record of the de-
11 partment, charging a fee of one dollar for each document
12 so authenticated, and every such certified copy shall be
13 admissible in any proceeding in any court in like man-
14 ner as the original thereof.

15 (c) The commissioner and such officers of the depart-
16 ment as he may designate are hereby authorized to
17 furnish to any person requesting same in writing in-
18 formation regarding the registration of any vehicle at a
19 fee prescribed by the commissioner but not to exceed
20 twenty-five cents for each such registration about which
21 information is furnished.

Sec. 14. *Records of Department.*—(a) All records of
2 the department, other than those declared by law to be

3 confidential for the use of the department, shall be open
4 to public inspection during office hours.

5 (b) The commissioner may destroy any records of the
6 department which have been maintained on file for three
7 years which he may deem obsolete and of no further
8 service in carrying out the powers and duties of the de-
9 partment.

Sec. 15. *Authority to Grant or Refuse Application.*—
2 The department shall examine and determine the genu-
3 ineness, regularity, and legality of every application for
4 registration of a vehicle, for a certificate of title there-
5 for, and for an operator's or chauffeur's license and of
6 any other application lawfully made to the department,
7 and may in all cases make such investigation as may be
8 deemed necessary or require additional information, and
9 shall reject any such application if not satisfied of the
10 genuineness, regularity, or legality thereof or the truth
11 of any statement contained therein, or for any other
12 reason, when authorized by law.

Sec. 16. *Seizure of Documents and Plates.*—The de-
2 partment is hereby authorized to take possession of any
3 certificate of title, registration card, permit, license, or
4 registration plate issued by it upon expiration, revoca-
5 tion, cancellation, or suspension thereof, or which is
6 fictitious, or which has been unlawfully or erroneously
7 issued.

Sec. 17. *Distribution of Synopsis of Motor Vehicle*
2 *Laws.*—The department shall prepare in pamphlet form
3 a synopsis or summary of the laws of this state regu-
4 lating the operation of vehicles and shall deliver a copy
5 thereof without charge with each original vehicle regis-
6 tration and with each original operator's or chauffeur's
7 license, and to any other citizen of the state upon ap-
8 plication.

Sec. 18. *Department May Summon Witnesses and Take*
2 *Testimony.*—(a) The commissioner and officers of the
3 department designated by him shall have authority to
4 summon witnesses to give testimony under oath or to
5 give written deposition upon any matter under the juris-

6 diction of the department. Such summons may require
7 the production of relevant books, papers, or records.

8 (b) Every such summons shall be served at least five
9 days before the return date, either by personal service
10 made by any person over eighteen years of age or by
11 registered mail, but return acknowledgement is re-
12 quired to prove such latter service. Failure to obey such
13 a summons so served shall constitute a misdemeanor.
14 The fees for the attendance and travel of witnesses shall
15 be the same as for witnesses before the circuit court.

16 (c) Any circuit court shall have jurisdiction, upon ap-
17 plication by the commissioner, to enforce all lawful
18 orders of the commissioner under this section.

Sec. 19. *Giving of Notice.*—Whenever the department
2 is authorized or required to give any notice under this
3 chapter or other law regulating the operation of vehicles,
4 unless a different method of giving such notice is other-
5 wise expressly prescribed, such notice shall be given
6 either by personal delivery thereof to the person to be
7 so notified or by deposit in the United States mail of such
8 notice in an envelope with postage prepaid, addressed to
9 such person at his address as shown by the records of the
10 department. The giving of notice by mail is complete
11 upon the expiration of four days after such deposit of
12 said notice. Proof of the giving of notice in either such
13 manner may be made by the certificate of any officer or
14 employee of the department or affidavit of any person
15 over eighteen years of age, naming the person to whom
16 such notice was given and specifying the time, place, and
17 manner of the giving thereof.

Sec. 20. *Legal Service Rendered Commissioner.*—It
2 shall be the duty of the attorney general of this state and
3 of his assistants and of the prosecuting attorneys of the
4 several counties, to render to the commissioner, without
5 additional compensation, such legal services as he shall
6 require of them in the discharge of his duties under the
7 provisions of this chapter.

Sec. 21. *Revenue Collected Paid to State Treasurer.*
2 —Taxes and fees imposed and collected under the provi-
3 sions of this chapter shall be paid to the state treasurer

- 4 in the manner provided by law, and credited to the state
5 road fund.

Sec. 22. *Administrative Expense.*—The expense of the
2 administration of the motor vehicle department shall be
3 appropriated for that purpose from the state road funds.

Article 3. Original and Renewal of Registration, Issuance of Certificates of Title.

Section

1. Misdemeanor to violate provisions of article.
2. Vehicles subject to registration.
3. Application for registration.
4. Application for certificate of title; tax.
5. Application for specially constructed, reconstructed, foreign vehicles, or new vehicles purchased from dealers other than licensed dealers of this state.
6. Temporary permit pending registration.
7. Grounds for refusing registration or certificate of title.
8. Examination of registration records and index of stolen and recovered vehicles.
9. Registration indexes.
10. Department to issue registration card.
11. Registration of vehicles according to permissible gross weight.
12. Commissioner to issue certificate of title.
13. Registration card to be signed, carried, and exhibited on demand.
14. Registration plates to be furnished by the department.
15. Display of registration plates.
16. Expiration of registration and certificates of title.
17. Application for and renewal of registration.
18. Notice of change of address or name.
19. Lost or damaged certificates, cards and plates.
20. Department may assign new identifying numbers.
21. Regulations governing change of motors.
22. Department to issue registration bulletins.

Section 1. *Misdemeanor to Violate Provisions of Article.*—It is a misdemeanor for any person to drive or move
2 or for an owner knowingly to permit to be driven or
3 moved upon any highway any vehicle of a type required
4 to be registered hereunder which is not registered or for
5 which a certificate of title has not been issued or applied
6 for or for which the appropriate fee has not been paid
7 when and as required hereunder, except as otherwise
8 permitted by the provisions of this chapter: *Provided,*
9 That in the event of the sale of a vehicle by a person other
10 than a registered dealer, the person purchasing the same
11 may, for a period of not more than ten days, operate such
12 vehicle under the registration of its previous owner and
13 display the registration thereof: *Provided further,* That
14 he shall have and display on the demand of any proper
15

16 officer the consent in writing of such previous owner so
17 to use such registration.

Sec. 2. *Vehicles Subject to Registration; Exception.*—

2 Every motor vehicle, trailer, semitrailer, and pole trailer
3 when driven or moved upon a highway shall be subject
4 to the registration and certificate of title provisions of this
5 chapter except:

6 (1) Any such vehicle driven or moved upon a high-
7 way in conformance with the provisions of this chapter
8 relating to manufacturers, transporters, dealers, lien
9 holders, or nonresidents or under a temporary registration
10 permit issued by the department as hereinafter author-
11 ized;

12 (2) Any implement of husbandry whether of a type
13 otherwise subject to registration hereunder or not which
14 is only incidentally operated or moved upon a highway;

15 (3) Any vehicle which is propelled exclusively by
16 electric power obtained from overhead trolley wires
17 though not operated upon rails;

18 (4) No certificate of title need be obtained for any
19 vehicle of a type subject to registration owned by the
20 government of the United States.

Sec. 3. *Application for Registration.*—Every owner of
2 a vehicle subject to registration hereunder shall make
3 application to the department for the registration thereof
4 upon the appropriate form or forms furnished by the
5 department and every such application shall bear the
6 signature of the owner written with pen and ink and said
7 signature shall be acknowledged by the owner before a
8 person authorized to administer oaths and said applica-
9 tion shall contain:

10 (1) The name, bona fide residence and mail address
11 of the owner, the name of the county in which he resides,
12 or business address of the owner if a firm, association, or
13 corporation.

14 (2) A description of the vehicle including, insofar as
15 the hereinafter specified data may exist with respect to a
16 given vehicle, the make, model, type of body, the serial
17 number of the vehicle, the engine or other number of the
18 vehicle.

19 (3) In the event a motor vehicle is designed, con-
20 structed, converted, or rebuilt for the transportation of
21 property, the application shall include a statement of its
22 declared gross weight if such motor vehicle is to be used
23 alone, or if such motor vehicle is to be used in combination
24 with other vehicles the application for registration of
25 such motor vehicle shall include a statement of the com-
26 bined declared gross weight of such motor vehicle and
27 the vehicles to be drawn by such motor vehicle; declared
28 gross weight being the weight declared by the owner to
29 be the actual combined weight of the vehicle or combina-
30 tion of vehicles and load when carrying the maximum
31 load which the owner intends to place thereon; and the
32 application for registration of each such vehicle shall also
33 include a statement of the distance between the first and
34 last axles of that vehicle or combination of vehicles. The
35 declared gross weight stated in the application shall not
36 exceed the permissible gross weight for the axle spacing
37 listed therein as determined by the table of permissible
38 gross weights contained in chapter seventeen-c of this
39 code; and any vehicle registered for a declared gross
40 weight as stated in the application shall be subject to the
41 single-axle load limit set forth in chapter seventeen-c of
42 this code.

43 (4) Each such applicant shall state whether such ve-
44 hicle is or is not to be used in the public transportation of
45 passengers or property, or both, for compensation, and if
46 so used, or to be used, the applicants shall so certify, and
47 shall, as a condition precedent to the registration of such
48 vehicle, obtain a certificate of convenience, or permit from
49 the public service commission.

50 (5) Such further information as may reasonably be
51 required by the department to enable it to determine
52 whether the vehicle is lawfully entitled to registration.

53 (6) Each such application for registration shall be ac-
54 companied by the fees hereafter provided.

Sec. 4. *Application for Certificate of Title; Tax.*—
2 Certificates of registration of any vehicle or registration
3 plates therefor, whether original issues or duplicates,
4 shall not be issued or furnished by the department of
5 motor vehicles or any other officer charged with such

6 duty, unless the applicant therefor already has received,
7 or shall at the same time make application for and be
8 granted, an official certificate of title of such vehicle.
9 Such application shall be upon a blank form to be fur-
10 nished by the department of motor vehicles and shall
11 contain a full description of the vehicle, which descrip-
12 tion shall contain the manufacturer's number, the motor
13 number and any distinguishing marks, together with a
14 statement of the applicant's title and of any liens or en-
15 cumberances upon such vehicles, the names and addresses
16 of the holders of such liens and such other information
17 as the department of motor vehicles may require. The
18 application shall be signed and sworn to by the applicant.
19 A tax is hereby imposed upon the privilege of effecting
20 the certification of title of each vehicle in the amount
21 equal to two per cent of the value of said motor vehicle
22 at the time of such certification. If the vehicle is new,
23 the actual purchase price or consideration to the pur-
24 chaser thereof shall be the value of said vehicle; if the
25 vehicle is a used or second-hand vehicle, the present mar-
26 ket value at time of transfer or purchase shall be deemed
27 the value thereof for the purpose of this section: *Pro-*
28 *vided*, That so much of the purchase price or considera-
29 tion as is represented by the exchange of other vehicles
30 on which the tax herein imposed has been paid by the
31 purchaser shall be deducted from the total actual price
32 or consideration paid for said vehicle, whether the same
33 be new or second-hand; if the vehicle be acquired through
34 gift, or by any manner whatsoever, unless specifically
35 exempted in this section, the present market value of the
36 vehicle at the time of the gift or transfer shall be deemed
37 the value thereof for purposes of this section. No certifi-
38 cate of title for any vehicle shall be issued to any appli-
39 cant unless such applicant shall have paid to the depart-
40 ment of motor vehicles the tax imposed by this section
41 which shall be two per cent of the true and actual value
42 of the said vehicle whether the vehicle be acquired
43 through purchase, by gift, or by any other manner what-
44 soever except gifts between husband and wife or be-
45 tween parents and children; but the tax imposed by this
46 section shall not apply to vehicles to be registered as

47 class H or class I vehicles, as defined in section one, article
48 ten of this chapter, which are used or to be used in inter-
49 state commerce, nor shall the tax imposed by this section
50 apply to titling of vehicles by a registered dealer of this
51 state for resale only. The total amount of revenue col-
52 lected by reason of this tax shall be paid into the state
53 road fund and expended by the state road commissioner
54 in the maintenance and construction of the state's sec-
55 ondary roads. In addition to said tax, there shall be a
56 charge of one dollar for each original certificate of title so
57 issued.

58 Notwithstanding the provisions of this section, the
59 owners of trailers, semitrailers and other vehicles not
60 subject to the certificate of title tax prior to enactment
61 of this chapter shall not be required to pay the above men-
62 tioned tax upon making application for a certificate of
63 title for such vehicle, but shall be required to pay a fee of
64 one dollar for the issuance of each such certificate of title.

65 Such certificate shall be good for the life of the vehicle,
66 so long as the same is owned or held by the original holder
67 of such certificate, and need not be renewed annually, or
68 any other time, except as herein provided.

69 If, by will or direct inheritance, a person becomes the
70 owner of a motor vehicle upon which the tax herein im-
71 posed has been paid, he shall not be required to pay such
72 tax.

73 A person who has paid the tax imposed by this section
74 shall not be required to pay the tax a second time for the
75 same motor vehicle, but he shall be required to pay a
76 charge of one dollar for the certificate of retitle of that
77 motor vehicle, except that such tax shall be paid by such
78 person when the title to such vehicle has been transferred
79 either in this or another state from such person to another
80 person and transferred back to such person.

2 *Sec. 5. Application for Specially Constructed, Recon-*
3 *structed, Foreign Vehicles, or New Vehicles Purchased*
4 *from Dealers Other Than Licensed Dealers of This State.*
5 —(a) In the event the vehicle to be registered is specially
6 constructed, reconstructed, or foreign vehicle, such fact
7 shall be stated in the application and with reference to
8 every foreign vehicle which has been registered hereto-

8 fore outside of this state the owner shall surrender to the
9 department all registration plates, registration cards, and
10 certificates of title or other evidence of such foreign regis-
11 tration as may be in his possession or under his control
12 except as provided in subdivision (b) hereof.

13 (b) Where in the course of interstate operation of a
14 vehicle registered in another state it is desirable to retain
15 registration of said vehicle in such other state, such appli-
16 cant need not surrender but shall submit for inspection
17 said evidences of such foreign registration and the depart-
18 ment upon a proper showing shall register said vehicle in
19 this state but shall not issue a certificate of title for such
20 vehicle.

21 (c) In the event application for registration and cer-
22 tificate of title is made for a new vehicle purchased
23 from a dealer other than a licensed dealer of this state,
24 a certificate of title shall not be issued for such vehicle
25 nor shall such vehicle be registered by the department
26 unless and until such application shall be accompanied
27 by a certificate of title or other evidence of ownership
28 required by the state of purchase, or if the state of pur-
29 chase does not require a certificate of title such applica-
30 tion shall be accompanied by a properly authenticated
31 bill of sale bearing the verified signature of the dealer
32 from whom such vehicle was purchased, accompanied by
33 evidence that such seller is a bona fide dealer of the state
34 in which such vehicle was purchased.

Sec. 6. *Temporary Permit Pending Registration.*—
2 The department in its discretion may grant a temporary
3 permit to operate a vehicle for which application for
4 registration and certificate of title has been made where
5 such application is accompanied by the proper fee, pend-
6 ing action upon said application by the department.

Sec. 7. *Grounds for Refusing Registration or Certifi-
2 cate of Title.*—The department shall refuse registration or
3 issuance of a certificate of title or any transfer of regis-
4 tration upon any of the following grounds:

5 (1) That the application contains any false or fraudu-
6 lent statement or that the applicant has failed to furnish
7 required information or reasonable additional informa-

8 tion requested by the department or that the applicant is
9 not entitled to the issuance of a certificate of title or regis-
10 tration of the vehicle under this chapter;

11 (2) That the vehicle is mechanically unfit or unsafe
12 to be operated or moved upon the highways;

13 (3) That the department has reasonable ground to
14 believe that the vehicle is a stolen or embezzled vehicle or
15 that the granting of registration or the issuance of certifi-
16 cate of title would constitute a fraud against the rightful
17 owner or other person having a valid lien upon such
18 vehicle;

19 (4) That the registration of the vehicle stands sus-
20 pended or revoked for any reason as provided in the motor
21 vehicle laws of this state;

22 (5) That the required fee has not been paid.

Sec. 8. *Examination of Registration Records and In-
2 dex of Stolen and Recovered Vehicles.*—The department
3 upon receiving application for original registration of a
4 vehicle or any certificate of title shall first check the
5 engine and serial number shown in the application against
6 the indexes of registered motor vehicles and against the
7 index of stolen and recovered motor vehicles required to
8 be maintained by this chapter.

Sec. 9. *Registration Indexes.*—The department shall
2 file each application received and when satisfied as to the
3 genuineness and regularity thereof, and that the appli-
4 cant is entitled to register such vehicle and to the issuance
5 of a certificate of title shall register the vehicle therein
6 described and keep a record thereof in suitable books or
7 on index cards as follows:

8 (1) Under a distinctive registration number assigned
9 to the vehicle;

10 (2) Alphabetically, under the name of the owner;

11 (3) Under the motor number if available, otherwise
12 any other identifying number of the vehicle; and

13 (4) In the discretion of the department, in any other
14 manner it may deem desirable.

Sec. 10. *Department to Issue Registration Card.*—The
2 department upon registering a vehicle shall issue a regis-
3 tration card to be delivered to the owner and containing

4 thereon the date issued, the name and address of the
5 owner, the registration number assigned to the vehicle
6 and such description of the vehicle as determined by the
7 commissioner.

Sec. 11. *Registration of Vehicles According to Permissible Gross Weight.*—The commissioner, upon registering
2 any truck, truck tractor, or road tractor, under the laws
3 of this state, may require such information and may make
4 such investigation or test as necessary to enable him to
5 determine whether such motor vehicle may safely be
6 operated upon the highways in compliance with all the
7 provisions of law relating to such vehicles. He shall register every such vehicle for a permissible gross weight
8 under which the vehicle can, in his opinion, safely be
9 operated upon the highways, and, in any event, not exceeding the limitations set forth in chapter seventeen-c
10 of the code of West Virginia, one thousand nine hundred
11 thirty-one, as amended.

12 The commissioner shall insert in the registration card
13 issued for every such motor vehicle the gross weight for
14 which it is registered, and if it is a motor vehicle to be
15 used for propelling other vehicles he shall separately
16 insert the total permissible gross weight of such motor
17 vehicle and other vehicles to be propelled by it. The
18 owner of each such vehicle shall stencil or paint the gross
19 weight appearing on the registration card on the right
20 side of such vehicle using letters and numerals at least
21 four inches in height. The commissioner shall also cause
22 to be printed or stamped upon the registration card a
23 statement that the vehicle although registered for the
24 gross weight appearing on the registration card is subject
25 to an axle load limitation of eighteen thousand pounds per
26 axle.

Sec. 12. *Commissioner to Issue Certificate of Title.*—
2 The commissioner, if satisfied that the applicant for a
3 certificate of title is the owner of such motor vehicle, or
4 otherwise entitled to have the same registered in his
5 name, shall issue an appropriate certificate of title.

6 The certificate of title shall contain upon the face
7 thereof the date issued, the name and address of the

8 owner, such description of the vehicle as determined by
9 the commissioner, and a statement of the owner's title
10 and of all liens and encumbrances upon the vehicle there-
11 in described and whether possession is held by the owner
12 under a lease, contract of conditional sale, or other like
13 agreement, and shall bear thereon the seal of the depart-
14 ment.

15 The certificate of title shall contain upon the reverse
16 side a space for the signature of the owner and the owner
17 shall write his name with pen and ink in such space upon
18 receipt of the certificate. Such certificate shall also con-
19 tain upon the reverse side forms for assignment of title
20 or interest and warranty thereof by the owner with space
21 for notation of liens and encumbrances upon the vehicle
22 at the time of a transfer.

23 The certificate of title shall be delivered to the owner.

2 *Sec. 13. Registration Card to be Signed, Carried, and*
3 *Exhibited on Demand.*—Every owner upon receipt of a
4 registration card shall write his signature thereon with
5 pen and ink in the space provided. Every such registration
6 card shall at all times be carried in the vehicle to which
7 it refers or shall be carried by the person driving or in
8 control of such vehicle who shall display the same upon
9 demand of a police officer or any officer or employee of
10 the department.

2 *Sec. 14. Registration Plates to be Furnished by the*
3 *Department.*—The department upon registering a vehicle
4 shall issue to the owner one registration plate for a
5 motorcycle, trailer, or semitrailer and two registration
6 plates for every other motor vehicle.

7 Every registration plate shall have displayed upon
8 it the registration number assigned to the vehicle for
9 which it is issued, also the name of this state, which
10 may be abbreviated, and the year number for which it
11 is issued or the date of expiration thereof.

12 Such registration plate and the required letters and
13 numerals thereon, except the year number for which is-
14 sued or the date of expiration, shall be of sufficient size
15 to be plainly readable from a distance of one hundred
feet during daylight.

16 Notwithstanding the provisions of this section, or of
17 any other provision of this chapter, the commissioner
18 may, in his discretion, issue a type of registration plate
19 suitable for permanent use on motor vehicles, trailers
20 and semitrailers, together with appropriate devices to be
21 attached thereto to indicate the year for which such
22 vehicles have been properly registered or the date of
23 expiration of such registration. The design of such plates
24 shall be determined by the commissioner.

Sec. 15. *Display of Registration Plates.*—Registration
2 plates issued for a motor vehicle other than a motorcycle
3 shall be attached thereto, one in the front and the other
4 in the rear. The registration plate issued for a motor-
5 cycle or other vehicle required to be registered here-
6 under shall be attached to the rear thereof.

7 Every registration plate shall at all times be securely
8 fastened in a horizontal position to the vehicle for which
9 it is issued so as to prevent the plate from swinging
10 and at a height of not less than twelve inches from the
11 ground, measuring from the bottom of such plate, in a
12 place and position to be clearly visible and shall be
13 maintained free from foreign materials and in a con-
14 dition to be clearly legible.

Sec. 16. *Expiration of Registration and Certificates of*
2 *Title.*—Every vehicle registration under this chapter and
3 every registration card and registration plate issued here-
4 under shall expire at midnight on the thirtieth day of
5 June of the fiscal year for which issued:

6 *Provided,* That the commissioner may extend the period
7 during which said registration plates may be used for
8 such time as in his judgment may seem best.

9 Certificates of title need not be renewed annually
10 but shall remain valid until canceled by the department
11 for cause or upon a transfer of any interest shown
12 therein.

13 Notwithstanding the provisions of this section or of
14 any provision of this chapter, the commissioner may, in
15 his discretion, adopt, for the vehicles set forth below
16 which are subject to registration hereunder, a staggered
17 registration system whereby the registration of all such

18 vehicles shall be for a period of twelve consecutive cal-
19 endar months, the expiration dates thereof to be stag-
20 gered throughout the year. In the event the commission-
21 er shall adopt such system the change to such new sys-
22 tem shall be effective the first day of July, one thousand
23 nine hundred fifty-three and shall be accomplished as
24 follows:

25 (1) On or after the first day of July, one thousand
26 nine hundred fifty-three, all motor vehicles and vehicles,
27 except trucks, truck tractors, road tractors, trailers, semi-
28 trailers, motor busses, motorcycles, electric vehicles, ar-
29 mored cars, wreckers, tow cars, hearses and ambulances,
30 and except vehicles otherwise provided for herein shall
31 be registered for a period of twelve consecutive calendar
32 months. There hereby are established twelve registra-
33 tion periods, each of which shall start on the first day
34 of each calendar month of the year and shall end on
35 the last day of the twelfth month from date of begin-
36 ning. The period ending January thirty-first shall be
37 designated the first period; that ending February
38 twenty-eighth (twenty-ninth) shall be designated the
39 second; that ending March thirty-first shall be desig-
40 nated the third; that ending April thirtieth shall be desig-
41 nated the fourth; that ending May thirty-first shall be
42 designated the fifth; that ending June thirtieth shall be
43 designated the sixth; that ending July thirty-first shall
44 be designated the seventh; that ending August thirty-
45 first shall be designated the eighth; that ending Septem-
46 ber thirtieth shall be designated the ninth; that ending
47 October thirty-first shall be designated the tenth; that
48 ending November thirtieth shall be designated the
49 eleventh; and that ending December thirty-first shall
50 be designated the twelfth.

51 (2) All motor vehicles, other than those exempted
52 above, which are operated for the first time upon the
53 public highways of this state to and including the
54 fifteenth day of any given month shall be subject to
55 registration and payment of fee for the twelve month
56 period commencing the first day of the month of op-
57 eration; motor vehicles operated for the first time upon
58 the public highways of this state on and after the six-

59 tenth day of any given month shall be subject to regis-
60 tration and payment of fee for the twelve month period
61 commencing the first day of the month of the next
62 following calendar month.

63 (3) During the time necessary to accomplish the
64 change from the present system of annual registration
65 to the monthly series system, all motor vehicles, as de-
66 fined above, subject to registration on July first, one
67 thousand nine hundred fifty-three, shall be registered
68 for one of twelve registration periods, which shall vary
69 in length from a minimum of six consecutive calendar
70 months to a maximum of seventeen consecutive calendar
71 months as hereinafter provided. During this transitory
72 period the registration fees shall be computed on a basis
73 of one-twelfth of the annual fee per month. In the order
74 of the receipt of applications for registration of motor
75 vehicles by the owners thereof, the commissioner shall
76 allocate to each of the twelve registration periods such
77 number of motor vehicles as will, in his judgment, as
78 uniformly as practicable, distribute the clerical work of
79 registering such vehicles throughout the year. In de-
80 termining the number of registrations to be allocated
81 to any given period, he may take into consideration the
82 volume of registration of trucks and other vehicles not
83 under the monthly series registration system. The twelve
84 registration periods necessary to accomplish the change
85 from the present system of annual registration to the
86 monthly series system are established as follows: Each
87 period shall commence July first, one thousand nine hun-
88 dred fifty-three. The first period shall expire December
89 thirty-first, one thousand nine hundred fifty-three, the
90 second, January thirty-first, one thousand nine hundred
91 fifty-four; the third, February twenty-eighth, one thou-
92 sand nine hundred fifty-four; the fourth, March thirty-
93 first, one thousand nine hundred fifty-four; the fifth,
94 April thirtieth, one thousand nine hundred fifty-four;
95 the sixth, May thirty-first, one thousand nine hundred
96 fifty-four; the seventh, June thirtieth, one thousand nine
97 hundred fifty-four; the eighth, July thirty-first, one thou-
98 sand nine hundred fifty-four; the ninth, August thirty-
99 first, one thousand nine hundred fifty-four; the tenth,
100 September thirtieth, one thousand nine hundred fifty-

101 four; the eleventh, October thirty-first, one thousand
102 nine hundred fifty-four; and the twelfth, November
103 thirtieth, one thousand nine hundred fifty-four.

104 (4) Motor vehicles, other than those exempted above,
105 not previously registered in this state and operated upon
106 the highways of this state for the first time after the
107 first day of July, one thousand nine hundred fifty-three,
108 shall be registered for a full twelve month period without
109 regard to the varying periods of registration provided
110 for during the period of change to the staggered regis-
111 tration system: *Provided*, That the commissioner may
112 initially register a motor vehicle for less than a twelve
113 month period when in his opinion such fractional regis-
114 tration shall tend to fulfill the purpose of the monthly
115 series registration system.

Sec. 17. *Application for and Renewal of Registration.*—

2 Application for renewal of a vehicle registration shall be
3 made by the owner by proper application and payment
4 of the registration fee provided by law.

5 The department may receive applications for renewal
6 of registration and issue new registration cards and plates
7 at any time prior to expiration, but no person shall dis-
8 play upon a vehicle the new registration plates prior to
9 the twentieth day of the month preceding the new regis-
10 tration period.

Sec. 18. *Notice of Change of Address or Name.*—When-

2 ever any person after making application for or obtaining
3 the registration of a vehicle or a certificate of title shall
4 move from the address named in the application or shown
5 upon a registration card or certificate of title such person
6 shall within ten days thereafter notify the department in
7 writing of his old and new addresses.

8 Whenever the name of any person who has made appli-
9 cation for or obtained the registration of a vehicle or a
10 certificate of title is thereafter changed by marriage or
11 otherwise such person shall within ten days notify the
12 department of such former and new name upon a form
13 prescribed by the commissioner, such notification to be
14 accompanied by application for retitle under such new
15 name.

Sec. 19. *Lost or Damaged Certificates, Cards, and Plates.*

2 —In the event any registration card or registration plate
3 is lost, mutilated, or becomes illegible the owner or legal
4 representative or successor in interest of the owner of the
5 vehicle for which the same was issued as shown by the
6 records of the department shall immediately make appli-
7 cation for and may obtain a duplicate or a substitute or
8 a new registration under a new registration number, as
9 determined to be most advisable by the department, upon
10 the applicant furnishing information satisfactory to the
11 department.

12 In the event any certificate of title is lost, mutilated, or
13 becomes illegible, the owner or legal representative or
14 successor in interest of the owner of the vehicle for which
15 the same was issued, as shown by the records of the de-
16 partment, shall immediately make application for and
17 may obtain a duplicate upon the applicant furnishing in-
18 formation satisfactory to the department. Upon issuance
19 of any duplicate certificate of title the previous certificate
20 last issued shall be void.

Sec. 20. *Department May Assign New Identifying Num-*

2 *bers.*—The department may assign a distinguishing num-
3 ber to a motor vehicle whenever the serial number there-
4 on is destroyed or obliterated and issue to the owner a
5 special plate bearing such distinguishing number which
6 shall be affixed to the vehicle in a position to be deter-
7 mined by the commissioner. Such motor vehicle may
8 then be registered under such distinguishing number in
9 lieu of the former serial number.

Sec. 21. *Regulations Governing Change of Motors.*—

2 The commissioner is authorized to adopt and enforce such
3 registration rules and regulations as may be deemed nec-
4 essary and compatible with the public interest with re-
5 spect to the change or substitution of one engine in place
6 of another in any motor vehicle.

Sec. 22. *Department to Issue Registration Bulletins.*—

2 The commissioner shall annually, following a renewal of
3 registration, compile and publish in books or bulletins a
4 list of all registered vehicles and shall thereafter compile
5 and publish monthly supplements thereto. The list of

6 registered vehicles shall be arranged serially according to
7 the registration numbers assigned to registered vehicles
8 and shall contain in addition the names and addresses of
9 registered owners and a brief description of each vehicle.

10 Officers of the state entrusted with the enforcement of
11 the laws may be furnished with copies of such lists, and
12 copies may also be furnished to such other interested
13 parties as may be authorized by the governor or by the
14 commissioner. The commissioner may also furnish copies
15 of such lists to similar officers in adjoining states. Copies
16 may be furnished to all other persons applying for same,
17 at a price to be fixed by the commissioner.

Article 4. Transfers of Title or Interest.

Section

1. Registration expires on transfer by owner; transfer, surrender or retention of plates.
2. Endorsement of certificate of title upon transfer by owner.
3. New owner must secure registration and certificate of title.
4. Transfers to dealers and others.
5. Transfer by operation of law.
6. When department to register vehicle and issue new certificate.
7. Release by lien holder to owner.
8. Failure to deliver certificate a misdemeanor.
9. Owner after transfer not liable for negligent operation.
10. Owner dismantling or wrecking vehicle to return evidences of registration.
11. Sale of motor vehicle to be dismantled.

Section 1. *Registration Expires on Transfer by Owner; Transfer, Surrender or Retention of Plates.*—Whenever
2 the owner of a registered vehicle transfers or assigns his
3 title, or interest thereto, the registration of such vehicle
4 shall expire. Upon such transfer, it shall be the duty of
5 the original owner to retain the registration plates issued
6 therefor and to immediately notify the commissioner of
7 such transfer upon such form as may be provided there-
8 for and to deliver to him the certificate of registration,
9 whereupon the commissioner shall, upon the payment of
10 a fee of one dollar, issue a new certificate showing the
11 use to be made of such plates. Such plates may then be
12 used by such owner on another vehicle of the same class
13 as the vehicle for which they were originally issued if
14 such other vehicle does not require a greater license fee
15 than was required for such original vehicle. If such other
16 vehicle requires a greater license fee than such original
17 vehicle, then such plates may be used by paying such
18

19 difference to the commissioner. When such transfer of
20 ownership is made to a licensed dealer in motor vehicles
21 it shall be the duty of such dealer to immediately execute
22 notification of transfer, in triplicate, and to have this noti-
23 fication properly signed by the owner making the trans-
24 fer. The dealer shall immediately forward to the depart-
25 ment the original copy of the notification of transfer. One
26 copy of the notification of transfer shall be given to the
27 owner and one shall be retained by the dealer. The owner
28 shall immediately send to the department the transfer
29 fee of one dollar with any additional fee that may be re-
30 quired under the terms of this chapter. The owner's copy,
31 properly signed by the dealer, will be the owner's identi-
32 fication until he receives a new registration card from the
33 department.

34 The owner of a set of registration plates may surrender
35 them to the commissioner together with the registration
36 card and, upon the payment of one dollar as an exchange
37 fee and upon the payment of such additional fees as are
38 necessary to equalize the value of the plates surrendered
39 with the value of the registration plates desired, receive
40 in exchange a set of plates and registration card for a
41 vehicle of a different class.

Sec. 2. *Endorsement of Certificate of Title upon Trans-
2 fer by Owner.*—Whenever the owner of a registered ve-
3 hicle transfers or assigns his title, he shall endorse an
4 assignment and warranty of title upon the certificate of
5 title for such vehicle with a statement of all liens and
6 encumbrances thereon, which statement shall be verified
7 under oath by the owner, and he shall deliver the cer-
8 tificate of title to the purchaser or transferee at the time
9 of delivering the vehicle, except in the case of a vehicle
10 sold as scrap or to be dismantled.

Sec. 3. *New Owner Must Secure Registration and Cer-
2 tificate of Title.*—The transferee before operating or per-
3 mitting the operation of such vehicle upon a highway
4 shall apply for and obtain the registration thereof, as upon
5 an original registration, except as otherwise permitted in
6 sections four and five, article six, or by any other provi-
7 sions, of this chapter: *Provided, however, That such trans-*

8 feree may operate such vehicle under the registration of
9 its previous owner for a period of not more than ten days
10 as provided in section one, article three of this chapter.

11 A transferee shall at the same time present the certifi-
12 cate of title endorsed and assigned as hereinbefore pro-
13 vided to the department and make application for and
14 obtain a new certificate of title for such vehicle, except
15 as otherwise permitted in sections four and five of this
16 article.

Sec. 4. *Transfers to Dealers and Others.*—When the
2 transferee of a vehicle is a dealer who holds the same for
3 resale and lawfully operates the same under dealer's
4 plates, such dealer shall not be required to obtain a new
5 registration of said vehicle or be required to forward the
6 certificate of title to the department, but such dealer upon
7 transferring his title or interest to another person shall
8 execute and acknowledge an assignment and warranty of
9 title upon the certificate of title and deliver the same to
10 the person to whom such transfer is made.

11 When the transferee of a vehicle does not drive such
12 vehicle or permit it to be driven upon the highways, such
13 transferee shall not be required to obtain a new registra-
14 tion of said vehicle, but such transferee shall be required
15 within ten days from the date of such transfer to forward
16 the certificate of title to the department accompanied by
17 an application for a new certificate of title in his name.

Sec. 5. *Transfer by Operation of Law.*—Whenever the
2 title or interest of an owner in or to a registered vehicle
3 shall pass to another otherwise than by voluntary trans-
4 fer, the registration thereof shall expire and the vehicle
5 shall not be operated upon the highways unless and until
6 the person entitled to possession of such vehicle shall
7 apply for and obtain the registration thereof, except that
8 such vehicle may be operated by the person entitled to
9 its possession or his legal representative upon the high-
10 ways for a distance not exceeding seventy-five miles upon
11 displaying upon such vehicle the registration plates issued
12 to the former owner, or in the event title has become
13 vested in the person holding a lien or encumbrance upon
14 said vehicle such person may apply to the department
15 for and obtain special plates as may be issued under this

16 chapter to dealers and may operate any said repossessed
17 vehicle under such special plates only for purposes of
18 transporting the same to a garage or warehouse or for
19 purposes of demonstrating or selling the same: *Provided,*
20 That the commissioner is authorized to transfer the plates
21 of a deceased person to his legal heir or legatee upon pay-
22 ment of a transfer fee of one dollar.

23 Upon any transfer the new owner may secure a new
24 registration and certificate of title upon proper applica-
25 tion and upon presentation of the last certificate of title
26 if available, and such instruments or documents of au-
27 thority or certified copies thereof as may be sufficient or
28 required by law to evidence or effect a transfer of title
29 or interest in or to chattels in such case.

Sec. 6. *When Department to Register Vehicle and Issue*
2 *New Certificate.*—The department upon receipt of a prop-
3 erly endorsed certificate of title and proper application
4 for registration accompanied by the required fee and
5 when satisfied as to the genuineness and regularity of said
6 transfer and of the right of the transferee to a certificate
7 of title shall reregister the vehicle as upon a new registra-
8 tion in the name of the new owner and issue a new cer-
9 tificate of title as upon an original application.

10 The department shall retain and appropriately file
11 every surrendered certificate of title, such file to be so
12 maintained as to permit the tracing of title of the vehicles
13 designated therein.

Sec. 7. *Release by Lien Holder to Owner.*—A person
2 holding a lien or encumbrance as shown upon a certificate
3 of title upon a vehicle may release such lien or encum-
4 brance or assign his interest to the owner without affect-
5 ing the registration of said vehicle. The department, upon
6 receiving a certificate of title upon which a lien holder has
7 released or assigned his interest to the owner or upon
8 receipt of a certificate of title not so endorsed but accom-
9 panied by a legal release from a lien holder of his interest
10 in or to a vehicle, shall issue a new certificate of title as
11 upon an original application.

Sec. 8. *Failure to Deliver Certificate a Misdemeanor.*—
2 It is a misdemeanor for any person to fail or neglect to

3 properly endorse and deliver a certificate of title to a
4 transferee or owner lawfully entitled thereto.

Sec. 9. *Owner after Transfer Not Liable for Negligent*
2 *Operation.*—The owner of a motor vehicle who has made
3 a bona fide sale or transfer of his title or interest and who
4 has delivered possession of such vehicle and the certificate
5 of title thereto properly endorsed to the purchaser or
6 transferee shall not be liable for any damages thereafter
7 resulting from negligent operation of such vehicle by
8 another.

Sec. 10. *Owner Dismantling or Wrecking Vehicle to*
2 *Return Evidences of Registration.*—Any owner disman-
3 tling or wrecking any registered vehicle shall immedi-
4 ately forward to the department the certificate of title for
5 such vehicle.

Sec. 11. *Sale of Motor Vehicle to be Dismantled.*—Any
2 owner who sells a motor vehicle as scrap or to be dis-
3 mantled or destroyed shall assign the certificate of title
4 thereto to the purchaser and shall deliver such certificate
5 so assigned to the department with an application for a
6 permit to dismantle such vehicle. The department shall
7 thereupon issue to the purchaser a permit to dismantle
8 the same which shall authorize such person to possess or
9 transport such motor vehicle or to transfer ownership
10 thereto by endorsement upon such permit. A certificate
11 of title shall not again be issued for such motor vehicle
12 in the event it is scrapped, dismantled, or destroyed.

Article 5. Permits to Nonresident Owners.

Section

1. Nonresident owners exempt from registration.

Section 1. *Nonresident Owners Exempt From Regis-*
2 *tration.*—A nonresident owner, except as otherwise pro-
3 vided in this section, owning any foreign vehicle of a
4 type otherwise subject to registration hereunder may
5 operate or permit the operation of such vehicle within
6 this state without registering such vehicle in, or paying
7 any fees to, this state subject to the condition that such
8 vehicle at all times when operated in this state is duly
9 registered in, and displays upon it a valid registration

10 card and registration plate or plates issued for such ve-
11 hicle in the place of residence of such owner.

12 Every nonresident, including any foreign corporation,
13 carrying on business within this state and owning and
14 regularly operating in such business any motor vehicle,
15 trailer, or semitrailer within this state, shall be required
16 to register each such vehicle and pay the same fees there-
17 for as is required with reference to like vehicles owned
18 by residents of this state, except as otherwise provided
19 by reciprocal agreements with other states accomplished
20 pursuant to section ten, article two of this chapter.

Article 6. Issuance of Special Plates to Dealers.

Section

1. Operation of vehicles under special plates and permits.
2. Application for and issuance of special plates.
3. Expiration of special plates.
4. Dealers to maintain records.
5. Temporary registration plates or markers.

Section 1. *Operation of Vehicles under Special Plates*
2 *and Permits.*—A dealer owning any vehicle of a type
3 otherwise required to be registered hereunder may oper-
4 ate or move the same upon the highways without regis-
5 tering each such vehicle upon condition that any such
6 vehicle display thereon a special plate or plates issued to
7 such dealer as provided in this article and in article ten,
8 section six of this chapter.

9 The department shall have power to grant, in its dis-
10 cretion, special permits to a dealer for use on motor ve-
11 hicles driven under their own power from the factory
12 or distributing place of a manufacturer, or other dealer,
13 to the place of business of such dealer. Each special per-
14 mit shall be good only for one trip, and such permit shall
15 not be used by such dealer in lieu of any registration card
16 or plate required by this chapter.

17 The provisions of this article shall not apply to work
18 or service vehicles owned by a dealer.

Sec. 2. *Application for and Issuance of Special Plates.*—

2 Any dealer may make application to the department upon
3 the appropriate form for one or more pairs of special
4 plates or single special plates as appropriate to various
5 types of vehicles subject to registration hereunder. The
6 applicant shall also submit such proof of his status as a

7 bona fide dealer as may reasonably be required by the
8 department.

9 The department shall issue special plates as applied for.

Sec. 3. *Expiration of Special Plates.*—Every special
2 plate issued hereunder shall expire at midnight on the
3 thirtieth day of June of each year, and a new plate or
4 plates for the ensuing year may be obtained by the person
5 to whom any such expired plate or plates was issued upon
6 application to the department and payment of the fee pro-
7 vided by law.

Sec. 4. *Dealers to Maintain Records.*—Every dealer
2 shall keep a written record of the salesman, mechanic,
3 officer, employee or agent to whom such special plate was
4 assigned and the inclusive date thereof, which record
5 shall be open to inspection by any police officer or any
6 officer or employee of the department.

Sec. 5. *Temporary Registration Plates or Markers.*—
2 The commissioner may, subject to the limitations and
3 conditions hereinafter set forth, deliver temporary vehicle
4 registration plates or markers to dealers when the appli-
5 cation therefor is accompanied by the fee prescribed in
6 this chapter. Such application shall be made upon a form
7 prescribed and furnished by the department. Dealers
8 subject to the limitations and conditions hereinafter set
9 forth, may issue such temporary registration plates or
10 markers to owners of vehicles, provided that such owners
11 shall comply with the pertinent provisions of this section.

12 Every dealer who has made application for temporary
13 registration plates or markers shall maintain in perma-
14 nent form a record of all temporary registration plates or
15 markers delivered to him, and shall also maintain in
16 permanent form a record of all temporary registration
17 plates or markers issued by him, and in addition thereto,
18 shall maintain in permanent form a record of any other
19 information pertaining to the receipt or the issuance of
20 temporary registration plates or markers that the commis-
21 sioner may require. Each record shall be kept for a period
22 of at least three years from the date of entry of such rec-
23 ord. Every dealer shall allow full and free access to such
24 records during regular business hours, to duly authorized

25 representatives of the department and to peace officers.
26 Every person who issues temporary registration plates or
27 markers shall, on the day that he issued such plates or
28 markers, send to the department a copy of the temporary
29 registration plates or marker application, properly exe-
30 cuted by such dealer and the owner.

31 A person shall not issue, assign, transfer or deliver tem-
32 porary registration plates or markers to any one other
33 than the bona fide purchaser or owner of the vehicle to
34 be registered; nor shall a person issue temporary registra-
35 tion plates or markers to anyone possessed of annual
36 registration plates for a vehicle that has been sold or
37 exchanged; nor shall a dealer lend to anyone or use on
38 any vehicle that he may own, temporary registration
39 plates or markers. It shall be unlawful for any person
40 to issue any temporary registration plate or marker, or
41 plates or markers, containing any misstatement of fact,
42 or knowingly to insert any false information upon the
43 face thereof.

44 Every person who issues temporary plates or markers
45 shall affix or insert clearly and indelibly on the face of
46 each temporary registration plate or marker the date of
47 issuance and expiration, and the make and motor or serial
48 number of the vehicle for which issued.

49 If the commissioner finds that the provisions of this
50 section or the directions of the commissioner are not being
51 complied with by the dealer, he may suspend, after notice
52 and hearing, the right of a dealer to issue temporary reg-
53 istration plates or markers.

54 Every person who makes application for temporary
55 registration plates or markers shall execute the tempo-
56 rary registration plate or marker application and shall
57 return such application to the dealer from whom the
58 vehicle to be registered has been or will be purchased.

59 Every person who makes application for temporary
60 registration plates or markers shall execute and send an
61 application for annual registration plates to the depart-
62 ment, previous to or at the same time that the dealer
63 sends to the department a copy of the executed temporary
64 registration certificate, but in no event shall such appli-
65 cation for annual registration plates be made later than

66 the day on which the temporary registration plates or
67 markers are issued to such owner.

68 Every person to whom temporary registration plates or
69 markers have been issued shall permanently destroy such
70 temporary registration plates or markers immediately
71 upon receiving the annual registration plates from the
72 department: *Provided*, That if the annual registration
73 plates are not received within twenty days of the issuance
74 of the temporary registration plates or markers, the owner
75 shall, notwithstanding immediately upon the expiration
76 of such twenty day period, permanently destroy the tem-
77 porary registration plates or markers.

78 Temporary registration plates or markers shall expire
79 and become void upon the receipt of the annual registra-
80 tion plates from the department, or upon the rescission of
81 a contract to purchase a motor vehicle, or upon the expi-
82 ration of twenty days from the date of issuance, depending
83 upon whichever event shall first occur. No refund or
84 credit of fees paid by dealers to the department for tem-
85 porary registration plates or markers shall be allowed,
86 except in the event that the commissioner discontinues
87 the issuance of temporary registration plates or markers,
88 dealers returning temporary registration plates or mark-
89 ers to the department may petition for refund or a credit
90 thereof.

91 The commissioner shall have the power to make such
92 rules and regulations, not inconsistent herewith, as he
93 shall deem necessary for the purpose of carrying out the
94 provisions of this section.

95 Any person who violates any of the provisions of this
96 section is guilty of a misdemeanor.

Article 7. Motor Car Dealers and Wreckers Must be Licensed.

Section

1. Dealers and wreckers must be licensed.
2. Department to issue license certificates.
3. Records of purchases and sales and of cars wrecked.

Section 1. Dealers and Wreckers Must be Licensed.—

2 No person unless licensed so to do by the department,
3 under the provisions of this chapter, shall carry on or
4 conduct the business of:

5 (1) A dealer in motor vehicles, trailers, or semitrailers,
6 of a type subject to registration;

7 (2) A dealer in used parts or used accessories of motor
8 vehicles;

9 (3) Wrecking or dismantling any such vehicle for re-
10 sale of the parts thereof.

11 Application for a dealer's or wrecker's license shall be
12 made upon the form prescribed by the department and
13 shall contain the name and address of the applicant; and
14 when the applicant is a partnership, the name and ad-
15 dress of each partner; or when the applicant is a corpo-
16 ration, the names of the principal officers of the corpora-
17 tion and the state in which incorporated, and the place or
18 places where the business is to be conducted, and the
19 nature of such business, and such other information as
20 may be required by the department. Every such appli-
21 cation shall be verified by the oath or affirmation of the
22 applicant, if an individual, or in the event an applicant is
23 a partnership or corporation, then by a partner or officer
24 thereof. Every such application shall be accompanied by
25 the fee required by law.

Sec. 2. *Department to Issue License Certificate.*—The
2 department, upon receiving application accompanied by
3 the required fee, and when satisfied that the applicant is
4 of good character, and so far as can be ascertained has
5 complied with and will comply with the laws of this state
6 with reference to the registration of vehicles and certifi-
7 cates of title and the provisions of this chapter, shall issue
8 to the applicant a license certificate which shall entitle
9 the licensee to carry on and conduct the business of a
10 dealer or wrecker, as the case may be, during the period
11 for which the license is issued. Every such license shall
12 expire on June thirtieth of each year, and may be re-
13 newed upon the application and payment of the fee re-
14 quired by law.

15 The department may refuse to issue a license or, after
16 written notice to the licensee and a hearing, may cancel
17 a license when satisfied that the applicant for a license
18 or the licensee has failed to comply with the provisions
19 of this chapter.

20 Any licensee, before removing any one or more of his
21 places of business, or opening any additional place of
22 business, shall apply to the department for and obtain a
23 supplemental license, for which no fee shall be charged.

Sec. 3. *Records of Purchases and Sales and of Cars
2 Wrecked.*—Every licensee shall maintain a record in form
3 as prescribed by the department of:

4 (1) Every vehicle of a type subject to registration
5 hereunder which is bought, sold, or exchanged by the
6 licensee or received or accepted by the licensee for sale
7 or exchange;

8 (2) Every used part or used accessory which is bought
9 or otherwise acquired and every motor vehicle body,
10 chassis, or motor vehicle engine which is sold or other-
11 wise disposed of;

12 (3) Every such vehicle which is bought or otherwise
13 acquired and wrecked by the licensee.

14 Every said record shall state the name and address of
15 the person from whom such vehicle or used part or acces-
16 sory was purchased or acquired and the date thereof and
17 the name and address of the person to whom any such
18 vehicle or motor vehicle body, chassis, or motor vehicle
19 engine was sold or otherwise disposed of and the date
20 thereof and a sufficient description of every such vehicle,
21 part, accessory, body, chassis, or motor vehicle engine by
22 name and identifying numbers thereon to identify the
23 same.

24 Every such record shall be open to inspection by any
25 peace officer during reasonable business hours.

Article 8. Special Antitheft Laws.

Section

1. Report of stolen and recovered vehicles.
2. Reports by owners of stolen and recovered vehicles.
3. Action by department on report of stolen or embezzled vehicle.
4. Unlawful taking of a vehicle.
5. Receiving or transferring stolen vehicles.
6. Injuring or tampering with vehicle.
7. Vehicles without manufacturers' numbers.
8. Altering or changing engine or other numbers.

Section 1. *Report of Stolen and Recovered Vehicles.*—

2 Every sheriff, chief of police, or peace officer upon receiv-
3 ing reliable information that any vehicle registered here-
4 under has been stolen shall immediately report such theft

5 to the department unless prior thereto information has
6 been received of the recovery of such vehicle. Any said
7 officer upon receiving information that any vehicle, which
8 he has previously reported as stolen, has been recovered,
9 shall immediately report the fact of such recovery to the
10 local sheriff's office or police department and to the de-
11 partment.

Sec. 2. *Reports by Owners of Stolen and Recovered*
2 *Vehicles.*—The owner, or person having a lien or encum-
3 brance upon a registered vehicle which has been stolen
4 or embezzled, may notify the department of such theft or
5 embezzlement, but in the event of an embezzlement may
6 make such report only after having procured the issuance
7 of a warrant for the arrest of the person charged with
8 such embezzlement.

9 Every owner or other person who has given any such
10 notice must notify the department of a recovery of such
11 vehicle.

Sec. 3. *Action by Department on Report of Stolen or*
2 *Embezzled Vehicle.*—The department upon receiving a
3 report of a stolen or embezzled vehicle as hereinbefore
4 provided shall file and appropriately index the same and
5 shall immediately suspend the registration and certificate
6 of title of the vehicle so reported and shall not transfer
7 the registration of the same until such time as it is notified
8 in writing that such vehicle has been recovered. The de-
9 partment shall also file reports of stolen and recovered
10 vehicles reported to it by other states.

11 The department shall at least once each week compile
12 and maintain at its headquarters office a list of all vehicles
13 which have been stolen or embezzled or recovered as
14 reported to it during the preceding week and such lists
15 shall be open to inspection by any peace officer or other
16 person interested in any such vehicle. A copy of each
17 such weekly list shall be forwarded to the superintendent
18 of the department of public safety.

19 The department shall publish once a month a list of all
20 vehicles stolen or recovered during the previous month
21 and shall forward a copy of the same to every sheriff and
22 to all police departments in cities of this state with over
23 five thousand inhabitants. Such list shall also be for-

24 warded to the state police department or other proper
25 official in each state of the United States.

Sec. 4. *Unlawful Taking of a Vehicle.*—Any person who
2 drives a vehicle, not his own, without consent of the
3 owner thereof, and with intent temporarily to deprive
4 said owner of his possession of such vehicle, without in-
5 tent to steal the same, is guilty of a misdemeanor. The
6 consent of the owner of a vehicle to its taking or driving
7 shall not in any case be presumed or implied because of
8 such owner's consent on a previous occasion to the taking
9 or driving of such vehicle by the same or a different per-
10 son. Any person who assists in, or is a party or accessory
11 to or an accomplice in any such unauthorized taking or
12 driving, is guilty of a misdemeanor.

Sec. 5. *Receiving or Transferring Stolen Vehicles.*—
2 Any person who, with intent to procure or pass title to
3 a vehicle which he knows or has reason to believe has
4 been stolen or unlawfully taken, receives, or transfers
5 possession of the same from or to another, or who has in
6 his possession any vehicle which he knows or has reason
7 to believe has been stolen or unlawfully taken, and who
8 is not an officer of the law engaged at the time in the per-
9 formance of his duty as such officer, is guilty of a felony.

Sec. 6. *Injuring or Tampering with Vehicle.*—Any per-
2 son who either individually or in association with one or
3 more persons willfully injures or tampers with any ve-
4 hicle or breaks or removes any part or parts of or from
5 a vehicle without the consent of the owner is guilty of a
6 misdemeanor.

7 Any person who with intent to commit any malicious
8 mischief, injury, or other crime climbs into or upon a
9 vehicle whether it is in motion or at rest or with like in-
10 tent attempts to manipulate any of the levers, starting
11 mechanism, brakes, or other mechanism or device of a
12 vehicle while the same is at rest and unattended or with
13 like intent sets in motion any vehicle while the same is at
14 rest and unattended is guilty of a misdemeanor.

Sec. 7. *Vehicles Without Manufacturers' Numbers.*—
2 Any person who knowingly buys, receives, disposes of,

3 sells, offers for sale, or has in his possession any motor
 4 vehicle, or engine removed from a motor vehicle, from
 5 which the manufacturer's serial or engine number or
 6 other distinguishing number or identification mark or
 7 number placed thereon under assignment from the de-
 8 partment has been removed, defaced, covered, altered, or
 9 destroyed for the purpose of concealing or misrepresent-
 10 ing the identity of said motor vehicle or engine is guilty
 11 of a misdemeanor, and, upon a second or subsequent con-
 12 viction under this section, the conviction shall be for a
 13 felony.

Sec. 8. *Altering or Changing Engine or other Numbers.*

2 —No person shall with fraudulent intent deface, destroy,
 3 or alter the manufacturer's serial or engine number or
 4 other distinguishing number or identification mark of a
 5 motor vehicle nor shall any person place or stamp any
 6 serial, engine, or other number or mark upon a motor
 7 vehicle, except one assigned thereto by the department.
 8 Any violation of this provision is a misdemeanor.

9 This section shall not prohibit the restoration by an
 10 owner of an original serial, engine, or other number or
 11 mark when such restoration is made under permit issued
 12 by the department, nor prevent any manufacturer from
 13 placing in the ordinary course of business numbers or
 14 marks upon motor vehicles or parts thereof.

**Article 9. Offenses Against Registration Laws and Suspension
 or Revocation of Registration.**

Section

1. Fraudulent applications.
2. Operation of vehicles without evidences of registration.
3. Improper use of evidences of registration.
4. False evidences of title and registration.
5. Authority of department to suspend or revoke a registration.
6. Suspending or revoking certificate or special plates of a dealer.
7. Owner to return evidences of registration upon cancellation, sus-
 pension or revocation.

Section 1. *Fraudulent Applications.*—Any person who
 2 fraudulently uses a false or fictitious name in any applica-
 3 tion for the registration of a vehicle or a certificate of title,
 4 or knowingly makes a false statement, or knowingly con-
 5 ceals a material fact, or otherwise commits a fraud in any
 6 such application shall be guilty of a misdemeanor and

7 upon conviction thereof shall be punished by a fine of not
8 more than one thousand dollars or by imprisonment for
9 not more than one year or both.

2 *Sec. 2. Operation of Vehicles Without Evidences of*
3 *Registration.*—No person shall operate, nor shall an owner
4 knowingly permit to be operated, upon any highway any
5 vehicle required to be registered hereunder unless there
6 shall be attached thereto and displayed thereon or shall
7 be in the possession of the operator when and as required
8 by this chapter a valid registration card and registration
9 plate or plates issued therefor by the department for the
10 current registration year except as otherwise expressly
11 permitted in this chapter. Any violation of this section
is a misdemeanor.

2 *Sec. 3. Improper Use of Evidences of Registration.*—
3 No person shall lend to another any certificate of title,
4 registration card, registration plate, special plate, or per-
5 mit issued to him if the person desiring to borrow the
6 same would not be entitled to the use thereof, nor shall
7 any person knowingly permit the use of any of the same
8 by one not entitled thereto, nor shall any person display
9 upon a vehicle any registration card, registration plates,
10 or permit not issued for such vehicle or not otherwise
11 lawfully used thereon under this chapter. Any violation
of this section is a misdemeanor.

2 *Sec. 4. False Evidences of Title and Registration.*—It is
3 a felony for any person to commit any of the following
4 acts:

5 (1) To alter with fraudulent intent any certificate of
6 title, registration card, registration plate, or permit issued
7 by the department;

8 (2) To forge or counterfeit any such document or plate
9 purporting to have been issued by the department;

10 (3) To alter or falsify with fraudulent intent or forge
11 any assignment upon a certificate of title;

12 (4) To hold or use any such document or plate knowing
the same to have been so altered, forged, or falsified.

2 *Sec. 5. Authority of Department to Suspend or Revoke*
3 *a Registration.*—The department is hereby authorized to
4 suspend or revoke the registration of a vehicle or a cer-

4 tificate of title, registration card, or registration plate, or
5 any nonresident or other permit in any of the following
6 events:

7 (1) When the department is satisfied that such regis-
8 tration or that such certificate, card, plate, or permit was
9 fraudulently or erroneously issued;

10 (2) When the department determines that a registered
11 vehicle is mechanically unfit or unsafe to be operated or
12 moved upon the highways;

13 (3) When a registered vehicle has been dismantled or
14 wrecked;

15 (4) When a registration card, registration plate, or per-
16 mit is knowingly displayed upon a vehicle other than the
17 one for which issued;

18 (5) When the department determines that the owner
19 has committed any offense under this article involving
20 the registration or the certificate, card, plate, or permit to
21 be suspended or revoked; or

22 (6) When the department is so authorized under any
23 other provision of law.

Sec. 6. *Suspending or Revoking Certificate or Special
2 Plates of a Dealer.*—The department is also authorized to
3 suspend or revoke a certificate or the special plates issued
4 to a dealer upon determining that any said person is not
5 lawfully entitled thereto or has made or knowingly per-
6 mitted any illegal use of such plates or has committed
7 fraud in the registration of vehicles or failed to give no-
8 tices of transfers when and as required by this chapter.

Sec. 7. *Owner to Return Evidences of Registration
2 Upon Cancellation, Suspension or Revocation.*—Whenever
3 the department as authorized hereunder cancels, su-
4 spends, or revokes the registration of a vehicle or a cer-
5 tificate of title, registration card, or registration plate or
6 plates, or any nonresident or other permit or the license
7 of any dealer or wrecker, the owner or person in posses-
8 sion of the same shall immediately return the evidences
9 of registration, title, or license so canceled, suspended, or
10 revoked to the department. If any person shall willfully
11 fail to return to the department the evidences of regis-
12 tration, title, or license so canceled, suspended, or revoked,

13 the commissioner shall forthwith notify the superintend-
14 ent of the department of public safety who shall, as soon
15 as possible, secure possession thereof and return same to
16 the department. Said superintendent of the department
17 of public safety shall make a report in writing to the
18 commissioner, within two weeks after being so notified
19 by the commissioner, as to the result of his efforts to
20 secure the possession and return of such evidences of
21 registration, title or license.

Article 10. Registration, License and Other Fees.

Section

1. Classification of vehicles for purpose of registration.
2. Registration fees of motor vehicles used for transportation of property determined by declared gross weight.
3. Registration fees for vehicles equipped with pneumatic tires; certificate fees for vehicles operated under certificates of public convenience and necessity and other fees.
4. Registration fees for vehicles equipped with other than pneumatic tires.
5. Public service commission assessment must be paid before vehicle registered; commissioner to furnish registration information to public service commission.
6. Fees to be paid by dealers.
7. Reduced fees for portion of year.
8. Exemption from registration fees.
9. Municipalities and other political subdivisions not to levy or charge license tax on motor vehicles.
10. Fees upon transfer of registration and issuance of certificates of title.
11. Fees for duplicate registration plates, registration cards, and certificates of title.
12. When fees returnable.
13. Payment of fees and passenger seat tax to cities or towns.

Section 1. *Classification of Vehicles for Purpose of Registration.*—Vehicles subject to registration under the provisions of this chapter shall be placed in the following classes for purpose of registration:

5 Class A. Motor vehicles of passenger type, other than
6 those leased or operated for compensation;

7 Class B. Motor vehicles designated as trucks, truck
8 tractors, or road tractors other than those leased or op-
9 erated for compensation;

10 Class C. All trailers and semitrailers except those
11 leased or operated for compensation other than over reg-
12 ular route or between fixed termini by common carriers,
13 and except house trailers and trailers or semitrailers de-
14 signed to be drawn by Class A motor vehicles and having
15 a gross weight of less than two thousand pounds;

- 16 Class G. Motorcycles;
- 17 Class H. Motor vehicles operated regularly under a
18 certificate of public convenience and necessity or a con-
19 tract carrier permit for transportation of persons;
- 20 Class I. Motor vehicles designated as trucks, truck
21 tractors, or road tractors operated over a regular route or
22 between fixed termini under a certificate of convenience
23 and necessity for transportation of property;
- 24 Class J. Motor vehicles operated for transportation of
25 persons for compensation by common carriers, not run-
26 ning over a regular route or between fixed termini, except
27 passenger motor vehicles rented without a driver;
- 28 Class K. Motor vehicles designated as trucks, truck
29 tractors, or road tractors leased or operated for transpor-
30 tation of property for compensation, not over a regular
31 route or between fixed termini, including such motor
32 vehicles rented without drivers;
- 33 Class L. All trailers and semitrailers used for transpor-
34 tation of property for compensation other than over a
35 regular route or between fixed termini by common
36 carriers;
- 37 Class R. House trailers;
- 38 Class S. Special mobile equipment as defined in sec-
39 tion nineteen, article one of this chapter;
- 40 Class T. Trailers or semitrailers of a type designed to
41 be drawn by Class A vehicles and having a gross weight
42 of less than two thousand pounds;
- 43 Class U. Passenger motor vehicles rented for compen-
44 sation without a driver.

2 *Sec. 2. Registration Fees of Motor Vehicles Used for*
3 *Transportation of Property Determined by Declared Gross*
4 *Weight.*—The declared gross weight as stated in the ap-
5 plication for registration shall be the basis for determi-
6 nation of fees to be paid for operation of trucks used sep-
7 arately and not in combination with other vehicles in
8 transportation of property.

9 The basis for determination of fees to be paid for op-
10 eration of trucks, truck tractors, and road tractors used in
11 combination with other vehicles for the transportation of
property shall be the combined declared gross weight of

12 the truck, truck tractor, or road tractor and the vehicle
13 to be drawn by such truck, truck tractor or road tractor;
14 the declared gross weight of the entire combination of
15 truck, truck tractor, or road tractor and the trailer or
16 semitrailer to be drawn by such motive vehicle to be con-
17 sidered as one unit for purpose of determining the fees to
18 be paid for such truck, truck tractor, or road tractor.

Sec. 3. *Registration Fees for Vehicles Equipped with
2 Pneumatic Tires; Certificate Fees for Vehicles Operated
3 Under Certificates of Public Convenience and Necessity
4 and Other Fees.*—The following registration fees for the
5 classes indicated shall be paid annually to the department
6 for the registration of vehicles subject to registration
7 hereunder when equipped with pneumatic tires:

8 Class A. The registration fee for all motor vehicles of
9 this class shall be eleven dollars for a motor vehicle of a
10 weight of two thousand pounds or less, and for all motor
11 vehicles having a weight of over two thousand pounds,
12 sixty cents additional for each one hundred pounds of
13 weight, or fraction thereof, in excess of two thousand
14 pounds, and for the purpose of determining the weight the
15 actual weight of the vehicle shall be taken: *Provided,*
16 That for vehicles owned by churches, or by trustees for
17 churches, which vehicles are regularly used for trans-
18 porting parishioners to and from church services, no li-
19 cense fee shall be charged, but notwithstanding such ex-
20 emption, the certificate of registration and license plates
21 shall be obtained the same as other cards and plates un-
22 der this article.

23 Class B, Class I and Class K. The registration fee for all
24 motor vehicles of these three classes shall be as follows:

25 (1) For declared gross weights of four thousand pounds
26 or less—seventeen dollars and fifty cents.

27 (2) For declared gross weights of four thousand and
28 one pounds to eight thousand pounds—twenty dollars.

29 (3) For declared gross weights of eight thousand and
30 one pounds to sixteen thousand pounds—twenty dollars
31 plus forty cents for each hundred pounds or fraction
32 thereof that the gross weight of such vehicle or combina-
33 tion of vehicles exceeds eight thousand pounds.

34 (4) For declared gross weights greater than sixteen
35 thousand pounds—sixty-two dollars plus seventy-five
36 cents for each one hundred pounds or fraction thereof
37 that the gross weight of such vehicle or combination of
38 vehicles exceeds sixteen thousand pounds.

39 If the declared gross weight of a Class B, Class I or Class
40 K motor vehicle includes the gross weight of a Class C
41 or Class L vehicle used in combination with such Class B,
42 Class I or Class K motor vehicle and the registration
43 fee prescribed hereunder for such Class C or Class L
44 vehicle has been paid, there shall be deducted from
45 the registration fee for such Class B, Class I or Class K
46 motor vehicle the amount of fifteen dollars.

47 Class C and Class L. The registration fee for all vehicles
48 of these two classes shall be fifteen dollars.

49 Class G. The registration fee for each motorcycle hav-
50 ing two wheels shall be five dollars. The registration fee
51 for each motorcycle having three wheels shall be seven
52 dollars and fifty cents.

53 Class H. The registration fee for all motor vehicles of
54 this class shall be eighty dollars for a motor vehicle of
55 twenty-one passengers or less capacity and one hundred
56 and twenty dollars for a motor vehicle of more than
57 twenty-one passenger capacity: *Provided, however,* That
58 the registration fees for vehicles used only as reserve or
59 emergency equipment shall be five dollars for vehicles of
60 twenty-one passengers or less capacity and seven and one-
61 half dollars for vehicles of more than twenty-one passen-
62 ger capacity.

63 In addition to the herein prescribed registration fee,
64 the following certificate fees shall be paid for vehicles
65 operating for transportation of persons for compensa-
66 tion under a Class H certificate of public convenience and
67 necessity:

68 For transportation of passengers there shall be paid
69 one-thirtieth of a cent for each passenger seat multiplied
70 by the total number of miles that will be traveled over
71 any public highway in this state, or over any streets or
72 alleys within any municipality in this state, by such
73 motor vehicles during the quarter year.

74 Such certificate fees under Class H shall be payable in

75 advance quarterly, and shall be computed on the schedule
76 on file and in effect on the first day of January, April,
77 July and October. If operation begins after the first day of
78 any of said months, the fees shall be computed for the
79 remainder of such current quarter year.

80 Class J. The registration fee for all motor vehicles of
81 this class shall be seventy-five dollars. Ambulances and
82 hearses used exclusively as such shall be exempted from
83 the above special fees.

84 Class R. The registration fee for all vehicles of this
85 class shall be nine dollars.

86 Class S. The registration fee for all vehicles of this
87 class shall be fifteen dollars.

88 Class T. The registration fee for all vehicles of this
89 class shall be five dollars.

90 Class U. The registration fee for all motor vehicles of
91 this class shall be fifty dollars.

Sec. 4. *Registration Fees for Vehicles Equipped with
2 Other Than Pneumatic Tires.*—Any vehicle subject to
3 registration hereunder which is equipped with tires of a
4 type other than pneumatic tires shall pay double the fee
5 set forth in section three for vehicles of its class.

Sec. 5. *Public Service Commission Assessment Must
2 Be Paid Before Vehicle Registered; Commissioner to Fur-
3 nish Registration Information to Public Service Commis-
4 sion.*—The commissioner shall not register any Class H,
5 I, J, K, L or U vehicle unless the assessment for such vehi-
6 cle provided for in section six, article six, chapter twenty-
7 four-a of this code shall have been paid and notice of such
8 payment shall have been received by the commissioner in
9 the manner provided in said section.

10 The commissioner upon registering a vehicle in any of
11 the above classes shall certify to the public service com-
12 mission a written statement including for each such vehi-
13 cle the following information when applicable:

- 14 (1) The registration number assigned to such vehicle;
- 15 (2) The date of issuance of such registration number;
- 16 (3) The model of such vehicle;
- 17 (4) The declared gross weight or seating capacity of
18 such vehicle;

- 19 (5) Body type, motor or serial number and name of
20 manufacturer; and
21 (6) The person in whose name such vehicle was reg-
22 istered.

Sec. 6. *Fees to Be Paid by Dealers.*—Each dealer in
2 trailers, semitrailers or motor vehicles, except motorcy-
3 cles, shall pay a fee of seventy-five dollars, annually, in
4 consideration of which he shall receive a dealer's license
5 certificate as provided in article seven of this chapter and
6 four sets of Class D special plates as provided in article
7 six of this chapter. Additional sets of such special plates
8 shall be issued to any such dealer, upon application and
9 payment of a fee of five dollars for each additional set.
10 Such Class D plates may be used for any purpose on any
11 vehicle owned by such dealer and which is being operated
12 with his knowledge and consent: *And provided further,*
13 That said Class D plates may not be used on any vehicle
14 which has been sold to any customer by said dealer.

15 Each dealer in motorcycles shall pay an annual fee of
16 ten dollars, in consideration of which he shall receive a
17 dealer's license certificate as provided in article seven of
18 this chapter and two sets of Class F motorcycle dealer's
19 special plates as provided in article six of this chapter.
20 For each additional set of such motorcycle dealer's special
21 plates the dealer shall pay a fee of five dollars.

22 Each dealer in motor vehicles, trailers, or semitrailers
23 shall pay a fee of one dollar for each temporary registra-
24 tion plate or marker issued to such dealer under the pro-
25 visions of section five, article six of this chapter.

26 Each dealer in used parts or used accessories of motor
27 vehicles and each person engaged in the business of
28 wrecking or dismantling any vehicle for resale of the
29 parts thereof shall pay an annual fee of fifteen dollars in
30 consideration of which he shall receive a license certificate
31 as provided in article seven of this chapter.

Sec. 7. *Reduced Fees for Portion of Year.*—The reg-
2 istration fees herein prescribed shall be for the entire
3 fiscal year: *Provided,* That where application for such
4 registration is made between the first day of October
5 and the thirty-first day of December, inclusive, in any

6 fiscal year, the charge therefor shall be three-quarters of
7 such yearly fee, and when application for such registra-
8 tion is made between the first day of January and the
9 thirty-first day of March, inclusive, in any fiscal year, the
10 charges shall be one-half of such yearly fee, and where
11 application for such registration is made between the first
12 day of April and the thirtieth day of June, inclusive, in
13 any fiscal year, the charges shall be one-quarter of such
14 yearly fee.

Sec. 8. *Exemption from Registration Fees.*—The United
2 States government, the state, or any political subdivision
3 thereof, shall be exempted from the payment of any fee
4 on account of registration of any vehicle owned or op-
5 erated by the United States government, the state, or
6 any political subdivision thereof, as the case may be:
7 *Provided*, That the proper representative of the federal
8 government, the state, or any such political subdivision
9 thereof, shall make, or cause to be made, on the form pro-
10 vided for that purpose, an application for registration of
11 such vehicle so owned and operated, and that the regis-
12 tration plate or plates issued for such vehicle shall be
13 displayed or caused to be displayed as provided in this
14 chapter: *Provided further*, That fire apparatus owned by
15 the United States government, the state, or any political
16 subdivision thereof, and by an incorporated volunteer fire
17 department organized for protection of community prop-
18 erty shall be exempt from all the provisions of this article
19 except such provisions as relate to the qualification and
20 licensing of drivers: *Provided further*, That any ambu-
21 lance used exclusively for charitable purposes, for which
22 use there is no charge, shall be exempt from the payment
23 of all fees required by this article.

Sec. 9. *Municipalities and Other Political Subdivisions*
2 *Not to Levy or Charge License Tax on Motor Vehicles.*—
3 No license tax shall be levied or charged by any munici-
4 pality or other political subdivision of the state with re-
5 spect to motor vehicles and their operation except as pro-
6 vided in chapter eight-a, article five, section four, and
7 and also in chapter eight, article four, section twenty-
8 seven, of the code of West Virginia, as amended, but this

9 prohibition shall not prevent municipalities or other po-
10 litical subdivisions of the state from assessing and col-
11 lecting the regular property tax on such motor vehicle.

Sec. 10. *Fees Upon Transfer of Registration and Issu-
2 ance of Certificates of Title.*—A fee of one dollar shall be
3 paid for a transfer of registration by an owner from one
4 vehicle to another vehicle of the same class or for sur-
5 render of registration of one vehicle in exchange for reg-
6 istration of a vehicle of a different class in addition to the
7 payment of any difference in fees as provided in section
8 one, article four of this chapter.

9 A fee of one dollar shall be paid for the transfer of reg-
10 istration from a deceased person to his legal heir or lega-
11 tee as provided in section five, article four of this chapter.

12 A fee of one dollar shall be paid for the issuance of a
13 certificate of title.

Sec. 11. *Fees for Duplicate Registration Plates, Regis-
2 tration Cards, and Certificates of Title.*—A fee of one dol-
3 lar shall be paid for the issuance of duplicate or substitute
4 registration plates, registration cards or certificates of
5 title.

Sec. 12. *When Fees Returnable.*—Whenever any appli-
2 cation to the department is accompanied by any fee as
3 required by law and such application is refused or re-
4 jected said fee shall be returned to said applicant.

5 Whenever the department through error collects any
6 fee not required to be paid hereunder the same shall be
7 refunded to the person paying the same upon application
8 therefor made within six months after the date of such
9 payment.

Sec. 13. *Payment of Fees and Passenger Seat Tax to
2 Cities or Towns.*—The holders of a certificate of conven-
3 ience and necessity authorizing the transportation of prop-
4 erty or person for hire wholly within any incorporated
5 city or town and within its adjacent suburban area not
6 exceeding three miles distant from the city boundary shall
7 pay the fees and passenger seat tax provided for in this
8 article, as to such operation wholly within such city or
9 town to such city or town instead of to the department of

10 motor vehicles, provided that any such city or town may
11 collect the fee or tax for the operation wholly within such
12 city or town in lieu of but not greater than the fees and
13 taxes provided in this article.

Article 11. Penalties.

Section

1. Penalty for misdemeanor.
2. Penalty for felony.
3. Jurisdiction of crimes by justices.

Section 1. *Penalty for Misdemeanor.*—It is a misdemeanor for any person to violate any of the provisions of this chapter unless such violation is by this chapter or other law of this state declared to be a felony.

Unless another penalty is in this chapter or by the laws of this state provided, every person convicted of a misdemeanor for the violation of any provisions of this chapter shall be punished by a fine of not more than five hundred dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment.

Sec. 2. *Penalty for Felony.*—Any person who is convicted of a violation of any of the provisions of this chapter herein or by the laws of this state declared to constitute a felony shall be punished by imprisonment for not less than one year nor more than five years, or by a fine of not less than five hundred dollars nor more than five thousand dollars, or by both such fine and imprisonment.

Sec. 3. *Jurisdiction of Crimes by Justices.*—Justices of the peace shall have concurrent jurisdiction with the circuit, criminal and intermediate courts to enforce the misdemeanor penalties prescribed by this chapter.

Article 12. Effect of Chapter.

Section

1. Constitutionality.
2. Repeal.

Section 1. *Constitutionality.*—If any part or parts of this chapter shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this chapter. The Legislature hereby declares that it would have passed the remaining parts of

6 this chapter if it had known that such part or parts thereof
7 would be declared unconstitutional.

Sec. 2. *Repeal.*—The provisions of any act or parts of
2 acts, or of the code of West Virginia, one thousand nine
3 hundred thirty-one, as amended, which are inconsistent
4 with the provisions of this chapter, are hereby repealed to
5 the extent of such inconsistency.

CHAPTER 17-B. MOTOR VEHICLE OPERATORS' AND CHAUFFEURS' LICENSES.

Article

1. Words and Phrases Defined.
2. Issuance of License, Expiration and Renewal.
3. Cancellation, Suspension or Revocation of Licenses.
4. Violation of License Provisions.
5. Penalties.
6. Effect of Chapter.

Article 1. Words and Phrases Defined.

Section	Section
1. Definitions.	9. Owner.
2. Vehicle.	10. Nonresident.
3. Motor vehicle.	11. Street or highway.
4. Farm tractor.	12. Commissioner.
5. School bus.	13. Department.
6. Person.	14. Suspension.
7. Operator.	15. Revocation.
8. Chauffeur.	16. Cancellation.

Section 1. *Definitions.*—The following words and
2 phrases when used in this chapter shall, for the purpose
3 of this chapter, have the meanings respectively ascribed
4 to them in this article.

Sec. 2. *Vehicle.*—Every device in, upon, or by which
2 any person or property is or may be transported or drawn
3 upon a public highway, excepting devices moved by hu-
4 man power or used exclusively upon stationary rails or
5 tracks.

Sec. 3. *Motor Vehicle.*—Every vehicle which is self-
2 propelled and every vehicle which is propelled by electric
3 power obtained from overhead trolley wires, but not op-
4 erated upon rails.

Sec. 4. *Farm Tractor.*—Every motor vehicle designed
2 and used primarily as a farm implement for drawing
3 plows, mowing machines, and other implements of hus-
4 bandry.

2 Sec. 5. *School Bus*.—Every motor vehicle owned by a
3 public governmental agency and operated for the trans-
4 portation of children to or from school or privately
5 owned and operated for compensation for the trans-
6 portation of children to or from school.

2 Sec. 6. *Person*.—Every natural person, firm, copartner-
3 ship, association, or corporation.

2 Sec. 7. *Operator*.—Every person, other than a chauffeur,
3 who drives or is in actual physical control of a motor
4 vehicle upon a highway or who is exercising control over
5 or steering a vehicle being towed by a motor vehicle.

2 Sec. 8. *Chauffeur*.—Every person who is employed by
3 another for the principal purpose of driving a motor
4 vehicle and every person who drives a school bus trans-
5 porting school children or any motor vehicle when in use
6 for the transportation of persons or property for com-
7 pensation.

2 Sec. 9. *Owner*.—A person who holds the legal title of a
3 vehicle or in the event a vehicle is the subject of an agree-
4 ment for the conditional sale or lease thereof with the
5 right of purchase upon performance of the conditions
6 stated in the agreement and with an immediate right of
7 possession vested in the conditional vendee or lessee, or
8 in the event a mortgagor of a vehicle is entitled to pos-
9 session, then such conditional vendee or lessee or mort-
10 gagor shall be deemed the owner for the purpose of this
11 chapter.

2 Sec. 10. *Nonresident*.—Every person who is not a resi-
3 dent of this state.

2 Sec. 11. *Street or Highway*.—The entire width between
3 the boundary lines of every way publicly maintained
4 when any part thereof is open to the use of the public
5 for purposes of vehicular travel.

2 Sec. 12. *Commissioner*.—The commissioner of motor
3 vehicles of this state.

2 Sec. 13. *Department*.—The department of motor ve-
3 hicles of this state acting directly or through its duly
4 authorized officers or agents.

2 Sec. 14. *Suspension.*—Suspension means that the driv-
 3 er's license and privilege to drive a motor vehicle on the
 4 public highways are temporarily withdrawn but only
 5 during the period of such suspension.

2 Sec. 15. *Revocation.*—Revocation means that the driv-
 3 er's license and privilege to drive a motor vehicle on the
 4 public highways are terminated and shall not be re-
 5 newed or restored, except that an application for a new
 6 license may be presented and acted upon by the depart-
 7 ment after the expiration of at least one year after the
 8 date of revocation, except as otherwise provided in sec-
 9 tion two, article five, chapter seventeen-c of this code.

2 Sec. 16. *Cancellation.*—Cancellation means that a driv-
 3 er's license is annulled and terminated because of some
 4 error or defect or because the licensee is no longer en-
 5 titled to such license, but the cancellation of a license is
 6 without prejudice and application for a new license may
 7 be made at any time after such cancellation.

Article 2. Issuance of License, Expiration and Renewal.

Section

1. Operators and chauffeurs must be licensed.
2. What persons are exempt from license.
3. What persons shall not be licensed.
4. Classification of chauffeurs; special restrictions.
5. Instruction permits.
6. Application for license or instruction permit.
7. Examination of applicants.
8. Licenses issued to operators and chauffeurs; fee.
9. License to be carried and exhibited on demand.
10. Restricted licenses.
11. Duplicate licenses.
12. Expiration of licenses; renewal; fees.
13. Notice of change of address or name.
14. Records to be kept by the department.

2 Section 1. *Operators and Chauffeurs Must Be Li-*
 3 *censed.*—No person, except those hereinafter expressly
 4 exempted, shall drive any motor vehicle upon a highway
 5 in this state unless such person has a valid license as an
 6 operator or chauffeur under the provisions of this chap-
 7 ter. No person shall drive a motor vehicle as a chauf-
 8 feur unless he holds a valid chauffeur's license. No per-
 9 son shall receive a chauffeur's license unless and until he
 10 surrenders to the department any operator's license is-
 11 sued to him or an affidavit that he does not possess an
 operator's license.

12 Any person holding a valid chauffeur's license here-
13 under need not procure an operator's license.

14 Any person licensed as an operator or chauffeur here-
15 under may exercise the privilege thereby granted upon
16 all streets and highways in this state and except as
17 otherwise provided by law shall not be required to obtain
18 any other license to exercise such privilege by any county,
19 municipal or local board, or body having authority to
20 adopt local police regulations.

Sec. 2. *What Persons Are Exempt from License.*—The
2 following persons are exempt from license hereunder:

3 (1) Any person while operating a motor vehicle in the
4 service of the army, air force, navy, or marine corps of
5 the United States;

6 (2) A nonresident who is at least sixteen years of age
7 and who has in his immediate possession a valid op-
8 erator's license issued to him in his home state or country
9 may operate a motor vehicle in this state only as an op-
10 erator for a period not to exceed ninety days in any one
11 calendar year;

12 (3) A nonresident who is at least eighteen years of age
13 and who has in his immediate possession a valid chauf-
14 feur's license issued to him in his home state or country
15 may operate a motor vehicle in this state either as an
16 operator or chauffeur subject to the age limits applicable
17 to chauffeurs in this state except that any such person
18 must be licensed as a chauffeur hereunder before ac-
19 cepting employment as a chauffeur from a resident of
20 this state or from a person or persons having a place of
21 business in this state.

Sec. 3. *What Persons Shall Not Be Licensed.*—The de-
2 partment shall not issue any license hereunder:

3 (1) To any person, as an operator, who is under the
4 age of sixteen years;

5 (2) To any person, as a chauffeur, who is under the
6 age of eighteen;

7 (3) To any person, as an operator or chauffeur, whose
8 license has been suspended during such suspension, nor
9 to any person whose license has been revoked, except
10 as provided in section eight, article three, of this chap-
11 ter;

12 (4) To any person, as an operator or chauffeur, who is
13 an habitual drunkard, or is addicted to the use of narcotic
14 drugs;

15 (5) To any person, as an operator or chauffeur, who
16 has previously been adjudged to be afflicted with or
17 suffering from any mental disability or disease and who
18 has not at the time of application been restored to com-
19 petency by judicial decree or released from a hospital
20 for the mentally incompetent, upon the certificate of the
21 superintendent of such institution that such person is
22 competent and not then unless the commissioner is satis-
23 fied that such person is competent to operate a motor
24 vehicle with safety to persons or property.

25 (6) To any person, as an operator or chauffeur, who
26 is required by this chapter to take an examination, un-
27 less such person shall have successfully passed such
28 examination;

29 (7) To any person who is required under the pro-
30 visions of the motor vehicle safety responsibility laws
31 of this state to deposit proof of financial responsibility
32 and who has not deposited such proof;

33 (8) To any person when the commissioner has good
34 cause to believe that the operation of a motor vehicle
35 on the highways by such person would be inimical to
36 public safety or welfare.

2 *Sec. 4. Classification of Chauffeurs; Special Restric-*
3 *tions.*—No person who is under the age of twenty-one
4 years shall drive any school bus transporting school
5 children or any motor vehicle when in use for the trans-
6 portation of persons or property for compensation nor in
7 either event until he has been licensed as a chauffeur for
8 either such purpose and the license so indicates. The de-
9 partment shall not issue a chauffeur's license for either
10 such purpose unless the applicant has had at least one
11 year of driving experience prior thereto.

12 Notwithstanding the provisions of this section, a person
13 who qualifies under all provisions of this chapter except
14 this section, and who at the time of the enactment of this
15 chapter possesses a valid chauffeur's license issued under
16 a prior act of the legislature, may be issued a chauffeur's
license as provided in section twelve of this article.

2 Sec. 5. *Instruction Permits.*—Any person who is at least
3 sixteen years of age may apply to the department for an
4 instruction permit. The department may in its discretion,
5 after the applicant has appeared before the department of
6 public safety and successfully passed all parts of the ex-
7 amination other than the driving test, issue to the appli-
8 cant an instruction permit which shall entitle the appli-
9 cant while having such permit in his immediate posses-
10 sion to drive a motor vehicle upon the public highways
11 for a period of sixty days when accompanied by a licensed
12 operator or chauffeur who is occupying a seat beside the
13 driver, except in the event the permittee is operating a
14 motorcycle. Any such instruction permit may be renewed
15 or a new permit issued for an additional period of sixty
16 days. The fee for each such instruction permit shall be
one dollar.

2 Sec. 6. *Application for License or Instruction Permit.*—
3 Every application for an instruction permit or for an
4 operator's or chauffeur's license shall be made upon a
5 form furnished by the department. Every application
6 shall be accompanied by the proper fee and payment of
7 such fee shall entitle the applicant to not more than
8 three attempts to pass the examination within a period
9 of sixty days from the date of application, except that
10 no applicant shall be examined twice within a period of
one week.

11 Every said application shall state the full name, date of
12 birth, sex, and residence address of the applicant, and
13 briefly describe the applicant, and shall state whether the
14 applicant has theretofore been licensed as an operator or
15 chauffeur, and, if so, when and by what state or country,
16 and whether any such license has ever been suspended
17 or revoked, or whether an application has ever been re-
18 fused, and, if so, the date of and reason for such suspen-
19 sion, revocation, or refusal, and such other pertinent in-
20 formation as the commissioner may require.

2 Sec. 7. *Examination of Applicants.*—(a) The depart-
3 ment of public safety shall examine every applicant for
4 an operator's or chauffeur's license, except as otherwise
provided in this section. Such examination shall include

5 a test of the applicant's eyesight, his ability to read and
6 understand highway signs regulating, warning, and di-
7 recting traffic, his knowledge of the traffic laws of this
8 state, and shall include an actual demonstration of ability
9 to exercise ordinary and reasonable control in the oper-
10 ation of a motor vehicle, and such further physical and
11 mental examination as the department of motor vehicles
12 deems necessary to determine the applicant's fitness to
13 operate a motor vehicle safely upon the highways.

14 (b) The commissioner shall adopt and promulgate reg-
15 ulations concerning the examination of applicants for
16 operator's and chauffeur's licenses and the qualifications
17 required of such applicants, and the examination of such
18 applicants by the department of public safety shall be in
19 accordance with such regulations.

Sec. 8. Licenses Issued to Operators and Chauffeurs;

2 *Fee.*—The department shall upon payment of the required
3 fee issue to every applicant qualifying therefor an oper-
4 ator's or chauffeur's license as applied for, which license
5 shall bear thereon a distinguishing number assigned to
6 the licensee, the full name, date of birth, residence ad-
7 dress, and a brief description of the licensee, and either a
8 facsimile of the signature of the licensee or a space upon
9 which the licensee shall write his usual signature with
10 pen and ink immediately upon receipt of the license. No
11 license shall be valid until it has been so signed by the
12 licensee.

13 The fee for the issuance of an operator's license shall
14 be one dollar. The fee for the issuance of a chauffeur's
15 license shall be three dollars.

Sec. 9. License to Be Carried and Exhibited on Demand.

2 —Every licensee shall have his operator's or chauffeur's
3 license in his immediate possession at all times when
4 operating a motor vehicle and shall display the same,
5 upon demand of a justice of the peace, a peace officer, or
6 a field deputy or inspector of the department. However,
7 no person charged with violating this section shall be con-
8 victed if he produces in court or the office of the arresting
9 officer an operator's or chauffeur's license theretofore
10 issued to him and valid at the time of his arrest.

2 Sec. 10. *Restricted Licenses.*—The department upon is-
3 suing an operator's or chauffeur's license shall have au-
4 thority whenever good cause appears to impose restric-
5 tions suitable to the licensee's driving ability with respect
6 to the type of or special mechanical control devices re-
7 quired on a motor vehicle which the licensee may oper-
8 ate or such other restrictions applicable to the licensee as
9 the department may determine to be appropriate to assure
10 the safe operation of a motor vehicle by the licensee.

11 The department may either issue a special restricted
12 license or may set forth such restrictions upon the usual
13 license form.

14 The department may upon receiving satisfactory evi-
15 dence of any violation of the restrictions of such license
16 suspend or revoke the same but the licensee shall be en-
17 titled to a hearing as upon a suspension or revocation
18 under this chapter.

19 It is a misdemeanor for any person to operate a motor
20 vehicle in any manner in violation of the restrictions im-
21 posed in a restricted license issued to him.

2 Sec. 11. *Duplicate Licenses.*—In the event that an oper-
3 ator's or chauffeur's license issued under the provisions
4 of this chapter is lost or destroyed, the person to whom
5 such license was issued may upon making proper appli-
6 cation and upon payment of a fee of one dollar, obtain a
7 duplicate thereof upon furnishing proof satisfactory to the
8 department that such license has been lost or destroyed.

9 Sec. 12. *Expiration of Licenses; Renewal; Fees.*—Any
10 operator's license issued under any prior act of the Legis-
11 lature relating to the licensing of motor vehicle operators
12 shall expire by its own limitation four years from the
13 date of its issuance, except that the operator's license of
14 any person in the armed forces shall be extended to the
15 expiration of a period of six months from date of honor-
16 able discharge from service. Any operator's license issued
17 subsequent to this act shall expire four years from the
18 date of issue except as above provided. Any license so
19 expiring may be thereafter renewable, in the discretion
20 of the commissioner, without examination, for succes-
21 sive periods of four years on or before its expiration date
22 upon application and upon payment of a fee of one dollar

15 for such renewal. If such license has been permitted to
16 expire, it may be renewed by complying with the regu-
17 lations of this section and the payment of a fee double
18 the regular fee for such renewal and, in the discretion of
19 the commissioner, without examination. The commis-
20 sioner shall notify by first-class mail not less than thirty
21 days prior to the expiration date, any person whose op-
22 erator's license is about to expire, giving the expiration
23 date and including therewith a renewal application form.
24 The commissioner may, in his discretion, renew any li-
25 cense without a driving examination.

26 The commissioner shall, upon the application and upon
27 payment of a fee of three dollars, issue a chauffeur's
28 license to any person holding a valid chauffeur's license
29 issued pursuant to the provisions of any prior act of the
30 Legislature. The commissioner may, in his discretion,
31 issue such chauffeur's license to any such applicant with-
32 out examination. Any chauffeur's license issued pursuant
33 to such prior act or the provisions of this chapter shall
34 expire by its own limitation one year from the date of
35 its issuance, and shall be thereafter renewable for suc-
36 cessive periods of one year upon application and upon
37 payment of the required fee as hereinbefore provided
38 in this section.

Sec. 13. *Notice of Change of Address or Name.*—When-
2 ever any person after applying for or receiving an op-
3 erator's or chauffeur's license shall move from the ad-
4 dress named in such application or in the license issued
5 to him or when the name of a licensee is changed by
6 marriage or otherwise such person shall within twenty
7 days thereafter notify the department in writing of his
8 old and new addresses or of such former and new names
9 and of the number of any license then held by him.

Sec. 14. *Records to Be Kept by the Department.*—The
2 department shall file every application for a license re-
3 ceived by it and shall maintain suitable indexes contain-
4 ing, in alphabetical order:

- 5 (1) All applications denied and on each a notation
6 of the reasons for such denial;
- 7 (2) All applications granted; and

8 (3) The name of every licensee whose license has been
9 suspended or revoked by the department and after each
10 such name a notation of the reasons for such action.

11 The department shall also file all accident reports
12 and abstracts of court records of convictions received by
13 it under the laws of this state and in connection there-
14 with maintain convenient records or make suitable no-
15 tations in order than an individual record of each licensee
16 showing the convictions of such licensee and the traf-
17 fic accidents in which he has been involved shall be
18 readily ascertainable and available for the consideration
19 of the department upon any application for renewal of
20 license and at other suitable times.

Article 3. Cancellation, Suspension or Revocation of Licenses.

Section

1. Authority of department to cancel license.
2. Suspending privileges of nonresidents and reporting convictions.
3. Suspending resident's license upon conviction in another state.
4. Abstract of judgment of conviction for violation of motor vehicle laws to be sent to department.
5. Mandatory revocation of license by department.
6. Authority of department to suspend or revoke license.
7. Department may require reexamination.
8. Period of suspension or revocation.
9. Surrender and return of license.
10. No operation under foreign license during suspension or revocation in this state.

Section 1. *Authority of Department to Cancel License.*—The department is hereby authorized to cancel
2 any operator's or chauffeur's license upon determining
3 that the licensee was not entitled to the issuance thereof
4 hereunder or that said licensee failed to give the required
5 or correct information in his application or committed
6 any fraud in making such application.
7

8 Upon such cancellation, the licensee must surrender
9 the license so canceled to the department.

Sec. 2. *Suspending Privileges of Nonresidents and Reporting Convictions.*—The privilege of driving a motor
2 vehicle on the highways of this state given to a non-
3 resident hereunder shall be subject to suspension or
4 revocation by the department in like manner and for like
5 cause as an operator's or chauffeur's license issued here-
6 under may be suspended or revoked.
7

8 The department shall, upon receiving a record of the

9 conviction in this state of a nonresident driver of a motor
10 vehicle of any offense under the motor vehicle laws of
11 this state, forward a certified copy of such record to the
12 motor vehicle administrator in the state wherein the
13 person so convicted is a resident.

Sec. 3. *Suspending Resident's License Upon Conviction
2 in Another State.*—The department is authorized to
3 suspend or revoke the license of any resident of this
4 state or the privilege of a nonresident to drive a motor
5 vehicle in this state upon receiving notice of the con-
6 viction of such person in another state of an offense
7 therein which, if committed in this state, would be a
8 ground for the suspension or revocation of the license
9 of an operator or chauffeur.

Sec. 4. *Abstract of Judgment of Conviction for Viola-
2 tion of Motor Vehicle Laws to Be Sent to Department.*—
3 Whenever a conviction is had in any court of record, or
4 in a justice's court, or in the police court or mayor's
5 court of any incorporated municipality, for the violation
6 of any law of this state governing or regulating the li-
7 censing or operation of any motor vehicle, or for the
8 violation of any provision of a charter, or by-law, or ordi-
9 nance of such incorporated municipality governing or
10 regulating the operation of motor vehicles, except regu-
11 lations governing standing or parking, the clerk of every
12 such court, or the justice, or the clerk or recorder of
13 such municipality, as the case may be, shall in each
14 case transmit to the department within seventy-two
15 hours after such conviction is had a certified abstract of
16 the judgment on such conviction.

17 Whenever any person is convicted of any offense for
18 which a provision of this chapter makes mandatory the
19 revocation or suspension of the operator's or chauffeur's
20 license of such person by the department, the court in
21 which such conviction is had shall require the surrender
22 to it of all operator's and chauffeur's licenses then held
23 by the person so convicted and the clerk of every said
24 court, or the justice, or the clerk or the recorder of a
25 municipality, as the case may be, shall thereupon for-
26 ward the same to the department with the abstract of the
27 judgment on such conviction.

28 For the purposes of this chapter a forfeiture of bail or
29 collateral deposited to secure a defendant's appearance in
30 court, which forfeiture has not been vacated, shall be
31 equivalent to a conviction.

32 Wilful failure, refusal or neglect to comply with the
33 provisions of this section shall subject the person who
34 is guilty thereof to a fine of not less than ten dollars nor
35 more than fifty dollars and may be the grounds for re-
36 moval from office.

Sec. 5. *Mandatory Revocation of License by Depart-*
2 *ment.*—The department shall forthwith revoke the li-
3 cense of any operator or chauffeur upon receiving a
4 record of such operator's or chauffeur's conviction of any
5 of the following offenses, when such conviction has be-
6 come final:

7 (1) Manslaughter or negligent homicide resulting from
8 the operation of a motor vehicle;

9 (2) Driving a motor vehicle while under the influence
10 of intoxicating liquor or a narcotic drug as provided
11 in section two, article five, chapter seventeen-c of the
12 code of West Virginia, one thousand nine hundred thirty-
13 one, as amended;

14 (3) Any felony in the commission of which a motor
15 vehicle is used;

16 (4) Failure to stop and render aid as required under
17 the laws of this state in the event of involvement in a
18 motor vehicle accident resulting in the death or personal
19 injury of another;

20 (5) Perjury or the making of a false affidavit or state-
21 ment under oath to the department under this chapter
22 or under any other law relating to the ownership or
23 operation of motor vehicles;

24 (6) Conviction, or forfeiture of bail not vacated, upon
25 three charges of reckless driving committed within a
26 period of twelve months.

Sec. 6. *Authority of Department to Suspend or Revoke*
2 *License.*—The department is hereby authorized to sus-
3 pend the license of an operator or chauffeur without
4 preliminary hearing upon a showing by its records or
5 other sufficient evidence that the licensee:

- 6 (1) Has committed an offense for which mandatory
7 revocation of license is required upon conviction;
- 8 (2) Has by reckless or unlawful operation of a motor
9 vehicle, caused or contributed to an accident resulting
10 in the death or personal injury of another or property
11 damage;
- 12 (3) Has been convicted with such frequency of serious
13 offenses against traffic regulations governing the move-
14 ment of vehicles as to indicate a disrespect for traffic
15 laws and a disregard for the safety of other persons on
16 the highways;
- 17 (4) Is an habitually reckless or negligent driver of a
18 motor vehicle;
- 19 (5) Is incompetent to drive a motor vehicle;
- 20 (6) Has permitted an unlawful or fraudulent use of
21 such license; or
- 22 (7) Has committed an offense in another state which if
23 committed in this state would be a ground for suspension
24 or revocation.

25 Upon suspending the license of any person as herein-
26 before in this section authorized, the department shall
27 immediately notify the licensee in writing, sent by regis-
28 tered mail to the address given by the licensee in apply-
29 ing for license, and upon his request shall afford him an
30 opportunity for a hearing as early as practical within
31 not to exceed twenty days after receipt of such request
32 in the county wherein the licensee resides unless the
33 department and the licensee agree that such hearing
34 may be held in some other county. Upon such hearing
35 the commissioner or his duly authorized agent may ad-
36 minister oaths and may issue subpoenas for the attend-
37 ance of witnesses and the production of relevant books
38 and papers and may require a reexamination of the
39 licensee. Upon such hearing the department shall either
40 rescind its order of suspension or, good cause appearing
41 therefor, may extend the suspension of such license or
42 revoke such license.

Sec. 7. Department May Require Reexamination.—

2 The department, having good cause to believe that a
3 licensed operator or chauffeur is incompetent or other-
4 wise not qualified to be licensed, may upon written

5 notice of at least five days to the licensee require him
6 to submit to an examination. Upon the conclusion of
7 such examination the department shall take such action
8 as may be appropriate and may suspend or revoke the
9 license of such person or permit him to retain such license,
10 or may issue a license subject to restrictions as per-
11 mitted under section ten, article two of this chapter.
12 Refusal or neglect of the licensee to submit to such ex-
13 amination shall be ground for suspension or revocation
14 of his license.

Sec. 8. *Period of Suspension or Revocation.*—The de-
2 partment shall not suspend a driver's license or privilege
3 to drive a motor vehicle on the public highways for a
4 period of more than one year, except as permitted under
5 section three, article four of this chapter.

6 Except as otherwise provided in section two, article
7 five, chapter seventeen-c of the code of West Virginia,
8 one thousand nine hundred thirty-one, as amended, any
9 person whose license or privilege to drive a motor ve-
10 hicle on the public highways has been revoked shall
11 not be entitled to have such license or privilege renewed
12 or restored unless the revocation was for a cause which
13 has been removed, except that after the expiration of
14 one year from the date on which the revoked license
15 was surrendered to and received by the department,
16 such person may make application for a new license as
17 provided by law, but the department shall not then
18 issue a new license unless and until it is satisfied after
19 investigation of the character, habits, and driving abil-
20 ity of such person that it will be safe to grant the privi-
21 lege of driving a motor vehicle on the public highways.

Sec. 9. *Surrender and Return of License.*—The depart-
2 ment upon suspending or revoking a license shall re-
3 quire that such license shall be surrendered to and be
4 retained by the department, except that at the end of
5 the period of suspension such license so surrendered
6 shall be returned to the licensee.

Sec. 10. *No Operation Under Foreign License During
2 Suspension or Revocation in This State.*—Any resident
3 or nonresident whose operator's or chauffeur's license or

4 right or privilege to operate a motor vehicle in this state
 5 has been suspended or revoked as provided in this chapter
 6 shall not operate a motor vehicle in this state under a
 7 license, permit, or registration certificate issued by any
 8 other jurisdiction or otherwise during such suspension
 9 or after such revocation until a new license is obtained
 10 when and as permitted under this chapter.

Article 4. Violation of License Provisions.

Section

1. Unlawful use of license.
2. Making false affidavit perjury.
3. Driving while license suspended or revoked.
4. Permitting unauthorized person to drive.
5. Employing unlicensed chauffeur.
6. Renting motor vehicle to another.

Section 1. *Unlawful Use of License.*—It is a misdemeanor for any person to commit anyone of the following acts:

4 (1) To display or cause or permit to be displayed or
 5 have in his possession any canceled, revoked, suspended,
 6 fictitious, or fraudulently altered operator's or chauffeur's
 7 license;

8 (2) To lend his operator's or chauffeur's license to
 9 any other person or knowingly permit the use thereof by
 10 another;

11 (3) To display or represent as one's own any oper-
 12 ator's or chauffeur's license not issued to him;

13 (4) To fail or refuse to surrender to the department
 14 upon its lawful demand any operator's or chauffeur's
 15 license which has been suspended, revoked, or canceled;

16 (5) To use a false or fictitious name in any application
 17 for an operator's or chauffeur's license or to knowingly
 18 make a false statement or to knowingly conceal a material
 19 fact or otherwise commit a fraud in any such application;

20 (6) To permit any unlawful use of an operator's or
 21 chauffeur's license issued to him; or

22 (7) To do any act forbidden or fail to perform any
 23 act required by this chapter.

Sec. 2. *Making False Affidavit Perjury.*—Any person
 2 who makes any false affidavit, or knowingly swears or
 3 affirms falsely to any matter or thing required by the
 4 terms of this chapter to be sworn to or affirmed, is guilty

5 of perjury and upon conviction shall be punished by fine
6 or imprisonment as other persons committing perjury
7 are punishable.

Sec. 3. Driving While License Suspended or Revoked.—

2 Any person who drives a motor vehicle on any public
3 highway of this state at a time when his privilege so to
4 do is suspended or revoked shall be guilty of a misde-
5 meanor and upon conviction shall be punished by im-
6 prisonment for not less than two days nor more than six
7 months and there may be imposed in addition thereto a
8 fine of not more than five hundred dollars.

9 The department upon receiving a record of the con-
10 viction of any person under this section upon a charge
11 of driving a vehicle while the license of such person was
12 suspended shall extend the period of such suspension for
13 an additional like period and if the conviction was upon
14 a charge of driving while a license was revoked the de-
15 partment shall not issue a new license for an additional
16 period of one year from and after the date such person
17 would otherwise have been entitled to apply for a new
18 license.

*Sec. 4. Permitting Unauthorized Person to Drive.—*No

2 person shall authorize or knowingly permit a motor ve-
3 hicle owned by him or under his control to be driven
4 upon any highway by any person who is not authorized
5 hereunder or in violation of any of the provisions of this
6 chapter.

*Sec. 5. Employing Unlicensed Chauffeur.—*No person

2 shall employ as a chauffeur of a motor vehicle any person
3 not then licensed as provided in this chapter.

*Sec. 6. Renting Motor Vehicle to Another.—*No person

2 shall rent a motor vehicle to any other person unless the
3 latter person is then duly licensed hereunder or, in the
4 case of a nonresident, then duly licensed under the laws
5 of the state or country of his residence.

6 No person shall rent a motor vehicle to another until he
7 has inspected the operator's or chauffeur's license of the
8 person to whom the vehicle is to be rented and compared
9 and verified the signature thereon with the signature of
10 such person written in his presence.

11 Every person renting a motor vehicle to another shall
12 keep a record of the registration number of the motor
13 vehicle so rented, the name and address of the person to
14 whom the vehicle is rented, the number of the license of
15 said latter person and the date and place when and where
16 said license was issued. Such record shall be open to in-
17 spection by any police officer or officer or employee of
18 the department.

Article 5. Penalties.

Section

1. Penalty for misdemeanor.
2. Jurisdiction of crimes by justices.

Section 1. *Penalty for Misdemeanor.*—It is a misde-
2 meanor for any person to violate any of the provisions of
3 this chapter unless such violation is by this chapter or
4 other law of this state declared to be a felony.

5 Unless another penalty is in this chapter or by the laws
6 of this state provided, every person convicted of a mis-
7 demeanor for the violation of any provisions of this
8 chapter shall be punished by a fine of not more than five
9 hundred dollars or by imprisonment for not more than
10 six months, or by both such fine and imprisonment.

Sec. 2. *Jurisdiction of Crimes by Justices.*—Justices
2 of the peace shall have concurrent jurisdiction with the
3 circuit, criminal and intermediate courts to enforce the
4 misdemeanor penalties prescribed by this chapter.

Article 6. Effect of Chapter.

Section

1. Constitutionality.
2. Repeal.

Section 1. *Constitutionality.*—If any part or parts of
2 this chapter shall be held to be unconstitutional such un-
3 constitutionality shall not affect the validity of the re-
4 maining parts of this chapter. The Legislature hereby de-
5 clares that it would have passed the remaining parts of
6 this chapter if it had known that such part or parts thereof
7 would be declared unconstitutional.

Sec. 2. *Repeal.*—The provisions of all acts or parts of
2 acts, or of this code, which are inconsistent with the provi-
3 sions of this chapter are hereby repealed to the extent
4 of such inconsistency.

CHAPTER 17-C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

Article

1. Words and Phrases Defined.
2. Obedience to and Effect of Traffic Laws.
3. Traffic Signs, Signals and Markings.
4. Accidents.
5. Negligent Homicide, Driving While Intoxicated and Reckless Driving.
6. Speed Restrictions.
7. Driving on Right Side of Roadway, Overtaking and Passing, Etc.
8. Turning and Starting and Signals on Stopping and Turning.
9. Right-of-Way.
10. Pedestrians' Rights and Duties.
11. Operation of Bicycles and Play Vehicles.
12. Special Stops Required.
13. Stopping, Standing and Parking.
14. Miscellaneous Rules.
15. Equipment.
16. Inspection of Vehicles.
17. Size, Weight and Load.
18. Penalties.
19. Parties, Procedure upon Arrest, and Reports in Criminal Cases.
20. West Virginia Turnpike Commission.
21. Effect of Chapter.

Article 1. Words and Phrases Defined.

Section

1. Definitions.
2. Vehicle.
3. Motor vehicle.
4. Motorcycle.
5. Motor-driven cycle.
6. Authorized emergency vehicle.
7. School bus.
8. Bicycle.
9. Truck tractor.
10. Farm tractor.
11. Road tractor.
12. Truck.
13. Bus.
14. Trackless trolley coach.
15. Trailer.
16. Semitrailer.
17. Pole trailer.
18. Pneumatic tire.
19. Solid tire.
20. Metal tire.
21. Railroad.
22. Railroad train.
23. Streetcar.
24. Explosives.
25. Flammable liquid.
26. Gross weight.
27. Commissioner.

Section

28. Department.
29. Person.
30. Pedestrian.
31. Driver.
32. Owner.
33. Police officer.
34. Local authorities.
35. Street or highway.
36. Private road or driveway.
37. Roadway.
38. Sidewalk.
39. Laned roadway.
40. Through highway.
41. Controlled-access highway.
42. Intersection.
43. Cross walk.
44. Safety zone.
45. Business district.
46. Residence district.
47. Official traffic-control devices.
48. Traffic-control signal.
49. Railroad sign or signal.
50. Traffic.
51. Right-of-way.
52. Stop.
53. Stop, stopping, or standing.
54. Park.

Section 1. *Definition of Words and Phrases.*—The following words and phrases when used in this chapter

3 shall, for the purpose of this chapter, have the meanings
4 respectively ascribed to them in this article.

2 Sec. 2. *Vehicle*.—Every device in, upon, or by which
3 any person or property is or may be transported or drawn
4 upon a highway, except devices moved by human power
or used exclusively upon stationary rails or tracks.

2 Sec. 3. *Motor Vehicle*.—Every vehicle which is self-
3 propelled and every vehicle which is propelled by electric
4 power obtained from overhead trolley wires, but not
operated upon rails.

2 Sec. 4. *Motorcycle*.—Every motor vehicle having a
3 seat or saddle for the use of the rider and designed to
4 travel on not more than three wheels in contact with the
ground, but excluding a tractor.

2 Sec. 5. *Motor-driven Cycle*.—Every motorcycle, in-
3 cluding every motor scooter, with a motor which produces
4 not to exceed five horsepower, and every bicycle with
motor attached.

2 Sec. 6. *Authorized Emergency Vehicle*.—Vehicles of
3 the fire department, police vehicles, and such ambulances
4 and emergency vehicles of municipal departments or
5 public service corporations as are designated or author-
6 ized by the commissioner or the chief of police of an in-
7 6 corporated city, and such privately owned ambulances
8 and emergency vehicles as are designated by the com-
missioner.

2 Sec. 7. *School Bus*.—Every motor vehicle owned by a
3 public or governmental agency and operated for the trans-
4 portation of children to or from school or privately
5 owned and operated for compensation for the transporta-
tion of children to or from school.

2 Sec. 8. *Bicycle*.—Every device propelled by human
3 power upon which any person may ride, having two
4 tandem wheels either of which is more than twenty inches
in diameter.

2 Sec. 9. *Truck Tractor*.—Every motor vehicle designed
and used primarily for drawing other vehicles and not

3 so constructed as to carry a load other than a part of the
4 weight of the vehicle and load so drawn.

Sec. 10. *Farm Tractor*.—Every motor vehicle designed
2 and used primarily as a farm implement for drawing
3 plows, mowing machines, and other implements of hus-
4 bandry.

Sec. 11. *Road Tractor*.—Every motor vehicle designed
2 and used for drawing other vehicles and not so con-
3 structed as to carry any load thereon either independent-
4 ly or any part of the weight of a vehicle or load so drawn.

Sec. 12. *Truck*.—Every motor vehicle designed, used
2 or maintained primarily for the transportation of prop-
3 erty.

Sec. 13. *Bus*.—Every motor vehicle designed for carry-
2 ing more than seven passengers and used for the trans-
3 portation of persons; and every motor vehicle, other than
4 a taxicab, designed and used for the transportation of
5 persons for compensation.

Sec. 14. *Trackless Trolley Coach*.—Every motor vehicle
2 which is propelled by electric power obtained from over-
3 head trolley wires but not operated upon rails.

Sec. 15. *Trailer*.—Every vehicle with or without motive
2 power, other than a pole trailer, designed for carrying
3 persons or property and for being drawn by a motor
4 vehicle and so constructed that no part of its weight
5 rests upon the towing vehicle.

Sec. 16. *Semitrailer*.—Every vehicle with or without
2 motive power, other than a pole trailer, designed for
3 carrying persons or property and for being drawn by a
4 motor vehicle and so constructed that some part of its
5 weight and that of its load rests upon or is carried by
6 another vehicle.

Sec. 17. *Pole Trailer*.—Every vehicle without motive
2 power designed to be drawn by another vehicle and at-
3 tached to the towing vehicle by means of a reach, or pole,
4 or by being boomed or otherwise secured to the towing
5 vehicle, and ordinarily used for transporting long or ir-
6 regularly shaped loads such as poles, pipes, or structural

7 members capable, generally, of sustaining themselves as
8 beams between the supporting connections.

Sec. 18. *Pneumatic Tire*.—Every tire in which com-
2 pressed air is designed to support the load.

Sec. 19. *Solid Tire*.—Every tire of rubber or other
2 resilient material which does not depend upon com-
3 pressed air for the support of the load.

Sec. 20. *Metal Tire*.—Every tire the surface of which
2 in contact with the highway is wholly or partly of metal
3 or other hard nonresilient material.

Sec. 21. *Railroad*.—A carrier of persons or property
2 upon cars, other than streetcars, operated upon stationary
3 rails.

Sec. 22. *Railroad Train*.—A steam engine, electric or
2 other motor, with or without cars coupled thereto, oper-
3 ated upon rails, except streetcars.

Sec. 23. *Streetcar*.—A car other than a railroad train
2 for transporting persons or property and operated upon
3 rails principally within a municipality.

Sec. 24. *Explosives*.—Any chemical compound or me-
2 chanical mixture that is commonly used or intended for
3 the purpose of producing an explosion and which contains
4 any oxidizing and combustive units or other ingredients
5 in such proportions, quantities, or packing that an ignition
6 by fire, by friction, by concussion, by percussion, or by
7 detonator of any part of the compound or mixture may
8 cause such a sudden generation of highly heated gases
9 that the resultant gaseous pressures are capable of pro-
10 ducing destructive effects on contiguous objects or of
11 destroying life or limb.

Sec. 25. *Flammable Liquid*.—Any liquid which has a
2 flash point of seventy degrees fahrenheit, or less, as de-
3 termined by a tagliabue or equivalent closed-cup test
4 device.

Sec. 26. *Gross Weight*.—The weight of a vehicle with-
2 out load plus the weight of any load thereon.

Sec. 27. *Commissioner*.—The commissioner of motor
2 vehicles of this state.

2 Sec. 28. *Department.*—The department of motor ve-
3 hicles of this state acting directly or through its duly
4 authorized officers and agents.

2 Sec. 29. *Person.*—Every natural person, firm, copartner-
3 ship, association, or corporation.

2 Sec. 30. *Pedestrian.*—Any person afoot.

2 Sec. 31. *Driver.*—Every person who drives or is in
3 actual physical control of a vehicle.

2 Sec. 32. *Owner.*—A person who holds the legal title of
3 a vehicle or in the event a vehicle is the subject of an
4 agreement for the conditional sale or lease thereof with
5 the right of purchase upon performance of the conditions
6 stated in the agreement and with an immediate right of
7 possession vested in the conditional vendee or lessee, or
8 in the event a mortgagor of a vehicle is entitled to pos-
9 session, then such conditional vendee or lessee or mort-
10 gagor shall be deemed the owner for the purpose of this
11 chapter.

2 Sec. 33. *Police Officer.*—Every officer authorized to
3 direct or regulate traffic or to make arrests for violations
4 of traffic regulations.

2 Sec. 34. *Local Authorities.*—Every county, municipal,
3 and other local board or body having authority to enact
4 laws relating to traffic under the constitution and laws of
5 this state.

2 Sec. 35. *Street or Highway.*—The entire width between
3 the boundary lines of every way publicly maintained
4 when any part thereof is open to the use of the public
5 for purposes of vehicular travel.

2 Sec. 36. *Private Road or Driveway.*—Every way or
3 place in private ownership and used for vehicular travel
4 by the owner and those having express or implied per-
5 mission from the owner, but not by other persons.

2 Sec. 37. *Roadway.* That portion of a highway improved,
3 designed, or ordinarily used for vehicular travel, exclu-
4 sive of the berm or shoulder. In the event a highway in-
5 cludes two or more separate roadways the term "road-

5 way" as used herein shall refer to any such roadway
6 separately but not to all such roadways collectively.

2 Sec. 38. *Sidewalk*.—That portion of a street between
3 the curb lines, or the lateral lines of a roadway, and
4 the adjacent property lines, intended for the use of
5 pedestrians.

2 Sec. 39. *Laned Roadway*.—A roadway which is divided
3 into two or more clearly marked lanes for vehicular
4 traffic.

2 Sec. 40. *Through Highway*.—Every highway or portion
3 thereof at the entrances to which vehicular traffic from
4 intersecting highways is required by law to stop before
5 entering or crossing the same and when stop signs are
6 erected as provided in this chapter.

2 Sec. 41. *Controlled-access Highway*.—Every highway,
3 street, or roadway in respect to which owners or occu-
4 pants of abutting lands and other persons have no legal
5 right of access to or from the same except at such points
6 only and in such manner as may be determined by the
7 public authority having jurisdiction over such highway,
8 street, or roadway.

2 Sec. 42. *Intersection*.—(a) The area embraced within
3 the prolongation or connection of the lateral curb lines,
4 or, if none, then the lateral boundary lines of the road-
5 ways of two highways which join one another at, or
6 approximately at, right angles, or the area within which
7 vehicles traveling upon different highways joining at any
8 other angle may come in conflict.

9 (b) Where a highway includes two roadways thirty feet
10 or more apart, then every crossing of each roadway of such
11 divided highway by an intersecting highway shall be re-
12 garded as a separate intersection. In the event such inter-
13 secting highway also includes two roadways thirty feet
14 or more apart, then every crossing of two roadways of
15 such highways shall be regarded as a separate inter-
section.

2 Sec. 43. *Cross Walk*.—(a) That part of a roadway at an
3 intersection included within the connections of the lateral
4 lines of the sidewalks on opposite sides of the highway

4 measured from the curbs or, in the absence of curbs, from
5 the edges of the traversable roadway;

6 (b) Any portion of a roadway at an intersection or else-
7 where distinctly indicated for pedestrian crossing by lines
8 or other markings on the surface.

Sec. 44. *Safety Zone*.—The area or space officially set
2 apart within a roadway for the exclusive use of pedes-
3 trians and which is protected or is so marked or indicated
4 by adequate signs as to be plainly visible at all times
5 while set apart as a safety zone.

Sec. 45. *Business District*.—The territory contiguous to
2 and including a highway when within any six hundred
3 feet along such highway there are buildings in use for
4 business or industrial purposes, including but not limited
5 to hotels, banks, or office buildings, railroad stations, and
6 public buildings which occupy at least three hundred feet
7 of frontage on one side or three hundred feet collectively
8 on both sides of the highway.

Sec. 46. *Residence District*.—The territory contiguous
2 to and including a highway not comprising a business dis-
3 trict when the property on such highway for a distance
4 of three hundred feet or more is in the main improved
5 with residences or residences and buildings in use for
6 business.

Sec. 47. *Official Traffic-control Devices*.—All signs, sig-
2 nals, markings, and devices not inconsistent with this
3 chapter placed or erected by authority of a public body
4 or official having jurisdiction, for the purpose of regulat-
5 ing, warning, or guiding traffic.

Sec. 48. *Traffic-control Signal*.—Any device, whether
2 manually, electrically, or mechanically operated, by
3 which traffic is alternately directed to stop and to proceed.

Sec. 49. *Railroad Sign or Signal*.—Any sign, signal, or
2 device erected by authority of a public body or official or
3 by a railroad and intended to give notice of the presence
4 of railroad tracks or the approach of a railroad train.

Sec. 50. *Traffic*. Pedestrians, ridden or herded animals,
2 vehicles, streetcars, and other conveyances either singly

3 or together while using any highway for purposes of
4 travel.

Sec. 51. *Right-of-way*.—The privilege of the immediate
2 use of the highway.

Sec. 52. *Stop*.—When required means complete cessa-
2 tion from movement.

Sec. 53. *Stop, Stopping, or Standing*.—When prohibited
2 means any stopping or standing of a vehicle, whether
3 occupied or not, except when necessary to avoid conflict
4 with other traffic or in compliance with the directions of
5 a police officer or traffic-control sign or signal.

Sec. 54. *Park*.—When prohibited means the standing of
2 a vehicle, whether occupied or not, otherwise than tem-
3 porarily for the purpose of and while actually engaged in
4 loading or unloading.

Article 2. Obedience to and Effect of Traffic Laws.

Section

1. Provisions of chapter refer to vehicles upon the highways; excep-
tions.
2. Required obedience to traffic laws.
3. Enforcement of highway laws; bond.
4. Public officers and employees to obey chapter; exceptions.
5. Authorized emergency vehicles.
6. Traffic laws apply to persons riding animals or driving animal-
drawn vehicles.
7. Provisions of chapter uniform throughout state.
8. Powers of local authorities.
9. This chapter not to interfere with rights of owners of real prop-
erty with reference thereto.

Section 1. *Provisions of Chapter Refer to Vehicles upon
2 the Highways; Exceptions*.—The provisions of this chap-
3 ter relating to the operation of vehicles refer exclusively
4 to the operation of vehicles upon highways except;

5 (1) Where a different place is specifically referred to
6 in a given section.

7 (2) The provisions of article four and five shall apply
8 upon highways and elsewhere throughout the state.

Sec. 2. *Required Obedience to Traffic Laws*.—It is un-
2 lawful and, unless otherwise declared in this chapter with
3 respect to particular offenses, it is a misdemeanor for any
4 person to do any act forbidden or fail to perform any act
5 required in this chapter.

2 Sec. 3. *Enforcement of Highway Laws; Bond.*—(a) It
3 shall be the duty of the department of public safety and its
4 members to enforce the provisions of this chapter and
5 other laws of this state governing the operation of ve-
6 hicles upon the highways of this state; and it shall be the
7 duty of sheriffs and their deputies and of the police of
8 cities and towns to render to the department of public
9 safety such assistance in the performance of said duties
10 as the superintendent of the department of public safety
11 may require of them.

12 (b) The state road commissioner is authorized to
13 designate employees of the state road commission as
14 special officers to enforce the provisions of this chapter
15 and direct traffic upon bridges and the approaches to
16 bridges which are a part of the state road system when
17 any such bridge needs special traffic direction and the
18 superintendent of the department of public safety has in-
19 formed the state road commissioner that he is unable to
20 furnish personnel for such traffic direction. The state
21 road commission shall provide a blanket bond in the
22 amount of five thousand dollars for any such employee
23 so designated, and for all employees designated as mem-
24 bers of official state road commission weighing crews.

25 (c) No person shall wilfully fail or refuse to comply
26 with any lawful order or direction of any police officer
27 invested by law with authority to direct, control or regu-
late traffic.

2 Sec. 4. *Public Officers and Employees to Obey Chapter;*
3 *Exceptions.*—(a) The provisions of this chapter appli-
4 cable to the drivers of vehicles upon the highways shall
5 apply to the drivers of all vehicles owned or operated by
6 the United States, this state, or any county, city, town,
7 district, or any other political subdivision of the state,
8 except as provided in this section and subject to such
9 specific exceptions as are set forth in this chapter with
10 reference to authorized emergency vehicles.

11 (b) Unless specifically made applicable, the provisions
12 of this chapter shall not apply to persons, teams, motor
13 vehicles, and other equipment while actually engaged in
work upon the surface of a highway but shall apply to

14 such persons and vehicles when traveling to or from such
15 work.

Sec. 5. *Authorized Emergency Vehicles.*—(a) The
2 driver of an authorized emergency vehicle, when re-
3 sponding to an emergency call or when in the pursuit of
4 an actual or suspected violator of the law or when re-
5 sponding to but not upon returning from a fire alarm,
6 may exercise the privileges set forth in this section, but
7 subject to the conditions herein stated.

8 (b) The driver of an authorized emergency vehicle
9 may:

10 (1) Park or stand, irrespective of the provisions of this
11 chapter;

12 (2) Proceed past a red or stop signal or stop sign, but
13 only after slowing down as may be necessary for safe
14 operation;

15 (3) Exceed the speed limits so long as he does not en-
16 danger life or property;

17 (4) Disregard regulations governing direction of move-
18 ment of turning in specified directions.

19 (c) The exemptions herein granted to an authorized
20 emergency vehicle shall apply only when the driver of
21 any said vehicle while in motion sounds audible signal by
22 bell, siren, or exhaust whistle as may be reasonably nec-
23 essary, and when the vehicle is equipped with at least
24 one lighted lamp displaying a red light visible under
25 normal atmospheric conditions from a distance of five
26 hundred feet to the front of such vehicle, except that an
27 authorized emergency vehicle operated as a police vehicle
28 need not be equipped with or display a red light visible
29 from in front of the vehicle.

30 (d) The foregoing provisions shall not relieve the
31 driver of an authorized emergency vehicle from the duty
32 to drive with due regard for the safety of all persons,
33 nor shall such provisions protect the driver from the con-
34 sequences of his reckless disregard for the safety of
35 others.

Sec. 6. *Traffic Laws Apply to Persons Riding Animals
2 or Driving Animal-drawn Vehicles.*—Every person riding
3 an animal or driving any animal-drawn vehicle upon a
4 roadway shall be granted all of the rights and shall be

5 subject to all of the duties applicable to the driver of a
6 vehicle by this chapter, except those provisions of this
7 chapter which by their very nature can have no appli-
8 cation.

Sec. 7. *Provisions of Chapter Uniform Throughout*
2 *State.*—The provisions of this chapter shall be applicable
3 and uniform throughout this state and in all political
4 subdivisions and municipalities therein and no local au-
5 thority shall enact or enforce any ordinance, rule, or regu-
6 lation in conflict with the provisions of this chapter unless
7 expressly authorized herein. Local authorities may, how-
8 ever, adopt additional traffic regulations which are not in
9 conflict with the provisions of this chapter.

Sec. 8. *Powers of Local Authorities.*—(a) The provi-
2 sions of this chapter shall not be deemed to prevent local
3 authorities with respect to streets and highways under
4 their jurisdiction and within the reasonable exercise of
5 the police power from:

- 6 (1) Regulating the standing or parking of vehicles;
- 7 (2) Regulating traffic by means of police officers or
8 traffic-control signals;
- 9 (3) Regulating or prohibiting processions or assem-
10 blages on the highways;
- 11 (4) Designating particular highways as one-way high-
12 ways and requiring that all vehicles thereon be moved
13 in one specific direction;
- 14 (5) Regulating the speed of vehicles in public
15 parks;
- 16 (6) Designating any highway as a through highway
17 and requiring that all vehicles stop before entering or
18 crossing the same or designating any intersections as a
19 stop intersection and requiring all vehicles to stop at one
20 or more entrances to such intersection;
- 21 (7) Restricting the use of highways as authorized in
22 section twelve, article seventeen of this chapter;
- 23 (8) Regulating the operation of bicycles and requiring
24 the registration and licensing of same, including the re-
25 quirement of a registration fee;
- 26 (9) Regulating or prohibiting the turning of vehicles
27 or specified types of vehicles at intersections;

28 (10) Altering the speed limits as authorized herein;
 29 (11) Adopting such other traffic regulations as are
 30 specifically authorized by this chapter.

31 (b) No local authority shall erect or maintain any
 32 stop sign or traffic-control signal at any location so as to
 33 require the traffic on any state highway to stop before
 34 entering or crossing any intersecting highway unless
 35 approval in writing has first been obtained from the state
 36 road commission.

37 (c) No ordinance or regulation enacted under subdi-
 38 visions (4), (5), (6), (7), or (10), of paragraph (a) of this
 39 section shall be effective until signs giving notice of such
 40 local traffic regulations are posted upon or at the en-
 41 trances to the highway or part thereof affected as may be
 42 most appropriate.

Sec. 9. *This Chapter not to Interfere with Rights of*
 2 *Owners of Real Property with Reference Thereto.*—Noth-
 3 ing in this chapter shall be construed to prevent the
 4 owner of real property used by the public for purposes of
 5 vehicular travel by permission of the owner and not as
 6 matter of right from prohibiting such use, or from requir-
 7 ing other or different or additional conditions than those
 8 specified in this chapter, or otherwise regulating such use
 9 as may seem best to such owner.

Article 3. Traffic Signs, Signals and Markings.

Section

1. State road commission to adopt sign manual.
2. Traffic-control devices and signs on state highways.
3. Local traffic-control devices.
4. Obedience to and required traffic-control devices.
5. Traffic-control signal legend.
6. Pedestrian walk and wait signals.
7. Flashing signals.
8. Display of unauthorized signs, signals, or markings.
9. Interference with official traffic-control devices or railroad signs or signals.

Section 1. *State Road Commission to Adopt Sign*
 2 *Manual.*—The state road commission shall adopt a manual
 3 and specifications for a uniform system of traffic-control
 4 devices consistent with the provisions of this chapter for
 5 use upon highways within this state. Such uniform system
 6 shall correlate with and so far as possible conform to the
 7 system then current as approved by the American Asso-
 8 ciation of State Highway Officials.

2 *Sec. 2. Traffic-control Devices and Signs on State*
3 *Highways.*—(a) The state road commission shall place
4 and maintain such traffic-control devices, conforming to
5 its manual and specifications, upon all state highways as
6 it shall deem necessary to indicate and to carry out the
7 provisions of this chapter or to regulate, warn, or guide
8 traffic.

9 (b) No local authority shall place or maintain any
10 traffic-control device upon any highway under the juris-
11 diction of the state road commission except by the latter's
12 permission.

13 *Sec. 3. Local Traffic-control Devices.*—Local authori-
14 ties in their respective jurisdictions shall place and main-
15 tain such traffic-control devices upon highways under
16 their jurisdiction as they may deem necessary to indicate
17 and to carry out the provisions of this chapter or local
18 traffic ordinances or to regulate, warn, or guide traffic.
19 All such traffic-control devices hereafter erected shall
20 conform to the state manual and specifications.

21 *Sec. 4. Obedience to and Required Traffic-control*
22 *Devices.*—(a) The driver of any vehicle and the motor-
23 man of any streetcar shall obey the instructions of any
24 official traffic-control device applicable thereto placed in
25 accordance with the provisions of this chapter, unless
26 otherwise directed by a traffic or police officer, subject
27 to the exceptions granted the driver of an authorized
28 emergency vehicle in this chapter.

29 (b) No provision of this chapter for which signs are
30 required shall be enforced against an alleged violator if at
31 the time and place of the alleged violation an official sign
32 is not in proper position and sufficiently legible to be seen
33 by an ordinarily observant person. Whenever a particular
34 section does not state that signs are required, such section
35 shall be effective even though no signs are erected or in
36 place.

37 *Sec. 5. Traffic-control Signal Legend.*—Whenever traf-
38 fic is controlled by traffic-control signals exhibiting the
39 words "Go," "Caution," or "Stop," or exhibiting different
40 colored lights successively one at a time, or with arrows,

5 the following colors only shall be used and said terms
6 and lights shall indicate and apply to drivers of vehicles
7 and pedestrians as follows:

8 (a) Green alone or "Go".

9 (1) Vehicular traffic facing the signal, except when
10 prohibited under section two, article twelve of this chap-
11 ter may proceed straight through or turn right or left
12 unless a sign at such place prohibits either such turn. But
13 vehicular traffic, including vehicles turning right or left,
14 shall yield the right-of-way to other vehicles and to pedes-
15 trians lawfully within the intersection or an adjacent
16 cross walk at the time such signal is exhibited.

17 (2) Pedestrians facing the signal may proceed across
18 the roadway within any marked or unmarked cross walk.

19 (b) Yellow alone or "Caution" when shown following
20 the green or "Go" signal;

21 (1) Vehicular traffic facing the signal is thereby
22 warned that the red or "Stop" signal will be exhibited
23 immediately thereafter and such vehicular traffic shall
24 not enter or be crossing the intersection when the red
25 or "Stop" signal is exhibited.

26 (2) Pedestrians facing such signal are thereby advised
27 that there is insufficient time to cross the roadway, and
28 any pedestrian then starting to cross shall yield the right-
29 of-way to all vehicles.

30 (c) Red alone or "Stop":

31 (1) Vehicular traffic facing the signal shall stop be-
32 fore entering the cross walk on the near side of the inter-
33 section or, if none, then before entering the intersection
34 and shall remain standing until green or "Go" is shown
35 alone.

36 (2) No pedestrian facing such signal shall enter the
37 roadway unless he can do so safely and without inter-
38 fering with any vehicular traffic.

39 (d) Red with green arrow:

40 (1) Vehicular traffic facing such signal may cau-
41 tiously enter the intersection only to make the movement
42 indicated by such arrow but shall yield the right-of-way
43 to pedestrians lawfully within a cross walk and to other
44 traffic lawfully using the intersection.

45 (2) No pedestrian facing such signal shall enter the

46 roadway unless he can do so safely and without inter-
47 fering with any vehicular traffic.

48 (e) In the event an official traffic-control signal is
49 erected and maintained at a place other than an intersec-
50 tion, the provisions of this section shall be applicable
51 except as to those provisions which by their nature can
52 have no application. Any stop required shall be made at
53 a sign or marking on the pavement indicating where the
54 stop shall be made, but in the absence of any such sign or
55 marking the stop shall be made at the signal.

56 (f) The motorman of any streetcar shall obey the
57 above signals as applicable to vehicles.

Sec. 6. *Pedestrian Walk and Wait Signals.*—Whenever
2 special pedestrian-control signals exhibiting the words
3 “Walk” or “Wait” are in place such signals shall indicate
4 as follows:

5 (a) Walk.—Pedestrians facing such signal may pro-
6 ceed across the roadway in the direction of the signal and
7 shall be given the right-of-way by the drivers of all
8 vehicles.

9 (b) Wait.—No pedestrian shall start to cross the
10 roadway in the direction of such signal, but any pedes-
11 trian who has partially completed his crossing on the
12 walk signal shall proceed to a sidewalk or safety island
13 while the wait signal is showing.

Sec. 7. *Flashing Signals.*—Whenever an illuminated
2 flashing red or yellow signal is used in a traffic sign or
3 signal it shall require obedience by vehicular traffic as
4 follows:

5 (1) Flashing red (stop signal).—When a red lens is
6 illuminated with rapid intermittent flashes, drivers of
7 vehicles shall stop before entering the nearest cross walk
8 at an intersection or at a limit line when marked, or, if
9 none, then before entering the intersection, and the right
10 to proceed shall be subject to the rules applicable after
11 making a stop at a stop sign.

12 (2) Flashing yellow (caution signal).—When a yellow
13 lens is illuminated with rapid intermittent flashes,
14 drivers of vehicles may proceed through the intersection
15 or past such signal only with caution.

2 *Sec. 8. Display of Unauthorized Signs, Signals, or*
3 *Markings.*—(a) No person shall place, maintain, or dis-
4 play upon or in view of any highway any unauthorized
5 sign, signal, marking, or device which purports to be or is
6 an imitation of or resembles an official traffic-control
7 device or railroad sign or signal, or which attempts to
8 direct the movement of traffic, or which hides from view
9 or interferes with the effectiveness of any official traffic-
10 control device or any railroad sign or signal, and no per-
11 son shall place or maintain nor shall any public authority
12 permit upon any highway any traffic sign or signal bear-
13 ing thereon any commercial advertising. This shall not
14 be deemed to prohibit the erection upon private property
15 adjacent to highways of signs giving useful directional
16 information and of a type that cannot be mistaken for
17 official signs.

18 (b) Every such prohibited sign, signal, or marking is
19 hereby declared to be a public nuisance and the authority
20 having jurisdiction over the highway is hereby empow-
21 ered to remove the same or cause it to be removed without
22 notice.

2 *Sec. 9. Interference with Official Traffic-control De-*
3 *vices or Railroad Signs or Signals.*—No person shall with-
4 out lawful authority attempt to or in fact alter, deface,
5 injure, knock down, or remove any official traffic-control
6 device or any railroad sign or signal or any inscription,
7 shield, or insignia thereon, or any other part thereof.

Article 4. Accidents.

Section

1. Accidents involving death or personal injuries.
2. Accidents involving damage to vehicle.
3. Duty to give information and render aid.
4. Duty upon striking unattended vehicle.
5. Duty upon striking fixtures upon a highway.
6. Immediate reports of accidents.
7. Written reports of accidents.
8. When driver unable to report.
9. Accident report forms.
10. Penalty for failure to report.
11. Coroners to report.
12. Garages to report.
13. Accident reports confidential.
14. Department to tabulate and analyze accident reports.
15. Any incorporated city may require accident reports.

Section 1. *Accidents Involving Death or Personal In-*

2 *juries.*—(a) The driver of any vehicle involved in an
3 accident resulting in injury to or death of any person
4 shall immediately stop such vehicle at the scene of such
5 accident or as close thereto as possible but shall then
6 forthwith return to and in every event shall remain at
7 the scene of the accident until he has fulfilled the require-
8 ments of section three of this article. Every such stop
9 shall be made without obstructing traffic more than is
10 necessary.

11 (b) Any person failing to stop or to comply with said
12 requirements under such circumstances shall upon con-
13 viction be punished by imprisonment for not less than
14 thirty days nor more than one year or by fine of not less
15 than one hundred dollars nor more than five thousand
16 dollars, or by both such fine and imprisonment.

17 (c) The commissioner shall revoke the license or per-
18 mit to drive and any nonresident operating privilege of
19 the person so convicted.

2 *Sec. 2. Accidents Involving Damage to Vehicle.*—The
3 driver of any vehicle involved in an accident resulting
4 only in damage to a vehicle which is driven or attended
5 by any person shall immediately stop such vehicle at the
6 scene of such accident or as close thereto as possible but
7 shall forthwith return to and in every event shall remain
8 at the scene of such accident until he has fulfilled the
9 requirements of section three of this article. Every such
10 stop shall be made without obstructing traffic more than is
11 necessary. Any person failing to stop or comply with said
12 requirements under such circumstances shall be guilty of
a misdemeanor.

2 *Sec. 3. Duty to Give Information and Render Aid.*—
3 The driver of any vehicle involved in an accident result-
4 ing in injury to or death of any person or damage to any
5 vehicle which is driven or attended by any person shall
6 give his name, address, and the registration number of
7 the vehicle he is driving and shall upon request and if
8 available exhibit his operator's or chauffeur's license to
9 the person struck or the driver or occupant of or person
10 attending any vehicle collided with and shall render to
any person injured in such accident reasonable assistance,

11 including the carrying, or the making arrangements for
12 the carrying of such person to a physician, surgeon, or
13 hospital for medical or surgical treatment if it is apparent
14 that such treatment is necessary or if such carrying is
15 requested by the injured person.

Sec. 4. *Duty upon Striking Unattended Vehicle.*—The
2 driver of any vehicle which collides with any vehicle
3 which is unattended shall immediately stop and shall
4 then and there either locate and notify the operator or
5 owner of such vehicle of the name and address of the
6 driver and owner of the vehicle striking the unattended
7 vehicle or shall leave in a conspicuous place in the vehicle
8 struck a written notice giving the name and address of
9 the driver and of the owner of the vehicle doing the strik-
10 ing and a statement of the circumstances thereof.

Sec. 5. *Duty upon Striking Fixtures upon a Highway.*—
2 The driver of any vehicle involved in an accident result-
3 ing only in damage to fixtures or other property legally
4 upon or adjacent to a highway shall take reasonable steps
5 to locate and notify the owner or person in charge of such
6 property of such fact and of his name and address and of
7 the registration number of the vehicle he is driving and
8 shall upon request and if available exhibit his operator's
9 or chauffeur's license and shall make report of such acci-
10 dent when and as required in section seven of this article.

Sec. 6. *Immediate Reports of Accidents.*—The driver
2 of a vehicle involved in an accident resulting in injury to
3 or death of any person shall immediately by the quickest
4 means of communication, whether oral or written, give
5 notice of such accident to the local police department if
6 such accident occurs within a municipality, otherwise to
7 the office of the county sheriff or the nearest office of the
8 department of public safety.

Sec. 7. *Written Reports of Accidents.*—(a) The driver
2 or the attorney or agent of such driver, of a vehicle in-
3 volved in an accident occurring on the public highways
4 of this state resulting in bodily injury to or death of any
5 person or total property damage to an apparent extent
6 of one hundred dollars or more shall, within five days

7 after such accident, forward a written report of such
8 accident to the department of motor vehicles.

9 (b) The department may require any driver of a ve-
10 hicle involved in an accident of which report must be
11 made as provided in this section to file supplemental re-
12 ports whenever the original report is insufficient in the
13 opinion of the department and may require witnesses of
14 accidents to render reports to the department.

15 (c) Every law enforcement officer who, in the regular
16 course of duty, investigates a motor vehicle accident of
17 which report must be made as required in this section,
18 either at the time of and at the scene of the accident or
19 thereafter by interviewing participants or witnesses shall,
20 within twenty-four hours after completing such investiga-
21 tion, forward a written report of such accident to the
22 department.

Sec. 8. *When Driver Unable to Report.*—(a) When-
2 ever the driver of a vehicle is physically incapable of mak-
3 ing an immediate report of an accident as required in sec-
4 tion six of this article and there was another occupant in
5 the vehicle at the time of the accident capable of making
6 a report, such occupant shall make or cause to be made
7 said report not made by the driver.

8 (b) Whenever the driver is physically incapable of
9 making a written report of an accident as required in
10 section seven of this article and such driver is not the
11 owner of the vehicle, then the owner of the vehicle in-
12 volved in such accident shall within five days after learn-
13 ing of the accident make such report not made by the
14 driver.

Sec. 9. *Accident Report Forms.*—(a) The department
2 shall prepare and upon request supply to police depart-
3 ments, coroners, sheriffs, garages, and other suitable
4 agencies or individuals, forms for accident reports re-
5 quired hereunder, appropriate with respect to the persons
6 required to make such reports and the purposes to be
7 served. The written reports to be made by persons in-
8 volved in accidents and by investigating officers shall call
9 for sufficiently detailed information to disclose with ref-

10 erence to a traffic accident the cause, conditions then
11 existing, and the persons and vehicles involved.

12 (b) Every accident report required to be made in
13 writing shall be made on the appropriate form approved
14 by the department and shall contain all of the informa-
15 tion required therein unless not available.

16 (c) Every such report shall also contain information
17 sufficient to enable the commissioner to determine
18 whether the requirements for the deposit of security
19 under any of the laws of this state are inapplicable by
20 reason of the existence of insurance or other exceptions
21 specified therein.

Sec. 10. *Penalty for Failure to Report.*—The commis-
2 sioner shall suspend the license or permit to drive and any
3 nonresident operating privileges of any person failing to
4 report an accident as herein provided until such report
5 has been filed. Any person convicted of failing to make
6 a report as required herein shall be punished as provided
7 in section one, article eighteen of this chapter.

Sec. 11. *Coroners to Report.*—Every coroner or other
2 official performing like functions shall on or before the
3 tenth day of each month report in writing to the depart-
4 ment the death of any person within his jurisdiction dur-
5 ing the preceding calendar month as the result of a traffic
6 accident giving the time and place of the accident and the
7 circumstances relating thereto.

Sec. 12. *Garages to Report.*—The person in charge of
2 any garage or repair shop to which is brought any motor
3 vehicle which shows evidence of having been involved
4 in an accident of which report must be made as provided
5 in section seven of this article, or struck by any bullet,
6 shall report to the department within twenty-four hours
7 after such motor vehicle is received, giving the engine
8 number, registration number, and the name and address
9 of the owner or operator of such vehicle.

Sec. 13. *Accident Reports Confidential.*—All accident
2 reports made by persons involved in accidents or by
3 garages shall be without prejudice to the individual so
4 reporting and shall be for the confidential use of the

5 department or other state agencies having use for the
6 records for accident prevention purposes, or for the ad-
7 ministration of the laws of this state relating to the
8 deposit of security and proof of financial responsibility
9 by persons driving or the owners of motor vehicles, except
10 that the department may disclose the identity of a person
11 involved in an accident when such identity is not other-
12 wise known or when such person denies his presence at
13 such accident. No such report shall be used as evidence
14 in any trial, civil or criminal, arising out of an accident,
15 except that the department shall furnish upon demand of
16 any person who has, or claims to have, made such a report
17 or upon demand of any court, a certificate showing that a
18 specified accident report has or has not been made to the
19 department solely to prove a compliance or a failure to
20 comply with the requirement that such a report be made
21 to the department.

2 *Sec. 14. Department to Tabulate and Analyze Accident*
3 *Reports.*—The department shall tabulate and may analyze
4 all accident reports and shall publish annually, or at more
5 frequent intervals, statistical information based thereon
6 as to the number and circumstances of traffic accidents.

2 *Sec. 15. Any Incorporated City May Require Accident*
3 *Reports.*—Any incorporated city, town, village, or other
4 municipality may by ordinance require that the driver of
5 a vehicle involved in an accident shall also file with a
6 designated city department a report of such accident or
7 a copy of any report herein required to be filed with the
8 department. All such reports shall be for the confidential
9 use of the city department and subject to the provisions
10 of section thirteen of this article.

Article 5. Negligent Homicide, Driving While Intoxicated and Reckless Driving.

Section

1. Negligent homicide.
2. Persons under the influence of intoxicating liquor or of drugs.
3. Reckless driving.

2 *Section 1. Negligent Homicide.*—(a) When the
3 death of any person ensues within one year as a proximate
4 result of injury received by the driving of any vehicle in

4 reckless disregard of the safety of others, the person so
5 operating such vehicle shall be guilty of negligent homi-
6 cide.

7 (b) Any person convicted of negligent homicide shall
8 be punished by imprisonment for not more than one year
9 or by fine of not less than one hundred dollars nor more
10 than one thousand dollars, or by both such fine and im-
11 prisonment.

12 (c) The commissioner shall revoke the license or per-
13 mit to drive and any nonresident operating privilege of
14 any person convicted of negligent homicide.

Sec. 2. *Persons under the Influence of Intoxicating*
2 *Liquor or of Drugs.*—(a) It is unlawful and punishable
3 as provided in paragraph (c) of this section for any per-
4 son who is under the influence of intoxicating liquor to
5 drive or be in actual physical control of any vehicle on any
6 highway of this state or for any owner of such vehicle
7 to knowingly permit the same to be so operated by one
8 under the influence of intoxicating liquor.

9 (b) It is unlawful and punishable as provided in para-
10 graph (c) of this section for any person who is an habitual
11 user of or under the influence of any narcotic drug or who
12 is under the influence of any other drug to a degree which
13 renders him incapable of safely driving a vehicle to drive
14 a vehicle within this state. The fact that any person
15 charged with a violation of this paragraph is or has been
16 entitled to use such drug under the laws of this state shall
17 not constitute a defense against any charge of violating
18 this paragraph.

19 (c) A person violating any provision of this section
20 shall for the first offense, be guilty of a misdemeanor, and
21 upon conviction thereof shall be punished by a fine of not
22 less than fifty nor more than one hundred dollars or by
23 imprisonment in the county jail for a period of not less
24 than five days nor more than six months, or by both such
25 fine and imprisonment, and his operator's or chauffeur's
26 license shall be revoked for a period of six months. A
27 person violating any provision of this section shall, for
28 the second offense, be guilty of a misdemeanor, and upon
29 conviction thereof shall be punished by imprisonment in

30 the county jail for a period of not less than six months
31 nor more than one year, which sentence shall not be sub-
32 ject to probation, and whenever the records of the depart-
33 ment disclose that a conviction is the second such con-
34 viction of such person for a violation of this section his
35 operator's or chauffeur's license shall be revoked by the
36 commissioner for a period of ten years, unless reissued by
37 the department of motor vehicles as hereinafter provided.
38 Whenever the commissioner of motor vehicles, after full
39 investigation, shall find that the character of any person
40 who was convicted of a second offense under this section
41 and the circumstances at the time indicate that he is not
42 likely again to repeat his offense, and that the public good
43 does not require that his license be longer revoked, the
44 commissioner may if it is deemed advisable reissue such
45 license at any time more than five years after the date on
46 which it was revoked. A person violating any provision of
47 this section shall, for the third or any subsequent offense,
48 be guilty of a felony, and upon conviction thereof shall
49 be punished by imprisonment in the penitentiary for not
50 less than one nor more than three years, and whenever
51 the records of the department disclose that a conviction
52 is the third such or any subsequent conviction of such
53 person for a violation of this section his operator's or
54 chauffeur's license shall be revoked by the commissioner
55 for a period of ten years and indefinitely thereafter unless
56 reissued as hereinafter provided. Whenever the commis-
57 sioner of motor vehicles, after full investigation, shall
58 find that the character of any person who was convicted
59 of a third or subsequent offense under this section and the
60 circumstances at the time indicate that he is not likely
61 again to repeat his offense, and the public good does not
62 require that his license be longer revoked, the commis-
63 sioner may if it is deemed advisable reissue such license
64 at any time more than ten years after the date on which it
65 was revoked. The discretionary power herein conferred
66 may be exercised by the commissioner and the depart-
67 ment of motor vehicles with respect to the reissuing of
68 licenses, revoked because of convictions prior to the
69 passage of this chapter.

Sec. 3. *Reckless Driving.*—(a) Any person who

2 drives any vehicle in willful or wanton disregard for the
3 safety of persons or property is guilty of reckless driving.

4 (b) Every person convicted of reckless driving may
5 be punished upon a first conviction by imprisonment for
6 a period of not less than five days nor more than ninety
7 days, or by fine of not less than twenty-five dollars nor
8 more than five hundred dollars, or by both such fine and
9 imprisonment, and on a second or subsequent conviction
10 may be punished by imprisonment for not less than ten
11 days nor more than six months, or by a fine of not less than
12 fifty dollars nor more than one thousand dollars, or by
13 both such fine and imprisonment.

Article 6. Speed Restrictions.

Section

1. Special restrictions.
2. Establishment of state speed zones.
3. When local authorities may alter speed limits.
4. Special speed limitations on vehicles not designed for carrying passengers and equipment with pneumatic tires.
5. Special speed limitations.
6. Charging violations and rule in civil actions.

Section 1. *Special Restrictions.*—(a) No person shall
2 drive a vehicle on a highway at a speed greater than is
3 reasonable and prudent under the conditions and having
4 regard to the actual and potential hazards, then existing.
5 In every event speed shall be so controlled as may be
6 necessary to avoid colliding with any person, vehicle, or
7 other conveyance on or entering the highways in compli-
8 ance with legal requirements and the duty of all persons
9 to use due care.

10 (b) Where no special hazard exists that requires
11 lower speed for compliance with paragraph (a) of this
12 section the speed of any vehicle not in excess of the limits
13 specified in this section or established as hereinafter au-
14 thorized shall be lawful, but any speed in excess of the
15 limits specified in this section or established as hereinafter
16 authorized shall be unlawful.

17 (1) Fifteen miles per hour when passing a school
18 building or the grounds thereof during school recess or
19 while children are going to or leaving school during
20 opening or closing hours;

21 (2) Twenty-five miles per hour in any business or
22 residence district;

23 (3) Fifty-five miles per hour on open country high-
24 ways, except as otherwise limited by this chapter.

25 The speeds set forth in this section may be altered as
26 authorized in sections two and three of this article.

27 (c) The driver of every vehicle shall, consistent with
28 the requirements of paragraph (a), drive at an appropri-
29 ate reduced speed when approaching and crossing an in-
30 tersection or railway grade crossing, when approaching
31 and going around a curve, when approaching a hill crest,
32 when traveling upon any narrow or winding roadway,
33 and when special hazard exists with respect to pedestrians
34 or other traffic or by reason of weather or highway con-
35 ditions.

2 Sec. 2. *Establishment of State Speed Zones.*—When-
3 ever the state road commission shall determine upon the
4 basis of an engineering and traffic investigation that any
5 speed limit hereinbefore set forth is greater or less than
6 is reasonable or safe under the conditions found to exist
7 at any intersection or other place or upon any part of a
8 highway, said commissioner may determine and declare
9 a reasonable and safe speed limit thereat which shall be
10 effective at all times or during hours of daylight or dark-
11 ness or at such other times as may be determined when
12 appropriate signs giving notice thereof are erected at such
13 intersection or other place or part of the highway, but no
14 speed in excess of fifty-five miles per hour shall be indi-
cated.

2 Sec. 3. *When Local Authorities May Alter Speed*
3 *Limits.*—(a) At intersection.—Whenever local authori-
4 ties within their respective jurisdictions determine upon
5 the basis of an engineering and traffic investigation that
6 the speed permitted under this chapter at any intersection
7 is greater than is reasonable or safe under the conditions
8 found to exist at such intersection, such local authority
9 subject to paragraph (d) of this section shall determine
10 and declare a reasonable and safe speed limit thereat,
11 which shall be effective at all times or during hours of
12 daylight or darkness or at such other times as may be
determined when appropriate signs giving notice thereof

13 are erected at such intersection or upon the approaches
14 thereto.

15 (b) Authority to increase twenty-five mile limit.—
16 Local authorities in their respective jurisdictions may in
17 their discretion, but subject to paragraph (d) of this
18 section, authorize by ordinance higher speeds than those
19 stated in section one of this article upon through highways
20 or upon highways or portions thereof where there are no
21 intersections or between widely spaced intersections,
22 which higher speed shall be effective at all times or during
23 hours of daylight or at such other times as may be deter-
24 mined when signs are erected giving notice of the author-
25 ized speed, but local authorities shall not have authority
26 to modify or alter the basic rule set forth in paragraph (a)
27 of section one of this article or in any event to authorize
28 by ordinance a speed in excess of fifty-five miles per hour.

29 (c) Authority to decrease fifty-five mile limit.—When-
30 ever local authorities within their respective jurisdictions
31 determine upon the basis of an engineering and traffic
32 investigation that the speed under this chapter upon open
33 country highway outside a business or residence district
34 is greater than is reasonable or safe under the conditions
35 found to exist upon such street or highway, the local
36 authority may determine and declare a reasonable and
37 safe limit thereon but in no event less than thirty-five
38 miles per hour and subject to paragraph (d) of this sec-
39 tion, which reduced limit shall be effective at all times
40 or during hours of darkness or at other times as may be
41 determined when appropriate signs giving notice thereof
42 are erected upon such street or highway.

43 (d) Alteration of limits on state highways or exten-
44 sions thereof in a municipality by local authorities shall
45 not be effective until such alteration has been approved by
46 the state road commission.

Sec. 4. *Special Speed Limitations on Vehicles Not De-*
2 *signed for Carrying Passengers and Equipment with Pneu-*
3 *matic Tires.*—Subject to all other speed restrictions of
4 this chapter no person shall drive a vehicle not designed
5 for carrying passengers and equipped with pneumatic
6 tires at a speed in excess of:

7 (1) Twenty miles per hour in any business district;

- 8 (2) Twenty-five miles per hour in any residence dis-
9 trict;
- 10 (3) Forty miles per hour on open country high-
11 way.
- 12 (4) Trucks licensed at four thousand pounds gross
13 vehicle weight or less shall be permitted the same speed
14 as passenger cars.

Sec. 5. *Special Speed Limitations.*—(a) No person
2 shall drive any vehicle equipped with other than pneu-
3 matic tires at a speed greater than a maximum of ten
4 miles per hour.

5 (b) No person shall drive a vehicle over any bridge
6 or other elevated structure constituting a part of a high-
7 way at a speed which is greater than the maximum speed
8 which can be maintained with safety to such bridge or
9 structure, when such structure is signposted as provided
10 in this section.

11 (c) The state road commission upon request from any
12 local authority shall, or upon its own initiative may,
13 conduct an investigation of any bridge or other elevated
14 structure constituting a part of a highway, and if it shall
15 thereupon find that such structure cannot with safety to
16 itself withstand vehicles traveling at the speed otherwise
17 permissible under this chapter, the commission shall de-
18 termine and declare the maximum speed of vehicles
19 which such structure can withstand, and shall cause or
20 permit suitable signs stating such maximum speed to be
21 erected and maintained at a distance of one hundred feet
22 before each end of such structure.

23 (d) Upon the trial of any person charged with a vio-
24 lation of this section, proof of said determination of the
25 maximum speed by said commission and the existence
26 of said signs shall constitute conclusive evidence of the
27 maximum speed which can be maintained with safety
28 to such bridge or structure.

Sec. 6. *Charging Violations and Rule in Civil Actions.*—

2 (a) In every charge of violation of any speed regulations
3 in this chapter the complaint, also the summons or notice
4 to appear, shall specify the speed at which the defendant
5 is alleged to have driven, also the speed applicable within

6 the district or at the location and in the event charge
 7 shall also be made of violation of any other provision of
 8 this chapter, the complaint and the summons or notice
 9 to appear shall also specify such other offense alleged to
 10 have been committed.

11 (b) The provision of this chapter declaring speed limi-
 12 tations shall not be construed to relieve the plaintiff in
 13 any civil action from the burden of proving negligence
 14 on the part of the defendant as the proximate cause of
 15 an accident.

Article 7. Driving on Right Side of Roadway, Overtaking and Passing, Etc.

Section

1. Drive on right side of roadway, exceptions.
2. Passing vehicles proceeding in opposite directions.
3. Overtaking a vehicle on the left.
4. When overtaking on the right is permitted.
5. Limitations on overtaking on the left.
6. Further limitations on driving to left of center of roadway.
7. No-passing zones.
8. One-way roadways and rotary traffic islands.
9. Driving on roadways laned for traffic.
10. Following too closely.
11. Driving on divided highways.
12. Restricted access.
13. Restrictions on use of controlled-access roadway.

Section 1. *Drive on Right Side of Roadway, Excep-*
 2 *tions.*—(a) Upon all roadways of sufficient width a ve-
 3 hicle shall be driven upon the right half of the road-
 4 way, except as follows:

- 5 (1) When overtaking and passing another vehicle pro-
 6 ceeding in the same direction under the rules governing
 7 such movement;
- 8 (2) When the right half of a roadway is closed to
 9 traffic while under construction or repair;
- 10 (3) Upon a roadway divided into three marked lanes
 11 for traffic under the rules applicable thereon; or
- 12 (4) Upon a roadway designated and signposted for
 13 one-way traffic.

14 (b) Upon all roadways any vehicle proceeding at less
 15 than the normal speed of traffic at the time and place
 16 and under the conditions then existing shall be driven
 17 in the right-hand lane then available for traffic, or as
 18 close as practicable to the right-hand curb or edge of
 19 the roadway, except when overtaking and passing an-
 20 other vehicle proceeding in the same direction or when

21 preparing for a left turn at an intersection or into a
22 private road or driveway.

Sec. 2. *Passing Vehicles Proceeding in Opposite Directions.*—Drivers of vehicles proceeding in opposite
2 directions shall pass each other to the right, and upon
3 roadways having width for not more than one line of
4 traffic in each direction each driver shall give to the
5 other at least one-half of the main-traveled portion of
6 the roadway as nearly as possible.
7

Sec. 3. *Overtaking a Vehicle on the Left.*—The follow-
2 ing rules shall govern the overtaking and passing of
3 vehicles proceeding in the same direction, subject to
4 these limitations, exceptions, and special rules herein-
5 after stated.

6 (a) The driver of a vehicle overtaking another vehicle
7 proceeding in the same direction shall give an audible
8 signal and pass to the left thereof at a safe distance and
9 shall not again drive to the right side of the roadway
10 until safely clear of the overtaken vehicle.

11 (b) Except when overtaking and passing on the right
12 is permitted, the driver of an overtaken vehicle shall
13 give way to the right in favor of the overtaking vehicle
14 on audible signal and shall not increase the speed of his
15 vehicle until completely passed by the overtaking vehicle.

Sec. 4. *When Overtaking on the Right Is Permitted.*—

2 (a) The driver of a vehicle may overtake and pass upon
3 the right of another vehicle only under the following
4 conditions:

5 (1) When the vehicle overtaken is making or about
6 to make a left turn;

7 (2) Upon a street or highway with unobstructed pave-
8 ment not occupied by parked vehicles of sufficient width
9 for two or more lines of moving vehicles in each direc-
10 tion;

11 (3) Upon a one-way street, or upon any roadway on
12 which traffic is restricted to one direction of movement,
13 where the roadway is free from obstructions and of suf-
14 ficient width for two or more lines of moving vehicles.

15 (b) The driver of a vehicle may overtake and pass
16 another vehicle upon the right only under conditions

17 permitting such movement in safety. In no event shall
18 such movement be made by driving off the pavement
19 or main-traveled portion of the roadway.

Sec. 5. *Limitations on Overtaking on the Left.*—No ve-
2 hicle shall be driven to the left side of the center of the
3 roadway in overtaking and passing another vehicle pro-
4 ceeding in the same direction unless such left side is
5 clearly visible and is free of oncoming traffic for a suf-
6 ficient distance ahead to permit such overtaking and
7 passing to be completely made without interfering with
8 the safe operation of any vehicle approaching from the
9 opposite direction or any vehicle overtaken. In every
10 event the overtaking vehicle must return to the right-
11 hand side of the roadway before coming within one
12 hundred feet of any vehicle approaching from the op-
13 posite direction.

Sec. 6. *Further Limitations on Driving to Left of Center
2 of Roadway.*—(a) No vehicle shall at any time be driven
3 to the left side of the roadway under the following con-
4 ditions:

5 (1) When approaching the crest of a grade or upon a
6 curve in the highway where the driver's view is ob-
7 structed within such distance as to create a hazard in
8 the event another vehicle might approach from the op-
9 posite direction;

10 (2) When approaching within one hundred feet of or
11 traversing any intersection or railroad grade crossing;

12 (3) When the view is obstructed upon approaching
13 within one hundred feet of any bridge, viaduct, or tunnel.

14 (b) The foregoing limitations shall not apply upon
15 a one-way roadway.

Sec. 7. *No-passing Zones.*—The state road commission
2 is hereby authorized to determine those portions of any
3 highway where overtaking and passing or driving to the
4 left of the roadway would be especially hazardous and
5 may by appropriate signs or markings on the roadway
6 indicate the beginning and end of such zones and when
7 such signs or markings are in place and clearly visible
8 to an ordinarily observant person every driver of a
9 vehicle shall obey the directions thereof.

2 Sec. 8. *One-way Roadways and Rotary Traffic Is-*
3 *lands.*—(a) The state road commission may designate
4 any highway or any separate roadway under its juris-
5 diction for one-way traffic and shall erect appropriate
6 signs giving notice thereof.

7 (b) Upon a roadway designated and signposted for
8 one-way traffic a vehicle shall be driven only in the direc-
9 tion designated.

10 (c) A vehicle passing around a rotary traffic island
11 shall be driven only to the right of such island.

12 Sec. 9. *Driving on Roadways Laned for Traffic.*—When-
13 ever any roadway has been divided into two or more
14 clearly marked lanes for traffic the following rules in
15 addition to all others consistent herewith shall apply.

16 (a) A vehicle shall be driven as nearly as practicable
17 entirely within a single lane and shall not be moved
18 from such lane until the driver has first ascertained that
19 such movement can be made with safety.

20 (b) Upon a roadway which is divided into three lanes
21 a vehicle shall not be driven in the center lane except
22 when overtaking and passing another vehicle where the
23 roadway is clearly visible and such center lane is clear
24 of traffic within a safe distance, or in preparation for a
25 left turn or where such center lane is at the time allocated
26 exclusively to traffic moving in the direction the vehicle
27 is proceeding and is signposted to give notice of such
28 allocation.

29 (c) Official signs may be erected directing slow-mov-
30 ing traffic to use a designated lane or designating those
31 lanes to be used by traffic moving in a particular direction
32 regardless of the center of the roadway and drivers of
33 vehicles shall obey the directions of every such sign.

34 Sec. 10. *Following Too Closely.*—(a) The driver of a
35 motor vehicle shall not follow another vehicle more
36 closely than is reasonable and prudent, having due re-
37 gard for the speed of such vehicles and the traffic upon
38 and the condition of the highway.

39 (b) The driver of any motor truck or motor vehicle
40 drawing another vehicle when traveling upon a road-
41 way outside of a business or residence district and which
42 is following another motor truck or motor vehicle draw-

10 ing another vehicle shall whenever conditions permit
11 leave sufficient space so that an overtaking vehicle may
12 enter and occupy such space without danger, except
13 that this shall not prevent a motor truck or motor vehicle
14 drawing another vehicle from overtaking and passing any
15 like vehicle or other vehicle.

16 (c) Motor vehicles being drawn upon any roadway
17 outside of a business or residence district in a caravan
18 or motorcade whether or not towing other vehicles shall
19 be so operated as to allow sufficient space between each
20 such vehicle or combination of vehicles so as to enable
21 any other vehicle to enter and occupy such space without
22 danger. This provision shall not apply to funeral pro-
23 ceSSIONS.

Sec. 11. *Driving on Divided Highways.*—Whenever any
2 highway has been divided into two roadways by leaving
3 an intervening space or by a physical barrier or clearly
4 indicated dividing section so constructed as to impede
5 vehicular traffic, every vehicle shall be driven only upon
6 the right-hand roadway and no vehicle shall be driven
7 over, across, or within any such dividing space, barrier,
8 or section, except through an opening in such physical
9 barrier or dividing section or space or at a cross-over or
10 intersection established by public authority.

Sec. 12. *Restricted Access.*—No person shall drive a
2 vehicle onto or from any controlled-access roadway ex-
3 cept at such entrances and exits as are established by
4 public authority.

Sec. 13. *Restrictions on Use of Controlled-access Road-
2 way.*—The state road commission may by resolution or
3 order entered in its minutes and local authorities may
4 by ordinance with respect to any controlled-access road-
5 way under their respective jurisdictions prohibit the use
6 of any such roadway by pedestrians, bicycles, or other
7 nonmotorized traffic or by any person operating a motor-
8 driven cycle.

9 The state road commission or the local authority
10 adopting any such prohibitory regulation shall erect and
11 maintain official signs on the controlled-access roadway
12 on which such regulations are applicable and when so

- 13 erected no person shall disobey the restrictions stated on
14 such signs.

Article 8. Turning and Starting and Signals on Stopping and Turning.

Section

1. Required position and method of turning at intersections.
2. Right turns.
3. Left turns on two-way roadways.
4. Left turns on other than two-way roadways.
5. Local authority may specify a different course for turns.
6. Turning on curve or crest of grade prohibited.
7. Starting parked vehicle.
8. Turning movements and required signals.
9. Signals by hand and arm or signal device.
10. Method of giving hand-and-arm signals.

Section 1. *Required Position and Method of Turning at Intersections.*—The driver of a vehicle intending to turn at an intersection shall do so as provided in this article.

Sec. 2. *Right Turns.*—Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

Sec. 3. *Left Turns on Two-way Roadways.*—At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

Sec. 4. *Left Turns on Other Than Two-way Roadways.*—At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the

9 intersection, as nearly as practicable, in the left-hand
10 lane lawfully available to traffic moving in such direction
11 upon the roadway being entered.

Sec. 5. *Local Authority May Specify a Different Course
2 for Turns.*—Local authorities in their respective juris-
3 dictions may cause markers, buttons, or signs to be
4 placed within or adjacent to intersections and thereby
5 require and direct that a different course from that speci-
6 fied in this article be traveled by vehicles turning at an
7 intersection, and when markers, buttons, or signs are so
8 placed no driver of a vehicle shall turn a vehicle at an
9 intersection other than as directed and required by such
10 markers, buttons, or signs.

Sec. 6. *Turning on Curve or Crest of Grade Prohib-
2 ited.*—No vehicle shall be turned so as to proceed in the
3 opposite direction upon any curve, or upon the approach
4 to, or near the crest of a grade, where such vehicle
5 cannot be seen by the driver of any other vehicle ap-
6 proaching from either direction within five hundred feet.

Sec. 7. *Starting Parked Vehicle.*—No person shall start
2 a vehicle which is stopped, standing, or parked unless
3 and until such movement can be made with reasonable
4 safety.

Sec. 8. *Turning Movements and Required Signals.*—
2 (a) No person shall turn a vehicle at an intersection
3 unless the vehicle is in proper position upon the road-
4 way as required in section two, three, four or five of this
5 article, or turn a vehicle to enter a private road or drive-
6 way or otherwise turn a vehicle from a direct course or
7 move right or left upon a roadway unless and until such
8 movement can be made with reasonable safety. No per-
9 son shall so turn any vehicle without giving an appropri-
10 ate signal in the manner hereinafter provided in the
11 event any other traffic may be affected by such move-
12 ment.

13 (b) A signal of intention to turn right or left when
14 required shall be given continuously during not less than
15 the last one hundred feet traveled by the vehicle before
16 turning.

17 (c) No person shall stop or suddenly decrease the
18 speed of a vehicle without first giving an appropriate
19 signal in the manner provided herein to the driver of
20 any vehicle immediately to the rear when there is op-
21 portunity to give such signal.

Sec. 9. *Signals by Hand and Arm or Signal Device.*—

2 Any stop or turn signal when required herein shall be
3 given either by means of the hand and arm or by a
4 signal lamp or lamps or mechanical signal device, but
5 when a vehicle is so constructed or loaded that hand-
6 and-arm signal would not be visible both to the front
7 and rear of such vehicle then said signals must be given
8 by such a lamp or lamps or signal device.

Sec. 10. *Method of Giving Hand-and-Arm Signals.*—

2 All signals herein required given by hand and arm shall
3 be given from the left side of the vehicle in the follow-
4 ing manner and such signals shall indicate as follows:

- 5 (1) Left turn.—Hand and arm extended horizontally.
- 6 (2) Right turn.—Hand and arm extended upward.
- 7 (3) Stop or decrease speed.—Hand and arm extended
8 downward.

Article 9. Right-of-Way.

Section

1. Vehicle approaching or entering intersection.
2. Vehicle turning left at intersection.
3. Vehicle entering through highway or stop intersections.
4. Vehicle entering highway from private road or driveway.
5. Operation of vehicles and streetcars on approach of authorized emergency vehicles.

Section 1. *Vehicle Approaching or Entering Intersec-*
2 *tion.*—(a) The driver of a vehicle approaching an inter-
3 section shall yield the right-of-way to a vehicle which
4 has entered the intersection from a different highway.

5 (b) When two vehicles enter an intersection from a
6 different highway at approximately the same time the
7 driver of the vehicle on the left shall yield the right-of-
8 way to the vehicle on the right.

9 (c) The right-of-way rules declared in paragraphs
10 (a) and (b) are modified at through highways and oth-
11 erwise as hereinafter stated in this article.

Sec. 2. *Vehicle Turning Left at Intersection.*—The

2 driver of a vehicle within an intersection intending to
3 turn to the left shall yield the right-of-way to any vehicle
4 approaching from the opposite direction which is within
5 the intersection or so close thereto as to constitute an
6 immediate hazard, but said driver, having so yielded and
7 having given a signal when and as required by this chap-
8 ter, may make such left turn and the drivers of all other
9 vehicles approaching the intersection from said opposite
10 direction shall yield the right-of-way to the vehicles
11 making the left turn.

Sec. 3. *Vehicle Entering Through Highway or Stop*
2 *Intersections.*—(a) The driver of a vehicle shall stop as
3 required by section five, article twelve of this chapter
4 at the entrance to a through highway and shall yield the
5 right-of-way to other vehicles which have entered the
6 intersection from said through highways or which are
7 approaching so closely on said through highway as to
8 constitute an immediate hazard, but said driver having
9 so yielded may proceed.

10 (b) The driver of a vehicle shall likewise stop in
11 obedience to a stop sign as required herein at an inter-
12 section where a stop sign is erected at one or more
13 entrances thereto although not a part of a through high-
14 way and shall proceed cautiously, yielding to vehicles
15 not so obliged to stop which are within the intersection
16 or approaching so closely as to constitute an immediate
17 hazard, but may then proceed.

Sec. 4. *Vehicle Entering Highway from Private Road*
2 *or Driveway.*—The driver of a vehicle about to enter
3 or cross a highway from a private road or driveway shall
4 yield the right-of-way to all vehicles approaching on
5 said highway.

Sec. 5. *Operation of Vehicles and Streetcars on Ap-*
2 *proach of Authorized Emergency Vehicles.*—(a) Upon
3 the immediate approach of authorized emergency vehicle
4 equipped with at least one lighted lamp exhibiting red
5 light visible under normal atmospheric conditions from
6 a distance of five hundred feet to the front of such vehicle
7 other than a police vehicle when operated as an author-
8 ized emergency vehicle, and when the driver is giving
9 audible signal by siren, exhaust whistle, or bell:

10 (1) The driver of every other vehicle shall yield the
 11 right-of-way and shall immediately drive to a position
 12 parallel to, and as close as possible to, the right-hand
 13 edge or curb of the roadway clear of any intersection
 14 and shall stop and remain in such position until the
 15 authorized emergency vehicle has passed, except when
 16 otherwise directed by a police officer.

17 (2) Upon the approach of an authorized emergency
 18 vehicle, as above stated, the motorman of every street-
 19 car shall immediately stop such car clear of any inter-
 20 section and keep it in such position until the authorized
 21 emergency vehicle has passed, except when otherwise
 22 directed by a police officer.

23 (b) This section shall not operate to relieve the driver
 24 of an authorized emergency vehicle from the duty to
 25 drive with due regard for the safety of all persons using
 26 the highway.

Article 10. Pedestrians' Rights and Duties.

Section

1. Pedestrians subject to traffic regulations.
2. Pedestrians' right-of-way in cross walks.
3. Crossing at other than cross walks.
4. Drivers to exercise due care.
5. Pedestrians to use right half of cross walks.
6. Pedestrians on roadways.
7. Protection of blind pedestrians on public streets and highways.

Section 1. *Pedestrians Subject to Traffic Regulations.*—

2 (a) Pedestrians shall be subject to traffic-control signals
 3 at intersections as provided in section five, article three
 4 of this chapter unless required by local ordinance to
 5 comply strictly with such signals, but at all other places
 6 pedestrians shall be accorded the privileges and shall be
 7 subject to the restrictions stated in this article.

8 (b) Local authorities are hereby empowered by ordi-
 9 nance to require that pedestrians shall strictly comply
 10 with the directions of any official traffic-control signal
 11 and may by ordinance prohibit pedestrians from cross-
 12 ing any roadway in a business district or any designated
 13 highways except in across walk.

Sec. 2. *Pedestrians' Right-of-way in Cross Walks.*—

2 (a) When traffic-control signals are not in place or not
 3 in operation the driver of a vehicle shall yield the right-

4 of-way, slowing down or stopping if need be to so yield,
5 to a pedestrian crossing the roadway within a cross
6 walk when the pedestrian is upon the half of the road-
7 way upon which the vehicle is traveling, or when the
8 pedestrian is approaching so closely from the opposite
9 half of the roadway as to be in danger, but no pedestrian
10 shall suddenly leave a curb or other place of safety and
11 walk or run into the path of a vehicle which is so close
12 that it is impossible for the driver to yield. This pro-
13 vision shall not apply under the conditions stated in
14 section three, paragraph (b) of this article.

15 (b) Whenever any vehicle is stopped at a marked
16 cross walk or at any unmarked cross walk at an inter-
17 section to permit a pedestrian to cross the roadway, the
18 driver of any other vehicle approaching from the rear
19 shall not overtake and pass such stopped vehicle.

Sec. 3. *Crossing at Other Than Cross Walks.*—(a)

2 Every pedestrian crossing a roadway at any point other
3 than within a marked cross walk or within an unmarked
4 cross walk at an intersection shall yield the right-of-way
5 to all vehicles upon the roadway.

6 (b) Any pedestrian crossing a roadway at a point
7 where a pedestrian tunnel or overhead pedestrian cross-
8 ing has been provided shall yield the right-of-way to all
9 vehicles upon the roadway.

10 (c) Between adjacent intersections at which traffic-
11 control signals are in operation pedestrians shall not
12 cross at any place except in a marked cross walk.

Sec. 4. *Drivers to Exercise Due Care.*—Notwithstand-

2 ing the foregoing provisions of this article every driver
3 of a vehicle shall exercise due care to avoid colliding
4 with any pedestrian upon any roadway and shall give
5 warning by sounding the horn when necessary and shall
6 exercise proper precaution upon observing any child or
7 any confused or incapacitated person upon a roadway.

Sec. 5. *Pedestrians to Use Right Half of Cross Walks.*—

2 Pedestrians shall move, whenever practicable, upon the
3 right half of cross walks.

Sec. 6. *Pedestrians on Roadways.*—(a) Where side-

2 walks are provided it shall be unlawful for any pedes-
3 trian to walk along and upon an adjacent roadway.

4 (b) Where sidewalks are not provided any pedestrian
5 walking along and upon a highway shall when practicable
6 walk only on the left side of the roadway or its shoulder
7 facing traffic which may approach from the opposite
8 direction.

9 (c) No person shall stand in a roadway for the pur-
10 pose of soliciting a ride from the driver of any vehicle.

11 *Sec. 7. Protection of Blind Pedestrians on Public Streets*
12 *and Highways.*—Whenever a pedestrian is crossing or
13 attempting to cross a public street or highway, at or near
14 an intersection or crosswalk, guided by a guide dog, or
15 carrying in a raised or extended position a cane or walk-
16 ing stick which is metallic or white in color, or white
17 tipped with red, the driver of every vehicle approaching
18 such intersection or crosswalk shall take such precau-
19 tions as may be necessary to avoid injuring or endanger-
20 ing such pedestrian, and if injury or danger to such
21 pedestrian can be avoided only by bringing the vehicle to
22 a full stop, the driver shall do so. No person, who is not
23 totally or partially blind or otherwise incapacitated,
24 shall carry on any public street or highway in a raised or
25 extended position a cane or walking stick which is metallic
26 or white in color, or white tipped with red.

27 Nothing contained in this section shall be construed to
28 deprive any totally or partially blind or otherwise in-
29 capacitated person, not carrying such a cane or walking
30 stick or not being guided by a dog, of the rights and
31 privileges conferred by law upon pedestrians crossing
32 the streets or highways, nor shall the failure of such
totally or partially blind or otherwise incapacitated per-
son to carry a cane or walking stick, or to be guided by a
guide dog upon the streets, highways or sidewalks of this
state, be held to constitute or be evidence of contributory
negligence.

Any person who violates any provision of this section,
shall be guilty of a misdemeanor and, upon conviction
thereof, shall be punished by a fine of not more than
twenty-five dollars or by imprisonment for not more than
ten days, or by both such fine and imprisonment.

Article 11. Operation of Bicycles and Play Vehicles.**Section**

1. Effect of regulations.
2. Traffic laws apply to persons riding bicycles.
3. Riding on bicycles.
4. Clinging to vehicles.
5. Riding on roadways and bicycle paths.
6. Carrying articles.
7. Lamps and other equipment on bicycles.

Section 1. *Effect of Regulations.*—(a) It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this article.

(b) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this chapter.

(c) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.

Sec. 2. *Traffic Laws Apply to Persons Riding Bicycles.*—Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except as to special regulations in this article and except as to those provisions of this chapter which by their nature can have no application.

Sec. 3. *Riding on Bicycles.*—(a) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.

(b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

Sec. 4. *Clinging to Vehicles.*—No person riding upon any bicycle, coaster, roller skates, sled, or toy vehicle shall attach the same or himself to any streetcar or vehicle upon a roadway.

Sec. 5. *Riding on Roadways and Bicycle Paths.*—(a) Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

6 (b) Persons riding bicycles upon a roadway shall not
7 ride more than two abreast except on paths or parts of
8 roadways set aside for the exclusive use of bicycles.

9 (c) Whenever a usable path for bicycles has been pro-
10 vided adjacent to a roadway, bicycle riders shall use
11 such path and shall not use the roadway.

Sec. 6. *Carrying Articles.*—No person operating a bi-
2 cycle shall carry any package, bundle, or article which
3 prevents the driver from keeping at least one hand
4 upon the handle bars.

Sec. 7 *Lamps and Other Equipment on Bicycles.*—(a)
2 Every bicycle when in use at nighttime shall be equipped
3 with a lamp on the front which shall emit a white light
4 visible from a distance of at least five hundred feet to the
5 front and with a red reflector on the rear of a type ap-
6 proved by the department which shall be visible from
7 all distances from fifty feet to three hundred feet to the
8 rear when directly in front of lawful upper beams of
9 head lamps on a motor vehicle. A lamp emitting a red
10 light visible from a distance of five hundred feet to the
11 rear may be used in addition to the red reflector.

12 (b) No person shall operate a bicycle unless it is
13 equipped with a bell or other device capable of giving
14 a signal audible for a distance of at least one hundred
15 feet, except that a bicycle shall not be equipped with nor
16 shall any person use upon a bicycle any siren or whistle.

17 (c) Every bicycle shall be equipped with a brake
18 which will enable the operator to make the braked wheels
19 skid on dry, level, clean pavement.

Article 12. Special Stops Required.

Section

1. Obedience to signal indicating approach of train.
2. All vehicles must stop at certain railroad grade crossings.
3. Certain vehicles must stop at all railroad grade crossings.
4. Moving heavy equipment at railroad grade crossings.
5. Vehicles must stop at through highways.
6. Stop before emerging from alley or private driveway.
7. Overtaking and passing school bus.
8. Special lighting equipment on school busses.

Section 1. *Obedience to Signal Indicating Approach of*
2 *Train.*—(a) Whenever any person driving a vehicle ap-
3 proaches a railroad grade crossing under any of the cir-

4 cumstances stated in this section, the driver of such
5 vehicle shall stop within fifty feet but not less than
6 fifteen feet from the nearest rail of such railroad, and
7 shall not proceed until he can do so safely. The fore-
8 going requirements shall apply when:

9 (1) A clearly visible electric or mechanical signal de-
10 vice gives warning of the immediate approach of a rail-
11 road train;

12 (2) A crossing gate is lowered or when a human flag-
13 man gives or continues to give a signal of the approach
14 or passage of a railroad train;

15 (3) A railroad train approaching within approximate-
16 ly one thousand five hundred feet of the highway cross-
17 ing emits a signal audible from such distance and such
18 railroad train, by reason of its speed or nearness to such
19 crossing, is an immediate hazard;

20 (4) Any approaching railroad train is plainly visible
21 and is in hazardous proximity to such crossing.

22 (b) No person shall drive any vehicle through, around,
23 or under any crossing gate or barrier at a railroad cross-
24 ing while such gate or barrier is closed or is being opened
25 or closed.

Sec. 2. *All Vehicles Must Stop at Certain Railroad*
2 *Grade Crossings.*—The state road commission and local
3 authorities with the approval of the state road commis-
4 sion are hereby authorized to designate particularly dan-
5 gerous highway grade crossings of railroads and to erect
6 stop signs thereat. When such stop signs are erected
7 the driver of any vehicle shall stop within fifty feet but
8 not less than fifteen feet from the nearest rail of such
9 railroad and shall proceed only upon exercising due care.

Sec. 3. *Certain Vehicles Must Stop at All Railroad*
2 *Grade Crossings.*—(a) The driver of any motor vehicle
3 carrying passengers for hire, or of any school bus carry-
4 ing any school child, or of any vehicle carrying ex-
5 plosive substances or flammable liquids as a cargo or
6 part of a cargo, or of any vehicle owned by an employer
7 which, in carrying on such employer's business or in
8 carrying employees to and from work, is carrying more
9 than six employees of such employer, before crossing at

10 grade any track or tracks of a railroad, shall stop such
11 vehicle within fifty feet but not less than fifteen feet from
12 the nearest rail of such railroad and while so stopped
13 shall listen and look in both directions along such track
14 for any approaching train, and for signals indicating the
15 approach of a train, except as hereinafter provided, and
16 shall not proceed until he can do so safely. After stopping
17 as required herein and upon proceeding when it is safe
18 to do so the driver of any said vehicle shall cross only in
19 such gear of the vehicle that there will be no necessity
20 for changing gears while traversing such crossing and the
21 driver shall not shift gears while crossing the track or
22 tracks.

23 (b) No stop need be made at any such crossing where
24 a police officer or a traffic-control signal directs traffic
25 to proceed.

26 (c) This section shall not apply at street-railway grade
27 crossings within a business or residence district.

Sec. 4. *Moving Heavy Equipment at Railroad Grade*
2 Crossings.—(a) No person shall operate or move any
3 crawler-type tractor, steam shovel, derrick, roller, or any
4 equipment or structure having a normal operating speed
5 of ten or less miles per hour or a vertical body or load
6 clearance of less than one-half inch per foot of the dis-
7 tance between any two adjacent axles or in any event
8 of less than nine inches, measured above the level surface
9 of a roadway, upon or across any tracks at a railroad
10 grade crossing without first complying with this section.

11 (b) Notice of any such intended crossing shall be given
12 to a station agent of such railroad and a reasonable time
13 be given to such railroad to provide proper protection
14 at such crossing.

15 (c) Before making any such crossing the person op-
16 erating or moving any such vehicle or equipment shall
17 first stop the same not less than fifteen feet nor more
18 than fifty feet from the nearest rail of such railroad and
19 while so stopped shall listen and look in both directions
20 along such track for any approaching train and for
21 signals indicating the approach of a train, and shall not
22 proceed until the crossing can be made safely.

23 (d) No such crossing shall be made when warning is

24 given by automatic signal or crossing gates or a flagman
25 or otherwise of the immediate approach of a railroad
26 train or car. If a flagman is provided by the railroad,
27 movement over the crossing shall be under his direction.

Sec. 5. *Vehicles Must Stop at Through Highways.*—

2 (a) The state road commission with reference to state
3 highways and local authorities with reference to other
4 highways under their jurisdiction may designate through
5 highways and erect stop signs at specified entrances
6 thereto or may designate any intersection as a stop in-
7 tersection and erect like signs at one or more entrances
8 to such intersection.

9 (b) Every said sign shall bear the word "Stop" in let-
10 ters not less than six inches in height and such sign shall
11 at nighttime be rendered luminous by steady or flashing
12 internal illumination, or by a fixed floodlight projected
13 on the face of the sign, or by efficient reflecting elements
14 on the face of the sign.

15 (c) Every stop sign shall be erected as near as prac-
16 ticable to the nearest line of the cross walk on the near
17 side of the roadway.

18 (d) Every driver of a vehicle and every motorman of
19 a streetcar approaching a stop sign shall stop before
20 entering the cross walk on the near side of the intersec-
21 tion or in the event there is no cross walk shall stop at a
22 clearly marked stop line, but if none, then at the point
23 nearest the intersecting highway where the driver has
24 a view of approaching traffic on the intersecting high-
25 way before entering the intersection except when di-
26 rected to proceed by a police officer or traffic-control
27 signal.

Sec. 6. *Stop Before Emerging from Alley or Private
2 Driveway.*—The driver of a vehicle within a business or
3 residence district emerging from any alley, driveway,
4 or building shall stop such vehicle immediately prior to
5 driving onto a sidewalk or onto the sidewalk area ex-
6 tending across any alleyway or private driveway, and
7 shall yield the right-of-way to any pedestrian as may be
8 necessary to avoid collision, and upon entering the road-
9 way shall yield the right-of-way to all vehicles approach-
10 ing on said roadway.

Sec. 7. *Overtaking and Passing School Bus.*—(a) The
2 driver of a vehicle upon a highway outside of a business
3 or residence district upon meeting or overtaking from
4 either direction any school bus which has stopped on the
5 highway for the purpose of receiving or discharging any
6 school children shall stop the vehicle before reaching
7 such school bus and shall not proceed until such school
8 bus resumes motion, or until signaled by the driver to
9 proceed.

10 (b) Every bus used for the transportation of school
11 children shall bear upon the front and rear thereon a
12 plainly visible sign containing the words "school bus"
13 in letters not less than six inches in height. When a
14 contract school bus is being operated upon a highway
15 for purposes other than the actual transportation of
16 children either to or from school all markings thereon
17 indicating "school bus" shall be covered or concealed.

18 (c) The driver of a vehicle upon a highway with sep-
19 arate roadways need not stop upon meeting or passing a
20 school bus which is on a different roadway or when upon
21 a controlled-access highway and the school bus is stopped
22 in a loading zone which is a part of or adjacent to such
23 highway and where pedestrians are not permitted to
24 cross the roadway.

Sec. 8. *Special Lighting Equipment on School Busses.*—

2 (a) The commissioner of motor vehicles is authorized to
3 adopt standards and specifications applicable to lighting
4 equipment on and special warning devices to be carried
5 by school busses consistent with the provisions of this
6 chapter, but supplemental thereto, and except that such
7 standards and specifications may designate and permit
8 the use of flashing warning signal lights on school busses
9 for the purpose of indicating when children are boarding
10 or alighting from any said bus. Such standards and
11 specifications shall correlate with and, so far as possible,
12 conform to the specifications then current as approved
13 by the Society of Automotive Engineers.

14 (b) It shall be unlawful to operate any flashing warn-
15 ing signal light on any school bus except when any said
16 school bus is stopped on a highway for the purpose of

- 17 permitting school children to board or alight from said
18 school bus.

Article 13. Stopping, Standing and Parking.

Section

1. Stopping, standing, or parking outside of business or residence districts.
2. Officers authorized to remove illegally stopped vehicles.
3. Stopping, standing, or parking prohibited in specified places.
4. Additional parking regulations.

Section 1. *Stopping, Standing, or Parking Outside of Business or Residence Districts.*—(a) Upon any highway outside of a business or residence district no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the highway when it is practicable to stop, park, or so leave such vehicle off such part of said highway, but in every event an unobstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicles shall be available from a distance of two hundred feet in each direction upon such highway.

(b) This section shall not apply to the driver of any vehicle which is disabled while on the paved or main-traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position.

Sec. 2. *Officers Authorized to Remove Illegally Stopped Vehicles.*—(a) Whenever any police officer finds a vehicle standing upon a highway in violation of any of the foregoing provisions of this article such officer is hereby authorized to move such vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position off the paved or main-traveled part of such highway.

(b) Whenever any police officer finds a vehicle unattended upon any bridge or causeway or in any tunnel where such vehicle constitutes an obstruction to traffic, such officer is hereby authorized to provide for the removal of such vehicle to the nearest garage or other place of safety.

Sec. 3. *Stopping, Standing, or Parking Prohibited in Specified Places.*—(a) No person shall stop, stand, or

- 3 park a vehicle, except when necessary to avoid conflict
4 with other traffic or in compliance with law or the direc-
5 tions of a police officer or traffic-control device, in any of
6 the following places:
- 7 (1) On a sidewalk;
 - 8 (2) In front of a public or private driveway;
 - 9 (3) Within an intersection;
 - 10 (4) Within fifteen feet of a fire hydrant;
 - 11 (5) On a cross walk;
 - 12 (6) Within twenty feet of a cross walk at an inter-
13 section;
 - 14 (7) Within thirty feet upon the approach to any flash-
15 ing beacon, stop sign, or traffic-control signal located at
16 the side of a roadway;
 - 17 (8) Between a safety zone and the adjacent curb or
18 within thirty feet of points on the curb immediately op-
19 posite the ends of a safety zone, unless a different length
20 is indicated by signs or markings;
 - 21 (9) Within fifty feet of the nearest rail of a railroad
22 crossing;
 - 23 (10) Within twenty feet of the driveway entrance to
24 any fire station and on the side of a street opposite the
25 entrance to any fire station within seventy-five feet of
26 said entrance (when properly signposted);
 - 27 (11) Alongside or opposite any street excavation or
28 obstruction when stopping, standing, or parking would
29 obstruct traffic;
 - 30 (12) On the roadway side of any vehicle stopped or
31 parked at the edge or curb of a street;
 - 32 (13) Upon any bridge or other elevated structure upon
33 a highway or within a highway tunnel;
 - 34 (14) At any place where official signs prohibit stop-
35 ping;
 - 36 (15) Within twenty feet of any mail receptacle served
37 regularly by a carrier using a motor vehicle for daily
38 deliveries, if such parking interferes with or causes delay
39 in the carrier's schedule.
- 40 (b) No person shall move a vehicle not lawfully under
41 his control into any such prohibited area or away from
42 a curb such distance as is unlawful.

Sec. 4. *Additional Parking Regulations.*—(a) Except

2 as otherwise provided in this section every vehicle
3 stopped or parked upon a roadway where there are
4 adjacent curbs shall be so stopped or parked with the
5 right-hand wheels of such vehicle parallel to and within
6 eighteen inches of the right-hand curb.

7 (b) Local authorities may by ordinance permit park-
8 ing of vehicles with the left-hand wheels adjacent to and
9 within eighteen inches of the left-hand curb of a one-
10 way roadway.

11 (c) Local authorities may by ordinance permit angle
12 parking on any roadway, except that angle parking shall
13 not be permitted on any federal-aid or state highway
14 unless the state road commission has determined by reso-
15 lution or order entered in its minutes that the roadway
16 is of sufficient width to permit angle parking without
17 interfering with the free movement of traffic.

18 (d) The state road commission with respect to high-
19 ways under its jurisdiction may place signs prohibiting
20 or restricting the stopping, standing, or parking of ve-
21 hicles on any highway where in its opinion, as evidenced
22 by resolution or order entered in its minutes, such stop-
23 ping, standing, or parking is dangerous to those using
24 the highway or where the stopping, standing, or parking
25 of vehicles would unduly interfere with the free move-
26 ment of traffic thereon. Such signs shall be official signs
27 and no person shall stop, stand, or park any vehicle in
28 violation of the restrictions stated on such signs.

Article 14. Miscellaneous Rules.

Section

1. Unattended motor vehicle.
2. Limitations on backing.
3. Riding on motorcycles.
4. Obstruction to driver's view or driving mechanism.
5. Passengers in seat with operator.
6. Passengers on runningboard.
7. Driving on mountain highways.
8. Coasting prohibited.
9. Following fire apparatus prohibited.
10. Crossing fire hose.
11. Putting glass, etc., on highway prohibited.
12. Regulations relative to school busses.

Section 1. *Unattended Motor Vehicle.*—No person driv-
2 ing or in charge of a motor vehicle shall permit it to stand
3 unattended without first stopping the engine, locking the

4 ignition, removing the key, and effectively setting the
5 brake thereon and, when standing upon any grade, turn-
6 ing the front wheels to the curb or side of the highway.

Sec. 2. *Limitations on Backing.*—The driver of a vehicle
2 shall not back the same unless such movement can be
3 made with reasonable safety and without interfering with
4 other traffic.

Sec. 3. *Riding on Motorcycles.*—A person operating a
2 motorcycle shall ride only upon the permanent and regu-
3 lar seat attached thereto, and such operator shall not
4 carry any other person nor shall any other person ride
5 on a motorcycle unless such motorcycle is designed to
6 carry more than one person, in which event a passenger
7 may ride upon the permanent and regular seat if designed
8 for two persons, or upon another seat firmly attached to
9 the rear or side of the operator.

Sec. 4. *Obstruction to Driver's View or Driving Mech-*
2 *anism.*—(a) No person shall drive a vehicle when it is so
3 loaded as to obstruct the view of the driver to the front
4 or sides of the vehicle or as to interfere with the driver's
5 control over the driving mechanism of the vehicle.
6 (b) No passenger in a vehicle or streetcar shall ride in
7 such position as to interfere with the driver's or motor-
8 man's view ahead or to the sides, or to interfere with his
9 control over the driving mechanism of the vehicle or
10 streetcar.

Sec. 5. *Passengers in Seat with Operator.*—No more
2 than three persons including the operator shall ride or be
3 permitted by such operator to ride in the seat with the
4 operator of any motor vehicle while said motor vehicle is
5 being operated on the streets or highways of this state.

Sec. 6. *Passengers on Runningboard.*—No passenger
2 shall ride nor shall the operator permit any passenger to
3 ride on the runningboards of any motor vehicle while
4 such vehicle is being operated on the streets or highways
5 of this state.

Sec. 7. *Driving on Mountain Highways.*—The driver of
2 a motor vehicle traveling through defiles or canyons or
3 on mountain highways shall hold such motor vehicle

4 under control and as near the right-hand edge of the high-
5 way as reasonably possible and, upon approaching any
6 curve where the view is obstructed within a distance of
7 two hundred feet along the highway, shall give audible
8 warning with the horn of such motor vehicle.

Sec. 8. *Coasting Prohibited.*—(a) The driver of any
2 motor vehicle when traveling upon a down grade shall
3 not coast with the gears of such vehicle in neutral.

4 (b) The driver of a commercial motor vehicle when
5 traveling upon a down grade shall not coast with the
6 clutch disengaged.

Sec. 9: *Following Fire Apparatus Prohibited.*—The
2 driver of any vehicle other than one on official business
3 shall not follow any fire apparatus traveling in response
4 to a fire alarm closer than five hundred feet or drive into
5 or park such vehicle within the block where fire appa-
6 ratus has stopped in answer to a fire alarm.

Sec. 10. *Crossing Fire Hose.*—No streetcar or vehicle
2 shall be driven over any unprotected hose of a fire de-
3 partment when laid down on any street, private drive-
4 way, or streetcar track, to be used at any fire or alarm of
5 fire, without the consent of the fire department official in
6 command.

Sec. 11. *Putting Glass, etc., on Highway Prohibited.*—
2 (a) No person shall throw or deposit upon any highway
3 any glass bottle, glass, nails, tacks, wire, cans, or any
4 other substance likely to injure any person, animal, or
5 vehicle upon such highway.

6 (b) Any person who drops, or permits to be dropped
7 or thrown, upon any highway any destructive or injurious
8 material shall immediately remove the same or cause it
9 to be removed.

10 (c) Any person removing a wrecked or damaged ve-
11 hicle from a highway shall remove any glass or other
12 injurious substance dropped upon the highway from such
13 vehicle.

Sec. 12. *Regulations Relative to School Busses.*—(a)
2 The West Virginia board of education by and with the
3 advice of the motor vehicle commissioner shall adopt and

4 enforce regulations not inconsistent with this chapter to
5 govern the design and operation of all school busses used
6 for the transportation of school children when owned and
7 operated by any county board of education or privately
8 owned and operated under contract with any county
9 board of education in this state and such regulations shall
10 by reference be made a part of any such contract with a
11 county board of education. Every county board of edu-
12 cation, its officers and employees, and every person em-
13 ployed under contract by a county board of education
14 shall be subject to said regulations.

15 (b) Any officer or employee of any county board of
16 education who violates any of said regulations or fails to
17 include obligation to comply with said regulations in any
18 contract executed by him on behalf of a county board of
19 education shall be guilty of misconduct and subject to
20 removal from office or employment. Any person operat-
21 ing a school bus under contract with a county board of
22 education who fails to comply with any said regulations
23 shall be guilty of breach of contract and such contract
24 shall be canceled after notice and hearing by the respon-
25 sible officers of such county board of education.

Article 15. Equipment.

Section

1. Scope and effect of regulations.
2. When lighted lamps are required.
3. Visibility distance and mounted height of lamps.
4. Head lamps on motor vehicles.
5. Tail lamps.
6. New motor vehicles to be equipped with reflectors.
7. Stop lamps required on new motor vehicles.
8. Application of succeeding sections.
9. Additional equipment required on certain vehicles.
10. Color of clearance lamps, side marker lamps, and reflectors.
11. Mounting of reflectors, clearance lamps, and side marker lamps.
12. Visibility of reflectors, clearance lamps, and marker lamps.
13. Obstructed lights not required.
14. Lamp or flag on projecting load.
15. Lamps on parked vehicles.
16. Lamps on other vehicles and equipment.
17. Spot lamps and auxiliary lamps.
18. Signal lamps and signal devices.
19. Additional lighting equipment.
20. Multiple-beam road-lighting equipment.
21. Use of multiple-beam road-lighting equipment.
22. Single-beam road-lighting equipment.
23. Lighting equipment on motor-driven cycles.
24. Alternate road-lighting equipment.
25. Number of driving lamps required or permitted.

26. Special restrictions on lamps.
27. Standards for lights on snow removal equipment.
28. Selling or using lamps or devices.
29. Authority of state road commissioner with reference to lighting devices.
30. Revocation of certificate of approval on lighting devices.
31. Brakes.
32. Brakes on motor-driven cycles.
33. Horns and warning devices.
34. Mufflers, prevention of noise.
35. Mirrors.
36. Windshields must be unobstructed and equipped with wipers.
37. Restrictions as to tire equipment.
38. Safety glass in motor vehicles.
39. Certain vehicles to carry flares or other warning devices.
40. Display of warning devices when vehicle disabled.
41. Vehicles transporting explosives.
42. Television receivers in view of driver prohibited.

Section 1. *Scope and Effect of Regulations.*—(a) It is
2 a misdemeanor for any person to drive or move or for
3 the owner to cause or knowingly permit to be driven or
4 moved on any highway any vehicle or combination of
5 vehicles which is in such unsafe condition as to endanger
6 any person, or which does not contain those parts or is
7 not at all times equipped with such lamps and other
8 equipment in proper condition and adjustment as re-
9 quired in this article, or which is equipped in any man-
10 ner in violation of this article, or for any person to do any
11 act forbidden or fail to perform any act required under
12 this article.

13 (b) Nothing contained in this article shall be con-
14 strued to prohibit the use of additional parts and acces-
15 sories on any vehicle not inconsistent with the provisions
16 of this article.

17 (c) The provisions of this article with respect to equip-
18 ment on vehicles shall not apply to implements of hus-
19 bandry, road machinery, road rollers, or farm tractors
20 except as herein made applicable. Every farm tractor
21 equipped with an electric lighting system shall at all
22 times mentioned in section two of this article display a
23 red tail lamp and either multiple-beam or single-beam
24 head lamps meeting the requirements of sections two,
25 twenty and twenty-two of this article, respectively.

Sec. 2. *When Lighted Lamps Are Required.*—Every
2 vehicle upon a highway within this state at any time
3 from a half hour after sunset to a half hour before sun-

4 rise and at any other time when there is not sufficient
5 light to render clearly discernible persons and vehicles on
6 the highway at a distance of five hundred feet ahead shall
7 display lighted lamps and illuminating devices as here-
8 inafter respectively required for different classes of ve-
9 hicles, subject to exceptions with respect to parked ve-
10 hicles as hereinafter stated.

Sec. 3. *Visibility Distance and Mounted Height of*
2 *Lamps.*—(a) Whenever requirement is hereinafter de-
3 clared as to the distance from which certain lamps and
4 devices shall render objects visible or within which such
5 lamps or devices shall be visible said provisions shall
6 apply during the times stated in section two of this
7 article in respect to a vehicle without load when upon a
8 straight, level, unlighted highway under normal atmos-
9 pheric conditions unless a different time or condition is
10 expressly stated.

11 (b) Whenever requirement is hereinafter declared as
12 to the mounted height of lamps or devices it shall mean
13 from the center of such lamp or device to the level ground
14 upon which the vehicle stands when such vehicle is with-
15 out a load.

Sec. 4. *Head Lamps on Motor Vehicles.*—(a) Every
2 motor vehicle other than a motorcycle or motor-driven
3 cycle shall be equipped with at least two headlamps with
4 at least one on each side of the front of the motor vehicle,
5 which head lamps shall comply with the requirements
6 and limitations set forth in this article.

7 (b) Every motorcycle and every motor-driven cycle
8 shall be equipped with at least one and not more than two
9 head lamps which shall comply with the requirements
10 and limitations of this article.

11 (c) Every head lamp upon every motor vehicle, in-
12 cluding every motorcycle and motor-driven cycle, shall
13 be located at a height measured from the center of the
14 head lamp of not more than fifty-four inches nor less than
15 twenty-eight inches to be measured as set forth in section
16 three of this article.

Sec. 5. *Tail Lamps.*—(a) Every motor vehicle, trailer
2 or semitrailer, and any other vehicle which is being

3 drawn at the end of a train of vehicles, shall be equipped
4 with at least one tail lamp mounted on the rear, which,
5 when lighted as hereinbefore required, shall emit a red
6 light plainly visible from a distance of five hundred feet
7 to the rear, provided that in the case of a train of vehicles
8 only the tail lamp on the rearmost vehicle need actually
9 be seen from the distance specified.

10 (b) Every tail lamp upon every vehicle shall be lo-
11 cated at a height of not more than sixty inches nor less
12 than twenty inches to be measured as set forth in section
13 three (b) of this article.

14 (c) Either a tail lamp or a separate lamp shall be so
15 constructed and placed as to illuminate with a white light
16 the rear registration plate and render it clearly legible
17 from a distance of fifty feet to the rear. Any tail lamp or
18 tail lamps, together with any separate lamp for illumi-
19 nating the rear registration plate, shall be so wired as to
20 be lighted whenever the headlamps or auxiliary driving
21 lamps are lighted.

2 *Sec. 6. New Motor Vehicles to Be Equipped with Re-*
3 *flectors.*—(a) Every new motor vehicle hereafter sold
4 and operated upon a highway, other than a truck tractor,
5 shall carry on the rear, either as a part of the tail lamps
6 or separately, two red reflectors, except that every motor-
7 cycle and every motor-driven cycle shall carry at least
8 one reflector, meeting the requirements of this section,
9 and except that vehicles of the type mentioned in section
10 nine of this article shall be equipped with reflectors as
11 required in those sections applicable thereto.

12 (b) Every such reflector shall be mounted on the ve-
13 hicle at a height not less than twenty inches nor more
14 than sixty inches measured as set forth in section three
15 (b), and shall be of such size and characteristics and so
16 mounted as to be visible at night from all distances with-
17 in three hundred feet to fifty feet from such vehicle when
18 directly in front of lawful upper beams of head lamps,
19 except that visibility from a greater distance is herein-
20 after required of reflectors on certain types of vehicles.

21 *Sec. 7. Stop Lamps Required on New Motor Vehicles.*—
2 From and after the first day of January, one thousand

3 nine hundred fifty-two, it shall be unlawful for any per-
4 son to sell any new motor vehicle, including any motor-
5 cycle or motor-driven cycle, in this state or for any per-
6 son to drive such vehicle on the highway unless it is
7 equipped with a stop lamp meeting the requirements of
8 section eighteen of this article.

Sec. 8. *Application of Succeeding Sections.*—Those sec-
2 tions of this chapter which follow immediately, including
3 section nine, ten, eleven, twelve and thirteen of this arti-
4 cle, and relating to clearance and marker lamps, reflec-
5 tors, and stop lights shall apply as stated in said sections
6 to vehicles of the type therein enumerated, namely pas-
7 senger busses, trucks, truck tractors, and certain trailers,
8 semitrailers, and pole trailers, respectively, when oper-
9 ated upon any highway, and said vehicles shall be
10 equipped as required and all lamp equipment required
11 shall be lighted at the times mentioned in section two of
12 this article except that clearance and side marker lamps
13 need not be lighted on any said vehicle when operated
14 within any municipality where there is sufficient light to
15 render clearly discernible persons and vehicles on the
16 highway at a distance of five hundred feet.

Sec. 9. *Additional Equipment Required on Certain*
2 *Vehicles.*—In addition to other equipment required in
3 this chapter the following vehicles shall be equipped as
4 herein stated under the conditions stated in section eight
5 of this article.

6 (a) On every bus or truck, whatever its size, there
7 shall be the following:

8 On the rear, two reflectors, one at each side, and one
9 stop light.

10 (b) On every bus or truck eighty inches or more in
11 over-all width, in addition to the requirements in para-
12 graph (a):

13 On the front, two clearance lamps, one at each side.

14 On the rear, two clearance lamps, one at each side.

15 On each side, two side marker lamps, one at or near the
16 front and one at or near the rear.

17 On each side, two reflectors, one at or near the front
18 and one at or near the rear.

19 (c) On every truck tractor:

20 On the front, two clearance lamps, one at each side.

21 On the rear, one stop light.

22 (d) On every trailer or semitrailer having a gross
23 weight in excess of three thousand pounds;

24 On the front, two clearance lamps, one at each side.

25 On each side, two side marker lamps, one at or near
26 the front and one at or near the rear.

27 On each side, two reflectors, one at or near the front
28 and one at or near the rear.

29 On the rear, two clearance lamps, one at each side, also
30 two reflectors, one at each side, and one stop light.

31 (e) On every pole trailer in excess of three thousand
32 pounds gross weight:

33 On each side, one side marker lamp and one clearance
34 lamp which may be in combination, to show to the front,
35 side, and rear.

36 On the rear of the pole trailer or load, two reflectors,
37 one at each side.

38 (f) On every trailer, semitrailer, or pole trailer weigh-
39 ing three thousand pounds gross or less:

40 On the rear, two reflectors, one on each side. If any
41 trailer or semitrailer is so loaded or is of such dimensions
42 as to obscure the stop light on the towing vehicle, then
43 such vehicle shall also be equipped with one stop light.

Sec. 10. *Color of Clearance Lamps, Side Marker Lamps,
2 and Reflectors.*—(a) Front clearance lamps and those
3 marker lamps and reflectors mounted on the front or on
4 the side near the front of a vehicle shall display or re-
5 flect an amber color.

6 (b) Rear clearance lamps and those marker lamps and
7 reflectors mounted on the rear or on the sides near the
8 rear of a vehicle shall display or reflect a red color.

9 (c) All lighting devices and reflectors mounted on the
10 rear of any vehicle shall display or reflect a red color,
11 except the stop light or other signal device, which may be
12 red, amber, or yellow, and except that the light illuminat-
13 ing the license plate or the light emitted by a back-up
14 light shall be white.

Sec. 11. *Mounting of Reflectors, Clearance Lamps, and
2 Side Marker Lamps.*—(a) Reflectors when required by
3 section nine of this article shall be mounted at a height

4 not less than twenty-four inches and not higher than
5 sixty inches above the ground on which the vehicle
6 stands, except that if the highest part of the permanent
7 structure of the vehicle is less than twenty-four inches
8 the reflector at such point shall be mounted as high as
9 that part of the permanent structure will permit.

10 The rear reflectors on a pole trailer may be mounted on
11 each side of the bolster or load.

12 Any required red reflector on the rear of a vehicle may
13 be incorporated with the tail lamp, but such reflector
14 shall meet all the other reflector requirements of this
15 chapter.

16 (b) Clearance lamps shall be mounted on the perma-
17 nent structure of the vehicle in such manner as to indi-
18 cate its extreme width and as near the top thereof as prac-
19 ticable. Clearance lamps and side marker lamps may be
20 mounted in combination provided illumination is given
21 as required herein with reference to both.

Sec. 12. *Visibility of Reflectors, Clearance Lamps, and*
2 *Marker Lamps.*—(a) Every reflector upon any vehicle
3 referred to in section nine of this article shall be of such
4 size and characteristics and so maintained as to be readily
5 visible at nighttime from all distances within five hundred
6 feet to fifty feet from the vehicle when directly in front
7 of lawful upper beams of head lamps. Reflectors required
8 to be mounted on the sides of the vehicle shall reflect the
9 required color of light to the sides, and those mounted on
10 the rear shall reflect a red color to the rear.

11 (b) Front and rear clearance lamps shall be capable of
12 being seen and distinguished under normal atmospheric
13 conditions at the times lights are required at a distance
14 of five hundred feet from the front and rear, respectively,
15 of the vehicle.

16 (c) Side marker lamps shall be capable of being seen
17 and distinguished under normal atmospheric conditions
18 at the times lights are required at a distance of five hun-
19 dred feet from the side of the vehicle on which mounted.

Sec. 13. *Obstructed Lights Not Required.*—Whenever
2 motor and other vehicles are operated in combination
3 during the time that lights are required, any lamp (except

4 tail lamps) need not be lighted which, by reason of its
5 location on a vehicle of the combination, would be ob-
6 scured by another vehicle of the combination, but this
7 shall not affect the requirement that lighted clearance
8 lamps be displayed on the front of the foremost vehicle
9 required to have clearance lamps, nor that all lights re-
10 quired on the rear of the rearmost vehicle of any combi-
11 nation shall be lighted.

Sec. 14. *Lamp or Flag on Projecting Load.*—Whenever
2 the load upon any vehicle extends to the rear four feet or
3 more beyond the bed or body of such vehicle there shall
4 be displayed at the extreme rear end of the load, at the
5 times specified in section two of this article, a red light or
6 lantern plainly visible from a distance of at least five
7 hundred feet to the sides and rear. The red light or
8 lantern required under this section shall be in addition
9 to the red rear light required upon every vehicle. At any
10 time there shall be displayed at the extreme rear end of
11 such load a red flag or cloth not less than twelve inches
12 square and so hung that the entire area is visible to the
13 driver of a vehicle approaching from the rear.

Sec. 15. *Lamps on Parked Vehicles.*—(a) Whenever a
2 vehicle is lawfully parked upon a street or highway dur-
3 ing the hours between a half hour after sunset and a half
4 hour before sunrise and in the event there is sufficient
5 light to reveal any person or object within a distance of
6 five hundred feet upon such street or highway no lights
7 need be displayed upon such parked vehicle.

8 (b) Whenever a vehicle is parked or stopped upon a
9 roadway or shoulder adjacent thereto, whether attended
10 or unattended, during the hours between a half hour
11 after sunset and a half hour before sunrise and there is
12 not sufficient light to reveal any person or object within
13 a distance of five hundred feet upon such highway, such
14 vehicle so parked or stopped shall be equipped with one
15 or more lamps which shall exhibit a white light on the
16 roadway side visible from a distance of five hundred feet
17 to the front of such vehicle and a red light visible from a
18 distance of five hundred feet to the rear. The foregoing
19 provisions shall not apply to a motor-driven cycle.

20 (c) Any lighted head lamps upon a parked vehicle
21 shall be depressed or dimmed.

Sec. 16. *Lamps on Other Vehicles and Equipment.*—

2 All vehicles including animal-drawn vehicles and in-
3 cluding those referred to in section one (c) of this article
4 not hereinbefore specifically required to be equipped with
5 lamps, shall at the times specified in section two of this
6 article be equipped with at least one lighted lamp or
7 lantern exhibiting a white light visible from a distance of
8 five hundred feet to the front of such vehicle and with a
9 lamp or lantern exhibiting a red light visible from a dis-
10 tance of five hundred feet to the rear.

Sec. 17. *Spot Lamps and Auxiliary Lamps.*—(a) Spot

2 lamps.—Any motor vehicle may be equipped with not to
3 exceed one spot lamp and every lighted spot lamp shall
4 be so aimed and used upon approaching another vehicle
5 that no part of the high-intensity portion of the beam will
6 be directed to the left of the prolongation of the extreme
7 left side of the vehicle nor more than one hundred feet
8 ahead of the vehicle.

9 (b) Fog lamps. Any motor vehicle may be equipped
10 with not to exceed two fog lamps mounted on the front at
11 a height not less than twelve inches nor more than thirty
12 inches above the level surface upon which the vehicle
13 stands and so aimed that when the vehicle is not loaded
14 none of the high-intensity portion of the light to the left
15 of the center of the vehicle shall at a distance of twenty-
16 five feet ahead project higher than a level of four inches
17 below the level of the center of the lamp from which it
18 comes.

19 (c) Auxiliary passing lamp. Any motor vehicle may
20 be equipped with not to exceed one auxiliary passing
21 lamp mounted on the front at a height not less than
22 twenty-four inches nor more than forty-two inches above
23 the level surface upon which the vehicle stands and every
24 auxiliary passing lamp shall meet the requirements and
25 limitations set forth in this article.

26 (d) Auxiliary driving lamp. Any motor vehicle may
27 be equipped with not to exceed one auxiliary driving
28 lamp mounted on the front at a height not less than six-

29 teen inches nor more than forty-two inches above the
30 level surface upon which the vehicle stands and every
31 such auxiliary driving lamp shall meet the requirements
32 and limitations set forth in this article.

Sec. 18. *Signal Lamps and Signal Devices.*—(a) Any
2 motor vehicle may be equipped and when required under
3 this chapter shall be equipped with the following signal
4 lamps or devices:

5 (1) A stop lamp on the rear which shall emit a red or
6 yellow light and which shall be actuated upon application
7 of the service (foot) brake and which may but need not
8 be incorporated with a tail lamp.

9 (2) A lamp or lamps or mechanical signal device cap-
10 able of clearly indicating any intention to turn either to
11 the right or to the left and which shall be visible both
12 from the front and rear.

13 (b) A stop lamp shall be plainly visible and under-
14 standable from a distance of one hundred feet to the rear
15 both during normal sunlight and at nighttime and a sig-
16 nal lamp or lamps indicating intention to turn shall be
17 visible and understandable during daytime and night-
18 time from a distance of one hundred feet both to the front
19 and rear. When a vehicle is equipped with a stop lamp or
20 other signal lamps, such lamp or lamps shall at all times
21 be maintained in good working condition. No stop lamp
22 or signal lamp shall project a glaring or dazzling light.

23 (c) All mechanical signal devices shall be self-illumi-
24 nated when in use at the times mentioned in section two
25 of this article.

Sec. 19. *Additional Lighting Equipment.*—(a) Any
2 motor vehicle may be equipped with not more than two
3 side cowl or fender lamps which shall emit an amber or
4 white light without glare.

5 (b) Any motor vehicle may be equipped with not more
6 than one running-board courtesy lamp on each side there-
7 of which shall emit a white or amber light without glare.

8 (c) Any motor vehicle may be equipped with not more
9 than two back-up lamps either separately or in combina-
10 tion with other lamps, but any such back-up lamp shall

11 not be lighted when the motor vehicle is in forward mo-
12 tion.

Sec. 20. *Multiple-beam Road-lighting Equipment.*—Ex-
2 cept as hereinafter provided, the head lamps or the aux-
3 iliary driving lamp, or the auxiliary passing lamp, or
4 combinations thereof, on motor vehicles other than a
5 motorcycle or motor-driven cycle shall be so arranged
6 that the driver may select at will between distributions
7 of light projected to different elevations, subject to the
8 following requirements and limitations:

9 (a) There shall be an uppermost distribution of light,
10 or composite beam, so aimed and of such intensity as to
11 reveal persons and vehicles at a distance of at least three
12 hundred feet ahead for all conditions of loading. The
13 maximum intensity of this uppermost distribution of light
14 or composite beam one degree of arc or more above the
15 horizontal level of the lamps when the vehicle is not
16 loaded shall not exceed eight thousand apparent candle-
17 power, and at no other point of the distribution of light
18 or composite beam shall there be an intensity of more
19 than seventy-five thousand apparent candlepower.

20 (b) There shall be a lowermost distribution of light,
21 or composite beam so aimed that:

22 (1) When the vehicle is not loaded, none of the high-
23 intensity portion of the light which is directed to the left
24 of the prolongation of the extreme left side of the vehicle
25 shall, at a distance of twenty-five feet ahead, project
26 higher than a level of eight inches below the level of the
27 center of the lamp from which it comes.

28 (2) When the vehicle is not loaded, none of the high-
29 intensity portion of the light which is directed to the right
30 of the prolongation of the extreme left side of the vehicle
31 shall, at a distance of twenty-five feet ahead, project
32 higher than a level of three inches below the level of the
33 center of the lamp from which it comes.

34 (3) In no event shall any of the high intensity of such
35 lowermost distribution of light or composite beam project
36 higher than a level of forty-two inches above the level on
37 which the vehicle stands at a distance of seventy-five feet
38 ahead.

39 (c) Where one intermediate beam is provided, the

40 beam on the left side of the road shall be in conformity
41 with item (1) of paragraph (b) of this section except
42 when arranged in accordance with the practice specified
43 in paragraph (e).

44 (d) The lowermost distribution of light shall be so
45 aimed and of sufficient intensity to reveal a person or
46 vehicle at a distance of at least one hundred feet ahead.

47 (e) Every new motor vehicle, other than a motorcycle
48 or motor-driven cycle, registered in this state after the
49 first day of January, one thousand nine hundred fifty-two,
50 which has multiple-beam road-lighting equipment shall
51 be equipped with a beam indicator, which shall be lighted
52 whenever the uppermost distribution of light from the
53 head lamps is in use, and shall not otherwise be lighted.
54 Said indicator shall be so designed and located that when
55 lighted it will be readily visible without glare to the
56 driver of the vehicle so equipped.

Sec. 21. *Use of Multiple-beam Road-lighting Equip-*
2 *ment.*—(a) Whenever a motor vehicle is being operated
3 on a roadway or shoulder adjacent thereto during the
4 times specified in section two of this article, the driver
5 shall use a distribution of light, or composite beam, di-
6 rected high enough and of sufficient intensity to reveal
7 persons and vehicles at a safe distance in advance of the
8 vehicle, subject to the following requirements and limi-
9 tations:

10 (b) Whenever the driver of a vehicle approaches an
11 oncoming vehicle within five hundred feet, such driver
12 shall use a distribution of light or composite beam so
13 aimed that the glaring rays are not projected into the
14 eyes of the oncoming driver, and in no case shall the high-
15 intensity portion which is projected to the left of the pro-
16 longation of the extreme left side of the vehicle be aimed
17 higher than the center of the lamp from which it comes
18 at a distance of twenty-five feet ahead, and in no case
19 higher than a level of forty-two inches above the level
20 upon which the vehicle stands at a distance of seventy-
21 five feet ahead.

22 The lowermost distribution of light specified in item (1)
23 of section twenty (b) of this article shall be deemed to

- 24 avoid glare at all times, regardless of road contour and
25 loading.

Sec. 22. *Single-beam Road-lighting Equipment.*—Head
2 lamps arranged to provide a single distribution of light
3 shall be permitted on motor vehicles manufactured and
4 sold prior to one year after the effective date of this
5 chapter in lieu of multiple-beam road-lighting equipment
6 herein specified if the single distribution of light complies
7 with the following requirements and limitations:

8 (1) The head lamps shall be so aimed that when the
9 vehicle is not loaded none of the high-intensity portion of
10 the light shall at a distance of twenty-five feet ahead pro-
11 ject higher than a level of five inches below the level of
12 the center of the lamp from which it comes, and in no
13 case higher than forty-two inches above the level on
14 which the vehicle stands at a distance of seventy-five feet
15 ahead.

16 (2) The intensity shall be sufficient to reveal persons
17 and vehicles at a distance of at least two hundred feet.

Sec. 23. *Lighting Equipment on Motor-driven Cycles.*—
2 The head lamp or head lamps upon every motor-driven
3 cycle may be of the single-beam or multiple-beam type
4 but in either event shall comply with the requirements
5 and limitations as follows:

6 (1) Every said head lamp or head lamps on a motor-
7 driven cycle shall be of sufficient intensity to reveal a
8 person or a vehicle at a distance of not less than one
9 hundred feet when the motor-driven cycle is operated at
10 any speed less than twenty-five miles per hour and at a
11 distance of not less than two hundred feet when the motor-
12 driven cycle is operated at a speed of twenty-five or more
13 miles per hour.

14 (2) In the event the motor-driven cycle is equipped
15 with a multiple-beam head lamp or head lamps the upper
16 beam shall meet the minimum requirements set forth
17 above and shall not exceed the limitations set forth in
18 section twenty (a) of this article and the lowermost beam
19 shall meet the requirements applicable to a lowermost
20 distribution of light as set forth in section twenty (b) of
21 this article.

22 (3) In the event the motor-driven cycle is equipped
23 with a single-beam lamp or lamps, said lamp or lamps
24 shall be so aimed that when the vehicle is loaded none of
25 the high-intensity portion of light, at a distance of twenty-
26 five feet ahead, shall project higher than the level of the
27 center of the lamp from which it comes.

Sec. 24. *Alternate Road-lighting Equipment.*—Any
2 motor vehicle may be operated under the conditions speci-
3 fied in section two of this article when equipped with two
4 lighted lamps upon the front thereof capable of revealing
5 persons and objects seventy-five feet ahead in lieu of
6 lamps required in section twenty or section twenty-two
7 of this article: *Provided, however,* That at no time shall
8 it be operated at a speed in excess of twenty miles per
9 hour.

Sec. 25. *Number of Driving Lamps Required or Per-*
2 *mitted.*—(a) At all times specified in section two of this
3 article at least two lighted lamps shall be displayed, one
4 on each side at the front of every motor vehicle other than
5 a motorcycle or motor-driven cycle, except when such
6 vehicle is parked subject to the regulations governing
7 lights on parked vehicles.

8 (b) Whenever a motor vehicle equipped with head
9 lamps as herein required is also equipped with any aux-
10 iliary lamps or a spot lamp or any other lamp on the front
11 thereof projecting a beam of intensity greater than three
12 hundred candlepower, not more than a total of four of
13 any such lamps on the front of a vehicle shall be lighted
14 at any one time when upon a highway.

Sec. 26. *Special Restrictions on Lamps.*—(a) Any
2 lighted lamp or illuminating device upon a motor vehicle
3 other than head lamps, spot lamps, auxiliary lamps, or
4 flashing front-direction signals which projects a beam of
5 light of an intensity greater than three hundred candle-
6 power shall be so directed that no part of the beam will
7 strike the level of the roadway on which the vehicle
8 stands at a distance of more than seventy-five feet from
9 the vehicle.

10 (b) No person shall drive or move any vehicle or
11 equipment upon any highway with any lamp or device

12 thereon displaying a red light visible from directly in
13 front of the center thereof. This section shall not apply to
14 any vehicle upon which a red light visible from the front
15 is expressly authorized or required by this chapter.

16 (c) Flashing lights are prohibited on motor vehicles,
17 except on an authorized emergency vehicle, school bus,
18 snow removal equipment, or on any vehicle as a means
19 for indicating a right or left turn.

Sec. 27. *Standards for Lights on Snow Removal Equip-*
2 *ment.*—(a) The state road commission shall adopt stand-
3 ards and specifications applicable to head lamps, clear-
4 ance lamps, identification and other lamps on snow re-
5 moval equipment when operated on the highways of this
6 state in lieu of the lamps otherwise required on motor
7 vehicles by this chapter. Such standards and specifica-
8 tions may permit the use of flashing lights for purposes
9 of identification on snow removal equipment when in
10 service upon the highways. The standards and specifica-
11 tions for lamps referred to in this section shall correlate
12 with and, so far as possible, conform with those approved
13 by the American Association of State Highway Officials.

14 (b) It shall be unlawful to operate any snow removal
15 equipment on any highway unless the lamps thereon
16 comply with and are lighted when and as required by
17 the standards and specifications adopted as provided in
18 this section.

Sec. 28. *Selling or Using Lamps or Devices.*—(a) No
2 person shall have for sale, sell, or offer for sale for use
3 upon or as a part of the equipment of a motor vehicle,
4 trailer, or semitrailer or use upon any such vehicle any
5 head lamp, auxiliary or fog lamp, rear lamp, signal lamp,
6 or reflector which reflector is required hereunder, or parts
7 of any of the foregoing which tend to change the original
8 design or performance, unless of a type which has been
9 submitted to the state road commissioner and approved
10 by him.

11 (b) No person shall have for sale, sell, or offer for
12 sale for use upon or as a part of the equipment of a motor
13 vehicle, trailer, or semitrailer any lamp or device men-
14 tioned in this section which has been approved by the

15 state road commissioner unless such lamp or device bears
16 thereon the trade-mark or name under which it is ap-
17 proved so as to be legible when installed.

18 (c) No person shall use upon any motor vehicle, trailer,
19 or semitrailer any lamps mentioned in this section unless
20 said lamps are equipped with bulbs of a rated candle-
21 power and are mounted and adjusted as to focus and aim
22 in accordance with instructions of the state road com-
23 missioner.

Sec. 29. *Authority of State Road Commissioner with*
2 *Reference to Lighting Devices.*—(a) The state road com-
3 missioner is hereby authorized to approve or disapprove
4 lighting devices.

5 (b) The state road commissioner is hereby required
6 to approve or disapprove any lighting device, of a type
7 on which approval is specifically required in this chapter,
8 within a reasonable time after such device has been sub-
9 mitted.

10 (c) The state road commissioner is further authorized
11 to set up the procedure which shall be followed when
12 any device is submitted for approval.

13 (d) The state road commissioner upon approving any
14 such lamp or device shall issue to the applicant a certifi-
15 cate of approval together with any instructions deter-
16 mined by him.

17 (e) The state road commissioner shall publish lists of
18 all lamps and devices by name and type which have been
19 approved by him, together with instructions as to the
20 permissible candlepower rating of the bulbs which he has
21 determined for use therein and such other instructions
22 as to adjustment as the state road commissioner may deem
23 necessary.

Sec. 30. *Revocation of Certificate of Approval on Light-*
2 *ing Devices.*—When the state road commissioner has rea-
3 son to believe that an approved device as being sold com-
4 mercially does not comply with the requirements of this
5 chapter, he may, after giving thirty days' previous notice
6 to the person holding the certificate of approval for such
7 device in this state, conduct a hearing upon the question

8 of compliance of said approved device. After said hear-
9 ing the state road commissioner shall determine whether
10 said approved device meets the requirements of this
11 chapter. If said device does not meet the requirements
12 of this chapter he shall give notice to the person holding
13 the certificate of approval for such device in this state.
14 If at the expiration of ninety days after such notice
15 the person holding the certificate of approval for such
16 device has failed to satisfy the state road commissioner
17 that said approved device as thereafter to be sold meets
18 the requirements of this chapter, the state road commis-
19 sioner shall suspend or revoke the approval issued there-
20 for until or unless such device is resubmitted to and re-
21 tested by an authorized testing agency and is found to
22 meet the requirements of this chapter, and may require
23 that all said devices sold since the notification following
24 the hearing be replaced with devices that do comply with
25 the requirements of this chapter. The state road commis-
26 sioner may at the time of the retest purchase in the open
27 market and submit to the testing agency one or more
28 sets of such approved devices, and if such device upon
29 such retest fails to meet the requirements of this chap-
30 ter, the state road commissioner may refuse to renew the
31 certificate of approval of such device.

Sec. 31. *Brakes.*—(a) Brake equipment required.—

2 (1) Every motor vehicle, other than a motorcycle or
3 motor-driven cycle, when operated upon a highway shall
4 be equipped with brakes adequate to control the move-
5 ment of and to stop and hold such vehicle, including two
6 separate means of applying the brakes, each of which
7 means shall be effective to apply the brakes to at least two
8 wheels. If these two separate means of applying the
9 brakes are connected in any way, they shall be so con-
10 structed that failure of any one part of the operating
11 mechanism shall not leave the motor vehicle without
12 brakes on at least two wheels.

13 (2) Every motorcycle and every motor-driven cycle,
14 when operated upon a highway, shall be equipped with
15 at least one brake which may be operated by hand or
16 foot.

17 (3) Every trailer or semitrailer of a gross weight of

18 three thousand pounds or more when operated upon a
19 highway shall be equipped with brakes adequate to con-
20 trol the movement of and to stop and to hold such vehicle
21 and so designed as to be applied by the driver of the
22 towing motor vehicle from its cab, and said brakes shall
23 be so designed and connected that in case of an accidental
24 breakaway of the towed vehicle the brakes shall be auto-
25 matically applied.

26 (4) Every new motor vehicle, trailer, or semitrailer
27 hereafter sold in this state and operated upon the high-
28 ways shall be equipped with service brakes upon all
29 wheels of every such vehicle, except any motorcycle or
30 motor-driven cycle, and except that any semitrailer of
31 less than one thousand five hundred pounds gross weight
32 need not be equipped with brakes.

33 (5) In any combination of motor-driven vehicles,
34 means shall be provided for applying the rearmost trailer
35 brakes, of any trailer equipped with brakes, in approxi-
36 mate synchronism with the brakes on the towing vehicle
37 and developing the required braking effort on the rear-
38 most wheels at the fastest rate; or means shall be pro-
39 vided for applying braking effort first on the rearmost
40 trailer equipped with brakes; or both of the above means
41 capable of being used alternatively may be employed.

42 (6) One of the means of brake operation shall consist
43 of a mechanical connection from the operating lever to
44 the brake shoes or bands and this brake shall be capable
45 of holding the vehicle, or combination of vehicles, sta-
46 tionary under any condition of loading on any upgrade
47 or downgrade upon which it is operated.

48 (7) The brake shoes operating within or upon the
49 drums on the vehicle wheels of any motor vehicle may
50 be used for both service and hand operation.

51 (b) Performance ability of brakes. Every motor ve-
52 hicle or combination of motor-drawn vehicles shall be
53 capable, at all times and under all conditions of loading,
54 of being stopped on a dry, smooth, level road free from
55 loose material, upon application of the service (foot)
56 brake, within the distances specified below, or shall be
57 capable of being decelerated at a sustained rate corre-
58 sponding to these distances:

	Feet to stop from 20 miles per hour	Deceleration in feet per second
59		
60		
61		
62		
63		
64	30	14
65		
66		
67	40	10.7
68	(c) Maintenance of brakes. All brakes shall be main-	
69	tained in good working order and shall be so adjusted as	
70	to operate as equally as practicable with respect to the	
71	wheels on opposite sides of the vehicle.	

2 Sec. 32. *Brakes on Motor-driven Cycles.*—(a) The com-
 3 missioner is authorized to require an inspection of the
 4 brake on any motor-driven cycle and to disapprove any
 5 such brake which he finds will not comply with the per-
 6 formance ability standard set forth in section thirty-one
 7 of this article, or which in his opinion is not so designed
 8 or constructed as to insure reasonable and reliable per-
 9 formance in actual use.

10 (b) The commissioner may refuse to register or may
 11 suspend or revoke the registration of any vehicle referred
 12 to in this section when he determines that the brake
 13 thereon does not comply with the provisions of this
 14 section.

15 (c) No person shall operate on any highway any ve-
 16 hicle referred to in this section in the event the commis-
 17 sioner has disapproved the brake equipment upon such
 18 vehicle or type of vehicle.

2 Sec. 33. *Horns and Warning Devices.*—(a) Every
 3 motor vehicle when operated upon a highway shall be
 4 equipped with a horn in good working order and capable
 5 of emitting sound audible under normal conditions from
 6 a distance of not less than two hundred feet, but no horn
 7 or other warning device shall emit an unreasonably loud
 8 or harsh sound or a whistle. The driver of a motor ve-
 9 hicle shall when reasonably necessary to insure safe op-
 10 eration give audible warning with his horn but shall not
 11 otherwise use such horn when upon a highway.

11 (b) No vehicle shall be equipped with nor shall any
12 person use upon a vehicle any siren, whistle, or bell, ex-
13 cept as otherwise permitted in this section.

14 (c) It is permissible but not required that any com-
15 mercial vehicle be equipped with a theft alarm signal de-
16 vice which is so arranged that it cannot be used by the
17 driver as an ordinary warning signal.

18 Any authorized emergency vehicle may be equipped
19 with a siren, whistle, or bell, capable of emitting sound
20 audible under normal conditions from a distance of not
21 less than five hundred feet and of a type approved by the
22 department, but such siren shall not be used except when
23 such vehicle is operated in response to an emergency or in
24 the immediate pursuit of an actual or suspected violator
25 of the law, in which said latter events the driver of such
26 vehicle shall sound said siren when reasonably necessary
27 to warn pedestrians and other drivers of the approach
28 thereof.

Sec. 34. *Mufflers, Prevention of Noise.*—(a) Every
2 motor vehicle shall at all times be equipped with a muf-
3 fler in good working order and in constant operation to
4 prevent excessive or unusual noise and annoying smoke,
5 and no person shall use a muffler cut-out, bypass, or sim-
6 ilar device upon a motor vehicle on a highway.

7 (b) The engine and power mechanism of every motor
8 vehicle shall be so equipped and adjusted as to prevent
9 the escape of excessive fumes or smoke.

Sec. 35. *Mirrors.*—Every motor vehicle which is so con-
2 structed or loaded as to obstruct the driver's view to the
3 rear thereof from the driver's position shall be equipped
4 with a mirror so located as to reflect to the driver a view
5 of the highway for a distance of at least two hundred feet
6 to the rear of such vehicle.

Sec. 36. *Windshields Must be Unobstructed and Equip-*
2 *ped with Wipers.*—(a) No person shall drive any motor
3 vehicle with any sign, poster, or other nontransparent
4 material upon the front windshield, side wings, or side
5 or rear windows of such vehicle which obstructs the
6 driver's clear view of the highway or any intersecting
7 highway.

8 (b) The windshield on every motor vehicle shall be
9 equipped with a device for cleaning rain, snow, or other
10 moisture from the windshield, which device shall be so
11 constructed as to be controlled or operated by the driver
12 of the vehicle.

13 (c) Every windshield wiper upon a motor vehicle shall
14 be maintained in good working order.

Sec. 37. *Restrictions as to Tire Equipment.*—(a) Every
2 solid rubber tire on a vehicle shall have rubber on its en-
3 tire traction surface at least one inch thick above the edge
4 of the flang of the entire periphery.

5 (b) No person shall operate or move on any highway
6 any motor vehicle, trailer, or semitrailer having any metal
7 tire in contact with the roadway.

8 (c) No tire on a vehicle moved on a highway shall have
9 on its periphery any block, stud, flange, cleat, or spike or
10 any other protuberance of any material other than rubber
11 which projects beyond the tread of the traction surface of
12 the tire, except that it shall be permissible to use farm
13 machinery with tires having protuberances which will not
14 injure the highway, and except also that it shall be per-
15 missible to use tire chains of reasonable proportions upon
16 any vehicle when required for safety because of snow,
17 ice, or other conditions tending to cause a vehicle to skid.

18 (d) The state road commission and local authorities in
19 their respective jurisdictions may in their discretion is-
20 sue special permits authorizing the operation upon a high-
21 way of traction engines or tractors having movable tracks
22 with transverse corrugations upon the periphery of such
23 movable tracks or farm tractors or other farm machinery,
24 the operation of which upon a highway would otherwise
25 be prohibited under this chapter.

Sec. 38. *Safety Glass in Motor Vehicles.*—(a) On and
2 after the first day of July, one thousand nine hundred
3 fifty-one, no person shall operate any motor vehicle as
4 specified herein, nor shall any motor vehicle as specified
5 herein be registered thereafter unless such vehicle is
6 equipped with safety glass of a type approved by the
7 state road commissioner wherever glass is used in doors,
8 windows, and windshields. The foregoing provisions

9 shall apply to all passenger-type motor vehicles, including
10 passenger busses and school busses, but in respect to
11 trucks, including truck tractors, the requirements as to
12 safety glass shall apply to all glass used in doors, windows,
13 and windshields in the drivers' compartments of such
14 vehicles.

15 (b) The term "safety glass" shall mean any product
16 composed of glass, so manufactured, fabricated, or treated
17 as substantially to prevent shattering and flying of the
18 glass when struck or broken, or such other or similar
19 product as may be approved by the commissioner.

20 (c) The state road commissioner shall compile and
21 publish a list of types of glass by name approved by him
22 as meeting the requirements of this section and the com-
23 missioner of motor vehicles shall not register after the
24 first day of July one thousand nine hundred fifty-one any
25 motor vehicle which is subject to the provisions of this
26 section unless it is equipped with an approved type of
27 safety glass, and he shall thereafter suspend the registra-
28 tion of any motor vehicle so subject to this section which
29 he finds is not equipped until it is made to conform to the
30 requirements of this section.

Sec. 39. *Certain Vehicles to Carry Flares or Other*
2 *Warning Devices.*—(a) No person shall operate any
3 motor truck, passenger bus, road tractor or truck tractor
4 upon any highway outside the corporate limits of mu-
5 nicipalities at any time from a half hour after sunset to a
6 half hour before sunrise unless there shall be carried in
7 such vehicle the following equipment except as provided
8 in paragraph (b):

9 (1) At least three flares or three red electric lanterns
10 each of which shall be capable of being seen and distin-
11 guished at a distance of five hundred feet under normal
12 atmospheric conditions at nighttime.

13 Each flare (liquid-burning pot torch) shall be capable of
14 burning for not less than twelve hours in five miles per
15 hour wind velocity and capable of burning in any air
16 velocity from zero to forty miles per hour. Every such
17 flare shall be substantially constructed so as to withstand
18 reasonable shocks without leaking. Every such flare
19 shall be carried in the vehicle in a metal rack or box.

20 Every such red electric lantern shall be capable of op-
21 erating continuously for not less than twelve hours and
22 shall be substantially constructed so as to withstand rea-
23 sonable shock without breakage.

24 (2) At least three red-burning fuses unless red electric
25 lanterns are carried.

26 Every fuse shall be made in accordance with specifica-
27 tions of the Bureau of Explosives, thirty Vesey Street,
28 New York City, and so marked and shall be capable of
29 burning at least fifteen minutes.

30 (3) At least two red cloth flags, not less than twelve
31 inches square, with standards to support same.

32 (b) No person shall operate at the time and under the
33 conditions stated in paragraph (a) any motor vehicle used
34 in the transportation of flammable liquids in bulk, or
35 transporting compressed flammable gases, unless there
36 shall be carried in such vehicle three red electric lanterns
37 meeting the requirements above stated, and there shall
38 not be carried in any said vehicle any flares, fuses, or
39 signal produced by a flame.

40 (c) As an alternative it shall be deemed a compliance
41 with this section in the event a person operating any
42 motor vehicle described in this section shall carry in such
43 vehicle three portable reflector units on standards of a
44 type approved by the state road commissioner. No port-
45 able reflector unit shall be approved unless it is so de-
46 signed and constructed as to include two reflectors, one
47 above the other, each of which shall be capable of re-
48 flecting red light clearly visible from all distances within
49 five hundred feet to fifty feet under normal atmospheric
50 conditions at nighttime when directly in front of lawful
51 upper beams of head lamps.

Sec. 40. *Display of Warning Devices When Vehicle Dis-*
2 *abled.*—(a) Whenever any motor truck, passenger bus,
3 truck tractor, trailer, semitrailer, or pole trailer is dis-
4 abled upon the traveled portion of any highway or the
5 shoulder thereof outside of any municipality at any time
6 when lighted lamps are required on vehicles the driver of
7 such vehicle shall display the following warning devices
8 upon the highway during the time the vehicle is so dis-

9 abled on the highway except as provided in paragraph
10 (b):

11 (1) A lighted fusee shall be immediately placed on the
12 roadway at the traffic side of the motor vehicle unless
13 electric lanterns are displayed.

14 (2) Within the burning period of the fusee and as
15 promptly as possible three lighted flares (pot torches) or
16 three electric lanterns shall be placed on the roadway as
17 follows:

18 One at a distance of approximately one hundred feet
19 in advance of the vehicle, one at a distance of approxi-
20 mately one hundred feet to the rear of the vehicle, each
21 in the center of the lane of traffic occupied by the disabled
22 vehicle, and one at the traffic side of the vehicle approxi-
23 mately ten feet rearward or forward thereof.

24 (b) Whenever any vehicle used in the transportation of
25 flammable liquids in bulk, or transporting compressed
26 flammable gases is disabled upon a highway at any time
27 or place mentioned in paragraph (a) of this section, the
28 driver of such vehicle shall display upon the roadway the
29 following lighted warning devices: One red electric
30 lantern shall be immediately placed on the roadway at
31 the traffic side of the vehicle and two other red electric
32 lanterns shall be placed to the front and rear of the ve-
33 hicle in the same manner prescribed in paragraph (a)
34 above for flares.

35 When a vehicle of a type specified in paragraph (b) is
36 disabled the use of flares, fusees, or any signal produced
37 by flame as warning signals is prohibited.

38 (c) Whenever any vehicle of a type referred to in this
39 section is disabled upon the traveled portion of a highway
40 or the shoulder thereof outside of any municipality at any
41 time when the display of fusees, flares, or electric lanterns
42 is not required, the driver of such vehicle shall display
43 two red flags upon the roadway in the lane of traffic oc-
44 cupied by the disabled vehicle, one at a distance of ap-
45 proximately one hundred feet in advance of the vehicle,
46 and one at a distance of approximately one hundred feet
47 to the rear of the vehicle.

48 (d) In the alternative it shall be deemed a compliance
49 with this section in the event three portable reflector

50 units on standards of a type approved by the state road
51 commissioner are displayed at the times and under the
52 conditions specified in this section either during the day-
53 time or at nighttime and such portable reflector units
54 shall be placed on the roadway in the locations as de-
55 scribed with reference to the placing of electric lanterns
56 and lighted flares.

57 (e) The flares, fusees, lanterns, and flags to be dis-
58 played as required in this section shall conform with the
59 requirements of section thirty-nine of this article applic-
60 able thereto.

Sec. 41. *Vehicles Transporting Explosives.*—Any person
2 operating any vehicle transporting any explosive as a
3 cargo or part of a cargo upon a highway shall at all times
4 comply with the provisions of this section.

5 (a) Said vehicle shall be marked or placarded on each
6 side and the rear with the word "Explosives" in letters
7 not less than eight inches high, or there shall be displayed
8 on the rear of such vehicle a red flag not less than twenty-
9 four inches square marked with the word "Danger" in
10 white letters six inches high.

11 (b) Every said vehicle shall be equipped with not less
12 than two fire extinguishers, filled and ready for imme-
13 diate use, and placed at a convenient point on the vehicle
14 so used.

15 (c) The state road commissioner is hereby authorized
16 and directed to promulgate such additional regulations
17 governing the transportation of explosives and other dan-
18 gerous articles by vehicles upon the highways as he shall
19 deem advisable for the protection of the public.

Sec. 42. *Television Receivers in View of Driver Pro-*
2 *hibited.*—No motor vehicle shall be operated on any
3 street or highway in this state when equipped with a
4 television receiver unless such receiver is so placed that
5 the screen or picture tube of such receiver is visible only
6 in the rear seat of such motor vehicle and not in view of
7 the operator of such motor vehicle.

Article 16. Inspection of Vehicles.

Section

1. Vehicles without required equipment or in unsafe condition.
2. Inspection by department of public safety.

3. Owners and drivers to comply with inspection laws.
4. Commissioner to require periodical inspection.
5. Appointment of official inspection stations.
6. Operation of official inspection stations.
7. Improper representation as official stations.
8. False certificates.

Section 1. *Vehicles without Required Equipment or in Unsafe Condition.*—No person shall drive or move on any highway any motor vehicle, trailer, semitrailer, or pole trailer, or any combination thereof unless the equipment upon any and every said vehicle is in good working order and adjustment as required in this chapter and said vehicle is in such safe mechanical condition as not to endanger the driver or other occupant or any person upon any highway.

Sec. 2. *Inspection by Department of Public Safety.*—

(a) The department of public safety may at any time upon reasonable cause to believe that a vehicle is unsafe or not equipped as required by law, or that its equipment is not in proper adjustment or repair, require the driver of such vehicle to stop and submit such vehicle to an inspection and such test with reference thereto as may be appropriate.

(b) In the event such vehicle and its equipment are found to be in safe condition and in full compliance with the law, the officer making such inspection shall issue to the driver an official certificate of inspection and approval of such vehicle specifying those parts or equipment so inspected and approved.

(c) In the event such vehicle is found to be in unsafe condition or any required part or equipment is not present or is not in proper repair and adjustment the officer shall give a written notice to the driver and shall send a copy to the department. Said notice shall require that such vehicle be placed in safe condition and its equipment in proper repair and adjustment specifying the particulars with reference thereto and that a certificate of inspection and approval be obtained within five days.

Sec. 3. *Owners and Drivers to Comply with Inspection*

Laws.—(a) No person driving a vehicle shall refuse to submit such vehicle to an inspection and test when required to do so by the department of public safety.

5 (b) Every owner or driver, upon receiving a notice as
6 provided in section two of this article shall comply there-
7 with and shall within five days secure an official certifi-
8 cate of inspection and approval which shall be issued in
9 duplicate, one copy to be retained by the owner or driver
10 and the other copy to be forwarded to the department.
11 In lieu of compliance with this paragraph the vehicle
12 shall not be operated, except as provided in the next suc-
13 ceeding paragraph.

14 (c) No person shall operate any vehicle after receiving
15 a notice with reference thereto as above provided, except
16 as may be necessary to return such vehicle to the resi-
17 dence or place of business of the owner or driver, if within
18 a distance of twenty miles, or to a garage, until said
19 vehicle and its equipment has been placed in proper re-
20 pair and adjustment and otherwise made to conform to
21 the requirements of this chapter and a certificate of in-
22 spection and approval shall be obtained as promptly as
23 possible thereafter.

24 (d) In the event repair or adjustment of any vehicle
25 or its equipment is found necessary upon inspection, the
26 owner of said vehicle may obtain such repair or adjust-
27 ment at any place he may choose, but in every event an
28 official certificate of inspection and approval must be ob-
29 tained, otherwise such vehicle shall not be operated upon
30 the highways of this state.

Sec. 4. *Commissioner to Require Periodical Inspection.*

2 —(a) The commissioner of motor vehicles shall once
3 each year require that every motor vehicle, trailer, semi-
4 trailer, and pole trailer registered in this state be in-
5 spected and that an official certificate of inspection and
6 approval be obtained for each such vehicle.

7 Such inspections shall be made and such certificates
8 obtained with respect to the mechanism, brakes, and
9 equipment of every such vehicle as shall be designated
10 by the commissioner.

11 The commissioner is hereby authorized to make neces-
12 sary rules and regulations for the administration and
13 enforcement of this section and to designate any period
14 or periods of time during which owners of any vehicles,
15 subject to this section, shall display upon such vehicles

16 certificates of inspection and approval or shall produce
17 the same upon demand of any officer or employee of the
18 department designated by the commissioner or any police
19 or peace officer when authorized by the commissioner.

20 (b) The commissioner may authorize the acceptance
21 in this state of a certificate of inspection and approval
22 issued in another state having an inspection law similar
23 to this chapter and may extend the time within which a
24 certificate shall be obtained by the resident owner of a
25 vehicle which was not in this state during the time an
26 inspection was required.

27 (c) The commissioner may suspend the registration of
28 any vehicle which he determines is in such unsafe con-
29 dition as to constitute a menace to safety or which after
30 notice and demand is not equipped as required in this
31 chapter or for which a required certificate has not been
32 obtained.

Sec. 5. *Appointment of Official Inspection Stations.*—

2 (a) The commissioner shall issue permits for and fur-
3 nish instructions and all necessary forms to official in-
4 spection stations for the inspection of vehicles as herein
5 required and the issuance of official certificates of inspec-
6 tion and approval.

7 (b) Application for permit shall be made upon an offi-
8 cial form and shall be granted only when the commis-
9 sioner is satisfied that the station is properly equipped
10 and has competent personnel to make such inspections
11 and adjustments and will be properly conducted. The
12 commissioner before issuing a permit may require the
13 applicant to file a bond conditioned that it will make
14 compensation for any damage to a vehicle during an in-
15 spection or adjustment due to negligence on the part of
16 such applicant or its employees.

17 (c) The commissioner shall properly supervise and
18 cause inspections to be made of such stations and shall
19 revoke and require the surrender of the permit issued to
20 a station which he finds is not properly equipped or
21 conducted. The commissioner shall maintain and post at
22 the office of the department lists of all stations holding
23 permits and of those whose permits have been revoked.

Sec. 6. *Operation of Official Inspection Stations.*—(a)

2 No permit for an official station shall be assigned or trans-
3 ferred or used at any location other than therein desig-
4 nated and every said permit shall be posted in a conspicu-
5 ous place at the location designated.

6 (b) The person operating an official inspection station
7 shall issue a certificate of inspection and approval upon
8 an official form to the owner of a vehicle upon inspecting
9 such vehicle and determining that its equipment required
10 hereunder is in good condition and proper adjustment,
11 otherwise no certificate shall be issued. When required
12 by the commissioner record and report shall be made of
13 every inspection and every certificate so issued.

14 (c) A fee of not more than one dollar may be charged
15 for an inspection and issuance of such certificate, but the
16 imposition of such charge shall not be mandatory.

Sec. 7. Improper Representation as Official Stations.—

2 (a) No person shall in any manner represent any place as
3 an official inspection station unless such station is op-
4 erating under a valid permit issued by the department.

5 (b) No person shall issue a certificate of inspection and
6 approval unless then holding a valid permit hereunder.

Sec. 8. False Certificates.—(a) No person shall make,
2 issue, or knowingly use any imitation or counterfeit of
3 an official certificate of inspection.

4 (b) No person shall display or cause or permit to be
5 displayed upon a vehicle any certificate of inspection and
6 approval knowing the same to be fictitious or issued for
7 another vehicle or issued without an inspection having
8 been made.

Article 17. Size, Weight and Load.

Section

1. Scope and effect of article.
2. Width of vehicles.
3. Projecting loads on passenger vehicles.
4. Height and length of vehicles and loads.
5. Special load limits.
6. Loads on vehicles.
7. Trailers and towed vehicles.
8. Single-axle load limit.
9. Gross weight of vehicles and loads.
10. Officers may weigh vehicles and require removal or rearrangement of excess loads.
11. Permits for excess size and weight.

12. When the state road commission or local authorities may restrict right to use highways.
13. Liability for damage to highway or structure.
14. Penalties for violation of weight laws; impounding vehicles.

Section 1. *Scope and Effect of Article.*—(a) It shall be
2 unlawful for any person to drive or move or the owner,
3 lessee or borrower to cause or knowingly permit to be
4 driven or moved on any highway any vehicle or vehicles
5 of a size and weight exceeding the limitations stated in
6 this article or otherwise in violation of this article, and the
7 maximum size and weight of vehicles herein specified
8 shall be lawful throughout this state, and local authori-
9 ties shall have no power or authority to alter said limi-
10 tations except as express authority may be granted in this
11 article. Violation of this section shall constitute a mis-
12 demeanor.

13 (b) The provisions of this article governing size,
14 weight, and load shall not apply to fire apparatus, road
15 machinery, or to implements of husbandry, including
16 farm tractors, temporarily moved upon a highway, or to
17 a vehicle operated under the terms of a special permit.
18 issued as herein provided.

Sec. 2. *Width of Vehicles.*—(a) The total outside width
2 of any vehicle or the load thereon shall not exceed eight
3 feet, except as otherwise provided in this section.

4 (b) Incorporated cities and municipalities may by ordi-
5 nance permit the operation within their respective juris-
6 dictions of any motor bus or trackless trolley coach with
7 a maximum outside width of not to exceed one hundred
8 two inches.

9 (c) No motor bus or trackless trolley coach exceeding
10 a total outside width of ninety-six inches shall be operated
11 on any highway outside of an incorporated city or mu-
12 nicipality, except that any motor bus or trackless trolley
13 coach with a total outside width of not exceeding one
14 hundred two inches may be operated upon any highway
15 route or routes having traffic-lane widths of not less than
16 twelve feet in suburban areas adjacent to municipalities.

Sec. 3. *Projecting Loads on Passenger Vehicles.*—No
2 passenger-type vehicle shall be operated on any highway
3 with any load carried thereon extending beyond the line

4 of the fenders of the left side of such vehicle nor extend-
5 ing more than six inches beyond the line of the fenders on
6 the right side thereof.

Sec. 4. *Height and Length of Vehicles and Loads.*—(a)
2 No vehicle including any load thereon shall exceed a
3 height of twelve feet six inches, except that vehicles used
4 as automobile transports including any load thereon shall
5 not exceed a height of thirteen feet six inches but the
6 owners of such automobile transports shall be responsible
7 to the state road commission for any damage to bridges
8 or other road structures and to municipalities and utility
9 companies for any damage to wires, traffic devices or
10 other structures, and to any person suffering property
11 damage when any such damage is proximately caused by
12 the height of such vehicle or vehicles and load being in
13 excess of twelve feet six inches.

14 (b) No vehicle including any load thereon shall exceed
15 a length of thirty-five feet extreme over-all dimension,
16 inclusive of front and rear bumpers, except that a bus or
17 trackless trolley coach equipped with three axles shall not
18 exceed an over-all length, inclusive of front and rear
19 bumpers, of forty feet.

20 (c) No combination of vehicles coupled together shall
21 consist of more than two units and no such combination
22 of vehicles including any load thereon shall have an over-
23 all length, inclusive of front and rear bumpers, in excess
24 of forty-five feet, except as otherwise provided in respect
25 to the use of a pole trailer as authorized in section five of
26 this article.

Sec. 5. *Special Load Limits.*—(a) Subject to the fore-
2 going provisions of this article limiting the length of ve-
3 hicles and loads, the load upon any vehicle operated alone
4 or the load upon the front vehicle of a combination of
5 vehicles shall not extend more than three feet beyond the
6 foremost part of the vehicle, and the load upon any ve-
7 hicle operated alone or the load upon the rear vehicle of
8 a combination of vehicles shall not extend more than six
9 feet beyond the rear of the bed or body of such vehicle.

10 (b) The limitations as to length of vehicles and loads
11 heretofore stated in section four and section five (a) of

12 this article shall not apply to any load upon a pole trailer
13 when transporting poles or pipes or structural material
14 which cannot be dismembered, provided that no pole or
15 pipe or other material exceeding eighty feet in length
16 shall be so transported unless a permit has first been ob-
17 tained as authorized in section eleven of this article.

Sec. 6. *Loads on Vehicles.*—(a) No vehicle shall be
2 driven or moved on any highway unless such vehicle is so
3 constructed or loaded as to prevent any of its load from
4 dropping, sifting, leaking, or otherwise escaping there-
5 from, except that sand may be dropped for the purpose of
6 securing traction, or water or other substance may be
7 sprinkled on a roadway in cleaning or maintaining such
8 roadway.

9 (b) No person shall operate on any highway any ve-
10 hicle with any load unless said load and any covering
11 thereon is securely fastened so as to prevent said covering
12 or load from becoming loose, detached, or in any manner
13 a hazard to other users of the highway.

Sec. 7. *Trailers and Towed Vehicles.*—(a) When one
2 vehicle is towing another the drawbar or other connec-
3 tion shall be of sufficient strength to pull all weight towed
4 thereby and said drawbar or other connection shall not
5 exceed fifteen feet from one vehicle to the other except
6 the connection between any two vehicles transporting
7 poles, pipe, machinery, or other objects of structural na-
8 ture which cannot readily be dismembered.

9 (b) When one vehicle is towing another and the con-
10 nection consists of a chain, rope, or cable, there shall be
11 displayed upon such connection a white flag or cloth not
12 less than twelve inches square.

Sec. 8. *Single-axle Load Limit.*—(a) The gross weight
2 imposed on the highway by the wheels of any one axle
3 of a vehicle shall not exceed eighteen thousand pounds.

4 (b) For the purpose of this article an axle load shall
5 be defined as the total load transmitted to the road by
6 all wheels whose centers are included between two par-
7 allel transverse vertical planes forty inches apart, extend-
8 ing across the full width of the vehicle.

2 Sec. 9. *Gross Weight of Vehicles and Loads.*—(a) It
3 shall be unlawful for any owner, lessee or borrower to op-
4 erate any vehicle or combination of vehicles of a gross
5 weight in excess of the gross weight for which such ve-
6 hicle or combination of vehicles is registered or in excess
7 of the limitations set forth in this chapter.

8 (b) Subject to the limit upon the weight imposed upon
9 the highway through any one axle as set forth in section
10 eight of this article the total gross weight with load im-
11 posed upon the highway by any one group of two or more
12 consecutive axles of a vehicle or combination of vehicles
13 shall not exceed the gross weight given for the respective
14 distance between the first and last axle of the total group
15 of axles measured longitudinally to the nearest foot as
16 set forth in the following table:

16	Distance in	Maximum	Distance in	Maximum
17	feet between	load in	feet between	load in
18	first and	pounds	first and	pounds
19	last axles	on group	last axles	on group
20	of group	of axles	of group	of axles
21	4.....	32,000	31.....	53,490
22	5.....	32,000	32.....	54,330
23	6.....	32,000	33.....	55,160
24	7.....	32,000	34.....	55,980
25	8.....	32,610	35.....	56,800
26	9.....	33,580	36.....	57,610
27	10.....	34,550	37.....	58,420
28	11.....	35,510	38.....	59,220
29	12.....	36,470	39.....	60,010
30	13.....	37,420	40.....	60,800
31	14.....	38,360	41.....	61,580
32	15.....	39,300	42.....	62,360
33	16.....	40,230	43.....	63,130
34	17.....	41,160	44.....	63,890
35	18.....	42,080	45.....	64,650
36	19.....	42,990	46.....	65,400
37	20.....	43,900	47.....	66,150
38	21.....	44,800	48.....	66,890
39	22.....	45,700	49.....	67,620
40	23.....	46,590	50.....	68,350
41	24.....	47,470	51.....	69,070

42	25.....	48,350	52.....	69,790
43	26.....	49,220	53.....	70,500
44	27.....	50,090	54.....	71,200
45	28.....	50,950	55.....	71,900
46	29.....	51,800	56.....	72,590
47	30.....	52,650	57.....	73,280

48 *Provided*, That in no event shall the gross weight of
 49 any vehicle, including its load, exceed sixty thousand
 50 eight hundred pounds.

2 *Sec. 10. Officers May Weigh Vehicles and Require Re-*
 3 *moval or Rearrangement of Excess Loads.*—(a) Any
 4 police officer or employee of the state road commission
 5 of an official weighing crew, having reason to believe that
 6 the weight of a vehicle and load is unlawful is authorized
 7 to require the driver to stop and submit to a weighing of
 8 the same by means of either portable or stationary scales
 9 and may require that such vehicle be driven to the near-
 10 est public scales in the event such scales are within two
 11 miles.

12 (b) Whenever an officer, or employee of the state road
 13 commission designated by the state road commissioner as
 14 a member of an official weighing crew, upon weighing
 15 a vehicle and load, as above provided, determines that
 16 the weight is unlawful, such officer may require the
 17 driver to stop the vehicle in a suitable place and remain
 18 standing until such portion of the load is removed or re-
 19 arranged as may be necessary to reduce the gross weight
 20 or axle loads of such vehicle to such limit as permitted
 21 under this chapter. All material so unloaded shall be
 22 cared for by the owner or operator of such vehicle at the
 23 risk of such owner or operator.

24 (c) Any driver of a vehicle who fails or refuses to stop
 25 and submit the vehicle and load to a weighing, or who
 26 fails or refuses when directed by an officer, or by an of-
 27 ficer or employee of the state road commission, desig-
 28 nated as a member of a weighing crew by the state road
 29 commissioner, upon a weighing of the vehicles to stop the
 30 vehicle and otherwise comply with the provisions of this
 31 section, shall be guilty of a misdemeanor.

2 Sec. 11. *Permits for Excess Size and Weight.*—(a) The
3 state road commissioner may in his discretion upon ap-
4 plication in writing and good cause being shown therefor,
5 issue a special permit in writing authorizing the applicant
6 to operate or move a vehicle or combination of vehicles
7 of a size or weight of vehicle or load exceeding the max-
8 imum specified in this chapter or otherwise not in con-
9 formity with the provisions of this chapter, but in the
10 event the application is for a permit for continuous op-
11 eration of a vehicle not in conformity with the provisions
12 of this article relating to weight limitations the state road
13 commissioner shall not issue such permit unless and until
14 the applicant satisfies said commissioner that a bona fide
15 effort has been made by said applicant to replace or alter
16 such vehicle to conform with said provisions and any
17 such permit for continuous operation of such vehicle shall
18 expire one year after the effective date of this chapter
19 unless a shorter period is specified by said commissioner:
20 *Provided, however,* That specially designed vehicles which
21 can only be used to transport and haul specific liquid or
22 semi-liquid products shall be exempt from the provisions
23 of this chapter, relating to weight limitations, during the
24 life of such vehicles: *Provided further,* That this exemp-
25 tion shall only apply to vehicles registered in this state
26 prior to the effective date of this chapter. In order for
27 this exemption to apply the owner or operator shall apply
28 for and the state road commissioner shall issue a permit
29 for such vehicle allowing such owner or operator to use
30 the same upon the roads and highways of this state for the
31 life of such vehicle.

32 (b) The application for any such permit shall specific-
33 ally describe the vehicle or vehicles and load to be op-
34 erated or moved and the particular highways for which
35 permit to operate is requested, and whether such permit
36 is requested for a single trip or for continuous operation.

37 (c) The state road commissioner is authorized to issue
38 or withhold such permit at his discretion; or, if such per-
39 mit is issued, to limit the number of trips, or to establish
40 seasonal or other time limitations within which the ve-
41 hicles described may be operated on the highways indi-
cated, or otherwise to limit or prescribe conditions of

42 operation of such vehicle or vehicles, when necessary to
43 assure against undue damage to the road foundations,
44 surfaces, or structures, and may require such undertaking
45 or other security as may be deemed necessary to compen-
46 sate for any injury to any roadway structure.

47 (d) Every such permit shall be carried in the vehicle
48 or combination of vehicles to which it refers and shall be
49 open to inspection by any police officer or authorized
50 agent of the state road commissioner granting such per-
51 mit, and no person shall violate any of the terms or con-
52 ditions of such special permit.

Sec. 12. *When the State Road Commission or Local Au-*
2 *thorities May Restrict Right to Use Highways.*—(a) Local
3 authorities with respect to highways under their jurisdic-
4 tion may by ordinance or resolution prohibit the opera-
5 tion of vehicles upon any such highway or impose re-
6 strictions as to the weight of vehicles to be operated upon
7 any such highway, for a total period of not to exceed
8 ninety days in any one calendar year, whenever any said
9 highway by reason of deterioration, rain, snow, or other
10 climatic conditions will be seriously damaged or destroyed
11 unless the use of vehicles thereon is prohibited or the per-
12 missible weights thereof reduced.

13 (b) The local authority enacting any such ordinance
14 or resolution shall erect or cause to be erected and main-
15 tained signs designating the provisions of the ordinance
16 or resolution at each end of that portion of any highway
17 affected thereby, and the ordinance or resolution shall not
18 be effective unless and until such signs are erected and
19 maintained.

20 (c) Local authorities with respect to highways under
21 their jurisdiction may also, by ordinance or resolution,
22 prohibit the operation of trucks or other commercial ve-
23 hicles, or may impose limitations as to the weight thereof,
24 on designated highways, which prohibitions and limita-
25 tions shall be designated by appropriate signs placed on
26 such highways.

27 (d) The state road commission shall likewise have
28 authority as hereinabove granted to local authorities to
29 determine by resolution and to impose restrictions as to

30 the weight of vehicles operated upon any highway under
31 the jurisdiction of said commission and such restrictions
32 shall be effective when signs giving notice thereof are
33 erected upon the highway or portion of any highway af-
34 fected by such resolution.

Sec. 13. *Liability for Damage to Highway or Structure.*—(a) The owner, lessee or borrower of any vehicle,
2 object, or contrivance driven or moved upon any highway
3 or highway structure shall be liable for all damage which
4 said highway or structure may sustain as a result of any
5 illegal operation, driving, or moving of such vehicle, ob-
6 ject, or contrivance, or as a result of operating, driving,
7 or moving any vehicle, object, or contrivance weighing
8 in excess of the maximum weight in this chapter but
9 authorized by a special permit issued as provided in this
10 article.
11

12 (b) Such damage may be recovered in a civil action
13 brought by the authorities in control of such highway or
14 highway structure.

Sec. 14. *Penalties for Violation of Weight Laws; Im-
2 pounding Vehicles.*—(a) Any owner, lessee or borrower
3 who knowingly permits a vehicle or combination of ve-
4 hicles owned by him to be operated with any axle load in
5 excess of that permitted by section eight of this article,
6 plus a tolerance of five per cent, or with a total gross weight
7 in excess of that permitted by section nine of this article,
8 plus a tolerance of five per cent, shall be guilty of a mis-
9 demeanor and upon conviction thereof shall be punished
10 as provided in paragraph (b) and (c) of this section.

11 (b) Any owner, lessee or borrower of a vehicle who
12 shall be convicted of a first offense for a violation of this
13 section shall be punished by a fine of not less than twen-
14 ty-five dollars nor more than one hundred dollars and in
15 addition thereto shall pay either a fine of one cent per
16 pound for any weight in excess of two thousand pounds
17 over the legal weight for each axle or a fine of one cent
18 per pound for any weight in excess of two thousand
19 pounds over the permissible gross weight for such vehicle
20 or combination of vehicles, whichever is the greater; and

21 any owner, lessee or borrower of a vehicle who shall be
22 convicted of a second offense for a violation of this section
23 shall be punished by a fine of not less than fifty dollars
24 nor more than one hundred dollars and in addition thereto
25 shall pay either a fine of two cents per pound for any
26 weight in excess of two thousand pounds over the legal
27 weight for each axle or a fine of two cents per pound
28 for any weight in excess of two thousand pounds over the
29 permissible gross weight for such vehicle or combination
30 of vehicles, whichever is the greater; and any owner, lessee
31 or borrower who shall be convicted of a third or subse-
32 quent violation of this section shall be punished by a fine
33 of not less than seventy-five dollars nor more than one
34 hundred dollars and in addition thereto shall pay either a
35 fine of three cents per pound for any weight in excess of
36 two thousand pounds over the legal weight for each axle
37 or a fine of three cents per pound for any weight in excess
38 of two thousand pounds over the permissible gross weight
39 for such vehicle or combination of vehicles, whichever is
40 the greater, and in any case where the gross weight ex-
41 ceeds the statutory limit by five thousand pounds or more,
42 the owner, lessee or borrower of such vehicle shall be
43 fined five cents per pound for each pound of excess gross
44 weight over the said statutory limit, which fine shall be
45 in lieu of the additional fine per pound heretofore in this
46 section provided.

47 (c) In the event any owner, lessee or borrower of a
48 vehicle is charged with violating this section, the vehicle
49 which is charged to be overloaded shall be impounded by
50 the arresting officer and shall not be released to such
51 owner, lessee or borrower unless and until such owner, les-
52 see or borrower either shall have been found guilty and
53 paid any fine assessed against such owner, lessee or bor-
54 rower, or shall have furnished cash or surety bond in at
55 least double the amount of the fine which may be assessed
56 against such owner, lessee or borrower for such violation
57 of this section and conditioned upon the payment of any
58 such fine and costs assessed for such violation, or shall
59 have been acquitted of such charge. Such owner, lessee
60 or borrower shall be liable for any reasonable storage
61 costs incurred in storing such vehicles.

Article 18. Penalties.**Section**

1. Penalties for misdemeanor.

Section 1. *Penalties for Misdemeanor.*—(a) It is a misdemeanor for any person to violate any of the provisions of this chapter unless such violation is by this chapter or other law of this state declared to be a felony.

(b) Every person convicted of a misdemeanor for a violation of any of the provisions of this chapter for which another penalty is not provided shall for a first conviction thereof be punished by a fine of not more than one hundred dollars or by imprisonment for not more than ten days; for a second such conviction within one year thereafter such person shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than twenty days or by both such fine and imprisonment; upon a third or subsequent conviction such person shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months or both such fine and imprisonment.

Article 19. Parties, Procedure upon Arrest, and Reports in Criminal Cases.**Section**

1. Parties to a crime.
2. Offenses by persons owning or controlling vehicles.
3. When person arrested must be taken immediately before a justice of the peace or court.
4. When person arrested to be given five days' notice to appear in court.
5. Procedure prescribed herein not exclusive.
6. Form for traffic citations.
7. Disposition and records of traffic citations.
8. Record of traffic cases.
9. Jurisdiction of crimes by justices.

Section 1. *Parties to a Crime.*—Every person who commits, attempts to commit, conspires to commit, or knowingly aids or abets in the commission of, any act declared herein to be a crime, whether individually or in connection with one or more other persons or as a principal, agent, or accessory, shall be guilty of such offense, and every person who falsely, fraudulently, forcibly, or willfully induces, causes, coerces, requires, permits, or directs another to violate any provision of this chapter is likewise guilty of such offense.

2 *Sec. 2. Offenses By Persons Owning or Controlling*
3 *Vehicles.*—It is unlawful for the owner, or any other per-
4 son, employing or otherwise directing the driver of any
5 vehicle to require or knowingly to permit the operation
6 of such vehicle upon a highway in any manner contrary
7 to law.

2 *Sec. 3. When Person Arrested Must Be Taken Immedi-*
3 *ately Before a Justice of the Peace or Court.*—Whenever
4 any person is arrested for any violation of this chapter
5 punishable as a misdemeanor, the arrested person shall
6 be immediately taken before a justice of the peace or
7 court within the county in which the offense charged is
8 alleged to have been committed and who has jurisdiction
9 of such offense and is nearest or most accessible with
10 reference to the place where said arrest is made, in any
11 of the following cases:

12 (1) When a person arrested demands an immediate ap-
13 pearance before such justice or court;

14 (2) When the person is arrested upon a charge of neg-
15 ligent homicide;

16 (3) When the person is arrested upon a charge of driv-
17 ing while under the influence of intoxicating liquor or
18 narcotic drugs;

19 (4) When the person is arrested upon a charge of fail-
20 ure to stop in the event of an accident causing death,
21 personal injuries, or damage to property;

22 (5) When the person is arrested upon a charge of vio-
23 lating section fourteen, article seventeen of this chapter
24 relating to weight violations;

25 In any other event when the person arrested refuses to
26 give his written promise to appear in court as hereinafter
provided.

2 *Sec. 4. When Person Arrested to Be Given Five Days'*
3 *Notice to Appear in Court.*—(a) Whenever a person is
4 arrested for any violation of this chapter punishable as a
5 misdemeanor, and such person is not immediately taken
6 before a justice or court as hereinbefore required, the
7 arresting officer shall prepare written notice to appear in
8 court containing the name and address of such person, the
license number of his vehicle, if any, the offense charged,

9 and the time and place when and where such person shall
10 appear in court.

11 (b) The time specified in said notice to appear must be
12 at least five days after such arrest unless the person ar-
13 rested shall demand an earlier hearing.

14 (c) The place specified in said notice to appear must
15 be before a justice or court within the township or county
16 in which the offense charged is alleged to have been com-
17 mitted and who has jurisdiction of such offense.

18 (d) The arrested person in order to secure release, as
19 provided in this section; must accept a copy of the written
20 notice prepared by the arresting officer. The officer shall
21 deliver a copy of the notice to the person promising to
22 appear. Thereupon, said officer shall forthwith release the
23 person arrested from custody.

Sec. 5. Procedure Prescribed Herein Not Exclusive.—

2 The following provisions of this article shall govern all
3 police officers in making arrests without a warrant for
4 violations of this chapter, but the procedure prescribed
5 herein shall not otherwise be exclusive of any other
6 method prescribed by law for the arrest and prosecution
7 of a person for an offense of like grade.

Sec. 6. Form for Traffic Citations.— (a) Every traffic-

2 enforcement agency in this state shall provide in appro-
3 priate form traffic citations containing notices to appear
4 which shall be issued in books with citations in quadrup-
5 licate and meeting the requirements of this article.

6 (b) The chief administrative officer of every such
7 traffic-enforcement agency shall be responsible for the
8 issuance of such books and shall maintain a record of
9 every such book and each citation contained therein
10 issued to individual members of the traffic-enforcement
11 agency and shall require and retain a receipt for every
12 book so issued.

Sec. 7. Disposition and Records of Traffic Citations.—

2 (a) Every traffic-enforcement officer upon issuing a traf-
3 fice citation to an alleged violator of any provision of the
4 motor-vehicle laws of this state or of any traffic ordinance
5 of any city or town shall deposit the original or a copy of

6 such traffic citation with a court having jurisdiction over
7 the alleged offense or with its traffic-violations bureau.

8 (b) Upon the deposit of the original or a copy of such
9 traffic citation with a court having jurisdiction over the
10 alleged offense or with its traffic-violations bureau as
11 aforesaid, said original or copy of such traffic citation may
12 be disposed of only by trial in said court or other official
13 action by a judge of said court, including forfeiture of the
14 bail or by the deposit of sufficient bail with or payment
15 of a fine to said traffic-violations bureau by the person to
16 whom such traffic citation has been issued by the traffic-
17 enforcement officer.

18. (c) It shall be unlawful and official misconduct for any
19 traffic-enforcement officer or other officer or public em-
20 ployee to dispose of a traffic citation or copies thereof or
21 of the record of the issuance of the same in a manner other
22 than as required herein.

23 (d) The chief administrative officer of every traffic-
24 enforcement agency shall require the return to him of a
25 copy of every traffic citation issued by an officer under his
26 supervision to an alleged violator of any traffic law or
27 ordinance and of all copies of every traffic citation which
28 has been spoiled or upon which any entry has been made
29 and not issued to an alleged violator.

30 (e) Such chief administrative officer shall also main-
31 tain or cause to be maintained in connection with every
32 traffic citation issued by an officer under his supervision
33 a record of the disposition of the charge by the court or its
34 traffic-violations bureau in which the original or copy of
35 the traffic citation was deposited.

Sec. 8. *Record of Traffic Cases.*—Every justice or judge
2 of a court shall keep or cause to be kept a record of every
3 traffic complaint, or other legal form of traffic charge de-
4 posited with or presented to said court or its traffic-viola-
5 tions bureau, and shall keep a record of every official
6 action by said court or its traffic-violations bureau in refer-
7 ence thereto, including but not limited to a record of every
8 conviction, forfeiture of bail, judgment of acquittal, and
9 the amount of fine or forfeiture resulting from every said
10 traffic complaint deposited with or presented to said court
11 or traffic-violations bureau.

Sec. 9. *Jurisdiction of Crimes by Justices.*—Justices of
2 the peace shall have concurrent jurisdiction with the cir-
3 cuit, criminal and intermediate courts to enforce the mis-
4 demeanor penalties prescribed by this chapter.

Article 20. West Virginia Turnpike Commission.

Section

1. Authority of West Virginia turnpike commission.

Section 1. *Authority of West Virginia Turnpike Com-*
2 *mission.*—The provisions of this chapter with respect to
3 weight, length and speed of motor vehicles shall not apply
4 to toll highways under the jurisdiction of the West Vir-
5 ginia turnpike commission. The provisions of this chapter
6 do not supersede the provisions of chapter seventeen, ar-
7 ticle sixteen-a of the code of West Virginia, as amended.

Article 21. Effect of Chapter.

Section

1. Constitutionality.
2. Repeal.

Section 1. *Constitutionality.*—If any part or parts of
2 this chapter shall be held to be unconstitutional such un-
3 constitutionality shall not affect the validity of the re-
4 maining parts of this chapter. The legislature hereby
5 declares that it would have passed the remaining parts of
6 this chapter if it had known that such part or parts thereof
7 would be declared unconstitutional.

Sec. 2. *Repeal.*—The provisions of all acts or parts of
2 acts, or of this code, which are inconsistent with the pro-
3 visions of this chapter are hereby repealed to the extent
4 of such inconsistency.

CHAPTER 130

(Senate Bill No. 112—By Mr. Bean)

AN ACT to repeal article twenty, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend said code by adding thereto a new chapter to be designated chapter seventeen-d, relating

to financial responsibility of owners and operators of motor vehicles, and prescribing penalties for the violation of the provisions thereof.

[Passed February 16, 1951; in effect July 1, 1951. Approved by the Governor.]

Be it enacted by the Legislature of West Virginia:

That article twenty, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that said code be amended by adding thereto a new chapter to be designated chapter seventeen-d, to read as follows:

CHAPTER 17-D. MOTOR VEHICLE SAFETY RESPONSIBILITY LAW

Article

1. Words and Phrases Defined.
2. Administration of Law.
3. Security Following Accident.
4. Proof of Financial Responsibility for the Future.
5. Violation of Provisions of Chapter; Penalties.
6. General Provisions.

Article 1. Words and Phrases Defined.

Section	Section
1. Definitions.	7. Owner.
2. Commissioner.	8. Nonresident.
3. Person.	9. Vehicle.
4. Driver.	10. Motor vehicle.
5. Operator.	11. Trailer.
6. Chauffeur.	12. Semitrailer.

Section 1. *Definitions.*—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this article.

Sec. 2. *Commissioner.*—The commissioner of motor vehicles of this state.

Sec. 3. *Person.*—Every natural person, firm, copartnership, association or corporation.

Sec. 4. *Driver.*—Every person who drives or is in actual physical control of a vehicle.

Sec. 5. *Operator.*—Every person, other than a chauffeur, who drives or is in actual physical control of a motor

3 vehicle upon a highway or who is exercising control over
4 or steering a vehicle being towed by a motor vehicle.

Sec. 6. *Chauffeur*.—Every person who is employed by
2 another for the principal purpose of driving a motor
3 vehicle and every person who drives a school bus trans-
4 porting school children or any other motor vehicle when
5 in use for the transportation of persons or property for
6 compensation.

Sec. 7. *Owner*.—A person who holds the legal title of a
2 vehicle, or in the event a vehicle is the subject of an agree-
3 ment for the conditional sale or lease thereof with the
4 right of purchase upon performance of the conditions
5 stated in the agreement and with an immediate right of
6 possession vested in the conditional vendee or lessee, or
7 in the event a mortgagor of a vehicle is entitled to posses-
8 sion, then such conditional vendee or lessee or mortgagor
9 shall be deemed the owner for the purposes of this
10 chapter.

Sec. 8. *Nonresident*.—Every person who is not a resi-
2 dent of this state.

Sec. 9. *Vehicle*.—Every device in, upon, or by which
2 any person or property is or may be transported or drawn
3 upon a highway, except devices moved by human power
4 or used exclusively upon stationary rails or tracks.

Sec. 10. *Motor Vehicle*.—Every vehicle which is self-
2 propelled and every vehicle which is propelled by electric
3 power obtained from overhead trolley wires, but not
4 operated upon rails.

Sec. 11. *Trailer*.—Every vehicle with or without mo-
2 tive power designed for carrying persons or property and
3 for being drawn by a motor vehicle and so constructed
4 that no part of its weight rests upon the towing vehicle.

Sec. 12. *Semitrailer*.—Every vehicle with or without
2 motive power designed for carrying persons or property
3 and for being drawn by a motor vehicle and so con-
4 structed that some part of its weight and that of its load
5 rests upon or is carried by another vehicle.

Article 2. Administration of Law.

Section

1. Commissioner to administer chapter.
2. Commissioner to furnish operating record.

Section 1. *Commissioner to Administer Chapter.*—The
 2 commissioner shall administer and enforce the provisions
 3 of this chapter and shall make rules and regulations nec-
 4 essary for its administration, including provisions for
 5 hearings by the commissioner or his representative upon
 6 request of persons aggrieved by any orders or acts by
 7 the commissioner, but the granting of any such hearings
 8 shall not operate to prevent or delay any action by the
 9 commissioner which is mandatory under the provisions
 10 of this chapter.

Sec. 2. *Commissioner to Furnish Operating Record.*—
 2 The commissioner shall upon request furnish any person
 3 a certified abstract of the operating record of any person
 4 subject to the provisions of this chapter, which abstract
 5 shall fully designate the vehicles, if any, registered in the
 6 name of such person, and if there shall be no record of
 7 any conviction of such person of a violation of any law
 8 relating to the operation of a motor vehicle or of any
 9 injury or damage caused by such person the commissioner
 10 shall so certify. The commissioner shall collect for each
 11 abstract one dollar.

Article 3. Security Following Accident.

Section

1. Application of article three.
2. Commissioner to determine amount of security required; notices.
3. Failure to deposit security; suspensions.
4. Exceptions to requirement of security.
5. Requirements as to policy or bond.
6. Further exceptions to requirement of security.
7. Effect of release or judgment of non-liability.
8. Agreements for payment of damages.
9. Application to nonresidents, unlicensed drivers and unregistered vehicles.
10. Authority of commissioner to decrease amount of security.
11. Duration of suspension.
12. Custody and disposition of security.
13. Return of deposit.
14. Matters not to be evidence in civil suits.

Section 1. *Application of Article Three.*—The provi-
 2 sions of this article shall apply to the driver and owner
 3 of any vehicle of a type subject to registration under the

4 motor vehicle laws of this state which is in any manner
5 involved in an accident upon any street or highway within
6 this state which accident has resulted in damage to the
7 property of any one person in excess of one hundred
8 dollars or in bodily injury to or in the death of any person
9 in respect to which accident report must be made to the
10 commissioner under the laws of this state.

Sec. 2. *Commissioner to Determine Amount of Security Required; Notices.*—(a) The commissioner within
2 not less than thirty nor more than ninety days after
3 receipt of a report of an accident as described in section
4 one of this article shall take action as provided in this
5 section. The commissioner shall determine the amount
6 of security which he deems sufficient to satisfy any
7 judgment or judgments for damages resulting from such
8 accident as may be recovered against each driver or
9 owner involved in such accident. The commissioner shall
10 determine the amount of security deposit upon the basis
11 of the reports or other evidence relative to such accident
12 transmitted to him. The commissioner shall thereupon
13 give written notice to every such person that he is re-
14 quired to deposit security in an amount and within the
15 time specified in such notice, which time shall be not less
16 than ten days after the giving of such notice, or that upon
17 the expiration of said time an order of suspension as stated
18 therein will become effective unless the person receiving
19 said notice deposits such security or establishes his
20 exemption under other provisions of this chapter.
21

22 (b) The security required under this article shall be
23 in the form of money or its equivalent and in such amount
24 as the commissioner may require but, in no case, in excess
25 of the limits specified in section five of this article in
26 reference to the acceptable limits of a policy or bond.

27 (c) The commissioner shall not take action as required
28 in this section in respect to drivers or owners who estab-
29 lish exemption under succeeding sections of this chapter
30 from the requirements as to security and suspension.

Sec. 3. *Failure to Deposit Security; Suspensions.*—
2 In the event that any person required to deposit security
3 under this article fails to deposit such security within the

4 time specified in the notice hereinbefore required which
5 shall afford at least ten days notice of such required
6 deposit the commissioner shall thereupon make the order
7 of suspension effective. Such suspension shall apply to:

8 (1) The license of each driver in any manner involved
9 in the accident;

10 (2) The registrations of all vehicles owned by the
11 owner of each motor vehicle, trailer or semitrailer in-
12 volved in such accident;

13 (3) The privilege of operating a motor vehicle within
14 this state if the driver is a nonresident;

15 (4) If such owner is a nonresident, the privilege of
16 such owner to operate or permit the operation within this
17 state of any motor vehicle, trailer or semitrailer owned
18 by him.

19 Such suspensions shall be made in respect to persons
20 required by the commissioner to deposit security who fail
21 to deposit such security, except as otherwise provided
22 under succeeding sections of this chapter.

Sec. 4. *Exceptions to Requirement of Security.*—(a)

2 The requirements as to security and suspension in this
3 article shall not apply:

4 (1) To the driver or owner if the owner had in effect
5 at the time of the accident an automobile liability policy
6 or bond with respect to the driver or the vehicle involved
7 in the accident. Unless otherwise covered by insurance a
8 driver shall not be exempt from the requirements as to
9 security in the event it is established to the satisfaction of
10 the commissioner that at the time of the accident the
11 vehicle was being operated without the owner's permis-
12 sion, expressed or implied, or was parked by a driver who
13 had been operating such vehicle without such permission.

14 (2) To the driver, if not the owner of the vehicle in-
15 volved in the accident, if there was in effect at the time
16 of the accident, an automobile liability policy or bond
17 with respect to his driving of vehicles not owned by him.

18 (3) To a driver or owner whose liability for damages
19 resulting from the accident is, in the judgment of the
20 commissioner, covered by any other form of liability in-
21 surance policy or bond.

22 (4) To the owner or driver in the event that such lia-
23 bility as may arise from the driver's operation of the ve-
24 hicle involved in the accident is, in the judgment of the
25 commissioner, covered by some form of liability insurance
26 or bond which complies with the requirements set forth
27 under section five of this article.

28 (5) To any person qualifying as a self-insurer under
29 section two, article six of this chapter, or to any person
30 operating a vehicle for such self-insurer.

31 (6) To any person under the jurisdiction of the public
32 service commission who has qualified as a self-insurer.

33 (b) When erroneous information is given the commis-
34 sioner with respect to the matters set forth in paragraphs
35 (1), (2), (3), or (4) of subdivision (a) of this section,
36 he shall take appropriate action as hereinbefore provided
37 in sections two and three of this article within fifty days
38 after receipt by him of correct information with respect
39 to said matters.

Sec. 5. *Requirements as to Policy or Bond.*—(a) No
2 policy or bond shall be effective under section four of this
3 article unless issued by an insurance company or surety
4 company authorized to do business in this state, except as
5 provided in subdivision (b) of this section, nor unless
6 such policy or bond is subject, if the accident has resulted
7 in bodily injury or death, to a limit, exclusive of interest
8 and costs, of not less than five thousand dollars because of
9 bodily injury to or death of one person in any one acci-
10 dent, and, subject to said limit for one person, to a limit
11 of not less than ten thousand dollars because of bodily
12 injury to or death of two or more persons in any one
13 accident, and, if the accident has resulted in injury to, or
14 destruction of property, to a limit of not less than one
15 thousand dollars because of injury to or destruction of
16 property of others in any one accident.

17 (b) No policy or bond shall be effective under section
18 four of this article with respect to any vehicle which was
19 not registered in this state or was a vehicle which was
20 registered elsewhere than in this state at the effective date
21 of the policy or bond or the most recent renewal thereof,
22 unless the insurance company or surety company issuing

23 such policy or bond is authorized to do business in this
24 state, or if said company is not authorized to do business
25 in this state, unless it shall execute a power of attorney
26 authorizing the commissioner to accept service on its
27 behalf of notice or process in any action upon such policy
28 or bond arising out of such accident.

29 (c) Upon receipt of notice of such accident from the
30 commissioner, the insurance company or surety company
31 named in such notice shall notify the commissioner in
32 such manner as he may require in case such a policy or
33 bond was not in effect at the time of such accident.

Sec. 6. *Further Exceptions to Requirement of Security.*—
2 *ity.*—The requirements as to security and suspension in
3 this article shall not apply:

4 (1) To the driver or the owner of a vehicle involved
5 in an accident wherein no injury or damage was caused
6 to the person or property of anyone other than such driver
7 or owner;

8 (2) To the driver or owner of a vehicle which at the
9 time of the accident was parked, unless such vehicle was
10 parked at a place where parking was at the time of the
11 accident prohibited under any applicable law or ordi-
12 nance;

13 (3) To the owner of a vehicle if at the time of the
14 accident the vehicle was being operated without his per-
15 mission, expressed or implied, or was parked by a person
16 who had been operating such vehicle without such per-
17 mission.

Sec. 7. *Effect of Release or Judgment of Non-liability.*—
2 (a) In the event any person who may be or has been
3 required to deposit security under this article is released
4 from liability or has been finally adjudicated not to be
5 liable in respect to such accident evidence of either such
6 fact may be filed with the commissioner. A covenant
7 not to sue or its equivalent shall relieve the parties there-
8 to as to each other from the security requirements of
9 this chapter. The commissioner may accept for the pur-
10 poses of this article only, evidence of a release from
11 liability executed by a natural guardian or a legal

12 guardian on behalf of a minor without the approval of
13 any court or judge.

14 (b) The commissioner, if satisfied as to the validity of
15 such evidence, shall not require the deposit of security
16 by the person so released or adjudged not liable and
17 shall terminate any prior order of suspension in respect
18 to such person, or if security has previously been de-
19 posited by such person, the commissioner shall immedi-
20 ately return such deposit to such person or to his per-
21 sonal representative.

Sec. 8. *Agreements for Payment of Damages.*—(a) The
2 persons involved in or affected by an accident as de-
3 scribed in section one of this article may at any time
4 enter into a written agreement for the payment of an
5 agreed amount with respect to all claims for bodily in-
6 jury to or death of any person or property damage aris-
7 ing from such accident which may provide for payment
8 in installments and may file a signed copy of such agree-
9 ment with the commissioner.

10 (b) The commissioner, upon the filing with him of
11 any such written agreement, shall not require the de-
12 posit of security by any party to said agreement and
13 shall terminate any prior order of suspension in reference
14 to such persons or if security has previously been de-
15 posited by any said person the commissioner shall im-
16 mediately return such deposit to such person or his per-
17 sonal representative.

18 (c) In the event the commissioner receives evidence
19 satisfactory to him that any person obligated to make
20 payment under any such agreement has defaulted in
21 any such payment, the commissioner shall thereupon
22 issue an order of suspension in respect to such person
23 as provided in this article. Such order of suspension
24 shall remain in effect (1) until security is deposited by
25 the person to whom such suspension applies in such
26 amount as the commissioner may then determine, or
27 (2) until the commissioner receives evidence satisfac-
28 tory to him that the entire obligation has been paid
29 or released, or (3), until a period of one year has elapsed
30 following the breach of such agreement and evidence

31 satisfactory to the commissioner is filed with him that
32 no action has been instituted on such agreement during
33 such period.

Sec. 9. *Application to Nonresidents, Unlicensed Drivers
and Unregistered Vehicles.*—In case the driver or the
2 owner of a vehicle involved in an accident within this
3 state has no license or registration in this state, then
4 such driver shall not be allowed a license, nor shall such
5 owner be allowed to register any vehicle in this state,
6 until he has complied with the requirements of this ar-
7 ticle to the same extent that would be necessary if at the
8 time of the accident he had held a license or been the
9 owner of a vehicle registered in this state.
10

Sec. 10. *Authority of Commissioner to Decrease
Amount of Security.*—The commissioner may reduce the
2 amount of security ordered in any case within six months
3 after the date of the accident if, in his judgment, the
4 amount ordered is excessive. In case the security
5 originally ordered has been deposited, the excess de-
6 posit over the reduced amount ordered shall be returned
7 to the depositor or his personal representative forth-
8 with, notwithstanding the provisions of section eleven
9 of this article.
10

Sec. 11. *Duration of Suspension.*—Unless a suspension
2 is terminated under other provisions of this article, any
3 order of suspension by the commissioner under this ar-
4 ticle shall remain in effect and no license shall be re-
5 newed for or issued to any person whose license is so
6 suspended and no registration shall be renewed for or
7 issued to any person whose vehicle registration is so
8 suspended until:

9 (1) Such person shall deposit or there shall be de-
10 posited on his behalf the security required under this
11 article, or

12 (2) One year shall have elapsed following the date
13 of such suspension and evidence satisfactory to the com-
14 missioner has been filed with him that during such
15 period no action for damages arising out of the accident
16 resulting in such suspension has been instituted.

2 Sec. 12. *Custody and Disposition of Security.*—(a) The
3 commissioner shall place any security deposited with
4 him under this article in the custody of the state treas-
5 urer.

6 (b) Such security shall be applicable only to the pay-
7 ment of a judgment or judgments rendered against the
8 driver or owner on whose behalf the deposit was made,
9 for damages arising out of the accident in question in an
10 action at law, begun not later than one year after the
11 date of deposit of such security or upon assignment by
12 the person making such deposit to the settlement of a
13 claim or claims arising out of such accident.

14 (c) Every distribution of funds from the security de-
15 posit shall be subject to the limits of the evaluation de-
16 termined by the commissioner on behalf of a claimant and
17 not in excess of the amounts required in section five of
18 this article in respect to a policy or bond covering liability
for bodily injury, death or for property damage.

 Sec. 13. *Return of Deposit.*—Unless the commissioner
2 has previously made a return of any security deposited
3 with him under other provisions of this article, any such
4 deposit or any balance thereof remaining after distri-
5 bution pursuant to this article shall be returned to the
6 depositor or his personal representative after the ex-
7 piration of one year from the date of deposit of such
8 security if evidence satisfactory to the commissioner
9 has been filed with him (1) that no action for damages
10 arising out of the accident for which deposit was made
11 is pending against any person on whose behalf the de-
12 posit was made, and (2) that there does not exist any
13 unpaid judgment rendered against any such person in
14 such an action.

 Sec. 14. *Matters Not to Be Evidence in Civil Suits.*—The
2 report required following an accident, the action taken
3 by the commissioner pursuant to this article, the find-
4 ings, if any, of the commissioner upon which such action
5 is based, and the security filed as provided in this article,
6 shall not be referred to in any way, and shall not be any
7 evidence of the negligence or due care of either party,
8 at the trial of any action at law to recover damages.

Article 4. Proof of Financial Responsibility for the Future.**Section**

1. Proof required upon certain convictions.
2. Meaning of proof of financial responsibility.
3. Meaning of judgment and other terms used in this chapter.
4. When courts to report nonpayment of judgments.
5. Suspension for nonpayment of judgments; exceptions.
6. Suspension to continue until judgments paid and proof given.
7. Payments sufficient to satisfy requirements.
8. Installment payment of judgments; default.
9. Proof to be furnished for each registered vehicle; alternate methods of giving proof.
10. Certificate of insurance as proof.
11. Certificate furnished by nonresident as proof.
12. Motor vehicle liability policy defined.
13. Notice of cancellation or termination of certified policy.
14. Chapter not to affect other policies.
15. Bond as proof.
16. Money or securities as proof.
17. Owner may give proof for others.
18. Substitution of proof.
19. Other proof may be required.
20. Duration of proof; when proof may be canceled or returned.

Section 1. Proof Required upon Certain Convictions.—

2 (a) Whenever the commissioner, under any law of this
3 state, suspends or revokes the license of any person
4 upon receiving record of a conviction of or forfeiture
5 of bail by such person, the commissioner shall also
6 suspend the registration of all vehicles registered in the
7 name of such person as the owner except that the com-
8 missioner shall not suspend such registration unless
9 otherwise required by law in the event such owner has
10 previously given or shall immediately give and there-
11 after maintain proof of financial responsibility with re-
12 spect to all such vehicles registered by such person as
13 the owner.

14 (b) The suspension or revocation hereinbefore required
15 shall remain in effect and the commissioner shall not
16 issue to such person any new or renewal of license or
17 register or reregister in the name of such person as owner
18 any such vehicle until permitted under the motor vehicle
19 laws of this state, and not then unless and until such
20 person shall give and thereafter maintain proof of finan-
21 cial responsibility.

22 (c) If a person has no license, but by final order or
23 judgment is convicted of or forfeits any bail or collateral
24 deposited to secure an appearance for trial for any of-
25 fense requiring the suspension or revocation of license,

26 or for driving a motor vehicle upon the highways
27 without being licensed to do so, or for driving an un-
28 registered vehicle upon the highways, no license shall
29 be thereafter issued to such person and no such vehicle
30 shall continue to be registered or thereafter be registered
31 in the name of such person as owner unless he shall
32 give and thereafter maintain proof of financial responsi-
33 bility.

34 (d) Whenever the commissioner suspends or revokes
35 a nonresident's operating privilege by reason of a con-
36 viction or forfeiture of bail, such privilege shall remain
37 so suspended or revoked unless such person shall have
38 previously given or shall immediately give and there-
39 after maintain proof of financial responsibility.

Sec. 2. Meaning of Proof of Financial Responsibility.—

2 The term "proof of financial responsibility" as used in
3 this chapter shall mean: Proof of ability to respond in
4 damages for liability, on account of accident occurring
5 subsequent to the effective date of said proof, arising out
6 of the ownership, operation, maintenance, or use of a
7 motor vehicle, trailer or semitrailer in the amount of
8 five thousand dollars because of bodily injury to or
9 death of one person in any one accident, and, subject
10 to said limit for one person, in the amount of ten thou-
11 sand dollars because of bodily injury to or death of two
12 or more persons in any one accident, and in the amount
13 of one thousand dollars because of injury to or destruction
14 of property of others in any one accident.

*Sec. 3. Meaning of Judgment and Other Terms Used
in This Chapter.—*

The following words and phrases when
used in this chapter shall, for the purpose of this chap-
ter, have the meanings respectively ascribed to them
in this section. (a) The term "judgment" shall mean:
Any judgment which shall have become final by ex-
piration without appeal of the time within which an
appeal might have been perfected, or by final affirma-
tion on appeal, rendered by a court of competent juris-
diction of any state or of the United States, upon a
cause of action arising out of the ownership, operation,
maintenance, or use of any motor vehicle, trailer or

13 semitrailer for damages, including damages for care
14 and loss of services, because of bodily injury to or death
15 of any person, or for damages because of injury to or
16 destruction of property, including the loss of use thereof,
17 or upon a cause of action on an agreement of settlement
18 for such damages.

19 (b) The term "license" shall mean: Any license,
20 temporary instruction permit, or temporary license is-
21 sued under the laws of this state pertaining to the
22 licensing of persons to operate motor vehicles.

23 (c) The term "nonresident operating privilege" shall
24 mean: The privilege conferred upon a nonresident by
25 the laws of this state pertaining to the operation by
26 him of a motor vehicle, or the use of a vehicle owned
27 by him, in this state.

28 (d) The term "registration" shall mean: The regis-
29 tration certificate or certificates and registration plates
30 issued under the laws of this state pertaining to the
31 registration of vehicles.

32 (e) The term "state" shall mean: Any state, territory,
33 or possession of the United States, the District of Colum-
34 bia, or any province of the Dominion of Canada.

Sec. 4. *When Courts to Report Nonpayment of Judg-
2 ments.*—Whenever any person fails within thirty days
3 to satisfy any judgment, then upon the written request
4 of the judgment creditor or his attorney it shall be the
5 duty of the clerk of the court, or of the judge of a court
6 which has no clerk, in which any such judgment is
7 rendered within this state to forward to the commis-
8 sioner immediately upon such request a certified copy
9 of such judgment.

10 If the defendant named in any certified copy of a
11 judgment reported to the commissioner is a nonresi-
12 dent, the commissioner shall transmit a certified copy
13 of the judgment to the official in charge of the issuance
14 of licenses and registrations of the state of which the
15 defendant is a resident.

Sec. 5. *Suspension for Nonpayment of Judgments;
2 Exceptions.*—(a) The commissioner upon receipt of a
3 certified copy of a judgment, shall forthwith suspend

4 the license and registration and any nonresident's op-
5 erating privilege of any person against whom such judg-
6 ment was rendered, except as hereinafter otherwise
7 provided in this section and in section eight of this ar-
8 ticle.

9 (b) If the judgment creditor consents in writing, in
10 such form as the commissioner may prescribe, that the
11 judgment debtor be allowed license and registration or
12 nonresident's operating privilege, the same may be al-
13 lowed by the commissioner, in his discretion, for six
14 months from the date of such consent and thereafter
15 until such consent is revoked in writing, notwithstand-
16 ing default in the payment of such judgment, or of
17 any installments thereof prescribed in section eight of
18 this article, provided the judgment debtor furnishes
19 proof of financial responsibility.

20 (c) The commissioner shall not, however, suspend a
21 license, registration, or nonresident's operating privilege
22 of any person if the insurance applicable to such person
23 or the vehicle being operated by him was with a com-
24 pany which was authorized to transact business in this
25 state and which, subsequent to an accident involving
26 the owner or driver and prior to settlement of the claim
27 therefor went into liquidation so that no benefit ac-
28 crued to the owner or driver by reason of having pro-
29 vided such insurance.

Sec. 6. *Suspension to Continue until Judgments Paid
and Proof Given.*—(a) Such license, registration and
3 nonresident's operating privileges shall remain so sus-
4 pended and shall not be renewed, nor shall any such
5 license or registration be thereafter issued in the name
6 of such person, including any person not previously
7 licensed, unless and until every such judgment is stayed,
8 satisfied in full or to the extent hereinafter provided
9 and until the said person gives proof of financial re-
10 sponsibility subject to the exemptions stated in sections
11 five and eight of this article.

12 (b) A discharge in bankruptcy following the render-
13 ing of any such judgment shall not relieve the judgment
14 debtor from any of the requirements of this article.

Sec. 7. *Payments Sufficient to Satisfy Requirements.*—

- 2 (a) Judgments herein referred to shall, for the pur-
3 pose of this chapter only, be deemed satisfied:
- 4 (1) When five thousand dollars has been credited
5 upon any judgment or judgments rendered in excess
6 of that amount because of bodily injury to or death of
7 one person as the result of any one accident; or
8 (2) When, subject to such limit of five thousand dol-
9 lars because of bodily injury to or death of one person,
10 the sum of ten thousand dollars has been credited upon
11 any judgment or judgments rendered in excess of that
12 amount because of bodily injury to or death of two or
13 more persons as the result of any one accident; or
14 (3) When one thousand dollars has been credited
15 upon any judgment or judgments rendered in excess
16 of that amount because of injury to or destruction of
17 property of others as a result of any one accident.
- 18 (b) *Provided, however,* That payments made in settle-
19 ment of any claims because of bodily injury, death, or
20 property damage arising from such accident shall be
21 credited in reduction of the amounts provided for in this
22 section.

Sec. 8. *Installment Payment of Judgments; Default.*—

- 2 (a) A judgment debtor upon five days notice to the
3 judgment creditor may, for the sole purpose of giving
4 authority to the commissioner to authorize such judg-
5 ment debtor to operate a motor vehicle thereafter, ap-
6 ply to the court in which such judgment was rendered
7 for the privilege of paying such judgment in install-
8 ments and the court, in its discretion and without
9 prejudice to any other legal remedies which the judg-
10 ment creditor may have, may so order and fix the
11 amounts and times of payment of the installments.
- 12 (b) The commissioner shall not suspend a license,
13 registration, or nonresident's operating privilege, and
14 shall restore any license, registration, or nonresident's
15 operating privilege suspended following nonpayment of
16 a judgment, when the judgment debtor gives proof of
17 financial responsibility and obtains such an order per-
18 mitting the payment of such judgment in installments,
19 and while the payment of any said installment is not
20 in default.

21 (c) In the event the judgment debtor fails to pay
22 any installment as specified by such order, then upon
23 notice of such default, the commissioner shall forth-
24 with suspend the license, registration, or nonresident's
25 operating privilege of the judgment debtor until such
26 judgment is satisfied, as provided in this chapter.

Sec. 9. *Proof to Be Furnished for Each Registered*
2 *Vehicle; Alternate Methods of Giving Proof.*—(a) No
3 vehicle shall be or continue to be registered in the name
4 of any person required to file proof of financial responsi-
5 bility unless such proof shall be furnished for such ve-
6 hicle.

7 (b) Proof of financial responsibility when required
8 under this chapter, with respect to such a vehicle or
9 with respect to a person who is not the owner of such a
10 vehicle, may be given by filing:

11 (1) A certificate of insurance as provided in section
12 ten or section eleven of this article; or

13 (2) A bond as provided in section fifteen of this ar-
14 ticle; or

15 (3) A certificate of deposit of money or securities as
16 provided in section sixteen of this article; or

17 (4) A certificate of self-insurance, as provided in sec-
18 tion two, article six of this chapter, supplemented by
19 an agreement by the self-insurer that, with respect to
20 accidents occurring while the certificate is in force, he
21 will pay the same amounts that an insurer would have
22 been obliged to pay under an owner's motor-vehicle
23 liability policy if it had issued such a policy to said self-
24 insurer.

Sec. 10. *Certificate of Insurance as Proof.*—Proof of
2 financial responsibility may be furnished by filing with
3 the commissioner the written certificate of any insur-
4 ance carrier duly authorized to do business in this state
5 certifying that there is in effect a motor vehicle liability
6 policy for the benefit of the person required to furnish
7 proof of financial responsibility. Such certificate shall
8 give the effective date of such motor vehicle liability
9 policy, which date shall be the same as the effective
10 date of the certificate, and shall designate by explicit

11 description or by appropriate reference all vehicles cov-
12 ered thereby, unless the policy is issued to a person who
13 is not the owner of a motor vehicle.

Sec. 11. *Certificate Furnished by Nonresident as*

2 Proof.—(a) A nonresident may give proof of financial
3 responsibility by filing with the commissioner a writ-
4 ten certificate or certificates of an insurance carrier au-
5 thorized to transact business in the state in which the
6 vehicle, or vehicles, owned by such nonresident is regis-
7 tered, or in the state in which such nonresident resides,
8 if he does not own a vehicle, provided such certificate
9 otherwise conforms with the provisions of this chapter
10 and the commissioner shall accept the same upon con-
11 dition that said insurance carrier complies with the fol-
12 lowing provisions with respect to the policies so certi-
13 fied:

14 (1) Said insurance carrier shall execute a power of
15 attorney authorizing the commissioner to accept serv-
16 ice on its behalf of notice or process in any action aris-
17 ing out of a motor vehicle accident in this state;

18 (2) Said insurance carrier shall agree in writing that
19 such policies shall be deemed to conform with the laws
20 of this state relating to the terms of motor vehicle liabil-
21 ity policies issued herein.

22 (b) If any insurance carrier not authorized to transact
23 business in this state, which has qualified to furnish
24 proof of financial responsibility, defaults in any said
25 undertakings or agreements, the commissioner shall not
26 thereafter accept as proof any certificate of said carrier
27 whether theretofore filed or thereafter tendered as proof,
28 so long as such default continues.

Sec. 12. *“Motor Vehicle Liability Policy” Defined.—*

2 (a) A “motor vehicle liability policy” as said term is
3 used in this chapter shall mean an “owner’s policy” or an
4 “operator’s policy” of liability insurance certified as pro-
5 vided in section ten or section eleven of this article as
6 proof of financial responsibility, and issued, except as
7 otherwise provided in section eleven, by an insurance
8 carrier duly authorized to transact business in this state,
9 to or for the benefit of the person named therein as
10 insured.

11 (b) Such owner's policy of liability insurance:

12 (1) Shall designate by explicit description or by ap-
13 propriate reference all vehicles with respect to which
14 coverage is thereby to be granted; and

15 (2) Shall insure the person named therein and any
16 other person, as insured, using any such vehicle or ve-
17 hicles with the express or implied permission of such
18 named insured, against loss from the liability imposed
19 by law for damages arising out of the ownership, op-
20 eration, maintenance, or use of such vehicle or vehicles
21 within the United States of America or the Dominion
22 of Canada, subject to limits exclusive of interest and
23 costs, with respect to each such vehicle, as follows:
24 Five thousand dollars because of bodily injury to or
25 death of one person in any one accident and, subject to
26 said limit for one person, ten thousand dollars because of
27 bodily injury to or death of two or more persons in any
28 one accident, and one thousand dollars because of in-
29 jury to or destruction of property of others in any one
30 accident.

31 (c) Such operator's policy of liability insurance shall
32 insure the person named as insured therein against loss
33 from the liability imposed upon him by law for dam-
34 ages arising out of the use by him of any motor vehicle
35 not owned by him, within the same territorial limits and
36 subject to the same limits of liability as are set forth
37 above with respect to an owner's policy of liability in-
38 surance.

39 (d) Such motor vehicle liability policy shall state the
40 name and address of the named insured, the coverage
41 afforded by the policy, the premium charged therefor,
42 the policy period, and the limits of liability, and shall
43 contain an agreement or be endorsed that insurance is
44 provided thereunder in accordance with the coverage
45 defined in this chapter as respects bodily injury and
46 death or property damage, or both, and is subject to all
47 the provisions of this chapter.

48 (e) Such motor vehicle liability policy need not in-
49 sure any liability under any workmen's compensation
50 law nor any liability on account of bodily injury to or
51 death of an employee of the insured while engaged in

52 the employment, other than domestic, of the insured,
53 or while engaged in the operation, maintenance, or re-
54 pair of any such vehicle nor any liability for damage
55 to property owned by, rented to, in charge of, or trans-
56 ported by the insured.

57 (f) Every motor vehicle liability policy shall be sub-
58 ject to the following provisions which need not be con-
59 tained therein:

60 (1) The liability of the insurance carrier with respect
61 to the insurance required by this chapter shall become
62 absolute whenever injury or damage covered by said
63 motor vehicle liability policy occurs; said policy may
64 not be canceled or annulled as to such liability by an
65 agreement between the insurance carrier and the in-
66 sured after the occurrence of the injury or damage; no
67 statement made by the insured or on his behalf and no
68 violation of said policy shall defeat or void said pol-
69 icy.

70 (2) The satisfaction by the insured of a judgment
71 for such injury or damage shall not be a condition
72 precedent to the right or duty of the insurance carrier
73 to make payment on account of such injury or damage.

74 (3) The insurance carrier shall have the right to
75 settle any claim covered by the policy, and if such
76 settlement is made in good faith, the amount thereof
77 shall be deductible from the limits of liability specified
78 in subdivision two of subsection (b) of this section.

79 (4) The policy, the written application therefor, if
80 any, and any rider or endorsement which does not con-
81 flict with the provisions of this chapter shall constitute
82 the entire contract between parties.

83 (g) Any policy which grants the coverage required
84 for a motor vehicle liability policy may also grant any
85 lawful coverage in excess of or in addition to the cover-
86 age specified for a motor vehicle liability policy and such
87 excess or additional coverage shall not be subject to the
88 provisions of this chapter. With respect to a policy
89 which grants such excess or additional coverage the
90 term "motor vehicle liability policy" shall apply only
91 to that part of the coverage which is required by this
92 section.

93 (h) Any motor vehicle liability policy may provide
94 that the insured shall reimburse the insurance carrier
95 for any payment the insurance carrier would not have
96 been obligated to make under the terms of the policy
97 except for the provisions of this chapter.

98 (i) Any motor vehicle liability policy may provide
99 for the prorating of the insurance thereunder with other
100 valid and collectible insurance.

101 (j) The requirements for a motor vehicle liability
102 policy may be fulfilled by the policies of one or more
103 insurance carriers which policies together meet such
104 requirements.

105 (k) Any binder issued pending the issuance of a motor
106 vehicle liability policy shall be deemed to fulfill the re-
107 quirements for such a policy.

Sec. 13. *Notice of Cancellation or Termination of*
2 *Certified Policy.*—When an insurance carrier has certified
3 a motor vehicle liability policy under section ten or sec-
4 tion eleven of this article, the insurance so certified shall
5 not be canceled or terminated until at least ten days after
6 a notice of cancellation or termination of the insurance so
7 certified shall be filed in the office of the commissioner,
8 except that such policy subsequently procured and certi-
9 fied shall, on the effective date of its certification, termi-
10 nate the insurance previously certified with respect to any
11 vehicle designated in both certificates.

Sec. 14. *Chapter Not to Affect Other Policies.*—(a) This
2 chapter shall not be held to apply to or affect policies of
3 automobile insurance against liability which may now or
4 hereafter be required by any other law of this state, and
5 such policies, if they contain an agreement or are en-
6 dorsed to conform with the requirements of this chapter,
7 may be certified as proof of financial responsibility under
8 this chapter.

9 (b) This chapter shall not be held to apply to or affect
10 policies insuring solely the insured named in the policy
11 against liability resulting from the maintenance or use by
12 persons in the insured's employ or on his behalf of ve-
13 hicles not owned by the insured.

Sec. 15. *Bond as Proof.*—(a) Proof of financial re-

2 sponsibility may be evidenced by the bond of a surety
3 company duly authorized to transact business within this
4 state, or a bond with at least two individual sureties each
5 owning real estate within this state, and together having
6 equities equal in value to at least twice the amount of the
7 bond, which real estate shall be scheduled in the bond
8 approved by a judge of a court of record, which said bond
9 shall be conditioned for payment of the amounts specified
10 in section two of this article. Such bond shall be filed
11 with the commissioner and shall not be cancelable except
12 after ten days written notice to the commissioner. Such
13 bond shall constitute a lien in favor of the state upon the
14 real estate so scheduled of any surety, which lien shall
15 exist in favor of any holder of a final judgment against
16 the person who has filed such bond, for damages, includ-
17 ing damages for care and loss of services, because of
18 bodily injury to, or death of any person, or for damage
19 because of injury to or destruction of property, including
20 the loss of use thereof, resulting from the ownership,
21 maintenance, use, or operation of a motor vehicle, trailer
22 or semitrailer after such bond was filed, upon the filing of
23 notice to that effect by the commissioner in the office of
24 the clerk of the county court of the county wherein such
25 real estate shall be located. Such notice shall contain the
26 name in full of any such surety to be affected by it, the
27 description of the real estate located in such county as
28 scheduled in the bond, and shall be signed by said com-
29 missioner and bear an imprint of the official seal of the
30 department. Such clerk shall indicate on such notice the
31 day and hour when it was received by him, and, upon the
32 payment of a fee of one dollar, he shall immediately re-
33 cord such notice in the place wherein trust deeds of real
34 estate are recorded and shall index such notice in the
35 name of such surety in the same place in which such trust
36 deeds are indexed, treating such surety as a grantor and
37 the state of West Virginia as a grantee, and such clerk
38 shall be subject to the penalties provided in article three
39 of chapter thirty-eight and in article four of chapter fifty-
40 one of the code of West Virginia, one thousand nine hun-
41 dred thirty-one, as amended, for the failure to so record
42 and to so index such notice, respectively. A fee of one

43 dollar shall be collected by the commissioner from the
44 person who has filed such proof and shall be paid to such
45 clerk by the commissioner. All liens so created shall re-
46 late to the time of filing such notice in such clerk's office
47 and shall have priority over all liens suffered or created
48 thereafter.

49 (b) If such a judgment, rendered against the princi-
50 pal on such bond shall not be satisfied within sixty days
51 after it has become final, the judgment creditor may, for
52 his own use and benefit and at his sole expense, bring an
53 action or actions in the name of the state against the
54 company or persons executing such bond and may en-
55 force by a suit in equity in his own name any lien existing
56 by virtue of the provisions of this chapter upon the real
57 estate of a person who has executed such bond.

Sec. 16. *Money or Securities as Proof.*—(a) Proof of
2 financial responsibility may be evidenced by the certifi-
3 cate of the state treasurer that the person named therein
4 has deposited with him eleven thousand dollars in cash,
5 or securities such as may legally be purchased by savings
6 banks or for trust funds of a market value of eleven thou-
7 sand dollars. The state treasurer shall not accept any
8 such deposit and issue a certificate therefor and the com-
9 missioner shall not accept such certificate unless accom-
10 panied by evidence that there are no unsatisfied judg-
11 ments of any character against the depositor in the county
12 where the depositor resides.

13 (b) Such deposit shall be held by the state treasurer
14 to satisfy, in accordance with the provisions of this chap-
15 ter, any execution on a judgment issued against such
16 person making the deposit, for damages, including dam-
17 ages for care and loss of services, because of bodily injury
18 to or death of any person, or for damages because of in-
19 jury to or destruction of property, including the loss of
20 use thereof, resulting from the ownership, maintenance,
21 use or operation of a motor vehicle, trailer or semitrailer
22 after such deposit was made. Money or securities so
23 deposited shall not be subject to attachment or execution
24 unless such attachment or execution shall arise out of a
25 suit for damages as aforesaid.

Sec. 17. *Owner May Give Proof for Others.*—When-
2 ever any person required to give proof of financial respon-
3 sibility hereunder is or later becomes an employee of any
4 owner, or is or later becomes a member of the immediate
5 family or household of the owner, the commissioner shall
6 accept proof given by such owner in lieu of proof by such
7 other person to permit such other person to operate a
8 motor vehicle for which the owner has given proof as
9 herein provided. The commissioner shall designate the
10 restrictions imposed by this section on the face of such
11 person's license.

Sec. 18. *Substitution of Proof.*—The commissioner
2 shall consent to the cancellation of any bond or certificate
3 of insurance or the commissioner shall direct and the state
4 treasurer shall return any money or securities to the per-
5 son entitled thereto upon the substitution and acceptance
6 of other adequate proof of financial responsibility pur-
7 suant to this chapter.

Sec. 19. *Other Proof May be Required.*— Whenever
2 any proof of financial responsibility filed under the provi-
3 sions of this chapter no longer fulfills the purposes for
4 which required, the commissioner shall for the purpose
5 of this chapter, require other proof as required by this
6 chapter and shall suspend the license and registration or
7 the nonresident's operating privilege pending the filing
8 of such other proof.

Sec. 20. *Duration of Proof; When Proof May Be Can-
2 celed or Returned.*—(a) The commissioner shall upon
3 request consent to the immediate cancellation of any bond
4 or certificate of insurance, or the commissioner shall di-
5 rect and the state treasurer shall return to the person en-
6 titled thereto any money or securities deposited pursuant
7 to this chapter as proof of financial responsibility, or the
8 commissioner shall waive the requirement of filing proof,
9 in any of the following events:

10 (1) At any time after three years from the date such
11 proof was required when, during the three year period
12 preceding the request, the commissioner has not received
13 record of a conviction or a forfeiture of bail which would
14 require or permit the suspension or revocation of the

15 license, registration, or nonresident's operating privilege
16 of the person by or for whom such proof was furnished;
17 or

18 (2) In the event of the death of the person on whose
19 behalf such proof was filed or the permanent incapacity
20 of such person to operate a motor vehicle; or

21 (3) In the event the person who has given proof sur-
22 renders his license and registration to the commissioner;

23 (b) *Provided, however,* That the commissioner shall
24 not consent to the cancellation of any bond or the return
25 of any money or securities in the event any action for
26 damages upon a liability covered by such proof is then
27 pending or any judgment upon any such liability is then
28 unsatisfied, or in the event the person who has filed such
29 bond or deposited such money or securities has within
30 one year immediately preceding such request been in-
31 volved as a driver or owner in any motor vehicle accident
32 resulting in injury or damage to the person or property
33 of others. An affidavit of the applicant as to the non-
34 existence of such facts, or that he has been released from
35 all of his liability, or has been finally adjudicated not to
36 be liable, or that he has received a covenant not to sue or
37 its equivalent, for such injury or damage, shall be suffi-
38 cient evidence thereof in the absence of evidence to the
39 contrary in the records of the commissioner.

40 (c) Whenever any person whose proof has been can-
41 celed or returned under subdivision three of this section
42 applies for a license or registration within a period of
43 three years from the date proof was originally required,
44 any such application shall be refused unless the applicant
45 shall reestablish such proof for the remainder of such
46 three year period.

Article 5. Violation of Provisions of Chapter; Penalties.

Section

1. Transfer of registration to defeat purpose of chapter prohibited.
2. Surrender of licenses and registration.
3. Other violations; penalties.

Section 1. *Transfer of Registration to Defeat Purpose
2 of Chapter Prohibited.*—If an owner's registration has
3 been suspended hereunder, such registration shall not be
4 transferred nor the vehicle in respect to which such regis-

5 tration was issued registered in any other name until the
6 commissioner is satisfied that such transfer of registration
7 is proposed in good faith and not for the purpose or with
8 the effect of defeating the purposes of this chapter. Noth-
9 ing in this section shall in any wise affect the rights of
10 any conditional vendor, chattel mortgagee or lessor of
11 such a vehicle registered in the name of another as owner
12 who becomes subject to the provisions of this chapter.

Sec. 2. *Surrender of License and Registration.*—Any
2 person whose license or registration shall have been sus-
3 pended as herein provided, or whose policy of insurance
4 or bond, when required under this chapter, shall have
5 been canceled or terminated, or who shall neglect to fur-
6 nish other proof upon request of the commissioner shall
7 immediately return his license and registration to the
8 commissioner. If any person shall fail to return to the
9 commissioner the license or registration as provided
10 herein, the commissioner shall forthwith direct any peace
11 officer to secure possession thereof and to return the same
12 to the commissioner.

Sec. 3. *Other Violations; Penalties.*—(a) Any person
2 who forges, or, without authority, signs any evidence or
3 proof of financial responsibility, or who files or offers for
4 filing any such evidence of proof knowing or having
5 reason to believe that it is forged or signed without au-
6 thority, shall be guilty of a misdemeanor and upon con-
7 viction thereof shall be fined not more than one thousand
8 dollars or imprisoned for not more than one year, or both.

9 (b) Any person whose license or registration or non-
10 resident's operating privilege has been suspended or re-
11 voked under this chapter and who, during such suspen-
12 sion or revocation, drives any motor vehicle upon any
13 highway or knowingly permits any motor vehicle, trailer
14 or semitrailer owned by such person to be operated by
15 another upon any highway, except as permitted under
16 this chapter, shall be guilty of a misdemeanor and upon
17 conviction thereof shall be fined not more than five hun-
18 dred dollars or imprisoned not exceeding six months, or
19 both.

20 (c) Any person wilfully failing to return license or

21 registration as required in section two of this article shall
22 be guilty of a misdemeanor and upon conviction shall be
23 fined not more than five hundred dollars or imprisoned
24 not to exceed thirty days, or both.

25 (d) Any person who shall violate any provision of
26 this chapter for which no penalty is otherwise provided
27 shall be guilty of a misdemeanor and upon conviction
28 thereof shall be fined not more than five hundred dollars
29 or imprisoned not more than ninety days, or both.

Article 6. General Provisions.

Section

1. Exceptions.
2. Self-insurers.
3. Repeal of existing laws.
4. No retroactive effect.
5. Jurisdiction of crimes by justices.
6. Chapter not to prevent other process.
7. Constitutionality.

Section 1. *Exceptions.*—This chapter shall not apply
2 with respect to any vehicle owned by the United States,
3 this state or any political subdivision of this state or
4 any municipality therein.

Sec. 2. *Self-insurers.*—(a) Any person in whose name
2 more than twenty-five vehicles are registered may qualify
3 as a self-insurer by obtaining a certificate of self-in-
4 surance issued by the commissioner as provided in sub-
5 section (b) of this section.

6 (b) The commissioner may, in his discretion, upon
7 the application of such a person, issue a certificate of self-
8 insurance when he is satisfied that such person is pos-
9 sessed and will continue to be possessed of ability to pay
10 judgments obtained against such person.

11 (c) Upon not less than five days' notice and a hear-
12 ing pursuant to such notice, the commissioner may upon
13 reasonable grounds cancel a certificate of self-insurance.
14 Failure to pay any judgment within thirty days after
15 such judgment shall have become final shall constitute
16 a reasonable ground for the cancellation of a certificate
17 of self-insurance.

Sec. 3. *Repeal of Existing Laws.*—This chapter shall in
2 no respect be considered as a repeal of the motor vehicle

3 laws of this state but shall be construed as supplemental
4 thereto.

5 The existing motor vehicle safety responsibility law
6 is hereby repealed except with respect to any accident,
7 or judgment arising therefrom, or violation of the motor
8 vehicle laws of this state, occurring prior to the effective
9 date of this chapter.

Sec. 4. *No Retroactive Effect.*—This chapter shall not
2 have a retroactive effect and shall not apply to any ac-
3 cident, or judgment arising therefrom, or violation of
4 the motor vehicle laws of this state, occurring prior to
5 the effective date of this chapter.

Sec. 5. *Jurisdiction of Crimes by Justices.*—Justices of
2 the peace shall have concurrent jurisdiction with the
3 circuit, criminal and intermediate courts to enforce the
4 misdemeanor penalties prescribed by this chapter.

Sec. 6. *Chapter not to Prevent Other Process.*—Noth-
2 ing in this chapter shall be construed as preventing the
3 plaintiff in any action at law from relying for relief
4 upon the other processes provided by law.

Sec. 7. *Constitutionality.*—If any part or parts of this
2 chapter shall be held unconstitutional, such unconsti-
3 tutionality shall not affect the validity of the remaining
4 parts of this chapter. The Legislature hereby declares
5 that it would have passed the remaining parts of this
6 chapter if it had known that such part or parts thereof
7 would be declared unconstitutional.

CHAPTER 131

(Senate Bill No. 67—By Mr. Bean)

AN ACT to repeal article two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof a new article two, chapter eight, relating to the creation, alteration and dissolution of municipal corporations.

[Passed March 10, 1951: in effect ninety days from passage. Approved by the Governor.]

Article 2. Creation, Alteration, Dissolution and Powers of Municipal Corporations.

Section

1. Requirements for incorporation; size and character of territory population.
2. Petition; survey and map.
3. Hearing on petition; notice; dismissal.
4. Census; bond; duties of enumerators.
5. Election; voting precincts; time for; supplies.
6. Election; form of ballot; election officers.
7. Certificate of incorporation for class IV town or village.
8. Change of boundary of city, town or village.
9. Council of city, town or village to certify change of boundary; order.
10. Forfeiture of charters; dissolution of municipal corporation.
11. Voluntary discontinuance of charters of class IV towns or villages.
12. Charter board for class I, II and III cities; qualifications of members; nominations; ballots; dismissal.
13. Charter board, class I, II and III cities; duties; time for draft of charter.
14. Class I, II or III charters; approved by attorney general.
15. Class I, II or III charters; hearings and notice.
16. Class I, II or III charters; revisions, time for.
17. Class I, II or III charters; election, voters; time.
18. Class I, II or III charters; effective date; certification; judicial notices; recordation.
19. Class I, II or III charters; rejections; new charter board.
20. Class I, II or III charter boards; continuing duties.
21. Expense of incorporation.
22. Powers of Class I, II or III cities.
23. Charters heretofore granted valid.
24. Writ of error.

Be it enacted by the Legislature of West Virginia:

That article two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed and that a new article two, chapter eight, be enacted in lieu thereof to read as follows:

- Section 1. *Requirements for Incorporation; Size and Character of Territory Population.*—Any part of any district or districts or county or counties not within any incorporated municipality, urban in character, and containing at least one hundred persons and an average of not less than five hundred inhabitants per square mile, provided such part does not include an amount of territory disproportionate to the number of inhabitants thereof, may be incorporated as a city, town or village of Class I, II, III or IV respectively, as defined in chapter

11 eight-a, article one, section four, of the code of West
12 Virginia, upon the conditions and in the manner herein-
13 after prescribed: *Provided*, That the exact extent of the
14 territory or parts thereof to be included or excluded shall
15 be within the reasonable discretion of the county court,
16 taking into consideration the topography thereof; the
17 benefits thereto from incorporation; the amount of un-
18 inhabited land required for parks and normal growth
19 and development and the present and probable future
20 uses thereof, so as to prevent hardships and inequities.

Sec. 2. *Petition; Survey and Map.*—A proceeding to in-
2 incorporate any such city, town or village may be initiated
3 upon petition addressed to and filed in the county court
4 of the county in which the territory, or if in more than
5 one county, in which the greater part of the territory
6 to be incorporated lies; according to whether the terri-
7 tory sought to be incorporated will be upon incorporation
8 a Class I, II, III city of a Class IV town or village. Such
9 petition shall be signed by at least thirty per cent of the
10 freeholders within the territory to be incorporated.

11 Such petition shall be verified by at least one of the
12 petitioners and shall be accompanied by a map made by
13 a registered engineer based upon an actual and accurate
14 survey of the territory to be incorporated showing the
15 courses, distances and the area of the territory to be in-
16 corporated.

17 Such survey and map shall be verified and shall be
18 left at the residence or place of business within the ter-
19 ritory to be incorporated of some person residing or do-
20 ing business therein, and shall be subject to examination
21 at all reasonable hours by every person interested in
22 such application for the period of at least ten days prior
23 to the hearing on such petition as provided for in section
24 three of this article.

Sec. 3. *Hearing on Petition; Notice; Dismissal.*—Upon
2 the filing of such petition, the county court shall set the
3 same for hearing not sooner than ten days and not later
4 than thirty days thereafter, and petitioners shall cause
5 notice of the filing of said petition and of the time and
6 place of hearing thereon, to be published in a newspaper

7 of general circulation in the territory sought to be in-
8 corporated, at least once each week for two successive
9 weeks prior to the date of hearing.

10 Upon the day set for hearing, the county court shall
11 hear evidence for and against the proposed incorporation,
12 and if it shall determine that the requirements of section
13 one and two of this article have not been met, it shall
14 forthwith enter an order dismissing said petition.

Sec. 4. *Census; Bond; Duties of Enumerators.*—If the
2 court shall, after hearing, determine that the require-
3 ments of sections one and two of this article have been
4 met, petitioners shall provide bond in penalty prescribed
5 by the court with good and sufficient surety thereon,
6 conditioned to pay all costs of taking a census; deter-
7 mining the qualification of electors, holding an election
8 and ascertaining the results thereof, in event the electors
9 vote against incorporation, and thereupon the court shall
10 fix a day or days for taking a census of the inhabitants
11 and for determining those who are qualified electors
12 within said territory. For the purpose of taking said
13 census, and determining the qualifications of the elect-
14 ors, said court shall appoint four enumerators for each
15 five hundred inhabitants of said territory based upon
16 the most reliable estimate obtainable. It shall be the
17 duty of the enumerators so appointed to enumerate all
18 the bona fide inhabitants of said territory and to visit
19 each house or dwelling therein, and to obtain the name
20 of each known resident thereof. It shall also be the
21 duty of the enumerators to examine the permanent
22 registration records to determine which of such bona fide
23 inhabitants are qualified electors therein and to compile
24 and file with the county court a list of such qualified
25 electors. Each enumerator shall receive for his services
26 a sum per day, to be fixed by the court not to exceed ten
27 dollars per day, together with his actual and necessary
28 expenses, which sum shall be paid by the county court
29 and reimbursed to it by the city, town or village if and
30 when the city, town or village shall become incorpo-
31 rated, as hereinafter provided, otherwise by the petition-
32 ers. The county court shall provide an opportunity for
33 all qualified persons residing in such territory, who have

34 not been previously registered to vote, to become regis-
35 tered prior to the election hereinafter provided for. Upon
36 the completion of said census and listing of qualified
37 electors, said enumerators shall make report under oath
38 to the county court that said enumeration and listing is
39 correct, true and accurate, and does not contain the
40 name of any person who is not a bona fide resident of
41 the territory, and that the list of qualified electors is
42 true and correct, which report shall be filed with the
43 county court within the following number of days after
44 the appointment of said enumerators; ten days if it is
45 to be a Class IV town or village, or a Class III city;
46 twenty days if it is to be a Class II city; and forty days
47 if it is to be a Class I city.

Sec. 5. *Election; Voting Precincts; Time for; Supplies.*

2 —Upon receiving such report of said enumerators, the
3 county court shall forthwith fix a day, not later than
4 thirty days thereafter, on which all qualified electors
5 residing within the territory shall vote upon the question
6 of incorporation between such hours as may be fixed by
7 order of said court. For the purpose of conducting said
8 election, the county court shall divide the territory into
9 one or more precincts, consisting of not more than five
10 hundred qualified voters in each precinct; shall arrange
11 for and provide at its expense polling places, registration
12 books, challenges and other election supplies as provided
13 for by law in general elections, and shall appoint three
14 commissioners of election and two clerks from the quali-
15 fied electors of said territory for each precinct so estab-
16 lished, dividing the election officials as nearly as possible
17 equally between those favoring incorporation and those
18 opposed to incorporation, and shall give notice of the day
19 and place of election by publication once each week for
20 three successive weeks, prior to the day of said election,
21 in a newspaper of general circulation within such ter-
22 ritory.

Sec. 6. *Election; Form of Ballot; Election Officers.—*

2 On the day named in such notice for the taking of the
3 vote, each qualified elector who has resided within the
4 territory sought to be incorporated for sixty days preced-

5 ing the completion of such census shall have the right to
6 cast his vote for or against such incorporation at the
7 precinct in which he resides. Each elector shall deposit a
8 ballot in a ballot box to be provided by the court for that
9 purpose. Each ballot shall have written or printed thereon
10 the words:

11 For Incorporation

12 Against Incorporation

13 Such election shall be held under the supervision of the
14 commissioners and clerks of election appointed by the
15 court as aforesaid and shall be conducted as nearly as may
16 be in accordance with the laws of West Virginia govern-
17 ing general elections. The result of such election shall be
18 certified as in general elections, and the returns shall be
19 canvassed and the result declared by the county court.
20 In the event any commissioner or clerk designated to
21 serve in said election shall fail or refuse to serve, such
22 vacancy may be filled, as provided by the general election
23 laws of West Virginia. A recount may be had, as in gen-
24 eral elections, upon the party or parties desiring such
25 recount providing adequate assurance to the county
26 court that he or they will pay all costs of such recount.
27 Any such election may be contested by any one or more
28 electors or owners of property within the territory in the
29 manner provided by article nine, chapter three, of the
30 code of West Virginia, for contesting county or district
31 elections.

Sec. 7. *Certificate of Incorporation for Class IV Town*
2 *or Village.*—If the proceeding be for the incorporation of
3 a Class IV town or village, and it appears to the court that
4 a majority of the legal votes cast on the question were in
5 favor of such incorporation and the court being satisfied
6 that all of the applicable provisions of this article have
7 been complied with, the court shall by order entered of
8 record, direct the clerk of said court to issue a certificate
9 of incorporation in form or in substance as follows:

10 It appearing to the court that under the provisions of
11 article two, chapter eight of the code of West Virginia at
12 an election duly held on the day of,
13 19....., a majority of the votes cast on the question of in-
14 corporation by qualified voters residing in the following

15 boundary, to-wit: Beginning, etc. (here recite the
 16 boundaries) were cast in favor of the incorporation of the
 17 town or village of _____, in the County
 18 of _____, bounded as herein set forth.
 19 And as it appears to the satisfaction of the court that all
 20 of the provisions of article two, chapter eight of the code
 21 of West Virginia have been complied with by the peti-
 22 tioners for said incorporation, said town or village is
 23 hereby declared to be a body corporate, duly authorized
 24 to exercise all of the corporate powers conferred upon
 25 towns or villages by articles three to fifteen, inclusive, of
 26 chapter eight of the code of West Virginia, from and
 27 after the date of this certificate. (signed) C. H. Clerk
 28 County Court.

29 Thereupon the first election of officers shall be held as
 30 provided in sections one, two and three, article three of
 31 this chapter.

32 If the proceeding be for the incorporation of a Class I,
 33 II or III city and it appears to the court that a majority of
 34 the legal votes cast on the question of incorporation were
 35 in favor of such incorporation and the court being satis-
 36 fied that all of the applicable provisions of this article
 37 have been complied with, the court shall by order duly
 38 entered declare that the following boundary of land
 39 (here recite boundaries) is hereby and henceforth incor-
 40 porated as the city of _____, but that
 41 until a charter shall be framed and adopted as hereinafter
 42 provided, such city shall have and exercise no powers of
 43 a municipal corporation except the power to frame and
 44 adopt a charter as herein provided.

45 On the vote being canvassed on the question of incor-
 46 poration, if a majority of the votes cast be against incor-
 47 poration, the proceeding shall be dismissed, and no subse-
 48 quent proceeding for incorporation of the same territory
 49 or any part thereof shall be considered or election thereon
 50 had within a period of three years thereafter

Sec. 8. *Change of Boundary of City, Town or Village.*—

2 Five per cent or more of the freeholders residing in any
 3 city, town or village desiring to change the corporate
 4 limits thereof, may file their petition in writing with the

5 council thereof, setting forth the change proposed in the
6 metes and bounds of such corporation, and asking that a
7 vote be taken upon the proposed change. Such petition
8 shall be verified and shall be accompanied by an accurate
9 survey showing the territory embraced within the new
10 boundaries. The council, upon bond in penalty prescribed
11 by the council with good and sufficient surety being given
12 by petitioners, and conditioned to pay the costs of such
13 election if a majority of the votes cast are against the
14 proposed change in boundary, shall thereupon order a
15 vote of the qualified voters residing in such city, town
16 or village to be taken upon the proposed change at a time
17 and place therein to be named in the order, not less than
18 twenty nor more than thirty days from the date thereof,
19 and if it be proposed to include any additional territory
20 within such corporate limits, the council shall, at the
21 same time order a vote of all the qualified voters residing
22 on such additional territory, and of all persons, firms or
23 corporations owning any part of such territory, whether
24 they reside therein or not, to be taken upon the question
25 on the same day, at some convenient place on or near
26 such additional territory: *Provided*, That the additional
27 territory to be included shall conform to the require-
28 ments of section one of this article, and the determination
29 that the additional territory does so conform shall be
30 reviewable by the circuit court on certiorari to the coun-
31 cil. The election shall be held, superintended and con-
32 ducted, and the result thereof ascertained, certified and
33 returned, in the same manner and by the same persons
34 as elections for city, town or village officers. The ballots
35 cast on such question shall have written or printed on
36 them the words:

37 For change of Corporate Limits

38 Against change of Corporate Limits

39 If a majority of all the votes so cast within such cor-
40 poration be in favor of the proposed change, and no addi-
41 tional territory is proposed to be included therein, the
42 corporate limits of such city, town or village shall there-
43 after be as proposed by such petition. But, if additional
44 territory is proposed to be included in such corporate
45 limits, such change shall not take effect unless a majority

46 of all the votes cast by persons eligible to vote in such
47 additional territory shall also be cast in favor of such
48 change. Any firm or corporation may vote by its man-
49 ager, president, or executive officer duly designated in
50 writing by such firm or corporation.

Sec. 9. *Council of City, Town or Village to Certify*
2 *Change of Boundary; Order.*—The council of such city,
3 town or village shall enter the result of such election
4 upon its minutes, and, when the change proposed is
5 adopted, as provided in the preceding section, shall cer-
6 tify the same to the county court of the county; and such
7 court may thereupon enter an order in substance as
8 follows:

9 A certificate of the council of the city, town or village,
10 as the case may be of _____, was this day
11 filed showing that a change has been made, in the manner
12 required by law, in the corporate limits thereof, and that
13 by such change the said corporate limits are as follows:

14 Beginning at (here recite the boundaries, as changed).
15 It is, therefore, ordered that such change in said corporate
16 limits be, and the same is hereby approved and con-
17 firmed, and the clerk of this court is directed to deliver
18 to the said council a certified copy of this order as soon as
19 practicable after the rising of this court. And after the
20 date of such order the corporate limits of such town shall
21 be as set forth therein.

Sec. 10. *Forfeiture of Charters; Dissolution of Muni-*
2 *pal Corporation.*—Any city, town or village heretofore in-
3 corporated under the provisions of chapter eight of the
4 code of West Virginia, or any Class IV town or village
5 which shall hereafter be incorporated under the provi-
6 sions of this article, and which has no substantial indebt-
7 edness, and which shall fail for one year to exercise its
8 corporate powers and privileges, or which has not twenty
9 legal voters residing therein, or in which there were not
10 twenty legal votes cast at its last election, or the popula-
11 tion of which shall be reduced below one hundred per-
12 sons and so remain for six consecutive months, shall in
13 either event thereby forfeit its charter so granted, and all
14 rights, powers and privileges so conferred upon such

15 town. And the county court of the county where any such
16 city, town or village is located within this state shall have
17 jurisdiction to hear and determine all matters relating to
18 the forfeiture and dissolution of all such charters granted
19 as hereinbefore provided, upon the petition of one or more
20 of its inhabitants, to annul and declare forfeited such
21 charter, and shall dissolve the corporation. Ten days'
22 notice of the filing of such petition with the clerk of
23 the county court of the county wherein such town is
24 located, served upon the mayor and recorder or on the
25 last elected mayor or recorder thereof, shall be sufficient
26 notice upon which the commissioners of such court shall
27 so act, and upon the proper proof of the allegations of
28 such petition, any such charter so granted shall be de-
29 clared forfeited and the corporation dissolved and all
30 debts of such city, town or village shall be ordered paid
31 and the forfeiture shall not become effective until such
32 debts have been paid. Upon such forfeiture all interest of
33 such city, town or village, in corporate funds, if any, in
34 excess of amounts required to pay corporate debts shall
35 be and the same is hereby transferred to and vested in
36 the state of West Virginia to be controlled by the auditor
37 of West Virginia. But if the territory so incorporated, or
38 a major part thereof, either in area or in population,
39 shall, within one year next after such declaration of for-
40 feiture and dissolution by the county court be reincor-
41 porated as a Class IV town, or village, under this chapter,
42 then the auditor of the state of West Virginia shall convey
43 unto such new corporation all of the rights of the state of
44 West Virginia in and to the corporate property, monies,
45 claims, demands and taxes collected or uncollected, of
46 the former corporation so dissolved.

Sec. 11. *Voluntary Discontinuance of Charters of*
2 *Class IV Towns or Villages.*—Upon the petition of twenty-
3 five per cent of the voters of any incorporated Class IV
4 town or village containing not more than two thousand
5 inhabitants, the council thereof shall submit to the voters
6 of such town at the next municipal election, or at a spe-
7 cial election called for that purpose, the question of con-
8 tinuing or discontinuing the charter rights of such town.

9 The ballots used in voting shall have written or printed
10 upon them the words:

11 For continuance of charter

12 For discontinuance of charter

13 If a majority of the votes cast be "for discontinuance
14 of charter", then the charter rights and privileges of such
15 town shall cease with the term of office of the council
16 then in existence: *Provided*, That all debts or other obliga-
17 tions outstanding against such corporation shall be settled
18 in full.

Sec. 12.—*Charter Board for Class I, II and III Cities;*
2 *Qualification of Members; Nominations; Ballots; Dismiss-*
3 *sal.*—At every election on the question of incorporation
4 of a Class I, II, or III city, under this act, each qualified
5 elector entitled to vote shall also be entitled to vote for a
6 charter board consisting of eleven members if a Class I or
7 Class II city, and of seven members if a Class III city.
8 Members shall be elected at large and shall receive no
9 compensation for their services, but shall be reimbursed
10 by the city for their actual necessary expenses. Any per-
11 son who has been a qualified voter of the territory sought
12 to be incorporated for at least two years prior to the date
13 of said election, shall be eligible for membership on said
14 charter board. Nominations for said charter board may be
15 made to the county court by petition bearing the signa-
16 tures written in their own handwriting of not less than
17 two hundred qualified electors of the territory. All nomi-
18 nating petitions shall be filed with the county court at
19 least twenty days prior to the election on the question of
20 incorporation. The ballot shall be prepared by the clerk
21 of the county court. Such ballots for members of the
22 charter board shall be separate from the ballots on the
23 question of incorporation. The position of the names of the
24 candidates upon the ballot for members of the charter
25 board shall be interchanged, as provided in the general
26 election laws of the state. The ballot shall also bear in-
27 structions directing the number of candidates to be voted
28 for. Each voter who is entitled to vote on the question of
29 framing a charter may cast as many votes for members of
30 the charter board as there are members to be elected. He
31 may cumulate all of his votes for one candidate, or divide

32 them among several candidates as he sees fit. Any elector
33 who shall vote "No" on the question of incorporation may
34 nevertheless vote for members of the charter board.

35 On the vote being canvassed on the question of incor-
36 poration, if a majority of the votes cast be against incor-
37 poration, the proceeding shall be dismissed, and no subse-
38 quent proceeding for incorporation of the same territory,
39 or any part thereof, shall be considered or election there-
40 on had within a period of three years thereafter.

Sec. 13. *Charter Board, Class I, II and III Cities; Duties;*
2 *Time for Draft of Charter.*—On the vote being canvassed
3 on the question of incorporation of a Class I, II, or III
4 city, if a majority of the votes cast be in favor of such
5 incorporation, then the votes cast for members of the
6 charter board shall be counted and canvassed, and the
7 candidates in the number to be chosen who received the
8 highest number of votes shall be declared elected. The
9 charter board shall be convened at a suitable place with-
10 in the territory by the member receiving the highest
11 number of votes, not less than five days nor more than
12 ten days after the election. He shall notify the other
13 members of the board in writing of the time and place
14 of the first meeting of the charter board. At such first
15 meeting the board shall perfect its organization by elect-
16 ing a chairman and secretary from its membership and
17 by determining the rules of its proceedings. A journal
18 shall be kept by the clerk upon which shall be entered
19 upon demand by any member, the vote by ayes and nays
20 on any question; a majority of the members elected to
21 said board shall constitute a quorum. It shall provide
22 the manner of nominating and electing candidates for
23 the first elective offices provided in the proposed charter
24 at the election to be held on the question of approval of
25 the charter. It shall fix the date of said election and do
26 and provide all other things necessary for making nomi-
27 nations and holding such election. Any qualified voter
28 or taxpayer of the territory may file with said charter
29 board any written material bearing upon the purposes of
30 the board that he sees fit, and the board shall give such
31 material so filed such consideration as it may deem
32 proper. The charter drafting process may be carried on

33 through committees, but their work shall be advisory
34 only. The charter board shall complete its draft of a
35 charter within ninety days after its first meeting. The
36 charter so drafted shall provide for a form of city gov-
37 ernment in accordance with either plan I, II, III, or IV,
38 as set forth in article three, chapter eight-a of the code
39 of West Virginia.

Sec. 14. *Class I, II or III Charters; Approved by At-*
2 *torney General.*—The draft of said charter shall, upon
3 completion, be certified by the secretary of said charter
4 board to the attorney general of the state. It shall be his
5 duty to examine the draft to advise whether it is con-
6 sistent in all respects with the constitution and general
7 laws of this state. The attorney general, if satisfied that
8 the charter proposed is consistent in all respects with the
9 constitution, and general laws of this state, shall so certify
10 to the charter board, within thirty days after receipt of
11 such draft. If the attorney general is not satisfied that
12 the proposed charter is consistent in all respects with the
13 constitution and general laws of this state, he shall certify
14 within thirty days after receipt of such draft to the
15 charter board in what respects the same does not conform
16 to the constitution or general laws of this state.

Sec. 15. *Class I, II or III Charters; Hearings and*
2 *Notice.*—When it shall have completed its draft of charter,
3 a charter board shall conduct a public hearing thereon.
4 Notice of the time, place and purpose of the hearing shall
5 be given by publication at least ten days prior to the date
6 set for the hearing in two newspapers of opposite politics
7 of general circulation in the territory to be incorporated.
8 Notice shall also be posted in at least ten public places
9 within said territory at least ten days prior to the date
10 set for the hearing. The notice shall state where copies
11 of the draft of charter may be obtained. The hearing
12 may be continued by the charter board by adjournments
13 over a period not exceeding fourteen days.

Sec. 16. *Class I, II or III Charters; Revisions; Time for.*
2 —A charter board shall have thirty days after the con-
3 clusion of the hearing required by section fifteen of this
4 article or the receipt of the certificate of the attorney

5 general required by section fourteen of this article,
6 whichever shall occur later, to make any changes it may
7 consider necessary or desirable in its draft of charter.

8 The completed draft of charter shall be signed in
9 triplicate by at least a majority of the members of the
10 board, and two copies shall be filed with the clerk of the
11 county court.

Sec. 17. *Class I, II or III Charters; Election; Voters;*
2 *Time.*—The proposed charter shall be submitted to the
3 voters for approval at a special election to be held not
4 less than thirty days nor more than ninety days following
5 filing of the completed charter with the clerk of the
6 county court, at which election the officers provided by
7 said charter shall be voted upon in the manner provided
8 by said charter. Notice of the time, place and purpose
9 of a charter election shall be given by publication once
10 a week for three consecutive weeks in two newspapers
11 of opposite politics of general circulation in said territory.
12 Notice shall be posted at ten or more public places
13 within the territory not less than thirty days prior to the
14 date set for the election. The first of said publications
15 shall be made not less than thirty days prior to the date
16 fixed for the election. Each such notice of election shall
17 state that any qualified voter of said territory may obtain
18 a copy of the proposed charter, from a designated person
19 and place, upon request.

Sec. 18. *Class I, II or III Charters; Effective Date; Certi-*
2 *fication; Judicial Notices; Recordation.*—The charter shall
3 take effect on July first next after the date of its adoption,
4 if the interim exceeds sixty days; and otherwise on July
5 first of the second fiscal year after its adoption.

6 If a proposed charter shall be approved by a majority
7 of the votes cast at election thereon, one of the signed
8 copies on file with the clerk of the county court, with a
9 certified copy of the declaration of result of the election
10 showing the total votes cast for and against approval,
11 shall be certified by the clerk of the county court to the
12 clerk of the House of Delegates of the Legislature, in his
13 capacity as keeper of the rolls. The same shall be pre-
14 served by said clerk as an authentic public record. After

15 the effective date of a charter so filed, all courts shall
16 take judicial notice of its provisions.

17 The clerk of the county court shall certify the signed
18 copy of the charter previously deposited with him, which
19 copy so certified shall be spread upon the records of said
20 court for public examination.

Sec. 19. *Class I, II or III Charters; Rejections; New
2 Charter Board.*—If the proposed charter be rejected at
3 such election by a majority of the votes cast therein,
4 the election of officers shall be void except that the
5 elector who shall receive the highest number of votes
6 cast for the office of mayor, if a mayor is to be elected,
7 otherwise the candidate for any municipal office who
8 shall receive the largest number of votes cast at the
9 election, shall, within ten days thereafter, require such
10 charter board to reconvene, for the purpose of revising
11 or amending the original draft of the charter previously
12 prepared by them as to them shall seem proper. Any
13 three hundred qualified electors of said territory may,
14 however, within ten days after the determination of the
15 results of the election at which such charter is rejected,
16 petition the clerk of the county court for election of a
17 new charter board, and the court shall thereupon call
18 a new election for members of the charter board in the
19 same manner as the original election and with nomina-
20 tions made in the same manner as in the first instance
21 as provided in section twelve of this article. The duties
22 of the new charter board shall be the same as those of
23 the former board, and as many successive charter boards
24 may be elected as may be necessary until a charter for
25 such territory is framed and approved by the qualified
26 electors thereof. The proposed charter after such amend-
27 ment or amendments, if any, shall be resubmitted to
28 the attorney general and the qualified electors of said
29 territory in the same manner and with like notice and
30 proceedings as required in the first instance, and such
31 proceedings shall continue until the qualified electors of
32 said territory have by a majority vote approved a charter.

Sec. 20. *Class I, II or III Charter Boards; Continuing
2 Duties.*—The members of the first charter board of a

3 Class I, II, or III city, elected under this article shall, in
4 the event their draft of charter is adopted, hold office
5 for a term of six years following the adoption of their
6 charter. Any vacancy occurring during that period shall
7 be filled temporarily by appointment by majority action
8 of the remaining members. A successor shall be elected
9 at the next regular municipal election in the same man-
10 ner as elective city officers, to hold office for the re-
11 mainder of the term.

12 The board shall make a continuing study of the func-
13 tioning of the city government under a home rule charter
14 adopted during its life and may, by a two-thirds vote of
15 its members and not less than four years after such
16 charter shall have taken effect, require the submission
17 to the voters of the city of the question whether the
18 charter shall be revised. By a like vote and at any
19 time not less than one year after the charter shall have
20 taken effect, the board may require the submission of
21 one or more proposed charter amendments to the voters
22 of the city. In the event revision is voted pursuant to
23 such submission, the board as then constituted shall pro-
24 ceed to prepare a revision of the charter and the process
25 of revision as so initiated shall be the same as that for
26 the framing and adoption of a new charter under this
27 chapter.

Sec. 21. *Expense of Incorporation.*—The first governing
2 body of any city, town or village incorporated under this
3 article shall provide for reimbursement to the county
4 court of all costs of incorporation, including costs of pub-
5 lishing notice, of taking the enumeration of inhabitants,
6 of ascertaining the qualification of electors, of conduct-
7 ing the elections, and ascertaining the results and for
8 reimbursement of the charter board for its actual neces-
9 sary expenses incurred in drafting the charter.

Sec. 22. *Powers of Class I, II or III Cities.*—Any Class
2 I, II or III city incorporated under the provisions of this
3 article shall have all of the powers and duties conferred
4 by law upon a city of the class to which it belongs.

Sec. 23. *Charters Heretofore Granted Valid.*—This en-
2 actment shall not affect the validity of any charter of

3 incorporation heretofore granted to any city, town or
4 village, under special act or general law and all charters
5 heretofore granted to any existing city and the incor-
6 poration of all towns under any former statute are hereby
7 validated.

Sec. 24. *Writ of Error.*—A writ of error shall lie to the
2 circuit court as provided by article three, chapter fifty-
3 eight of the code of West Virginia from any order of a
4 county court determining that the requirements of sec-
5 tions one and two of this article have been met and
6 ordering a census or enumeration to be taken or from
7 any order ordering an election to be held under this
8 chapter, and any contest of an election held under this
9 chapter shall be conducted as provided by article nine
10 chapter three, of the code of West Virginia, relating to
11 election contests for county or district officers in general
12 elections. Upon petition for a writ of error, all proceed-
13 ings shall be stayed pending final adjudication of the
14 matters involved.

CHAPTER 132

(Senate Bill No. 248—By Mr. Amos)

AN ACT to amend article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section ten-g, relating to the authority of the governing boards of class I cities to fix the salaries of certain municipal officers.

[Passed March 6, 1951: in effect from passage. Approved by the Governor.]

Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

Section

10-g. Salaries of officers of class I cities.

Be it enacted by the Legislature of West Virginia:

That article four, chapter eight of the code of West Virginia,

one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section to be designated section ten-g, to read as follows:

Section 10-g. Salaries of Officers of Class I Cities.—

2 Notwithstanding any provision of its existing charter to
3 the contrary, the governing board of any class I city, as
4 defined in section four, article one, chapter eight-a of this
5 code, shall have the authority to fix the salary of certain
6 of its officers within the following limitations:

7 (1) The salary of the mayor shall not exceed ten thou-
8 sand dollars.

9 (2) The salary of the city manager, the city attorney
10 and the city engineer shall not exceed eight thousand
11 dollars.

12 The authority granted by this section shall in no case
13 be construed to deprive any class I city of any authority
14 under its existing charter to fix the salary of the officers
15 named above at a salary in excess of the limits imposed by
16 this section.

CHAPTER 133

(House Bill No. 94—By Mr. Speaker, Mr. Flannery)

AN ACT to amend article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section thirteen-d, granting to municipalities the power and authority to provide by ordinance for the levy and collection of amusement taxes, and to provide penalties for the violation of such ordinance.

[Passed March 10, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

Section
13-d. Amusement tax.

Be it enacted by the Legislature of West Virginia:

That article four, chapter eight of the code of West Virginia,

one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, to be designated section thirteen-d, to read as follows:

Section 13-d. *Amusement Tax*.—The governing authority of every municipal corporation may levy and collect an amusement or admission tax on the sale of each adult ticket to any public amusement or entertainment conducted for private profit within the municipality. The tax shall be levied upon the purchaser and shall be added to the price of the ticket and collected by the seller. The tax shall not exceed two per cent of the price of each adult ticket except that if the amount of the tax so levied shall when computed be or contain a fraction of one cent, such fraction may be counted as one cent.

Any ordinance imposing such tax shall contain reasonable rules and regulations governing the collection thereof by the seller and the method of his payment and accounting therefor to the municipality, and may provide penalties for any violation of such ordinance.

CHAPTER 134

(House Bill No. 92—By Mr. Speaker, Mr. Flannery)

AN ACT to amend and reenact section twenty, article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, granting to municipalities the power and authority to provide by ordinance for the imposition and collection of special charges for municipal services, and to provide penalties for the violation of such ordinance.

[Passed March 10, 1951; in effect from passage. Approved by the Governor.]

Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

Section

20. Special charges for municipal services.

Be it enacted by the Legislature of West Virginia:

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

Section 20. *Special Charges for Municipal Services.*—

2 The governing authority of every municipal corporation
3 that furnishes any essential or special municipal service,
4 including police and fire protection, parking facilities on
5 the streets or otherwise, recreational facilities, street
6 cleaning, sewerage and sewage disposal, and the collection
7 and disposal of garbage, ashes or other waste materials,
8 may by ordinance provide for the continuance, mainte-
9 nance, installation or improvement of such service, may
10 make reasonable regulations with respect thereto, may
11 impose upon the users of such service reasonable rates,
12 fees and charges to be collected in the same manner as
13 municipal taxes are collected or in some other manner
14 specified in the ordinance, and may provide penalties for
15 any violation of such ordinance. The municipal corpora-
16 tion shall not, however, have a lien on any property as
17 security for payments due under such ordinance: *Pro-*
18 *vided, however,* That any ordinance enacted under the
19 provisions of this section shall be published at least once
20 a week for two successive weeks in two newspapers pub-
21 lished in such municipality, or if there be only one news-
22 paper published therein then in that newspaper, or if
23 there be no such newspaper published then by posting
24 copies of such ordinance for a like period in at least ten
25 conspicuous places in such municipality, and in the event
26 ten per cent of the registered voters by written petition
27 duly signed by them and filed with the municipal author-
28 ity within fifteen days after the expiration of such pub-
29 lishing or posting protest against such ordinance, the
30 ordinance shall not become effective until it shall be rati-
31 fied by a majority of the votes cast by the duly qualified
32 voters of such municipality at an election duly and reg-
33 ularly held as provided by the laws and ordinances of the
34 municipality and the result of such election ascertained
35 and declared. Such election shall be held after notice of
36 such submission shall be given by publication or posting

37 of the same for two successive weeks next prior to the
 38 date of such election as above provided for the publica-
 39 tion of the ordinance when adopted. The powers hereby
 40 given to such municipalities and to the authorities thereof
 41 are in addition to and supplemental of the powers named
 42 in the respective charters thereof.

CHAPTER 135

(Com. Sub. for Senate Bill No. 42, 43, 44, 45—Originating in the Senate
 Committee on Finance)

AN ACT to amend article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section twenty-seven, relating to the powers and authority of municipal corporations.

[Passed March 6, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

Section

27. Additional powers of municipal corporations.

Be it enacted by the Legislature of West Virginia:

That article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, to be designated section twenty-seven, to read as follows:

Section 27. *Additional Powers of Municipal Corporations.*—On and after the effective date of this act every
 2 municipal corporation in this state shall have all the
 3 powers and authority conferred by article five, chapter
 4 eight-a of this code upon home rule cities of the class to
 5 which such municipal corporation belongs, according to
 6 the classification of municipal corporations prescribed in
 7 section four, article one, chapter eight-a of this code:
 8 *Provided, however,* That prior to the adoption of any ordi-
 9

10 nance or resolution under the authority herein granted
11 pertaining to taxes, the governing body of such municipi-
12 pality shall cause a notice of such ordinance or resolution
13 to be published once a week for three weeks, in a news-
14 paper published and having general circulation in said
15 municipality, or if there be two newspapers of opposite
16 political faith, then in each of said newspapers. If there
17 be no such newspaper, then such notice shall be published
18 in a newspaper of circulation in the county in which said
19 municipal corporation is situate. Such notice shall state
20 the purpose of the pending ordinance or resolution and
21 the time, place and body before which the same will be
22 considered.

CHAPTER 136

(House Bill No. 298—By Mr. Bowles)

AN ACT to amend and reenact section one, article four-a, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter ninety, acts of the Legislature, regular session, one thousand nine hundred forty-five, relating to definitions, including the definition of municipal public works.

[Passed March 10, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 4-a. Municipal Public Works; Bonds.

Section

1. Definitions.

Be it enacted by the Legislature of West Virginia:

That section one, article four-a, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter ninety, acts of the Legislature, regular session, one thousand nine hundred forty-five, be amended and reenacted to read as follows:

Section 1. *Definitions.*—(a) The term “municipality,”

2 as used in this article, shall be construed to mean any
3 city or incorporated town in the state of West Virginia;
4 (b) the term "municipal authorities," as used in this
5 article, shall be construed to mean the mayor and council,
6 or similar governing body, board or commission of any
7 city or incorporated town; (c) the term "municipal pub-
8 lic works," as used in this article, shall be construed to
9 mean and include cemeteries, incinerator plants, land
10 fill or other garbage disposal systems, hospitals, piers,
11 docks, terminals, airports, drainage systems, flood con-
12 trol systems, public markets, automobile parking facilities
13 (including parking lots, buildings, ramps, curb-line park-
14 ing, meters and other facilities deemed necessary or in-
15 cidental to the regulation, control and parking of auto-
16 mobiles), stadiums, public recreation parks, swimming
17 pools, tennis courts, golf courses, polo grounds, public
18 buildings, including libraries and museums, common
19 jails, grading and/or paving, and/or repaving streets, av-
20 enues and alleys; where such works or projects will be
21 made selfsupporting, and the construction and/or acquisi-
22 tion cost thereof, together with interest thereon, will be
23 returned within a reasonable period, not exceeding thirty
24 years, by means of tolls, fees, rents, special assessments or
25 charges other than taxation, and shall mean and include
26 such system, building, plant or project in its entirety, and
27 all integral parts thereof, including all necessary appur-
28 tenances and equipment in connection with any one or
29 more of the above: *Provided*, That when such municipal
30 public works consist of grading and/or paving and/or re-
31 paving streets, avenues, and alleys the cost of which is to
32 be paid by special assessment against the abutting prop-
33 erty, represented by paving certificates which constitute a
34 lien upon such property and said paving certificates are
35 pledged by any municipality to retire revenue bonds
36 issued and sold to pay the cost of such construction, the
37 payor of such paving certificate shall have the right to
38 pay the same at any time before maturity, together with
39 interest thereon to date of payment, and upon the pay-
40 ment of such paving certificate the treasurer of such
41 municipality shall deliver to the payor a release for such
42 lien, and the funds received therefrom shall by said

- 43 treasurer be deposited in a special fund to be expended
44 only in the payment of such revenue bonds.
-

CHAPTER 137

(Senate Bill No. 270—By Mr. Amos)

AN ACT to amend article four-a, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section one-a, relating to the establishment, operation and financing of automobile parking facilities by municipalities.

[Passed March 10, 1951; in effect from passage. Approved by the Governor.]

Article 4-a. Municipal Public Works; Bonds.

Section

1-a. Municipal parking facilities.

Be it enacted by the Legislature of West Virginia:

That article four-a, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section to be designated section one-a to read as follows:

Section 1-a. *Municipal Parking Facilities.*—Every municipality shall have the authority to establish, operate and finance automobile parking facilities, including buildings, lots and other facilities appropriate for that purpose and such facilities shall be public works within the meaning of this article.

Whenever any class one city shall establish any such parking facility and shall create a board or commission as provided in section three of this article which shall have supervision and control thereof, then in order to help finance the same, such city shall have the authority to pay over to such board or commission any revenue derived from parking meters or other parking facilities, unless such revenue is otherwise pledged to pay for such meters or parking facilities.

CHAPTER 138

(House Bill No. 199—By Mr. Tucker)

AN ACT to amend and reenact sections fourteen, twenty and twenty-one, article six, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to firemen's and policemen's pension or relief fund.

[Passed March 9, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 6. Fire Department, Fire Companies, and Firemen's and Policemen's Pensions or Relief Funds.

Section

14. Levy to maintain fund; gifts, etc.; assessments on members of departments; return of assessments.
20. Payments upon retirement without disability; payments for retirement at sixty-five; payments for permanent disability; credit for military service.
21. Payments in case of death.

Be it enacted by the Legislature of West Virginia:

That section fourteen, twenty and twenty-one, 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 14. *Levy to Maintain Fund; Gifts, etc.; Assessments on Members of Departments; Return of Assessments.*—In every municipality there shall be a firemen's pension or relief fund and a policemen's pension or relief fund, which shall be maintained as follows: The council or other governing body of each municipality shall levy annually and in the manner provided by law for other municipal levies, and include within the maximum levy or levies permitted by law, and if necessary in excess of any charter provisions, a tax of not less than one cent on each one hundred dollars of all real and personal property as listed for taxation in such municipality, and, if necessary, in excess of one cent, but not in excess of two and one-half cents so as to meet the estimated expenditures of the boards of trustees of the respective funds, for the fire-

16 men's pension or relief fund and a like levy on all real
17 and personal property as listed for taxation in such mu-
18 nicipality, for a policemen's pension fund: *Provided*, That
19 in any city or municipality of eight thousand three hun-
20 dred population or less the laying of the levies herein
21 provided for shall be within the discretion of the com-
22 mon council or other body of like power and duties in such
23 city or municipality.

24 The levies authorized under this section, or any part of
25 them, may by the council or other governing body be laid
26 in addition to all other municipal levies, and to that extent
27 beyond the limit of levy imposed by the charter of such
28 municipality; and such levies shall supersede and if neces-
29 sary exclude levies for other purposes if such priority or
30 exclusion is necessary under limitation upon taxes or tax
31 levies imposed by law.

32 Such corporations are authorized to take by gift, grant,
33 devise or bequest, any money or real or personal property,
34 upon such terms as to the investment and expenditure
35 thereof as may be fixed by the grantor or determined by
36 said trustees.

37 In addition to all other sums provided for pensions in
38 this section, it shall be the duty of every municipal cor-
39 poration to assess and collect from each member of such
40 fire department and police department each month, the
41 sum of three per cent of the monthly basic pay of such
42 fire or police department, that is, the monthly basic pay
43 for all equally and regardless of rank or position of the
44 member of such department and so that the amount of
45 such deduction shall be the same for all members of such
46 fire department and the same for all members of such
47 police department, which amount so to be deducted shall
48 be deducted from the monthly pay of such person; and
49 the amount so collected shall become a regular part of the
50 firemen's pension fund, if collected from a fireman, and
51 of the policemen's pension fund, if collected from a police-
52 man.

53 Any member of a municipal fire or police department
54 who is released or who before retirement on any pension
55 severs his connection with said department, provided he
56 has served two full years or more, shall, upon request,

57 be refunded all deductions made from his salary, but
58 without interest. In event such refund is made and such
59 member subsequently reenters the department no credit
60 shall be allowed him for any former service.

Sec. 20. *Payments Upon Retirement Without Disability;*
2 *Payments for Retirement at Sixty-Five; Payments for*
3 *Permanent Disability; Credit for Military Service.*—Any
4 member of a municipal fire department or police depart-
5 ment who is entitled to benefits of said fund, and who
6 has been in the service of such department for twenty
7 years, and upon reaching the age of fifty years, may, upon
8 written application to the board of trustees, be retired
9 from all service from such department without medical
10 examination or disability; and on such retirement the
11 board of trustees shall authorize the payment of one hun-
12 dred and ten dollars per month to such retired member
13 during the remainder of his life; and any member of such
14 department who is entitled to the benefits of said fund
15 and who has been in the service of such department for
16 more than twenty years at the time of his retirement as
17 herein provided, shall, in addition to the one hundred ten
18 dollars per month authorized to be paid upon retirement
19 after twenty years service and the reaching of the age of
20 fifty years, receive five dollars per month during the re-
21 mainder of his life for each year of the first three addi-
22 tional years served with such department in excess of said
23 twenty years; but in no event shall he receive additional
24 retirement pay for more than three such additional years:
25 *Provided,* That any member of such department who has
26 served in the armed services as defined hereinafter, shall
27 be eligible to retirement prior to reaching the age of fifty
28 years if he is otherwise eligible hereunder.

29 Any member of a municipal fire or police department,
30 upon reaching the age of sixty-five years shall be retired
31 in the manner herein provided: each member of the fire
32 and police department shall, at the request of the board
33 of trustees, furnish said board of trustees with a birth
34 certificate or other satisfactory proof of his date of birth,
35 at the time of his appointment to the fire or police depart-
36 ment. When a member of the fire or police department

37 shall have reached the age of sixty-five years, the said
38 board of trustees shall notify the mayor or other chief
39 executive officer of the municipal corporation, within
40 thirty days of such member's sixty-fifth birthday; and
41 the mayor or other chief executive officer shall cause such
42 sixty-five year old member of the fire or police depart-
43 ment to be retired within a period of not more than thirty
44 additional days. It shall be the duty of each member of
45 the fire or police department who are members at the
46 time this act becomes effective to furnish the said neces-
47 sary proof of his date of birth to the said board of trustees
48 within a reasonable length of time, said length of time to
49 be determined by the said board of trustees; and then
50 the board of trustees and the mayor or other chief execu-
51 tive officer of the municipal corporation shall proceed to
52 act in the manner herein provided, and shall cause all
53 members of the fire or police department who are over
54 the age of sixty-five years to be retired in not less than
55 sixty days from the date this act becomes effective. The
56 amount of pension such members shall receive shall de-
57 pend upon their length of service as herein provided. Such
58 member need not have served twenty years to receive
59 the minimum amount of pension of one hundred ten dol-
60 lars per month for the remainder of his life.

61 The sum to be paid to permanently disabled members
62 shall be at the rate of one hundred twenty-five dollars
63 per month, which shall be paid regardless of the position
64 in the department of such disabled member.

65 Absence from the service because of sickness or injury
66 shall not be construed as time out of service.

67 Any member of such department who has served in the
68 armed services of the United States between September
69 fifteen, one thousand nine hundred forty, the date of the
70 selective service act, and September second, one thousand
71 nine hundred forty-five, the date of the official termina-
72 tion of hostilities with Japan, and who has not been dis-
73 honorably discharged from said service, shall be given
74 credit for continuous service in said fire or police depart-
75 ment if he was already a member of such department at
76 the time of his entrance into such armed service, and that
77 such member did not reenlist in such armed services

78 after such official termination of hostilities and did pre-
79 sent himself to the mayor or other officer, board or person
80 having the power of original appointment to such fire
81 or police department within six months after his honorable
82 discharge from such armed service, and offer to resume
83 service as an active member of such fire or police depart-
84 ment, and was declared mentally and physically capable
85 of performing his entire duties as a member of the depart-
86 ment by the pension board doctors.

87 Any member of any fire or police department covered
88 by this act who has been required to, or shall at any future
89 time be required to enter the armed forces of the United
90 States by a conscription, by reason of being a member of
91 some reserve unit of the armed forces, or a member of
92 the West Virginia national guard, or who enlists in one of
93 the armed services of the United States during actual
94 hostilities, and upon his receipt of an honorable discharge
95 from such armed forces presents himself for resumption
96 of duty to his appointing municipal official within six
97 months from date of discharge, and is accepted by the
98 pension board doctors as being mentally and physically
99 capable of performing his required duties as a member
100 of such fire or police department, shall be given credit
101 for continuous service in said fire or police department,
102 and his pension rights shall be governed as herein pro-
103 vided.

104 No member of the fire or police departments shall be
105 required to pay the monthly assessment as now required
106 by law, during his period of service in the armed forces
107 of the United States.

108 None of the provisions of this act shall apply to or affect
109 any person who at the time this act takes effect is receiv-
110 ing any pension, payment or benefit from the firemen's or
111 policemen's pension or relief funds.

Sec. 21. *Payments in Case of Death.*—In case any such
2 municipal employee who has been in continuous service
3 for over five years shall be killed or die, then, and in that
4 case, the board of trustees of said pension fund shall pay
5 to the dependent wife or dependent minor children or
6 dependent mother or father, or brothers and sisters, if

7 there be any such one or ones, the following pensions,
8 viz: To the widow, the sum of fifty dollars per month,
9 until her death or remarriage; for the support and main-
10 tenance of any dependent children, the sum of fifteen
11 dollars per month for each living child until such child
12 shall have attained the age of eighteen years: *Provided,*
13 *however,* That each surviving orphaned child shall re-
14 ceive twenty dollars per month until such child shall have
15 attained the age of eighteen years; to a dependent mother
16 and father the sum of fifteen dollars per month to each,
17 and, if one be dead, the sum of twenty dollars per month
18 to the survivor; to dependent brothers and sisters, until
19 they shall have attained the age of sixteen years, the sum
20 of five dollars per month for each, but in no case shall
21 the total amount paid to brothers and sisters exceed thirty
22 dollars per month. But if at any time, because of the
23 number of dependents, all such dependents cannot be paid
24 in full as herein provided, then each dependent shall re-
25 ceive his pro rata share of such payments: *Provided,*
26 *however,* That in no case shall the payments to the widow
27 and children be cut below sixty per cent.

28 The dependent wife, child or children, or dependent
29 father or mother, brothers or sisters of any such municipal
30 employee who shall be killed in the performance of his
31 duties shall, regardless of the length of his service, receive
32 a pension as provided for in that portion of this section
33 fixing the amount to be paid to the dependents.

34 Absence from service because of sickness or injury shall
35 not be construed as time out of service.

36 None of the provisions of this act shall apply to or
37 affect any person who at the time this act takes effect is
38 receiving any pension, payment or benefit from the fire-
39 men's or policemen's pension or relief funds.

CHAPTER 139

(Senate Bill No. 27—By Mr. Love)

AN ACT to amend article eleven, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as

amended, by adding thereto a new section to be designated section four-a, relating to the authority of county courts, cities, towns or villages to regulate and control vehicular and pedestrian traffic in and around airports, and conferring jurisdiction upon justices of the peace to try persons charged with violations thereof.

[Passed March 2, 1951; in effect from passage. Approved by the Governor.]

Article 11. Airports and Avigation.

Section

4-a. Regulation and control of vehicular and pedestrian traffic in and around airports.

Be it enacted by the Legislature of West Virginia:

That article eleven, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section to be designated four-a to read as follows:

Section 4-a. *Regulation and Control of Vehicular and Pedestrian Traffic in and Around Airports.*—The county court or local legislative body of any city, town or village is authorized to adopt and promulgate regulations to control the movement and dispositions of vehicular and pedestrian traffic within one-fourth mile of any building or installation of any airport owned and/or operated by any such county court, city, town, or village including the right to regulate and control vehicular parking within such areas by the installation of parking meters, or by other methods, and the right to make reasonable charges for the use of the parking space so metered or otherwise allocated, so as to provide maximum opportunity for the public use thereof.

Violation of any such regulation promulgated by a county court or any lawful agency thereof, or by the legislative body of any city, town or village or lawful agency thereof, shall constitute a misdemeanor and the offender, upon conviction in the manner provided by law, may be fined not less than two dollars nor more than ten dollars for each such violation.

- 22 Justices of the peace shall have concurrent jurisdiction
 23 with the circuit court and of courts having criminal juris-
 24 diction for the trial of offenses under this section.

CHAPTER 140

(Com. Sub. for Senate Bill No. 138—Originating in the Senate Committee on
the Judiciary)

AN ACT to amend article twelve, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section one-a, prohibiting the common council of any municipality of ten thousand population or less to sell, lease or dispose of its municipally-owned water plant without first having submitted the question of the proposed sale or lease to the voters of said municipality for ratification or rejection.

[Passed March 7, 1951; in effect ninety days from passage. Approved by the
Governor.]

Article 12. Waterworks.

Section

- 1-a. Any municipality of ten thousand population or less prohibited to sell or lease water plant without first submitting question to voters.

Be it enacted by the Legislature of West Virginia:

That article twelve, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, to be designated section one-a, to read as follows:

- Section 1-a. *Any Municipality of Ten Thousand Population or Less Prohibited to Sell or Lease Water Plant Without First Submitting Question to Voters.*—The common council of any municipality having a population of less than ten thousand of the state of West Virginia is hereby prohibited from selling, leasing or disposing of its municipally-owned water plant, unless upon submis-

8 sion of the question of the proposed sale or lease to the
9 voters of said municipality for ratification or rejection
10 at any general or special election, three-fifths of the votes
11 cast shall be in favor of ratification. Should any such
12 municipality desire to sell, lease or dispose of its water
13 plant, it shall publish once a week for three successive
14 weeks in one newspaper published in such municipality
15 immediately prior to the general election or the special
16 election, as fixed by the council, a notice setting forth the
17 terms and conditions of such sale, lease or disposition of
18 said water plant, and shall also give notice as to the price
19 which has been agreed upon, the name of the purchaser
20 or purchasers or lessee or lessees, and shall also give such
21 other information to the voters of said municipality as
22 the council may deem necessary, and at such election
23 each voter desiring to vote shall deposit a ballot in a ballot
24 box to be provided for that purpose which ballot shall
25 have written or printed thereon the following words:

26 For ratification.

27 Against ratification.

28 Such election shall be held under the superintendence
29 of the commissioners of election appointed by the govern-
30 ing body of such municipality and the results of such
31 election shall be certified under oath and returned by said
32 election commissioners to the governing body of said
33 municipality as soon as may be after such election. In
34 the event of a vacancy due to the failure or refusal to act
35 of any election commissioner, such vacancy may be filled
36 by the other commissioners.

37 In the event that the sale, lease or disposition of said
38 water plant is ratified by three-fifths of the voters voting
39 at said special or general election, the governing body of
40 said municipality having control of such water plant
41 shall proceed to consummate the lease or sale to the
42 purchaser or purchasers upon the terms and provisions
43 as have been agreed upon.

CHAPTER 141

(Senate Bill No. 294—By Mr. Moats)

AN ACT to amend chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article to be designated article sixteen, relating to authorizing a flood control project in this state by counties or municipal corporations and empowering counties and municipal corporations to enter into agreements with the federal government and to accept federal funds available for flood control.

[Passed March 9, 1951; in effect from passage. Approved by the Governor.]

Article 16. Flood Control Project.

Section

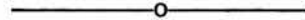
1. Establishment and operation of flood control project by counties and municipalities.

Be it enacted by the Legislature of West Virginia:

That chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article to be designated article sixteen, to read as follows:

Section 1. *Establishment and Operation of Flood Control Project by Counties and Municipalities.*—Any county, city, or town in this state may establish, construct, maintain, and operate for such county, city, or town, a flood control project, including the removal of accumulated snags and other debris, and clearing and straightening the channel of navigable streams and tributaries thereof, and such county, city, or town may accept all benefits, moneys, services, and assistance from the federal government in connection with any agreement as authorized by federal statutes and laws relating to flood control, and such county, city, or town, under such agreements as required by Section 701c, Title 33, United States Code Annotated, or other federal statutes, shall be authorized to give assurances satisfactory to the secretary of the army or other proper federal authority that such county, city, or town will provide: (a) Without cost to the

18 United States all lands, easements and rights of way
19 necessary for the construction of the project; (b) hold
20 and save the United States free from damages due to
21 the construction works; (c) maintain and operate all the
22 works after completion in accordance with the regula-
23 tions prescribed by the secretary of the army. Any such
24 county, city, or town is further empowered to levy, with-
25 in constitutional and statutory limitations, for the main-
26 tenance or operation of a flood control project, and to
27 purchase land situate therein for the same, and is em-
28 powered to institute condemnation proceedings for the
29 acquiring of any such land required under the flood con-
30 trol project, and may authorize the issuance and sale of
31 bonds within constitutional and statutory limitation, as
32 is provided under the general provisions of law for the
33 issuance and sale of bonds by counties and municipalities
34 for public purposes generally. Real or personal property
35 or moneys may also be acquired for such purpose by
36 gifts by such county, city, or town.



CHAPTER 142

(House Bill No. 274—By Mr. Meadows)

AN ACT to amend and reenact section fifteen-a, article two, chapter eight-a of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred thirteen, acts of the Legislature, regular session, one thousand nine hundred forty-seven, providing an alternate plan relating to the amendment of charters of class two and class three cities.

[Passed March 9, 1951: in effect ninety days from passage. Approved by the Governor.]

Article 2. Home Rule Procedure; Charter Elections.

Section

15-a. Charter amendment; alternate plan for class II and class III cities.

Be it enacted by the Legislature of West Virginia:

That section fifteen-a, article two, chapter eight-a of the

code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred thirteen, acts of the Legislature, regular session, one thousand nine hundred forty-seven, be amended and reenacted to read as follows:

Section 15-a. *Charter Amendment; Alternate Plan for Class II and Class III Cities.*—Whenever the council of any class II or class III city, as defined under section four, article one, chapter eight-a of this code, shall deem it expedient to amend the charter of any such city, either in whole or in part, it shall, by ordinance or resolution, set out in its proper record book the proposed amendments in full. The council shall set a time and place for a public hearing thereon, which date shall not be less than thirty days after the date of the first publication hereinafter required. The proposed amendments, together with a notice of the time and place fixed for the hearing thereon, shall be published once each week for three successive weeks in a newspaper published and having a general circulation in the city, but if there be two or more newspapers published therein, then such publication shall be in two newspapers of opposite politics, and if there be no newspaper published therein, then publication shall be made in two newspapers of opposite politics, published in the county wherein such city is located. The notice shall state that the proposed amendments will be considered at the time and place fixed by the council and that any elector of the city may appear and file objections, in writing, and also that if no objections are filed the said amendment shall become operative on and after a date to be fixed in the notice, which date shall be not less than ten days after the date of the hearing. If no objections are filed, or if objections are filed and withdrawn at the time of the hearing, or within ten days thereafter, the council shall, by ordinance, adopt the amendments as amendments to the charter, and cause a transcript of the proceedings to be certified to the clerk of the house of delegates, as keeper of the rolls, and a copy thereof to be recorded in the office of the clerk of the county court.

If, at the time and place set for the hearing, objections to the amendments are filed and not withdrawn ten days

38 thereafter, the council may abandon the proposed amend-
39 ments to which objections have been filed, or it may sub-
40 mit the proposed amendments, either as a unit or sepa-
41 rately, at the next regular city election, or at a special
42 election, if the date of the regular election shall be more
43 than six months from such date, for ratification or rejec-
44 tion. A notice of an election shall set out the proposed
45 amendments at length or state that copies may be ob-
46 tained by any qualified voter from a designated officer
47 at a stated place, upon request. Notice of such election
48 shall be published as hereinbefore provided for hearing
49 on the proposed amendments.

50 The amendments, or such of them as may be adopted,
51 shall take effect on the date that the canvass and declara-
52 tion of result showing approval by the voters has been
53 made and entered in the minutes of the governing body.
54 A transcript of the proceedings shall be filed and recorded
55 as hereinbefore provided.

56 The method of charter amendment provided by this
57 section is not in lieu of but in addition to the other
58 methods prescribed in the preceding section.

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CHAPTER 143

(Senate Bill No. 308—By Mr. Amos)

AN ACT to amend and reenact section five, article five, chapter eight-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the levy and collection of amusement taxes by home rule municipalities.

[Passed March 9, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 5. Taxation and Finance.

Section

5. Amusement tax.

Be it enacted by the Legislature of West Virginia:

That section five, article five, chapter eight-a of the code of

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

Section 5. *Amusement Tax.*—A city may levy and
2 collect an admission and amusement tax upon any public
3 amusement or entertainment conducted for private
4 profit or gain. The tax shall be added to and collected
5 with the price of admission, or other charge for the
6 amusement or entertainment. The tax shall not exceed
7 two per cent of the admission price or charge, but a tax
8 of one cent may be levied and collected in any case.

CHAPTER 144

(Senate Bill No. 262—By Mr. Bean)

AN ACT to amend and reenact section nine, article one, chapter forty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to negotiable instruments payable to bearer.

[Passed March 7, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 1. Form and Interpretation.

Section

9. When payable to bearer.

Be it enacted by the Legislature of West Virginia:

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

Section 9. *When Payable to Bearer.*—The instrument
2 is payable to bearer:
3 (a) When it is expressed to be so payable; or
4 (b) When it is payable to a person named therein or
5 bearer; or
6 (c) When it is payable to the order of a fictitious or
7 nonexisting or living person not intended to have any

- 8 interest in it, and such fact was known to the person
9 making it so payable, or known to his employee or other
10 agent who supplies the name of such payee; or
11 (d) When the name of the payee does not purport to
12 be the name of any person; or
13 (e) When the only or last indorsement is an indorse-
14 ment in blank.

CHAPTER 145

(Senate Bill No. 36—By Mr. Allen)

AN ACT to amend and reenact section six, article one, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter forty-two, acts of the Legislature, regular session, one thousand nine hundred thirty-one, relating to examination and registration of applicants for professional and occupational licenses.

[Passed February 5, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 1. General Provisions Applicable to All State Boards of Examination or Registration Referred to in This Chapter.

Section

6. Application for license or registration; examination fee; reexamination.

Be it enacted by the Legislature of West Virginia:

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

- Section 6. *Application for License or Registration; Examination Fee; Reexamination.*—Every applicant for license or registration under the provisions of this chapter shall apply therefor in writing to the proper board at least ten days before the date of any examination to

6 be conducted by such board, and shall transmit with his
7 application an examination fee of twenty dollars, unless
8 a different fee is specially provided by law, which sum
9 the board is authorized to charge for an examination or
10 investigation into such applicant's qualifications to prac-
11 tice. An applicant failing to pass an examination satis-
12 factory to the board shall, at either the first or second
13 succeeding examination conducted by the board, be en-
14 titled to a reexamination without further cost, but one
15 such reexamination shall exhaust his privilege under his
16 original application.

CHAPTER 146

(House Bill No. 248—By Mr. Neal, by request)

AN ACT to repeal chapter ninety-nine, acts of the Legislature, regular session, one thousand nine hundred forty-nine, and to amend and reenact section four, article three, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to licensing of persons permitted to practice medicine and surgery in West Virginia by adding thereto a new class of candidates entitled to take examinations for a license.

[Passed March 9, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 3. Physicians and Surgeons.

Section

4. Who permitted to practice medicine and surgery in this state; licensing of licensed practitioners from other states; permits to practice in prescribed areas.

Be it enacted by the Legislature of West Virginia:

That chapter ninety-nine, acts of the Legislature, regular session, one thousand nine hundred forty-nine, be repealed, and that section four, article three, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 4. *Who Permitted to Practice Medicine and Surgery in This State; Licensing of Licensed Practitioners From Other States; Permits to Practice in Prescribed Areas.*—The following persons and no others shall hereafter be permitted to practice medicine and surgery in this state: (a) All such persons as shall be legally entitled to practice medicine and surgery in this state at the time of the adoption of this act; (b) all such persons as shall be graduates of class "A" medical schools, as classified by the Council on Medical Education and Hospitals of the American Medical Association, the American Association of Medical Colleges, the American Institute of Homeopathy and the National Eclectic Medical Association, and then only from such schools, when so classified, as require, as a condition to entrance upon the study of medicine, at least two years of academic work of collegiate grade in a standard college of arts and sciences of equal rank with the college of arts and sciences in the West Virginia university, and who shall pass an examination before the medical licensing board and shall receive a certificate therefrom as hereinafter provided; and (c) all such persons as shall be graduates of foreign medical schools whose diplomas have been authenticated by the medical licensing board, and whose premedical education shall meet the requirements of clause (b) above, and who, being citizens of the United States, shall have resided in this state for at least three years immediately preceding application for license, and who shall be recommended by the medical societies of the counties in this state in which they respectively reside as possessing the learning and experience requisite to the practice of medicine and surgery, and who shall pass an examination before the medical licensing board and shall receive a certificate therefrom as hereinafter provided: *Provided, however,* That the said board, or a majority of them, may accept in lieu of an examination of applicants under clause (b) above, the certificate of the national board of medical examiners, or the certificate of license to practice medicine and surgery legally granted by the state board of registration or examination or licensing board of another state, territory, or any foreign country, whose standard

42 of qualification for the practice of medicine and surgery is
43 equivalent to that of this state, and grant to such appli-
44 cant a certificate of license to practice medicine and sur-
45 gery in this state, provided such state, territory, or for-
46 eign country accords like privileges to licentiates of this
47 state: *Provided further*, That whenever in the judgment
48 of the medical licensing board a condition exists in which
49 medical service may be required, the said board is author-
50 ized to grant permits for the practice of medicine to quali-
51 fied physicians in prescribed areas, and such permits shall
52 be subject to revocation when the agreement, under
53 which they were issued, has been violated; (d) any person
54 who shall have graduated from a medical school on or
55 after January first, one thousand nine hundred thirty-
56 nine, and who has met all the requirements of law per-
57 taining to education and training entitling such person to
58 an examination by, and subsequent license from, the ap-
59 propriate state board or agency for the practice of medi-
60 cine and surgery in this state, except that such medical
61 school was not at the time of such graduation a class "A"
62 medical school as defined by statute in such case, shall
63 nevertheless, be entitled to take such examination and
64 upon passing be issued such license in those cases wherein
65 such medical school has, prior to the thirty-first day of
66 December, one thousand nine hundred forty-eight, been
67 classified as such class "A" medical school.

CHAPTER 147

(Senate Bill No. 230—By Mr. Allen)

AN ACT to amend and reenact section eighteen, article four, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to practicing dentistry or dental hygiene without complying with provisions of this article; penalty; and injunction.

[Passed March 6, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 4. Dentists and Dental Hygienists.**Section**

18. Practicing dentistry or dental hygiene without complying with provisions of this article; penalty; injunction.

Be it enacted by the Legislature of West Virginia:

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

Section 18. *Practicing Dentistry or Dental Hygiene without Complying with Provisions of This Article; Penalty; Injunction.*—Any person who shall practice or offer to practice dentistry or dental hygiene in this state without first having complied with the provisions of this article, or who shall violate any of its provisions for which no specific penalty has been provided, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty nor more than five hundred dollars, or may be confined in jail for not more than thirty days, or both, at the discretion of the court. Each act of dentistry or dental hygiene shall be deemed a separate offense and shall constitute a practice of dentistry or dental hygiene within the meaning of this section, and each day that a person may hold himself out as practicing in his own name or any name shall be deemed a separate offense.

Notwithstanding the existence of any other remedy, the board may, in the manner provided by law, maintain an action for an injunction against any person, partnership, or association to restrain or prevent the practice of dentistry and/or dental hygiene when such person, partnership, or association repeatedly refuses to obtain registration or license therefor and continues the practice of dentistry and/or dental hygiene without first obtaining registration or license therefor in the manner hereinbefore provided.

CHAPTER 148

(Senate Bill No. 55—By Mr. Allen)

AN ACT to amend and reenact article five, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the board of pharmacy and its powers and duties; registration of pharmacists, assistant pharmacists and apprentices; use of titles of pharmacist, assistant pharmacist, pharmacy and drug store; operation of pharmacies and drug stores and permits and fees to operate the same; permits for manufacture, packaging and preparation of drugs, medicines and other products; sale of poisonous and habit-forming drugs; enforcement of this article and penalties for the violation of the provisions thereof.

[Passed February 15, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 5. Pharmacists, Assistant Pharmacists and Drug Stores.

Section

1. Definitions.
2. Board of pharmacy.
3. When registered pharmacist required; special provision for villages of not more than five hundred inhabitants; person not a registered pharmacist or assistant pharmacist or apprentice not to compound prescriptions or dispense poisons or narcotics; registration of apprentices.
4. Use of titles "pharmacist" or "assistant pharmacist"; "drug store" or "drugs".
5. Qualifications of applicant for registration as pharmacist; certificates of registration.
6. Registration of pharmacists from other states.
7. Refusal to issue; suspension or revocation of certificate of registration.
8. Reports by secretary of board to secretary of state; "list of pharmacists".
9. Fees.
10. Annual renewal of registration and permits.
11. Certificate of registration or permit shall be exposed.
12. Responsibility for quality of drugs dispensed, exception; falsification of labels; deviation from prescription.
13. Each pharmacy to have United States pharmacopoeia and national formulary.
14. Pharmacies or drug stores to be registered; permit to operate; fees; registered pharmacist to conduct business.
15. Professional and technical equipment required for pharmacy or drug store.
16. Permit for manufacture, packaging, etc. of drugs, medicines, cosmetics, etc.; regulations as to sanitation and equipment; penalties; revocation of permit.

17. Hearings by board upon complaint.
 18. Limitation of sale of pisonous, deleterious and habit-forming drugs.
 19. Rules and regulations of board of pharmacy; revocation of permits; employment of field agents, chemists, clerical and other qualified personnel.
 20. Duty of prosecuting attorney when violation reported.
 21. Limitations of article.
 22. Offenses; penalties.
 23. Relief by injunction.
 24. Validity.
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Be it enacted by the Legislature of West Virginia:

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

- Section 1. *Definitions.*—The following words and phrases as used in this article, shall have the following meanings, unless the context otherwise requires:
- (1) The term “drug” means (a) articles in the official United States Pharmacopoeia, or official National Formulary, or any other supplement to either of them, which are intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals, and (b) all other articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, and (c) articles, other than food, intended to affect the structure or any function of the body of man or other animals and (d) articles intended for use as a component of any articles specified in clause (a), (b), or (c).
 - (2) The term “poisonous drug” means any drug likely to be destructive to adult human life in quantities of five grains or less.
 - (3) The term “deleterious drug” means any drug likely to be destructive to adult human life in quantities of sixty grains or less.
 - (4) The term “habit-forming drug” means any drug which has been or may be designated as habit-forming under the regulations promulgated in accordance with Section 502(d) of the Federal Food, Drug and Cosmetic Act of June 25, 1938.
 - (5) The term “pharmacy” or “drug store” or “apothecary” means any place where drugs are sold or dispensed.

28 cary" shall be held to mean and include every store or
29 shop or other place (a) where drugs are dispensed, or
30 sold at retail, or displayed for sale at retail, or (b) where
31 physicians' prescriptions are compounded; or (c) which
32 has upon it or displayed within it, or affixed to or used
33 in connection with it, a sign bearing the word or words
34 "pharmacy", "pharmacists", "apothecary", "drug store",
35 "drugs", "druggist", "medicine", "medicine store", "drug
36 sundries", "remedies", or any word or words of similar
37 or like import; or (d) any store or shop or other place,
38 with respect to which any of the above words are used
39 in any advertisement.

40 (6) The term "prescription" shall be held to mean an
41 order for drugs or medicines or combinations or mixtures
42 thereof, written or signed by a duly licensed physician,
43 dentist, veterinarian or other medical practitioner licensed
44 to write prescriptions intended for the treatment or pre-
45 vention of disease of man or animals. The term "pre-
46 scription" shall also include orders for drugs or medi-
47 cines or combinations or mixtures thereof transmitted
48 to the pharmacist by word of mouth, telephone or other
49 means of communication by a duly licensed physician,
50 dentist, veterinarian or other medical practitioner
51 licensed to write prescriptions intended for treatment or
52 prevention of disease of man or animals, and such pre-
53 scriptions received by word of mouth, telephone or other
54 means of communication shall be recorded in writing
55 by the pharmacist and the record so made by the
56 pharmacist shall constitute the original prescription to
57 be filed by the pharmacist. All such prescriptions shall
58 be preserved on file for a period of five years, subject
59 to inspection by the proper officer of the law. The above
60 shall apply except for narcotic prescriptions, when all
61 narcotic laws and regulations must be complied with.

62 (7) The term "cosmetic" which, shall be held to in-
63 clude "dentrifice" and "toilet article", means (a) ar-
64 ticles intended to be rubbed, poured, sprinkled, or sprayed
65 on, introduced into, or otherwise applied to the human
66 body, or any part thereof for cleansing, beautifying, pro-
67 moting attractiveness, or altering the appearance, and
68 (b) articles intended for use as a component of any such
69 articles, except that such term shall not include soap.

2 Sec. 2. *Board of Pharmacy.*—There shall be a state
3 board of pharmacy, known as the “West Virginia Board
4 of Pharmacy”, which shall consist of five practicing
5 pharmacists, who shall be appointed by the governor
6 by and with the advice and consent of the Senate. Each
7 member of the board, at the time of his appointment,
8 shall be a citizen and registered pharmacist of this state,
9 and actively engaged in the practice of pharmacy.

10 The members of the board in office on the date this
11 code takes effect shall, unless sooner removed, continue
12 to serve until their respective terms expire and until
13 their successors have been appointed and have qualified.
14 On or before the first day of July, one thousand nine
15 hundred thirty-one, and on or before the first day of July
16 of each year thereafter, the governor shall appoint one
17 member to serve for a term of five years, commencing
18 on said first day of July, and any member shall be eligible
19 for reappointment.

2 Sec. 3. *When Registered Pharmacist Required; Special Provision for Villages of not More Than Five Hundred Inhabitants; Person not a Registered Pharmacist or Assistant Pharmacist or Apprentice not to Compound Prescriptions or Dispense Poisons or Narcotics; Registration of Apprentices.*—It shall be unlawful for any
3 person not a registered pharmacist within the meaning
4 of this article, who does not employ a registered pharmacist within the meaning of this article, to conduct any
5 pharmacy, drug store, or apothecary shop or store for the
6 purpose of retailing, compounding or dispensing medicines, poisons or narcotic drugs: *Provided*, That in any
7 village of not more than five hundred inhabitants where
8 there is no registered pharmacist within less than two
9 miles of such village, the board of pharmacy may grant
10 to any person who is a registered assistant pharmacist
11 a permit to conduct a drug store or pharmacy in such
12 village, which permit shall not be valid in any other
13 village than the one for which it was granted, and shall
14 cease and determine when the population of the village
15 for which such permit was granted shall become greater
16 than five hundred. It shall be unlawful for the proprietor
17 of any store or pharmacy to permit any person
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24 not a registered pharmacist or assistant pharmacist to
25 compound or dispense prescriptions or prescription re-
26 fills, or to retail or dispense the poisons and narcotic
27 drugs named in section two, three and six, article eight,
28 chapter sixteen of this code. Except that an apprentice
29 registered with the state board of pharmacy, may com-
30 pound and dispense prescriptions or prescription refills
31 under the direct supervision of a registered pharma-
32 cist.

33 It shall be the duty of registered pharmacists or other
34 employers, who take into their employ an apprentice
35 for the purpose of his becoming a registered pharmacist,
36 to register said apprentice within ninety days thereafter
37 with the board of pharmacy. The board shall furnish
38 proper blanks for this purpose and shall issue certificates
39 to the apprentice upon being properly certified. The
40 experience requirement for licensure as a registered
41 pharmacist shall be computed from the date certified
42 as the date of entering said apprenticeship; and if such
43 apprenticeship is not registered with the board of phar-
44 macy, then he or she shall receive no credit for such
45 experience in a pharmacy when he or she makes ap-
46 plication for examination for licensure as a registered
47 pharmacist. An apprentice having served part or all
48 of his or her apprenticeship in a pharmacy without the
49 state shall be given credit for the same when the af-
50 fidavit of his or her said apprenticeship is signed by the
51 registered pharmacist under whom he or she served,
52 and it shows the exact time of such apprenticeship served,
53 and when same is attested by the secretary of the state
54 board of pharmacy of that state.

2 *Sec. 4. Use of Titles "Pharmacist" or "Assistant Phar-*
3 *macist"; "Drug Store" or "Drugs".—It shall be unlawful*
4 *for any person not legally registered as a pharmacist,*
5 *unless he has in his employ a registered pharmacist, to*
6 *take, use or exhibit the title of pharmacist, or licensed*
7 *or registered pharmacist, or the title of druggist or apothecary,*
8 *or any other title or description of like import, or*
9 *to label, mark, or advertise his or any other place of*
10 *business as a pharmacy or drug store or by the use of*
the words drug or medicines or any other compound or

11 derivative of the same, or by any other word or sign
12 indicating or intended to indicate that drugs or pharma-
13 ceutical supplies are either sold or offered for sale. And
14 it shall be unlawful for any person not legally registered
15 as an assistant pharmacist to take, use or exhibit the
16 title of assistant pharmacist, or any title or description
17 of like import. Any person violating this section shall,
18 upon conviction, be deemed guilty of a misdemeanor
19 and fined not more than one hundred dollars.

Sec. 5. *Qualification of Applicant for Registration as
2 Pharmacist; Certificates of Registration.*—In order to be
3 registered as a pharmacist within the meaning of this
4 article, an applicant shall be a citizen of the United
5 States, not less than twenty-one years of age, shall present
6 to the board of pharmacy satisfactory evidence that he
7 is a graduate of a recognized school of pharmacy as de-
8 fined by the board of pharmacy, and in addition thereto
9 he shall have had at least one year of practical experi-
10 ence in a pharmacy or drug store under the instruction
11 and supervision of a registered pharmacist and shall pass
12 a satisfactory examination by or under the direction of
13 the board of pharmacy.

14 Every applicant for registration as a pharmacist shall
15 present to the board of pharmacy satisfactory evidence
16 that he is a person of good moral character and not ad-
17 dicted to drunkenness or the use of narcotic drugs. The
18 board shall issue certificates of registration to all ap-
19 plicants who successfully pass the required examination
20 and are otherwise qualified, and to all those whose cer-
21 tificates or licenses the board shall accept in lieu of an
22 examination as provided in the next succeeding section.

Sec. 6. *Registration of Pharmacists From Other States.*
2 —The board of pharmacy may register and admit to prac-
3 tice as pharmacists in this state, without examination,
4 such persons as have been legally registered or licensed
5 as pharmacists in other states: *Provided,* That the ap-
6 plicant for such registration shall appear personally be-
7 fore the board and shall present satisfactory evidence
8 of qualification equal to that required of applicants for
9 registration in this state, and that he was registered

10 or licensed by examination in such other state, and that
11 the standard of competence required in such other state
12 is not lower than that required in this state: *And pro-*
13 *vided further*, That the board is satisfied that such other
14 state accords similar recognition to registered pharma-
15 cists of this state. Applicants for registration under this
16 section shall, with their application, forward to the secre-
17 tary of the board of pharmacy the same fees required
18 of other applicants for registration.

Sec. 7. *Refusal to Issue; Suspension or Revocation of*
2 *Certificate of Registration.*—The state board of pharmacy
3 shall refuse to issue a certificate of registration to a
4 person guilty of felony or gross immorality, or addicted
5 to drunkenness or the use of narcotic drugs, and shall
6 suspend or revoke a certificate for like cause or for
7 fraud in procuring it.

Sec. 8. *Reports by Secretary of Board to Secretary of*
2 *State; "List of Pharmacists".*—Within ninety days after
3 this code takes effect, the secretary of the board of
4 pharmacy shall make a report to the secretary of state
5 of all registered pharmacists and registered assistant
6 pharmacists in this state, giving the name of the person,
7 his business address, and the date of his registration.
8 On or before the fifteenth day of September each year,
9 the secretary of the board shall certify to the secretary
10 of state all changes in said list required by the addition
11 of new registrations, renewals, deaths, forfeiture of regis-
12 tration, or for other causes, occurring during the pre-
13 ceding year. The secretary of state shall enter in an
14 appropriate book, known as "List of Pharmacists" the
15 facts shown by such reports, which reports shall be filed
16 and preserved in his office.

Sec. 9. *Fees.*—The board of pharmacy shall be entitled
2 to charge and collect the following fees, in addition to
3 those provided in article one of this chapter and in sec-
4 tion fourteen and section sixteen of this article: For
5 renewing the registration of a pharmacist, five dollars;
6 for renewing the registration of an assistant pharmacist,
7 five dollars; for issuing a permit to an assistant pharma-

8 cist to conduct a pharmacy or drug store in a village of
9 not more than five hundred inhabitants, ten dollars.

Sec. 10. *Annual Renewal of Registration and Permits.*—
2 Every registered pharmacist and assistant pharmacist
3 within this state, who desires to continue in the practice
4 of his profession, shall on or before the first day of July,
5 one thousand nine hundred fifty-one and annually there-
6 after apply to the state board of pharmacy for a renewal
7 of his registration, or permit, and shall transmit with his
8 application the fees prescribed in the preceding section of
9 this article. If the board shall find that such applicant
10 has been legally registered in this state, and is entitled
11 to a renewal of the certificate or permit, it shall issue
12 to him a renewal certificate attesting that fact. Notifi-
13 cation of the annual renewal shall be given by the secre-
14 tary of the board at least thirty days prior to said first
15 day of July. If any pharmacist or assistant pharmacist
16 shall fail for a period of thirty days after said first day
17 of July to apply to the board for a renewal of his regis-
18 tration, his name shall be erased from the register of
19 registered pharmacists and assistant pharmacists, and
20 such person, in order to again become registered, shall
21 be required to appear personally before the board to
22 show cause for permitting the certificate or permit to
23 lapse. If such person submits to the board satisfactory
24 reasons for allowing the certificate or permit to lapse,
25 and satisfies the board as to his qualifications to practice
26 the profession, such person shall be required to pay the
27 same fee as in the case of examination.

Sec. 11. *Certificate of Registration or Permit Shall be*
2 *Exposed.*—Every certificate of registration to practice
3 as a pharmacist or assistant pharmacist, and every per-
4 mit to an assistant pharmacist to conduct a drug store
5 in a village of not more than five hundred inhabitants,
6 and every renewal of such certificate or permit, shall be
7 conspicuously exposed in the pharmacy or drug store or
8 place of business of which the pharmacist or assistant
9 pharmacist or other person to whom it is issued is the
10 owner or manager, or in which he is employed.

Sec. 12. *Responsibility for Quality of Drugs Dispensed,*

2 *Exception; Falsification of Labels; Deviation from Pre-*
3 *scription.*—All persons, whether registered pharmacists
4 or not shall be held responsible for the quality of all
5 drugs, chemicals and medicines they may sell or dis-
6 pense, with the exception of those sold in the original re-
7 tail package of the manufacture.

8 The following acts shall be prohibited: (1) The falsi-
9 fication of any label upon the immediate container, box,
10 and/or package containing a drug. (2) The substitu-
11 tion or the dispensing of a different drug in lieu of any
12 drug prescribed in a prescription without the approval
13 of the practitioner authorizing the original prescription:
14 *Provided*, That this shall not be construed to interfere
15 with the Art of Prescription Compounding as practiced
16 by the pharmacist in preparing more elegant preparations
17 which do not alter the therapeutic properties of the pre-
18 scription. (3) The filling or refilling of any prescription
19 for a greater or lesser quantity of any ingredient than
20 that prescribed in the original prescription without the
21 approval of the practitioner authorizing the original pre-
22 scription.

23 Any person violating this section shall be guilty of a
24 misdemeanor, and on conviction thereof, shall be pun-
25 ished by a fine of not less than fifty nor more than one
26 hundred fifty dollars for each such offense.

2 *Sec. 13. Each Pharmacy to Have United States Pharma-*
3 *copoeia and National Formulary.*—Every pharmacy or
4 drug store as defined, shall own and have on file at all
5 times a recent edition of the United States Pharmaco-
6 poeia and a recent edition of the National Formulary
7 and any supplements to any of them or some other pub-
8 lication embodying their texts in full, and no license
9 shall be issued until there is a compliance with this
section.

2 *Sec. 14. Pharmacies or Drug Stores to be Registered;*
3 *Permit to Operate; Fees; Registered Pharmacist to Con-*
4 *duct Business.*—The board of pharmacy shall require and
5 provide for the annual registration of every pharmacy
6 or drug store, as defined, doing business in this state.
6 Any person, firm, corporation or copartnership desiring

7 to operate, maintain, open or establish a pharmacy or
8 drug store, as defined, in this state, shall apply to the
9 board of pharmacy for a permit to do so. The application
10 for such permit or license shall be made on a form pre-
11 scribed and furnished by the board of pharmacy, which
12 when properly executed, shall indicate the owner, man-
13 ager, trustee, lessee, receiver, or other person or persons
14 desiring such permit, as well as the location of such
15 pharmacy or drug store, including street and number,
16 and such other information as the board of pharmacy
17 may require. If it is desired to operate, maintain, open
18 or establish more than one pharmacy or drug store,
19 separate applications shall be made and separate permits
20 or licenses shall be issued for each. Every application
21 for a permit shall be accompanied by the required fee
22 of ten dollars, which amount shall be paid annually as
23 the fee for renewal of such permit or license. If an ap-
24 plication is found satisfactory, the secretary of the board
25 of pharmacy shall issue to the applicant a permit or
26 license for each pharmacy or drug store for which ap-
27 plication is made. Permits or licenses issued under this
28 section shall not be transferable and shall expire on the
29 thirtieth day of June of each calendar year, and if ap-
30 plication for renewal of permit or license is not made
31 or a new one granted on or before the first day of Sep-
32 tember, following, the old permit or license shall lapse
33 and become null and void. Every such place of business
34 so registered shall be in direct charge of a registered
35 pharmacist and operate in compliance with the general
36 provisions governing the practice of pharmacy and the
37 operation of a drug store or pharmacy.

38 The provisions of this section shall have no application
39 to the sale of patent or proprietary medicines which are
40 not poisonous, deleterious or habit-forming nor to such
41 ordinary drugs in original retail packages when such are
42 not poisonous, deleterious or habit-forming nor to flavor-
43 ing extracts or dyestuffs as are usually sold in a country
44 store.

2 *Sec. 15. Professional and Technical Equipment Re-*
3 *quired for Pharmacy or Drug Store.*—Every registered
drug store or pharmacy must be equipped with proper

4 pharmaceutical utensils so that prescriptions can be
5 properly filled and United States Pharmacopoeia and
6 National Formulary preparations properly compounded.
7 The board of pharmacy shall prescribe the minimum of
8 such professional and technical equipment which a phar-
9 macy or drug store shall at all times possess.

10 Any person violating this section shall, upon convic-
11 tion, be deemed guilty of a misdemeanor and fined not
12 more than fifty dollars, and no permit shall be issued or
13 continued for the conducting of a pharmacy or drug store
14 which has not complied with the provisions of this section.

Sec. 16. *Permit for Manufacture, Packaging, etc. of*
2 *Drugs, Medicines, Cosmetics, etc.; Regulations as to Sani-*
3 *tation and Equipment; Penalties; Revocation of Permit.*—
4 No drugs or medicines, or toilet articles, dentifrices, or
5 cosmetics, shall be manufactured, made, produced, packed,
6 packaged or prepared within the state, except under the
7 personal and immediate supervision of a registered phar-
8 macist or such other person as may be approved by the
9 board of pharmacy, after an investigation and determina-
10 tion by the said board that they are qualified by scien-
11 tific or technical training and/or experience to perform
12 such duties of supervision as may be necessary to protect
13 the public health and safety; and no person shall manu-
14 facture, make, produce, pack, package or prepare any
15 such articles without first obtaining a permit to do so
16 from the board of pharmacy. Such permit shall be sub-
17 ject to such rules and regulations, with respect to sani-
18 tation and/or equipment, as the said board of pharmacy
19 may from time to time adopt for the protection of the
20 public health and safety.

21 The application for such permit shall be made on a
22 form to be prescribed and furnished by the said board
23 of pharmacy and shall be accompanied by the required
24 fee of fifty dollars which amount shall also be paid as
25 the fee for each annual renewal of such permit. Separate
26 applications shall be made and separate permits issued
27 for each separate place of manufacture, making, pro-
28 ducing, packing, packaging or preparation.

29 Permits issued under the provisions of this section
30 shall be posted in a conspicuous place in the factory or

31 place for which issued; such permits shall not be trans-
32 ferable, and shall expire on the thirtieth day of June
33 following the date of issue and shall be renewed an-
34 nually. Nothing in this section shall be construed to
35 apply to those operating registered pharmacies or drug
36 stores.

37 Any person, firm or corporation violating any of the
38 provisions of this section and any permittee here-under
39 who shall violate any of the conditions of this permit
40 or any of the rules and regulations adopted by the said
41 board of pharmacy in pursuance of the power hereby
42 conferred, shall, upon conviction, be deemed guilty of
43 a misdemeanor and fined not more than fifty dollars for
44 each offense, and each and every day such violation
45 continues shall constitute a separate and distinct offense,
46 and upon conviction of a permittee, his permit shall also
47 forthwith be revoked and become null and void.

48 Any person, firm, corporation, or any permittee here-
49 under who shall have been convicted of two or more
50 successive violations of the provisions of this section or
51 of the rules and regulations adopted by the board of
52 pharmacy in pursuance of the powers hereby conferred,
53 shall at the discretion of the board of pharmacy have
54 such permit permanently revoked, and the board of phar-
55 macy is hereby authorized to refuse the issuance of
56 further permits to such person, firm, corporation, or
57 permittee.

Sec. 17. *Hearings by Board Upon Complaint.*—Any per-
2 son aggrieved by the rules or regulations promulgated
3 by the said board of pharmacy under the provisions of
4 section sixteen, shall be entitled to have his complaint
5 set down for hearing by said board. Requests for such
6 hearing shall be made in writing and shall specify in
7 detail the basis for the complaint, and the hearing shall
8 be held within ten days from the date of the receipt of
9 said request by the said board, unless postponed by mu-
10 tual agreement. The said board shall have the power
11 to make such rules and regulations with respect to the
12 conduct of such hearings as may be necessary.

Sec. 18. *Limitation of Sale of Poisonous, Deleterious
2 and Habit-Forming Drugs.*—The sale, holding for sale, or

3 offering for sale at retail of any poisonous, deleterious, or
4 habit-forming drug, or any injection, or any other medi-
5 cine if the contents of its container, or any part thereof,
6 taken at one time, are likely to prove poisonous, dele-
7 terious, or habit-forming is prohibited by any person
8 other than a registered pharmacist, who shall take pre-
9 cautions to acquaint the purchaser of the nature of such
10 drug, medicine or injection at the time of sale.

Sec. 19. *Rules and Regulations of Board of Pharmacy;*
2 *Revocation of Permits; Employment of Field Agents,*
3 *Chemists, Clerical and Other Qualified Personnel.*—The
4 board of pharmacy shall make such rules and regulations,
5 not inconsistent with law, as necessary, to carry out the
6 purposes and enforce the provisions of this article and is
7 hereby authorized to revoke any permit or license issued
8 under the provisions of this article at any time when
9 examination or inspection of the pharmacy or drug store
10 shall disclose that such place of business is not being
11 conducted according to law.

12 The board of pharmacy shall have the power and au-
13 thority to employ field agents, chemists, clerical help and
14 other qualified personnel, as may be necessary to carry
15 out the purposes and enforce the provisions of this
16 article.

Sec. 20. *Duty of Prosecuting Attorney When Violation*
2 *Reported.*—It shall be the duty of each county prosecuting
3 attorney to whom the board of pharmacy or such other
4 person shall report any violations of this, or any other
5 law, now in force pertaining to the practice of
6 pharmacy, or as defined, to cause appropriate proceedings
7 to be commenced and prosecuted for the enforcement of
8 the penalties as in such case may be provided.

Sec. 21. *Limitations of Article.*—The provisions of
2 this article shall not apply to the sale of patent or pro-
3 prietary medicines, nor to such ordinary drugs and dye-
4 stuffs as are usually sold in a country store.

5 The term "ordinary drugs" shall not be held to include
6 any of the poisons and narcotics named in sections two,
7 three and six of article eight, chapter sixteen of this code,

8 nor any intoxicating liquors, nor any poisonous, deleterious,
9 rious, or habit-forming drugs, as defined, or any injection,
10 and nothing in this article shall be construed to interfere
11 with any legally qualified practitioner of medicine, dentistry
12 or veterinary medicine, who is not the proprietor
13 of the store for the dispensing or retailing of drugs, and
14 who is not in the employ of such proprietor, in the compounding
15 of his own prescriptions, or to prevent him from
16 supplying to his patients such medicines as he may deem
17 proper, if such supply is not made as a sale.

Sec. 22. *Offenses; Penalties.*—Any person who shall
2 violate any of the provisions of section three of this article
3 shall be guilty of a misdemeanor, and upon conviction
4 thereof, shall for each offense, be fined not exceeding two
5 hundred dollars, or confined in the county jail not to exceed
6 six months, or both fined and imprisoned, in the
7 discretion of the court, and each day such violation shall
8 continue shall be deemed a separate offense.

9 Any person, firm, partnership or corporation who shall
10 violate any of the provisions of section fourteen shall be
11 deemed guilty of a misdemeanor and upon conviction
12 thereof for the first offense shall be fined not to exceed
13 one hundred dollars, or shall be imprisoned in the county
14 jail not to exceed six months, or both such fine and imprisonment,
15 in the discretion of the court, and each and
16 every day that such violation continues shall constitute a
17 separate offense.

18 Any person, firm, partnership or corporation who shall
19 violate any of the provisions of section eighteen shall be
20 deemed guilty of a misdemeanor, and, upon conviction
21 thereof, shall be fined not to exceed fifty dollars for the
22 first offense, and upon conviction of a second offense shall
23 be fined not less than one hundred dollars, or shall be imprisoned
24 in the county jail not to exceed thirty days, or
25 both such fine and imprisonment, in the discretion of the
26 court, and each and every day that such violation continues
27 shall constitute a separate offense.

Sec. 23. *Relief by Injunction.*—The board of pharmacy
2 or any person, corporation, or association, in addition to
3 the remedy set forth, may apply to a court having com-

- 4 petent jurisdiction over the parties and subject matter,
- 5 for a writ of injunction to restrain repetitious violations
- 6 of the provisions of this article.

Sec. 24. *Validity*.—If any clause, phrase, sentence, paragraph or section of this article is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the article.

CHAPTER 149

(Senate Bill No. 196—By Mr. McKinley and Mr. Stemple)

AN ACT to amend and reenact sections one, three, five, six, seven, eight and eleven, article six, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the creation, appointment, organization, meetings, duties, salary and expenses, and authority of the board of embalmers and funeral directors, and the examination, licensing, registration and business operations of funeral directors and embalmers.

[Passed March 9, 1951: in effect ninety days from passage. Approved by the Governor.]

Article 6. Embalmers and Funeral Directors.

Section

1. Board of embalmers and funeral directors.
3. Oath; officers of board; salary and expenses; bond of treasurer; meetings of board; power, duties of board; notice; rules and regulations; school of instruction; inspection.
5. Embalmers and funeral directors to be licensed; qualifications and requirements for license; advertising; renewal of license; registration as apprentice; courtesy cards.
6. Examination, registration and renewal fees; disposition of fees; report to governor.
7. Refusal to grant or renew; suspension or revocation of license or certificate of registration.
8. Duty of public officers; physicians, etc., as to disposition of body of deceased person; penalty for violation of section; hearings on refusing, suspending, or revoking licenses; appeals from decision of board; penalty for engaging in business without license; purpose of article.
11. Apprenticeship.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Board of Embalmers and Funeral Directors.*—There is hereby created a state board to be known and designated as the “West Virginia Board of Embalmers and Funeral Directors”, which shall consist of seven members, who shall be appointed by the governor by and with the advice and consent of the senate, six of whom must be licensed embalmers and practicing funeral directors with a minimum of five consecutive years experience in West Virginia immediately preceding their appointment; the seventh member shall be the state health director of the state of West Virginia, who shall by virtue of his office as such state health director become automatically a member of this board for the period during which he holds the office of state health director.

Sec. 3. *Oath; Officers of Board; Salary and Expenses; Bond of Treasurer; Meetings of Board; Power, Duties of Board; Notice; Rules and Regulations; School of Instruction; Inspection.*—Members of said board, before entering upon their duties, shall take and subscribe to the oath of office prescribed by the secretary of state.

Said board shall select from its own members a president, a secretary, and a treasurer. Each member shall be reimbursed for his traveling expenses, incident to his attendance upon the business of the board, and in addition thereto, the sum of fifteen dollars per day for each day actually spent by such member upon the business of the board; except that the state health director shall receive only such compensation as he is entitled to receive for his services as state health director, together with actual and necessary traveling expenses while engaged upon the business or in attendance of the board, with such compensation and expenses to be payable from the funds of the state health department. The secretary shall receive an annual salary of not to exceed one thousand dollars, the amount and payment of which shall be fixed

22 by said board, and in addition thereto shall receive
23 traveling and other incidental expenses incurred in the
24 performance of his duties.

25 All such expenses, per diem and compensation shall be
26 paid out of the receipts of the board, except such ex-
27 penses and compensation as may be payable to the state
28 health director, but such allowances shall at no time
29 exceed the receipts of the board.

30 The treasurer of the board shall give bond to the state
31 of West Virginia in such sum as the board shall direct
32 with two or more sureties or a reliable surety company
33 approved by the board, and such bond shall be condi-
34 tioned for the faithful discharge of the duties of such
35 officer. Such bond, with approval of the board endorsed
36 thereon, shall be deposited with the treasurer of the
37 state of West Virginia.

38 The board shall hold not less than two meetings during
39 each calendar year, one during the month of April and
40 one during the month of November for the purpose of ex-
41 amining applicants for licenses, such meeting or meetings
42 to be held at such time and place as the board shall de-
43 termine. The time and place of such meeting shall be
44 announced by publication in three daily newspapers of
45 general circulation in different locations in the state, and
46 publication to be once a week for two consecutive weeks
47 immediately preceding each such meeting.

48 The board may hold such other meetings as it may
49 deem necessary and may transact any business at any
50 such meeting. Three or more members shall comprise
51 a quorum authorizing the board to transact such busi-
52 ness as is prescribed under this article.

53 The board shall have power and it shall be its duty
54 to make and enforce all necessary rules and regulations,
55 not inconsistent with this article, for the examination
56 and licensing of funeral directors, and the general prac-
57 tice of funeral directing; the examination and licensing
58 of embalmers and the general practice of embalming
59 and the registration and regulation of apprentices.

60 The board shall publish in its rules and regulations the
61 subjects to be covered in the said examinations and the
62 standards to be attained thereon. Changes in the rules

63 and regulations shall be published and shall be given
64 due publicity at least ninety days before becoming ef-
65 fective.

66 The board shall conduct annually a school of instruc-
67 tion to apprise funeral directors and embalmers of the
68 most recent scientific knowledge and developments af-
69 fecting their profession. Qualified lecturers and demon-
70 strators may be employed by the board for this pur-
71 pose. The board shall give notice of the time and place
72 at which such school will be held for all licensed funeral
73 directors and embalmers, and it shall be the duty of every
74 licensed funeral director and embalmer to attend at least
75 one such school in every three years.

76 The board or any of its members or any duly author-
77 ized employee of the board shall have the authority to
78 enter at all reasonable hours for the purpose of inspect-
79 ing the premises in which the business or profession of
80 funeral directing is conducted or practiced or where
81 embalming is practiced.

Sec. 5. *Embalmers and Funeral Directors to Be Li-
2 censed; Qualifications and Requirements for License;
3 Advertising; Renewal of License; Registration as Ap-
4 prentice; Courtesy Cards.*—After July first, one thousand
5 nine hundred fifty-one, no person shall engage in or hold
6 himself out as engaging in, or discharge any of the duties
7 of the business or profession of embalming, or preserv-
8 ing in any manner dead human bodies in this state,
9 whether for himself or in the employ of another, unless
10 he holds an embalmer's license issued to him by the
11 board, and shall at the date of its issuance have compl-
12 ied with the provisions of this article.

13 After July first, one thousand nine hundred fifty-one,
14 no person shall engage in, or hold himself out as en-
15 gaging in, or discharge any of the duties of the business
16 or profession of funeral directing in this state, unless he
17 holds a funeral director's license issued to him by the
18 board, and shall at the date of its issuance have complied
19 with the provisions of this article, or conduct a funeral
20 unless he be a licensed funeral director or a duly regis-
21 tered apprentice.

22 No person shall be entitled to an embalmer's license
23 unless he

24 (1) Is twenty-one years of age or over;

25 (2) A citizen of the United States;

26 (3) Of good moral character and temperate habits;

27 (4) Holds a diploma showing the completion of a
28 four-year high school course;

29 (5) Has had not less than sixty hours credit of resi-
30 dent educational training in an accredited university or
31 college, such credit shall be in such subjects only as are
32 recognized in the university or college where taken, as
33 credit toward a baccalaureate degree;

34 (6) Has completed a one year course of apprentice-
35 ship under the supervision of a licensed embalmer ac-
36 tively and lawfully engaged in the practice of embalm-
37 ing in this state, such apprenticeship to consist of diligent
38 attention to the work in the course of regular and steady
39 employment and not as a side issue to another employ-
40 ment, and under which said apprenticeship he shall have
41 taken an active part in the operation of embalming not
42 less than twenty-five dead human bodies, under the
43 supervision of a licensed embalmer;

44 (7) Possesses a diploma of graduation from a school
45 of embalming which requires as a prerequisite to gradua-
46 tion the completion of a course of study of not less than
47 twelve months duration, and which said school of em-
48 balming must be one duly approved by the board;

49 (8) Passes such examination as the board shall deem
50 necessary to ascertain his qualification and ability to
51 engage in the practice of embalming: *Provided, however,*
52 *That any apprentice embalmer duly registered as such*
53 *with the board on or before July first, one thousand nine*
54 *hundred fifty-one, may be eligible to take the required*
55 *examination for an embalmer's license without having*
56 *had the sixty hours resident educational training in a*
57 *university or college heretofore mentioned, upon com-*
58 *pliance with all the other requirements, prerequisite to*
59 *the same, including the two years apprenticeship.*

60 The board shall issue licenses separately to embalmers
61 and to funeral directors.

62 An applicant for a funeral director's license must

63 furnish satisfactory proof to the board that his business
64 or profession of funeral directing is to be conducted in
65 a fixed place or establishment equipped for the care and
66 preparation for burial or disposition of dead human
67 bodies. What shall be deemed "necessary equipment"
68 shall be defined in the rules and regulations of the board,
69 the same to be in compliance with the public health
70 laws of the state or the rules of the state board of health
71 of West Virginia. This shall not be so construed as to
72 deny an applicant for a funeral director's license such a
73 license because he is not the owner, or part owner, of an
74 establishment or proposed funeral business.

75 Licenses issued under the provisions of this chapter
76 shall not be transferable or assignable.

77 No person shall be eligible to receive a license as a
78 funeral director unless he

79 (1) Holds an embalmer's license issued by this board;

80 (2) Has been duly registered with the board as an
81 apprentice;

82 (3) Has served not less than a one-year apprentice-
83 ship under the personal supervision of a licensed funeral
84 director actively and lawfully engaged in the business or
85 profession of funeral directing in this state, such ap-
86 prenticeship to consist of diligent attention to the work
87 in the course of regular and steady employment and
88 not as a side issue to another employment: *Provided,*
89 *however,* That any apprentice funeral director twenty-
90 one years of age, or older, who is duly registered with
91 the board as such apprentice on or before July first, one
92 thousand nine hundred fifty-one, and who has served
93 his two years apprenticeship may be eligible to take
94 the required examination for a funeral director's license,
95 without having first obtained an embalmer's license,
96 upon compliance with all other requirements as to eligi-
97 bility for such examination.

98 All funeral homes or establishments or any other
99 places pertaining to funeral directing or the conducting
100 of funerals, shall display in all advertising the name of
101 the licensed funeral director who is actually in charge
102 of the establishment. All branch establishments must
103 display the name of the funeral director who is actually

104 in charge. At least one licensed funeral director shall
105 supervise each main establishment and at least one li-
106 censed funeral director shall directly supervise each
107 branch establishment.

108 No licensed funeral director or licensed embalmer
109 shall be permitted to register or have registered more
110 than five apprentices under his said license at the same
111 time.

112 Any person now holding a license as an embalmer,
113 funeral director, or assistant funeral director, shall **not**
114 be required to make a new application, or submit to an
115 examination, but shall, upon the payment of the fee
116 therefor, be entitled to a renewal of his license upon the
117 terms and conditions herein provided for the renewal of
118 licenses of those who may be licensed after the passage
119 of this article, but all such persons shall be subject to
120 every provision of this article, and such rules and regu-
121 lations as the board may adopt in pursuance of this
122 article.

123 On and after July first, one thousand nine hundred
124 fifty-one, no person shall be registered as an apprentice
125 funeral director or apprentice embalmer unless he is
126 eighteen years of age, or over, a citizen of the United
127 States, a resident of West Virginia one year prior to
128 registration, of good moral character and temperate
129 habits, and the holder of a diploma showing the comple-
130 tion of a four-year high school course, and shall have
131 completed not less than sixty hours credit of resident
132 educational training in an accredited university or col-
133 lege.

134 The board may issue annual non-renewable courtesy
135 cards to licensed funeral directors and licensed embalm-
136 ers of the states bordering on West Virginia, upon ap-
137 plication for same made on form prescribed by the board.
138 The annual fee for such courtesy cards shall be ten dol-
139 lars and said fee shall be paid at the time application is
140 made therefor. Applications for said courtesy cards
141 shall be approved by the board before the same may
142 be issued, and said courtesy cards shall be issued under
143 the following conditions: Holders of courtesy cards shall
144 not be permitted to open or operate a place of business

145 for the purpose of conducting funerals or embalming
146 bodies in the state of West Virginia, nor shall they be
147 permitted to maintain an office or agency in this state.
148 A violation of this section shall be sufficient cause for
149 the board to revoke or cancel the courtesy card of the
150 violator.

Sec. 6. *Examination, Registration and Renewal Fees;*
2 *Disposition of Fees; Report to Governor.*—The examina-
3 tion fee for a funeral director's license shall be fifty dol-
4 lars and shall be remitted at the time the application for
5 a funeral director's license is submitted to the board.
6 The examination fee for an embalmer's license shall
7 be fifty dollars and shall be remitted at the time the
8 application for an embalmer's license is submitted to the
9 board.

10 All the licenses and certificates of registration shall
11 expire on the thirtieth day of June of each calendar year
12 and the renewal date for all licenses and certificates shall
13 be the first day of July of each calendar year.

14 The annual renewal fee for embalmer's license, funeral
15 director's license, assistant funeral director's license, or
16 apprentice registration shall be five dollars and shall be
17 paid on or before the first day of July of each calendar
18 year.

19 Any person who has been duly licensed as a funeral
20 director or as an embalmer under the laws of this state
21 but who fails to renew his license within ninety days
22 after the expiration date for renewals, may file an appli-
23 cation for a renewal of his license, without examination,
24 upon payment of a penalty of ten dollars and the required
25 renewal fee.

26 Any person who has been duly licensed as a funeral
27 director or as an embalmer under the laws of this state
28 but who fails to renew his license within one year after
29 the expiration date for renewals, may file an application
30 for a renewal of his license, without examination, upon
31 payment of a penalty of twenty-five dollars and the re-
32 quired renewal fee.

33 A funeral director or an embalmer whose license has
34 lapsed one year or more shall make application to the

35 board for a new license in compliance with the provisions
36 of this article relating to unlicensed persons.

37 Any person who has been duly licensed as an assistant
38 funeral director and fails to renew his license within
39 ninety days after the expiration date for renewal may
40 file an application for renewal of his license upon pay-
41 ment of a penalty of ten dollars and the required renewal
42 fee. Otherwise, after the said period of ninety days, his
43 license will automatically be canceled.

44 Any person who has been duly registered as an appren-
45 tice embalmer or apprentice funeral director and fails
46 to renew his registration within ninety days after the
47 expiration date for renewals may file an application for
48 such renewal upon payment of a penalty of two dollars
49 and the required renewal fee. Otherwise, after the said
50 period of ninety days, his registration will automatically
51 be canceled.

52 All fees collected under the provisions of this article
53 shall be paid to the treasurer of the board and by him
54 deposited monthly with the state treasurer. Such fees
55 shall be used for the purpose of defraying the necessary
56 expenses and per diem of said board in the administra-
57 tion of this article. It shall be the duty of said board on
58 or before the first Monday in July of each year to make
59 a report in writing to the governor containing a detailed
60 statement of the nature and amount of its receipts and
61 the amount and manner of its expenditures; any balance
62 of money remaining at the end of the year after the
63 payment of the necessary expenses, including the salary
64 of the secretary, and per diem, traveling expenses, and
65 other expenses incident to the proper discharge of their
66 duties by the members and employees of said board,
67 shall remain in the treasury of the state in the general
68 fund.

2 *Sec. 7. Refusal to Grant or Renew; Suspension or Revo-*
3 *cation of License or Certificate of Registration.*—The
4 board may either refuse to issue, or may refuse to renew,
5 or may suspend, or may revoke any license, or certificate
6 of registration issued by it for any one or combination of
the following causes:

- 7 (a) The practice of fraud or deceit in obtaining or
8 attempting to obtain a license or a certificate of registra-
9 tion;
- 10 (b) Conviction of a felony as shown by a certified copy
11 of the record of the court of conviction;
- 12 (c) Violation of any of the provisions of this article
13 or the public health laws of this state;
- 14 (d) The use of false, misleading or unethical advertis-
15 ing by any licensee or applicant for a license or certificate
16 of registration;
- 17 (e) Upon satisfactory proof that a licensed embalmer
18 or a licensed funeral director has taken undue advantage
19 of his patrons or has committed a fraudulent act in the
20 conduct of his business;
- 21 (g) Solicitation of business by the licensee, his agents,
22 assistants or employees, whether such solicitation occurs
23 after death or while death is impending: *Provided*, That
24 this shall not be deemed to prohibit proper advertising;
- 25 (h) If the applicant therefor or holder thereof know-
26 ingly permits an unlicensed person to engage in the pro-
27 fession or business of embalming or funeral directing
28 under his supervision; or if any holder of an embalmer's
29 license or funeral director's license issued hereunder
30 knowingly permits any unlicensed person to use his li-
31 cense number or numbers for the purpose of practicing,
32 or discharging any of the duties of the professions of
33 embalming or funeral directing;
- 34 (i) Employment by the licensee of persons known as
35 "cappers", "steerers" or "solicitors", or other such persons
36 to obtain funeral directing business;
- 37 (j) Employment directly or indirectly of any appren-
38 tice, agent, assistant, embalmer, employee, or other per-
39 son, on part or full time, or on commission, for the purpose
40 of calling upon individuals or institutions by whose in-
41 fluence dead human bodies may be turned over to a
42 particular funeral director;
- 43 (k) The buying of business by the licensee, his agents,
44 assistants, or employees or the direct or indirect payment
45 or offer of payment of a commission by the licensee, his
46 agent, assistants, or employees, for the purpose of securing
47 business;

48 (l) Gross immorality;

49 (m) If the applicant therefor or holder thereof has
50 been guilty of habitual drunkenness or is addicted to the
51 use of morphine, cocaine or other habit forming drugs.

Sec. 8. *Duty of Public Officers, Physicians, etc., as to*
2 *Disposition of Body of Deceased Person; Penalty for Vio-*
3 *lation of Section; Hearings on Refusing, Suspending, or*
4 *Revoking Licenses; Appeals from Decision of Board;*
5 *Penalty for Engaging in Business Without License; Pur-*
6 *pose of Article.*—No public officer, employee, physician,
7 or surgeon, or any other person having a professional
8 relationship with the deceased, shall send, or cause to be
9 sent, to any funeral director, undertaker, mortician or
10 embalmer, the body of any deceased person without hav-
11 ing first made due inquiry as to the desires of the next
12 of kin, or any persons who may be chargeable with the
13 funeral expenses of such deceased person; and if any such
14 kin or person can be found, his authority and direction
15 shall be received as to the disposal of said corpse.

16 Any person who shall violate the provisions of this
17 section shall be deemed guilty of a misdemeanor and upon
18 conviction, shall be fined not less than fifty dollars, nor
19 more than three hundred dollars, or imprisoned not less
20 than ten days nor more than ninety days, or both.

21 The board may make investigations, subpoena wit-
22 nesses, administer oaths, and conduct hearings.

23 No order refusing, suspending, or revoking a license
24 shall be made until after a public hearing conducted by
25 the board.

26 At least twenty days prior to the date of hearing, the
27 board shall send a written notice of the time and place
28 of such hearing to the applicant, together with a state-
29 ment of the charges against him, by mailing the same
30 to the last known address of such person.

31 The testimony presented and the proceedings had at
32 such hearings shall be taken in shorthand, at the expense
33 of the board, and preserved as records of the board. The
34 board shall as soon thereafter as possible make its find-
35 ings in determination thereof, and send a copy to each
36 interested party.

37 Any person who has been refused a license for any
38 cause or whose license has been revoked or suspended,
39 may file with the secretary of the board, within thirty
40 days after the decision of the board, a written notice of
41 appeal therefrom to the circuit court of the county
42 within which such person whose license had been refused,
43 revoked or suspended resides. Upon the filing of such
44 notice, the secretary of the board shall transmit to the
45 clerk of said court, the record of such proceedings. Such
46 court shall thereupon hear and determine such case as
47 in other cases of appeal. The judgment of the circuit court
48 may be reviewed upon proceedings in error in the su-
49 preme court of appeals.

50 No person shall engage in the profession or business
51 of embalming or funeral directing as defined in this
52 article unless he is duly licensed as an embalmer and/or
53 as a funeral director within the meaning of this article,
54 and any person who shall engage in either business or
55 profession, or both, without having first complied with
56 the provisions of this article, or who shall violate any
57 other provisions of this article, shall be deemed guilty
58 of a misdemeanor, and, upon conviction thereof in any
59 court of competent jurisdiction, shall be fined not less
60 than two hundred dollars or more than four hundred
61 dollars for the first offense. Upon conviction of a second
62 or subsequent offense, the violator shall be fined not less
63 than five hundred dollars, nor more than one thousand
64 dollars.

65 The sanitary preparation of dead human bodies for
66 burial and the burial thereof is a public necessity, and it
67 has direct relation to the health, welfare and convenience
68 to the public, and the Legislature of this state hereby
69 finds, determines and declares that this article is neces-
70 sary for the immediate preservation of the public peace,
71 welfare, health and safety.

Sec. 11. *Apprenticeship.*—The board may, by its rules
2 and regulations, provide for the manner in which an
3 apprenticeship shall be served and the length of time
4 thereof, which shall not be more than one year.

CHAPTER 150

(Senate Bill No. 37—By Mr. Allen)

AN ACT to amend and reenact section five, article seven, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter ninety-six, acts of the Legislature, regular session, one thousand nine hundred forty-five, relating to licensing and registration of nurses.

[Passed February 6, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 7. Nurses.

Section

5. Renewal of license; reinstatement; fees required; penalties.

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, as last amended by chapter ninety-six, acts of the Legislature, regular session, one thousand nine hundred forty-five, be amended and reenacted to read as follows:

Section 5. *Renewal of License; Reinstatement; Fees Required; Penalties.*—The license of every nurse registered in this state shall be annually renewed except as hereinafter provided. On or before January first, one thousand nine hundred fifty-two, the board shall mail an application for renewal of license to every known, active, nurse who has ever been licensed as a nurse in West Virginia. At such time or times as the board may in its discretion determine each year thereafter, the board shall mail a renewal application to every nurse whose license was renewed during the previous year and each such nurse shall fill in such application blank and return it to the board with a renewal fee of one dollar within thirty days after receipt of said renewal application: *Provided, however,* That said renewal fee of one dollar may be increased to such amount, but not to exceed five dollars, as the board may fix with the concurrence of a majority of the registered nurses practicing the nursing

19 profession in the state of West Virginia at the time any
20 such increase is made effective. Upon receipt of the ap-
21 plication and fee the board shall verify the accuracy of
22 the application and issue to the applicant a certificate of
23 renewal for the current year. Such certificate of renewal
24 shall render the holder thereof a legal practitioner for
25 the period stated on the certificate of renewal. Any li-
26 censee who allows his or her license to lapse by failing
27 to renew the license as provided above may be rein-
28 stated by the board on satisfactory explanation for such
29 failure to renew his or her license and on payment of a
30 reinstatement fee of two dollars to the board. Any per-
31 son practicing nursing during the time his or her license
32 has lapsed shall be considered an illegal practitioner and
33 shall be subject to the penalties provided for violation of
34 this article. A person licensed under the provisions of
35 this article desiring to retire from practice temporarily
36 shall send a written notice to the board. Upon receipt of
37 such notice the board shall place the name of such person
38 upon the nonpracticing list. While remaining on this
39 list the person shall not be subject to the payment of any
40 renewal fees and shall not practice nursing in the state.
41 When the person desires to resume practice, application
42 for renewal of license and payment of the renewal fee for
43 the current year shall be made to the board.

CHAPTER 151

(Senate Bill No. 4—By Mr. Taylor, of Fayette)

AN ACT to amend and reenact article fourteen, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the creation, organization, powers and duties of the West Virginia board of osteopathy for the licensing of osteopathic physicians and surgeons, and the examination, licensing, revocation or suspension of licenses and annual renewal of licenses of osteopathic physicians and surgeons.

[Passed March 5, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 14. Osteopathic Physicians and Surgeons.**Section**

1. License required.
2. Definitions.
3. Board of osteopathy.
4. Application for examination.
5. Examinations; certificate of license.
6. Issuance of license without examination.
7. Reciprocal endorsement fee.
8. Temporary permits.
9. Duties and rights of osteopathic physicians and surgeons.
10. License annual renewal fee; refresher training a prerequisite; effect of failure to renew; reinstatement.
11. Refusal to issue; suspension or revocation of license.
12. Offenses; penalties.
13. Limitation of article.
14. Separability clause.
15. Repealer clause.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *License Required.*—It shall be unlawful for
2 any person to practice or offer to practice medicine and
3 surgery as an osteopathic physician and surgeon in this
4 state without a license issued by the West Virginia Board
5 of Osteopathy: *Provided*, That any certificate of license
6 heretofore issued under the laws of this state, authoriz-
7 ing its holder to practice osteopathy and surgery, shall
8 in no way be affected by the enactment of this article;
9 except that the holder of every such certificate of license
10 shall be subject to all of the provisions of this article re-
11 specting the requirements and obligations herein pre-
12 scribed for the continuance in force of such certificate of
13 license.

Sec. 2. *Definitions.*—For the purposes of this article,
2 “Osteopathy” shall mean that system of the healing art
3 which places the chief emphasis on the structural in-
4 tegrity of the body mechanism as being the most im-
5 portant single factor in maintaining the well-being of
6 the organism in health and disease;
7 “Board” shall mean the West Virginia Board of Osteo-
8 pathy;
9 “Approved osteopathic college” shall mean a college of

10 osteopathy and surgery which requires as a minimum
11 prerequisite for admission pre-professional training of at
12 least two years of academic work in specified scientific
13 subjects, as prescribed by the board, or by the college
14 accrediting agency of the American Osteopathic Asso-
15 ciation, in a standard college of arts and sciences of equal
16 rank with the college of arts and sciences of West Vir-
17 ginia university, and which requires for graduation a
18 four-year course of nine months each approved by the
19 board in accordance with the minimum standards estab-
20 lished by the American Osteopathic Association;

21 "Approved hospital for intern training" shall mean a
22 hospital approved for intern training by the board or by
23 the hospital accrediting agency of the American Osteo-
24 pathic Association;

25 "Reciprocal endorsement" shall mean a duly authenti-
26 cated certificate of the board, addressed to a board or
27 agency of another country, state, territory, province or
28 the District of Columbia, vouching that a certificate of
29 license issued to an osteopathic physician and surgeon
30 pursuant to the laws of this state is currently valid and
31 not suspended or revoked for any cause or causes speci-
32 fied in this article.

Sec. 3. *Board of Osteopathy.*—There shall be a board
2 of osteopathy, known as the "West Virginia Board of
3 Osteopathy" composed of three licensed osteopathic phy-
4 sicians and surgeons appointed by the governor by and
5 with the consent of the Senate from a list of six or more
6 names recommended by the West Virginia Osteopathic
7 Society, Incorporated. Each member of the board shall
8 have been a resident of and engaged in the practice of his
9 profession in this state for a period of at least five years
10 immediately preceding his appointment.

11 The members of the board shall be appointed for a
12 term of office of three years. The members of the board
13 in office on the date this article takes effect shall, unless
14 sooner removed, continue to serve until their respective
15 terms expire and until their successors have been ap-
16 pointed and have qualified. On or before the first day
17 July of each year, the governor shall appoint one mem-
18 ber to serve for a term of three years commencing on

19 said first day of July; and any member shall be eligible
20 for reappointment. When a vacancy in the member-
21 ship of the board occurs for any cause other than the
22 expiration of a term, the governor shall appoint a
23 successor as a member of the board to fill the unexpired
24 portion of the term of office of the member whose office
25 has been vacated.

26 Each member of the board shall take, in addition to
27 the oath of office provided for in article four, section
28 five of the constitution of this state, an oath that he has
29 been engaged in the practice of his profession in this
30 state for at least five years immediately preceding his
31 appointment.

Sec. 4. *Application for Examination.*—Each applicant
2 for examination by the board shall submit an application
3 therefor on forms prepared and furnished by the board,
4 accompanied by evidence verified by oath and satisfactory
5 to the board, establishing that the applicant has satisfied
6 the following requirements: (a) that he is twenty-one
7 years of age or over; (b) that he is of good moral char-
8 acter; (c) that he has graduated from an approved osteo-
9 pathic college; and (d) that he has paid to the board a
10 fee of fifty dollars for examination.

Sec. 5. *Examinations; Certificate of License.*—The ex-
2 amination for a license to practice medicine and surgery
3 as an osteopathic physician and surgeon shall be written
4 and oral and shall cover all the essential branches of
5 medicine and surgery including anatomy, physiology,
6 chemistry, pharmacology, pathology, public health —
7 preventive medicine, surgery, obstetrics and gynecology,
8 osteopathic medicine, materia medica principles and prac-
9 tice of osteopathy; and this list of subjects may be ex-
10 panded or regrouped at the discretion of the board.

11 The board shall issue certificates of license to all ap-
12 plicants who shall successfully pass the said examination
13 and shall present evidence showing that they have served
14 an internship in a hospital approved for intern training.

15 But no license shall be issued under the provisions of
16 this section until the person applying therefor shall have
17 paid to the board a fee of five dollars.

Sec. 6. *Issuance of License without Examination.*—The
2 board may at its discretion issue a license without ex-
3 amination to an applicant who has been licensed by the
4 national board of examiners for osteopathic physicians
5 and surgeons, and to an applicant who has been licensed
6 by examination in any country, state, territory, province
7 or the District of Columbia, provided the requirements
8 for licensure in the country, state, territory, province or
9 the District of Columbia in which the applicant is licensed,
10 are deemed by the board to have been equivalent to
11 requirements for licensure in this state at the date such
12 license was issued. The board may also at its discretion
13 issue a license without examination to an osteopathic
14 physician and surgeon who is a graduate of an approved
15 osteopathic college and who has passed the examination
16 for admission into the medical corps of any of the armed
17 services of the United States or the United States public
18 health service. But no license shall be issued under the
19 provisions of this section until the person applying there-
20 for shall have paid to the board a fee of one-hundred
21 dollars, fifty dollars of which shall be an investigation
22 fee.

Sec. 7. *Reciprocal Endorsement Fee.*—For the issuance
2 of any reciprocal endorsement, the board shall collect a
3 fee of ten dollars.

Sec. 8. *Temporary Permits.*—A temporary permit to
2 practice in areas where medical services are needed, as
3 determined by the board, may be granted by the board
4 to a qualified applicant eligible for licensure who applies
5 for examination during the period between examinations
6 or regular meetings of the board. Such temporary permit
7 shall be effective until its holder has either been granted
8 or denied a license at the next regular meeting of the
9 board. Such permit shall be subject to revocation when,
10 in the opinion of the board, the terms and conditions pre-
11 scribed in the permit have been violated.

Sec. 9. *Duties and Rights of Osteopathic Physicians
2 and Surgeons.*—Osteopathic physicians and surgeons
3 licensed hereunder shall have the same rights and priv-

4 ileges as physicians and surgeons of other schools of medi-
5 cine.

6 Osteopathic physicians and surgeons shall observe and
7 be subject to all state and municipal regulations relative
8 to reporting births and deaths and all matters pertaining
9 to the public health with equal rights and obligations
10 as physicians of other schools of medicine, and such re-
11 ports shall be accepted by the officers of the department
12 to which the same are made.

13 Osteopathic physicians and surgeons licensed hereun-
14 der shall have the same rights and privileges as physicians
15 and surgeons of other schools of medicine with respect
16 to the treatment of cases or the holding of health offices
17 or offices in public institutions.

Sec. 10. *License Annual Renewal Fee; Refresher Train-
2 ing a Prerequisite; Effect of Failure to Renew; Rein-
3 statement.*—All holders of certificates of license to prac-
4 tice as osteopathic physicians and surgeons in this state
5 shall renew them annually on or before July first, by
6 the payment of a renewal fee of two dollars to the secre-
7 tary of the board. The secretary of the board shall
8 notify each certificate holder by mail of the necessity
9 of renewing his certificate at least thirty days prior to
10 July first of each year.

11 As a prerequisite to renewal of a certificate of license
12 issued by the board, each holder of such a certificate shall
13 furnish annually to the secretary of the board satisfactory
14 evidence of having completed a two-day educational re-
15 fresher training course conducted by the West Virginia
16 Osteopathic Society, Incorporated, under the supervision
17 and control of the board or conducted by its equivalent
18 as determined by the board.

19 The failure to renew a certificate of license shall op-
20 erate as an automatic suspension of the rights and priv-
21 ileges granted by its issuance.

22 A certificate of license suspended by a failure to make
23 an annual renewal thereof may be reinstated by the
24 board upon compliance of the certificate holder with the
25 following requirements; (a) presentation to the board of
26 satisfactory evidence of educational refresher training of
27 quantity and standard approved by the board; (b) pay-

28 ment of all fees that would have been paid had the cer-
29 tificate holder maintained his certificate in good standing;
30 and (c) payment to the board of a reinstatement fee of
31 not to exceed twenty-five dollars as determined by
32 the board.

Sec. 11. *Refusal to Issue; Suspension or Revocation of License.*—The board may either refuse to issue or may
2 suspend or revoke any license for any one or more of the
3 following causes:
4

5 (a) Conviction of a felony, as shown by a certified
6 copy of the record of the trial court;

7 (b) Conviction of a misdemeanor involving moral
8 turpitude;

9 (c) Violation of any provision of this article regulat-
10 ing the practice of osteopathic physicians and surgeons;

11 (d) Fraud, misrepresentation or deceit in procuring
12 or attempting to procure admission to practice;

13 (e) Gross malpractice;

14 (f) Advertising by means of knowingly false or de-
15 ceptive statements;

16 (g) Advertising, practicing or attempting to practice
17 under a name other than one's own;

18 (h) Habitual drunkenness, or habitual addiction to
19 the use of morphine, cocaine or other habit forming drugs.

Sec. 12. *Offenses; Penalties.*—Each of the following
2 acts shall constitute a misdemeanor, punishable upon con-
3 viction by a fine of not less than fifty nor more than five
4 hundred dollars:

5 (a) The practice or attempt to practice as an osteo-
6 pathic physician and surgeon without a license or permit;

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

10 (c) The making of any wilfully false oath or affirma-
11 tion whenever an oath or affirmation is required by this
12 article;

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

Sec. 13. *Limitation of Article.*—The practice of medi-
2 cine and surgery by persons possessing the degree of doc-

3 tor of medicine and authorized by the laws of this state
4 to practice medicine and surgery shall in no way be af-
5 fected by the provisions of this article.

Sec. 14. *Separability Clause.*—The terms of this act
2 are declared to be separable; and should any word, phrase,
3 sentence or section hereof be declared unconstitutional or
4 otherwise invalid, the remainder of this act shall not
5 thereby be affected, but shall remain in full force and
6 effect.

Sec. 15. *Repealer Clause.*—All acts or parts of acts in
2 conflict with this article are hereby repealed to the extent
3 of such conflict.

CHAPTER 152

(Senate Bill No. 148—By Mr. Hardesty)

AN ACT to amend and reenact section five, article three, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the salary of the director of the state department of public assistance.

[Passed March 8, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 3. The Director of Public Assistance.

Section

5. Compensation.

Be it enacted by the Legislature of West Virginia:

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

Section 5. *Compensation.*—The director shall receive
2 a yearly salary of seven thousand dollars and, in addition,
3 the necessary traveling expenses incident to the perform-
4 ance of his duties. Requisition for traveling expenses
5 shall be accompanied by a sworn and itemized statement
6 which shall be filed with the auditor and preserved as a
7 public record.

CHAPTER 153

(Senate Bill No. 145—By Mr. Love)

AN ACT to amend and reenact sections three and four, article one, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one as amended, relating to public bonded indebtedness.

[Passed February 13, 1951; in effect from passage. Approved by the Governor.]

Article 1. Bond Issues for Original Indebtedness.

Section

3. Amount of indebtedness for which bonds may be issued.
4. Bond issue proposal to be submitted to voters; election order.

Be it enacted by the Legislature of West Virginia:

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

Section 3. *Amount of Indebtedness for Which Bonds May Be Issued.*—No political division authorized by this article to issue bonds, except county boards of education, shall by any bond issue, become indebted to an amount, including all other indebtedness, exceeding two and one-half per cent of the value of the taxable property therein, as shown by the last assessment thereof, for state and county purposes, next prior to the issuing of such bonds: *Provided, however,* That any county for the erection and equipment of a courthouse and/or jail for such county, with funds borrowed from the government of the United States or any governmental agency, federal or state, and any municipal corporation of three hundred inhabitants or more, for the purpose of grading, paving, sewerage, and otherwise improving or reimproving its streets and alleys, or for establishing and maintaining a library or museum for the public use, or a building or structure for educational purposes, or acquiring a recreation park for the public use, may become indebted and issue bonds in an additional sum not exceeding two and one-half per cent of the value of the taxable property

22 therein, ascertained as aforesaid: *Provided further*, That
23 no county board of education authorized by this article
24 to issue bonds, shall, by any bond issue, become indebted,
25 in any manner, or for any purpose, to an amount, includ-
26 ing all other indebtedness, in the aggregate, exceeding
27 five per cent on the value of the taxable property there-
28 in, in the county school district to be ascertained by the
29 last assessment for state and county taxes, previous to
30 the incurring of such indebtedness, in the manner pro-
31 vided by the "School Bond Amendment," as ratified.

32 The term "sewering" as used herein shall be treated
33 in a comprehensive sense, so as to include all mains,
34 laterals, connections, traps, incinerating and disposal
35 plants, and other necessary and convenient accessories to
36 a modern sanitary and efficient sewerage system and
37 shall include storm sewers.

38 The county court of any county is hereby authorized
39 and empowered to negotiate and sell to the government
40 of the United States or to any governmental agency,
41 federal or state, at private sale, at not less than par any
42 bonds issued for the purpose of erecting and equipping
43 a courthouse or other public buildings for such county,
44 under and by virtue of article one, chapter thirteen of
45 the code of West Virginia, without first offering them
46 for sale at public auction, or to any other person or
47 agency.

Sec. 4. *Bond Issue Proposal to Be Submitted to Voters;*
2 *Election Order.*—No debt shall be contracted or bonds
3 issued under this article until all questions connected
4 with the same shall have been first submitted to a vote
5 of the qualified electors of the political division for which
6 the bonds are to be issued, and shall have received three-
7 fifths of all the votes cast for and against the same. The
8 governing body of any political division referred to in
9 this article may, and when requested so to do by a petition
10 in writing, praying that bonds be issued and stating the
11 purpose and amount thereof, signed by legal voters of
12 the political division equal to twenty per cent of the
13 votes cast in a county or magisterial district for gover-
14 nor, or in a municipal corporation or school district for
15 mayor or member of the board of education, as the case

16 may be, shall, by order entered of record, direct that an
17 election be held for the purpose of submitting to the
18 voters of the political division all questions connected
19 with the contracting of debt and the issuing of bonds.
20 Such order shall state:

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

24 (b) If for the construction of a county-district road or
25 bridge thereon, a summary of the engineer's report pro-
26 vided for in the following section setting forth the ap-
27 proximate extent and the estimated cost of the proposed
28 improvement, and the kind or class of work to be done
29 thereon;

30 (c) Purpose or purposes for which the proceeds of
31 bonds are to be expended;

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

34 (e) Indebtedness, bonded or otherwise;

35 (f) Amount of the proposed bond issue;

36 (g) Maximum term of bonds and series;

37 (h) Maximum rate of interest;

38 (i) Date of election;

39 (j) If a special election, names of commissioners for
40 holding same;

41 (k) If registration of voters is necessary, notice of the
42 time, place and manner of making same;

43 (l) That the levying body is authorized to lay a suf-
44 ficient levy annually to provide funds for the payment
45 of the interest upon the bonds and the principal at ma-
46 turity, and the approximate rate of levy necessary for
47 this purpose;

48 (m) In case of school bonds, that such bonds, not ex-
49 ceeding in the aggregate three per centum of such as-
50 sessed valuation of taxable property in the manner
51 provided by the "School Bond Amendment" of the con-
52 stitution of this state, will be payable from a direct
53 annual tax on all taxable property therein, in the ratio,
54 as between the several classes or types of such taxable
55 property, specified in section one, article ten of the con-
56 stitution, separate and apart from and in addition to all

57 other taxes for all other purposes, sufficient to pay, an-
58 nually, the interest on such debt, and the principal there-
59 of, within, and not exceeding thirty-four years, which
60 may be levied outside the limits fixed by section one,
61 article ten of the constitution of this state in the manner
62 provided by section eight, article ten, "School Bond
63 Amendment," of the constitution.

64 Any other provision which does not violate any pro-
65 vision of law, or transgress any principle of public
66 policy, may be incorporated in the order.

CHAPTER 154

(Senate Bill No. 275—By Mr. Love)

AN ACT to amend and reenact section twenty-three, article eight-a, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to penalties for violation of the narcotic laws.

[Passed March 10, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 8-a. Narcotic Drugs.

Section

23. Penalties for violations.

Be it enacted by the Legislature of West Virginia:

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

Section 23. *Penalties for Violations.*—Whoever violates
2 any provision of this article shall, upon conviction, be
3 fined not more than one thousand dollars and be impris-
4 oned not less than two nor more than five years. For a
5 second offense, or if, in case of a first conviction of viola-
6 tion of any provision of this article, the offender shall
7 previously have been convicted of any violation of the

8 laws of the United States or any other state, territory or
9 district relating to narcotic drugs or marihuana, the of-
10 fender shall be fined not more than five thousand dollars
11 and be imprisoned not less than five nor more than ten
12 years. For a third or subsequent offense, or if the offender
13 shall previously have been convicted two or more times in
14 the aggregate of any violation of the law of the United
15 States or of any other state, territory or district relating
16 to narcotic drugs or marihuana, the offender shall be
17 fined not more than ten thousand dollars and be impris-
18 oned not less than ten nor more than twenty years.

19 Except in the case of conviction for a first offense for
20 violation of the provisions of this article, the imposition
21 or execution of sentence shall not be suspended and pro-
22 bation or parole shall not be granted until the minimum
23 imprisonment herein provided for the offense shall have
24 been served. The court shall in each case fix and deter-
25 mine the exact length of sentence to be served for each
26 conviction.

CHAPTER 155

(House Bill No. 80—By Mrs. Walker)

AN ACT to repeal chapter eighty-two, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, as last amended by chapter thirty, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, and to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article fourteen, relating to the regulation of barbering and beauty culture and of schools of barbering and beauty culture.

[Passed March 7, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 14. Barbering and Beauty Culture.

Section

1. Division of barbers and beauticians; committee; certificate of registration.

2. Barbering and beauty culture defined.
3. Committee; chairman to approve and enforce rules and regulations; secretary; expenses of members; powers and duties of committee; inspectors.
4. General regulations; revocation of certificate for violation.
5. Qualifications of applicants; fees; examination; registration certificate.
6. Renewal of registration; fee, blood test.
7. Student's permit; qualifications; fee.
8. Display of certificate of registration.
9. Shop to be managed by registered barbers and beauticians; number of junior barbers or beauticians permitted; restrictions on buildings or rooms used as shops and businesses in; advertising of prices prohibited.
10. Schools of barbering or beauty culture; qualifications of instructors.
11. Health certificates required before certificate of registration issued or renewed.
12. Requirement to operate shops and schools; sanitary rules and regulations.
13. Grounds for cancellation, or refusal to issue or renew certificate of registration.
14. Penalties for violations; injunction.
15. Provisions of article one, chapter thirty, code, to apply to committee.
16. Collections and expenditures; disposition of funds.
17. Provisions of act separable; repeal of laws.

Be it enacted by the Legislature of West Virginia:

That chapter eighty-two, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, as last amended by chapter thirty, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be repealed, and that chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, to be designated article fourteen, to read as follows:

Section 1. *Division of Barbers and Beauticians; Committee; Certificate of Registration.*—There is hereby created in the state department of health, and under its jurisdiction, a division of barbers and beauticians. There is also hereby created a state committee of barbers and beauticians, hereinafter called the committee.

It shall be unlawful for any person to practice or offer to practice barbering or beauty culture in this state without first obtaining a certificate of registration for such purpose from the committee.

Sec. 2. *Barbering and Beauty Culture Defined.*—For the purpose of this article "barbering" shall mean any one or

3 combination of the following acts, when done on the human
4 body, and not for the treatment of disease, to-wit: Shav-
5 ing, shaping and trimming the beard; cutting, singeing,
6 shampooing or dyeing the hair, or applying tonics thereto;
7 applications, treatment or massages of the face, neck, or
8 scalp with oils, creams, lotions, antiseptics, cosmetics,
9 powders, clays or other preparations; and any such acts
10 when done to encourage the use or sale of articles of trade,
11 or for pay, rewards or other compensation, whether to be
12 received directly or indirectly.

13 "Beauty culture" shall mean any one or combination of
14 the following acts, when done on the human body, and
15 not for the treatment of disease, to-wit: The care, preser-
16 vation and beautification of the hands and nails, commonly
17 called manicuring; the cleansing, curling, waving, perma-
18 nent waving, straightening, arranging, dressing, bleach-
19 ing, tinting, coloring and shaping the hair, including such
20 cutting of the hair as is necessary for the purposes men-
21 tioned in this paragraph; the application to, or treatment
22 and massage of the scalp, face, neck, arms, hands, or upper
23 part of the body with oils, creams, lotions, powders, clays,
24 cosmetics, antiseptics, or other preparations; and any such
25 acts when done to encourage the use or sale of articles of
26 trade, or for pay, reward or other compensation, whether
27 to be received directly or indirectly.

28 The performance of any of the acts enumerated in this
29 section shall not be deemed barbering or beauty culture
30 when done by duly licensed physicians, surgeons, nurses,
31 or morticians, in the proper discharge of their professional
32 duties.

Sec. 3. *Committee; Chairman to Approve and Enforce*
2 *Rules and Regulations; Secretary; Expenses of Members;*
3 *Powers and Duties of Committee; Inspectors.*—The com-
4 mittee shall consist of the director of health, ex officio,
5 and four other members to be appointed by the governor,
6 by and with the advice and consent of the senate, to serve
7 at the will and pleasure of the governor. Of the four mem-
8 bers thus appointed, one shall be an employing bar-
9 ber, one an employee barber, one an employing beau-
10 tician, and one an employee beautician. One of the

11 four so appointed shall be a member of the colored
12 race. Each member of the committee so appointed shall
13 have been engaged within this state in the practice of
14 barbering or beauty culture, as the case may be, for a
15 period of eight years immediately prior to his appoint-
16 ment, and not more than two of the four members of
17 the committee so appointed shall belong to the same po-
18 litical party.

19 On or before the thirtieth day of June of each year the
20 governor shall appoint one member of the committee to
21 serve for a term of four years, to begin on the first day
22 of July. Any member of the committee shall be eligible
23 for reappointment.

24 The director of health shall be ex officio chairman of
25 the committee, and the enforcement of all rules and regu-
26 lations promulgated by the committee pertaining to sani-
27 tary conditions of barber and beauty shops and pertaining
28 to the registration and qualifications of barbers and beau-
29 ticians shall be under his supervision and direction; no
30 order, rule, or regulation promulgated by the committee
31 shall be in force and effect until approved by the director
32 of health. The committee shall designate one of its mem-
33 bers, or some other person, to act as secretary of the com-
34 mittee, and it shall be the duty of the secretary to perform
35 such duties as may be prescribed by the committee.

36 Each member of the committee, except the chairman,
37 shall receive as compensation a per diem of fifteen dollars
38 for each day he is in attendance upon the sessions of the
39 committee, but such compensation for each member shall
40 not exceed the sum of three hundred dollars in any cal-
41 endar year. Each member shall be reimbursed for actual
42 and necessary expenses incurred in the performance of his
43 duties, upon presentation of an itemized sworn statement
44 thereof.

45 The committee shall examine all applicants for certifi-
46 cates of registration and shall issue certificates to those
47 entitled thereto; collect examination and registration fees;
48 promulgate rules and regulations governing the operation
49 of barber shops, beauty shops, and schools of barbering
50 and beauty culture, including the prescribing of curricu-
51 lums and standards of instructions for such schools; pro-

52 mulgate rules and regulations for the physical examina-
53 tion of barbers, beauticians, junior barbers and beauti-
54 cians, and students, and fix the standard form of report of
55 such examinations; establish and enforce sanitary regula-
56 tions in barber shops, beauty shops, and schools of barber-
57 ing and beauty culture; enforce all such rules and regula-
58 tions as are herein authorized; and do all other things
59 necessary to effectuate the purposes of this article in the
60 interest and protection of public health.

61 The director of health shall appoint not to exceed six
62 inspectors, who shall be registered barbers and beauticians
63 of this state, as herein provided, and it shall be their duty
64 to make frequent inspections of all barber and beauty
65 shops, and all schools of barbering and beauty culture in
66 this state, and to report all violations to the director of
67 health. The salaries and allowances for expenses of such
68 inspectors shall be that fixed and allowed by the director
69 of health and approved by the director of the budget, pur-
70 suant to his power to classify employment in the state
71 government and its agencies.

Sec. 4. *General Regulations; Revocation of Certificate
2 for Violation.*—Every general regulation adopted by the
3 committee shall state the day on which it takes effect, and
4 a copy thereof, duly signed by the director of health, shall
5 be filed in the office of the secretary of state, and shall
6 be published in such manner as the committee may de-
7 termine. For the violation of any reasonable regulation
8 so promulgated, the committee may cancel and revoke
9 the certificate of registration issued such violator, and may
10 refuse to renew or reissue the same.

Sec. 5. *Qualifications of Applicants; Fees; Examination;
2 Registration Certificate.*—An applicant for registration as
3 a barber or beautician shall present satisfactory evidence
4 that he or she is at least eighteen years of age, of good
5 moral character and temperate habits, has completed at
6 least the eighth grade of school, or the equivalent there-
7 of, and has been graduated from a school of barbering or
8 beauty culture approved by the state committee of bar-
9 bers and beauticians, and shall transmit with his applica-
10 tion an examination fee of twenty dollars. The examina-

11 tion shall be of such character as to determine the
12 qualifications and fitness of the applicant to practice bar-
13 bering or beauty culture as defined by this article, and
14 shall cover such subjects germane to the inquiry as the
15 committee may deem proper. If the applicant successfully
16 passes such examination and is otherwise duly qualified,
17 as required by this section, and presents the proper cer-
18 tificate of health, the committee shall register the appli-
19 cant as a duly qualified junior barber or beautician, for
20 which certificate, or renewal thereof, the fee shall be five
21 dollars. Upon proof that the holder of such a certificate
22 has served as a junior barber or beautician for a period
23 of not less than six months nor more than twelve months
24 from the original date of such certificate, accompanied by
25 a certificate of health from a duly licensed physician, the
26 committee shall issue to the applicant a certificate of
27 registration authorizing the applicant to practice barber-
28 ing or beauty culture in this state. Any person who is able
29 to furnish satisfactory proof that he has practiced barber-
30 ing or beauty culture for at least six months prior to ex-
31 amination may be registered as a duly qualified barber or
32 beautician immediately after he has passed the examina-
33 tion, without serving the specified six month period as a
34 junior barber or beautician. The committee shall charge
35 for every such certificate of registration, or renewal there-
36 of, issued by it, a fee of five dollars.

37 Any person who meets the requirements of this section
38 as to age, character and health, who is a graduate of a
39 recognized school of barbering or beauty culture in an-
40 other state, and who holds a current certificate as a reg-
41 istered barber or beautician in another state, may file
42 with the committee an application for registration without
43 examination, together with a fee of twenty dollars. If in
44 the opinion of the committee such applicant has had a
45 prescribed course of instruction in barbering or beauty
46 culture equivalent to that required in this state at the time
47 such course was completed, or is otherwise properly
48 qualified, the committee may without examination issue
49 to such applicant a certificate of registration as a duly
50 qualified barber or beautician.

Sec. 6. *Renewal of Registration; Fee, Blood Test.*—Every
2 registered barber or beautician who desires to continue
3 in active practice or service shall, annually on or before
4 the first day of January, renew his certificate of registra-
5 tion and pay an annual renewal fee of five dollars. Every
6 registered barber or beautician who does not desire to
7 continue in active practice, shall notify the committee in
8 writing and shall, during such period, be listed by the
9 committee as being inactive, and shall not be required to
10 renew his certificate until such time as he notifies the com-
11 mittee of his desire to again become active, and during
12 such inactive period he or she shall not be liable for any
13 renewal fees. Every applicant for renewal or reinstatement
14 of a certificate of registration shall submit to the
15 Wasserman or other recognized blood test, and shall submit
16 the report thereon to the committee, together with a
17 certificate of health from a duly licensed physician.

Sec. 7. *Student's Permit; Qualifications; Fee.*—All stu-
2 dents, before entering upon their studies in approved
3 schools of barbering or beauty culture in this state, shall
4 apply for and receive a student's permit from the com-
5 mittee. The application shall be upon forms provided by
6 the committee and shall include a health certificate from
7 a duly licensed physician. An applicant for registration
8 as a student shall present satisfactory evidence that he
9 or she is at least seventeen years of age, of good moral
10 character and temperate habits, and has completed at
11 least the eighth grade of school or the equivalent thereof.
12 Upon receipt of a fee of five dollars, the committee shall
13 register each qualified applicant as a student barber or
14 beautician and shall issue the appropriate student's per-
15 mit, which shall be good during the prescribed period of
16 study for such student. A student may perform any or
17 all acts constituting barbering or beauty culture in a school
18 of barbering or beauty culture under the immediate su-
19 pervision of a registered instructor, but not otherwise.

Sec. 8. *Display of Certificate of Registration.*—Every
2 person practicing barbering or beauty culture and every
3 student and junior barber and beautician shall display
4 his certificate of registration in a conspicuous place in

5 the shop wherein he practices or is employed and when-
6 ever required shall exhibit such certificate to the state
7 committee of barbers and beauticians or its authorized
8 representative.

2 *Sec. 9. Shop To Be Managed by Registered Barbers and*
3 *Beauticians; Number of Junior Barbers or Beauticians*
4 *Permitted; Restrictions on Buildings or Rooms Used as*
5 *Shops and Businesses In; Advertising of Prices Prohibited.*
6 —Every barber or beauty shop in this state shall be op-
7 erated under the supervision and management of a barber
8 or beautician who is registered as such in this state. Each
9 barber or beauty shop in this state may employ at least
10 one junior barber or beautician therein. However, in
11 shops regularly employing more than three registered
12 barbers or beauticians only one such junior barber or
13 beautician may be employed for every three such reg-
14 istered barbers or beauticians, but in no event can more
15 than three such junior barbers or beauticians be employed
16 in any one barber or beauty shop. No business or trade
17 other than that of barbering shall be conducted in a barber
18 shop and no business or trade other than that of beauty
19 culture shall be conducted in a beauty shop, except the
20 display and/or sale of commodities or other articles used
21 in connection with barbering or beauty culture, and no
22 such barber or beauty shop shall be operated in a store,
23 dwelling house, or other building or space used for any
24 purpose other than barbering or beauty culture unless
25 such barber or beauty shop is separated by stationary
26 partitions extending from floor to ceiling: *Provided, That*
27 *nothing herein contained shall be construed as prohibiting*
28 *a barber shop from carrying on the business of shoe shin-*
29 *ing or manicuring or both shoe shining and manicuring.*
30 *A suitable sign shall be displayed at the main entrance*
31 *of all barber and beauty shops, plainly indicating the*
32 *business conducted therein: Provided, however, That no*
33 *sign shall be displayed outside any barber or beauty shop*
34 *or inside the same, so as to be clearly visible from the*
35 *outside and for the ostensible purpose of attracting trade,*
36 *which in any way advertises the prices to be charged in*
37 *such barber or beauty shop for services to be therein per-*
formed.

2 **Sec. 10. Schools of Barbering or Beauty Culture; Quali-**
3 *fications of Instructors.*—No person, firm or corporation,
4 public or private, whether organized for profit or not,
5 shall own or operate a school of barbering or beauty cul-
6 ture in this state without first obtaining a license so to do
7 from the committee. No such license shall be issued un-
8 less the person or persons teaching or instructing therein
9 have been registered by the committee as duly qualified
10 instructors. All applicants for a license to operate a school
11 of barbering or beauty culture shall permit an inspection
12 of such proposed school to determine whether it is proper-
13 ly fitted and equipped for instruction in barbering or
14 beauty culture. No school shall be licensed unless in the
15 opinion of the committee it is properly fitted and equipped.
16 The committee may suspend, revoke, or refuse to renew
17 the license of a school whenever it fails to meet the
18 minimum standards and qualifications required for the
19 issuance of an original license.

20 The license fee for each school of barbering and for
21 each school of beauty culture shall be twenty-five dollars
22 annually, to be paid in such manner as the committee may
23 prescribe, on or before January first of each year. The
24 license shall be prominently displayed in the school, and a
25 suitable sign shall be kept on the front of the school which
26 shall plainly indicate that a school of barbering or beauty
27 culture is operated therein.

28 The committee is hereby authorized to make reasonable
29 rules and regulations prescribing the standards and re-
30 quirements to be met by applicants for registration as
31 duly qualified instructors in schools of barbering or beauty
32 culture. Such rules and regulations may provide for the
33 issuance of certificates for instructors, including tempo-
34 rary certificates, and shall prescribe minimum qualifica-
35 tions as to age, education and training for applicants for
36 such certificates. Each registered instructor in barbering
37 or beauty culture shall pay an initial registration fee of
38 five dollars, and shall renew his certificate annually and
39 pay a renewal fee of five dollars on or before the first day
40 of January of each year. An expired certificate may be
41 reinstated only upon the payment of all lapsed renewal
fees, unless such instructor shall have notified the com-

42 mittee that he or she desires to be placed on an inactive
43 status during which time he or she shall not be liable for
44 any renewal fees. The applicant for reinstatement shall
45 also be required to meet the qualifications for registration
46 in effect at the time application for reinstatement is made.

Sec. 11. *Health Certificates Required Before Certificate of Registration Issued or Renewed.*—No person shall practice barbering or beauty culture or serve as a student or junior barber or beautician in this state while having an infectious, contagious or communicable disease. No person shall be registered as a barber, beautician, student, or junior barber or beautician until he or she shall have obtained a certificate of health from a licensed physician under article three of this chapter certifying said person to be free of all infectious, contagious and communicable diseases; which certificate shall be filed with the state committee of barbers and beauticians within ten days after the examination of the person is made by the physician, and photograph of the applicant must accompany the application with such certificate. The certificate shall be in such form as the committee may prescribe. A like certificate must be filed with the committee before any certificate is renewed, and the examination must have been within thirty days prior to the beginning of the renewal period. The committee shall be empowered to compel any registered barber, beautician, student, or junior barber or beautician, to submit to a physical examination and file a certificate of health at any reasonable time.

Sec. 12. *Requirements to Operate Shops and Schools; Sanitary Rules and Regulations.*—It shall be unlawful for any person, firm or corporation to own or operate a beauty or barber shop, or a school of beauty culture or barbering, or to act as a barber or beautician, unless:

(a) Such beauty shop, barber shop, or school of beauty culture or barbering shall before opening its place of business to the public, have been approved by the committee as having met all the requirements and qualifications for such places of business as are required by this article and for this purpose, it shall be the duty of the owner or op-

12 erator of each such beauty shop, barber shop, or school
13 of beauty culture or barbering to notify the committee,
14 in writing, at least ten days before the proposed opening
15 date of such shop or school, whereupon it shall become
16 the duty of the committee, through the inspectors herein
17 provided for, to inspect such shops or schools, and if found
18 to meet the requirements of this article respecting the
19 same, to grant to it a certificate permitting it to do busi-
20 ness as such. If, however, after the lapse of ten days after
21 the giving of such notice of opening to the committee, an
22 inspection is not made or such certificate of opening has
23 not been granted or refused, the owner or operator of
24 such shop or school may open provisionally subject to
25 later acquirement of such certificate and to all other pro-
26 visions, rules and regulations provided for in this article;

27 (b) All such shops and schools, and bathrooms, toilets
28 and adjoining rooms used in connection therewith, are
29 kept clean, sanitary, well-lighted and ventilated at all
30 times. The use of chunk alum, powder puffs and styptic
31 pencils in any such shop or school is prohibited;

32 (c) Each barber, beautician, instructor, junior barber
33 and beautician, and student, shall thoroughly cleanse his
34 or her hands with soap and water immediately before
35 serving any patron;

36 (d) Each patron is served with clean, freshly laun-
37 dered linen which is kept in a closed cabinet used for
38 that purpose alone. All linens, immediately after being
39 used, shall be placed in a receptacle used for that purpose
40 alone.

41 The committee shall prescribe such other rules and
42 regulations in regard to sanitation and cleanliness in such
43 shops and schools as it may deem proper and necessary
44 and shall have power to enforce compliance therewith.
45 Such rules and regulations shall be kept posted in a con-
46 spicuous place in each shop or school.

2 *Sec. 13. Grounds for Cancellation, or Refusal to Issue*
3 *or Renew Certificate of Registration.*—The committee
4 may refuse to issue a certificate of registration to any
5 applicant, or may refuse to renew, or may suspend or
revoke the same for any holder thereof, for any of the

6 following causes: (1) conviction of the commission of
7 a felony, as shown by a certified copy of the record of
8 the court of conviction; (2) obtaining or attempting to
9 obtain a certificate of registration to practice barbering
10 or beauty culture in this state by false pretenses, fraudu-
11 lent misrepresentation, or bribery by the use of money or
12 other consideration; (3) gross incompetency; (4) the
13 continued practice of barbering or beauty culture by a
14 person knowing himself or herself to be afflicted with
15 a contagious or infectious disease; (5) the use knowingly
16 of any false or deceptive statements in advertising; (6)
17 habitual drunkenness or habitual addiction to the use of
18 morphine, cocaine or other habit-forming drugs; (7) con-
19 viction for the illegal sale of any intoxicating beverage,
20 as shown by a certified copy of the record of the court of
21 conviction; (8) violation of any of the sanitary rules and
22 regulations prescribed by the committee.

Sec. 14. *Penalties for Violation; Injunction.*—Any viola-
2 tion of the provisions of this article or of the rules and
3 regulations of the committee, when promulgated by it as
4 set out in section four of this article, shall constitute a
5 misdemeanor, punishable, upon conviction, by a fine of
6 not less than ten dollars, nor more than one hundred
7 dollars, or by imprisonment in the county jail for not
8 more than sixty days, or by both such fine and imprison-
9 ment. Justices of the peace shall have concurrent juris-
10 diction with circuit and criminal courts for the enforce-
11 ment of the provisions of this article and the rules and
12 regulations promulgated by the committee.

13 Notwithstanding the existence or pursuit of any other
14 remedy, the committee may, in the manner provided by
15 law, maintain an action in the name of the state for an
16 injunction against any person, partnership, association, or
17 corporation to restrain or prevent the establishment, con-
18 duct, management, or operation of any barber shop,
19 beauty shop, school of barbering or beauty culture, or
20 related agency, when such person, partnership, associa-
21 tion, or corporation, repeatedly refuses to obtain regis-
22 tration or license therefor and continues the practice or
23 teaching of barbering or beauty culture without first ob-

24 taining registration or a license therefor in the manner
25 hereinbefore provided.

Sec. 15. *Provisions of Article One, Chapter Thirty, Code, to Apply to Committee.*—Unless otherwise specially provided herein, the provisions of article one, chapter thirty of the code of West Virginia shall apply to the state committee of barbers and beauticians.

Sec. 16. *Collections and Expenditures; Disposition of Funds.*—All money collected under the provisions of this article shall be deposited in the state treasury as provided by law, and shall be credited to the committee in a special fund to be known as the “Barbers and Beauticians Special Fund”. All money in such fund shall be expended only for the administration and enforcement of the provisions of this article, except that at the end of each fiscal year there shall be transferred from this fund to the general revenue fund of the state ten per cent of all money collected by the committee during the year.

Sec. 17. *Provisions of Act Separable; Repeal of Laws.*—The various provisions of this act shall be construed as separable and several, and should any of the provisions or parts thereof be construed or held to be unconstitutional, or for any other reason invalid the remaining provisions of this act shall not be thereby affected. All acts and parts of acts in conflict with the provisions of this act, or any part thereof, are hereby repealed. Any ordinances of any municipalities in this state now in effect and having for their purposes the regulation of the practice of barbering or beauty culture, which are in conflict with the provisions of this act, or any part thereof, shall be null and void and of no effect on and after the date this act goes into effect.

CHAPTER 156

(House Bill No. 183—By Mr. Speaker, Mr. Flannery)

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by add-

ing thereto a new article, to be designated article eighteen, to provide for the clearance of slum and blighted areas for development or redevelopment in accordance with plans approved by the governing body of the municipality or county; to create for this purpose a public body corporate and politic, to be known as the slum clearance and redevelopment authority, in each municipality and county of this state; to define the duties, liabilities, exemptions, and powers of such authorities, including the power to acquire and dispose of property, exercise the power of eminent domain, issue bonds and other obligations, and give security therefor, and enter into agreements to secure federal aid or contributions and comply with conditions imposed in connection therewith; to provide that slum clearance and redevelopment authorities, their property and securities shall be exempt from taxation and assessment; to authorize either the transaction of business by such authority or the exercise of the duties and powers of such authority by the municipality or county itself or by the housing authority of the municipality or county, upon approval by the governing body of the municipality or county; to authorize the creation of such authority in regions comprising cooperating municipalities and counties; to authorize the acquisition and development of vacant areas in connection with the redevelopment of slum and blighted areas, upon approval of the governing body of the municipality or county; to authorize public bodies to furnish funds, services, facilities, and property in aid of slum clearance and redevelopment projects hereunder; to authorize municipalities and counties to obtain funds therefor by the issuance of obligations, by taxation or otherwise; and to provide that obligations issued for slum clearance or redevelopment projects hereunder shall be legal investments.

[Passed March 10, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 18. Slum Clearance.

Section

1. Short title.
2. Findings and declaration of necessity.
3. Definitions.
4. Creation of slum clearance and redevelopment authority.

5. Powers of an authority.
6. Preparation and approval of redevelopment plans.
7. Disposal of property in redevelopment project.
8. Eminent domain.
9. Acquisition and development of undeveloped vacant land.
10. Issuance of bonds.
11. Powers in connection with issuance of bonds.
12. Rights of obligee.
13. Bonds as legal investments.
14. Conveyance to federal government on default.
15. Property of authority exempt from taxes and from levy and sale by virtue of an execution.
16. Cooperation by public bodies.
17. Grants of funds by community.
18. Cooperation between authorities.
19. Annual report.
20. Title of purchaser.
21. Separability of provisions.
22. Inconsistent provisions.
23. Additional conferred powers.

Be it enacted by the Legislature of West Virginia:

That chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, to be designated article eighteen, to read as follows:

Section 1. *Short Title.*—This act shall be known and may be cited as the “Slum Clearance and Redevelopment Authority Law”.

Sec. 2. *Findings and Declaration of Necessity.*—It is hereby found and declared that there exist in localities throughout the state, slum and blighted areas (as herein defined) which constitute a serious and growing menace, injurious and inimical to the public health, safety, morals and welfare of the residents of the state; that the existence of such areas contributes substantially and increasingly to the spread of disease and crime, necessitating excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, punishment and the treatment of juvenile delinquency and for the maintenance of adequate police, fire and accident protection and other public services and facilities, constitutes an economic and social liability, substantially impairs or arrests the sound growth of communities and retards the provision of housing accommodations; that this menace is beyond

18 remedy and control solely by regulatory process in the
19 exercise of the police power and cannot be dealt with
20 effectively by the ordinary operations of private enterprise
21 without the aids herein provided; that the elimination of
22 slum conditions or conditions of blight, the acquisition
23 and preparation of land in or necessary to the develop-
24 ment of slum or blighted areas and its sale or lease for
25 development or redevelopment in accordance with gen-
26 eral plans and redevelopment plans of communities and
27 any assistance which may be given by any state public
28 body in connection therewith, are public uses and pur-
29 poses for which public money may be expended and pri-
30 vate property acquired; and that the necessity in the public
31 interest for the provisions hereinafter enacted is hereby
32 declared as a matter of legislative determination.

Sec. 3. *Definitions.*—The following terms, wherever used
2 or referred to in this article, shall have the following
3 meanings, unless a different meaning is clearly indicated
4 by the context:

5 (a) “Authority” or “Slum Clearance and Redevelop-
6 ment Authority” shall mean a public body, corporate and
7 politic, created by or pursuant to section four of this ar-
8 ticle or any other public body exercising the powers, rights
9 and duties of such an authority as hereinafter provided.

10 (b) “Municipality” shall mean any incorporated city,
11 town or village in the state.

12 (c) “Community” shall mean any municipality or
13 county in the state.

14 (d) “Public body” shall mean the state or any munici-
15 pality, county, township, board, commission, authority,
16 district, or any other subdivision or public body of the
17 state.

18 (e) “Governing body” shall mean the council or other
19 legislative body charged with governing the municipality
20 or the county court or other legislative body charged with
21 governing the county.

22 (f) “Mayor” shall mean the officer having the duties
23 customarily imposed upon the executive head of a mu-
24 nicipality.

25 (g) “Clerk” shall mean the clerk or other official of

26 the municipality or county who is the custodian of the
27 official records of such municipality or county.

28 (h) "Federal government" shall include the United
29 States of America or any agency or instrumentality, cor-
30 porate or otherwise, of the United States of America.

31 (i) "Area of operation" shall mean in the case of a mu-
32 nicipality, the area within such municipality and the area
33 within five miles of the territorial boundaries thereof,
34 except that the area of operation of a municipality under
35 this article shall not include any area which lies within the
36 territorial boundaries of another municipality unless a
37 resolution shall have been adopted by the governing body
38 of such other municipality declaring a need therefor; and
39 in the case of a county, the area within the county, except
40 that the area of operation in such case shall not include
41 any area which lies within the territorial boundaries of
42 a municipality unless a resolution shall have been adopted
43 by the governing body of such municipality declaring a
44 need therefor; and in the case of a regional authority,
45 shall mean the area within the communities for which
46 such regional authority is created: *Provided, however,*
47 *That a regional authority shall not undertake a redevelop-*
48 *ment project within the territorial boundaries of any mu-*
49 *nicipality unless a resolution shall have been adopted by*
50 *the governing body of such municipality declaring that*
51 *there is a need for the regional authority to undertake such*
52 *development project within such municipality. No au-*
53 *thority shall operate in any area of operation in which*
54 *another authority already established is undertaking or*
55 *carrying out a redevelopment project without the con-*
56 *sent, by resolution, of such other authority.*

57 (j) "Slum area" shall mean an area in which there is
58 a predominance of buildings or improvements (or which
59 is predominantly residential in character), and which, by
60 reason of dilapidation, deterioration, age or obsolescence,
61 inadequate provision for ventilation, light, air, sanitation,
62 or open spaces, high density of population and overcrowd-
63 ing, or the existence of conditions which endanger life
64 or property by fire and other causes, or any combination
65 of such factors, is conducive to ill health, transmission of
66 disease, infant mortality, juvenile delinquency and crime,

67 and is detrimental to the public health, safety, morals
68 or welfare.

69 (k) "Blighted area" shall mean an area (other than
70 a slum area) which by reason of the predominance of
71 defective or inadequate street layout, faulty lot layout in
72 relation to size, adequacy, accessibility or usefulness, in-
73 sanitary or unsafe conditions, deterioration of site im-
74 provement, diversity of ownership, tax or special assess-
75 ment delinquency exceeding the fair value of the land, de-
76 fective or unusual conditions of title, improper subdivision
77 or obsolete platting, or the existence of conditions which
78 endanger life or property by fire and other causes, or any
79 combination of such factors, substantially impairs or ar-
80 rests the sound growth of the community, retards the
81 provision of housing accommodations or constitutes an
82 economic or social liability and is a menace to the public
83 health, safety, morals, or welfare in its present condition
84 and use.

85 (1) "Redevelopment project" shall mean any work or
86 undertaking:

87 (1) To acquire slum areas or blighted areas or por-
88 tions thereof, including lands, structures, or improve-
89 ments the acquisition of which is necessary or incidental
90 to the proper clearance, development or redevelopment
91 of such slum or blighted areas or to the prevention of the
92 spread or recurrence of slum conditions or conditions of
93 blight.

94 (2) To clear any such areas by demolition or removal
95 of existing buildings, structures, streets, utilities or other
96 improvements thereon and to install, construct, or recon-
97 struct streets, utilities, and site improvements essential to
98 the preparation of sites for uses in accordance with a
99 redevelopment plan.

100 (3) To sell, lease or otherwise make available land in
101 such areas for residential, recreational, commercial, in-
102 dustrial or other use or for public use or to retain such
103 land for public use, in accordance with a redevelopment
104 plan.

105 The term "redevelopment project" may also include the
106 preparation of a redevelopment plan, the planning, sur-
107 vey and other work incident to a redevelopment project

108 and the preparation of all plans and arrangements for
109 carrying out a redevelopment project.

110 (m) "Redevelopment plan" shall mean a plan for the
111 acquisition, clearance, reconstruction, rehabilitation, or
112 future use of a redevelopment project area.

113 (n) "Redeveloper" shall mean any person, partnership,
114 or public or private corporation or agency which shall
115 enter or propose to enter into a redevelopment contract.

116 (o) "Redevelopment contract" shall mean a contract
117 entered into between an authority and a redeveloper for
118 the redevelopment of an area in conformity with a re-
119 development plan.

120 (p) "Real property" shall include all lands, including
121 improvements and fixtures thereon, and property of any
122 nature appurtenant thereto, or used in connection there-
123 with, and every estate, interest and right, legal or equita-
124 ble, therein, including terms for years and liens by way
125 of judgment, mortgage or otherwise and the indebtedness
126 secured by such liens.

127 (q) "Bonds" shall mean any bonds (including refund-
128 ing bonds), notes, interim certificates, debentures, or other
129 obligations issued by an authority pursuant to this article.

130 (r) "Obligee" shall include any bondholder, agents or
131 trustees for any bondholders, or lessor demising to the
132 authority property used in connection with a redevelop-
133 ment project, or any assignee or assignees of such lessor's
134 interest or any part thereof, and the federal government
135 when it is a party to any contract with the authority.

136 (s) "Person" shall mean any individual, firm, partner-
137 ship, corporation, company, association, joint stock associ-
138 ation, or body politic; and shall include any trustee, re-
139 ceiver, assignee, or other similar representative thereof.

Sec. 4. *Creation of Slum Clearance and Redevelopment*

2 *Authority.*—(a) There is hereby created in each com-
3 munity (as herein defined) a public body corporate and
4 politic, to be known as the "Slum Clearance and Re-
5 development Authority" of the community: *Provided,*
6 *however,* That such authority shall not transact any
7 business or exercise its powers hereunder until or un-
8 less the governing body shall approve (by resolution,

9 as herein provided) the exercise in such community
10 of the powers, functions and duties of an authority under
11 this article: *Provided further*, That, if it deems such action
12 to be in the public interest, the governing body may,
13 instead of such resolution, adopt a resolution approv-
14 ing the exercise of such powers, functions and duties
15 by the community itself or by the housing authority,
16 if one exists or is subsequently established in the com-
17 munity, and in such event, the community or housing
18 authority, as the case may be, shall be vested with all
19 the powers, functions, rights, duties and privileges of
20 a slum clearance and redevelopment authority under
21 this article.

22 (b) The governing body of a community shall not
23 adopt a resolution pursuant to subsection (a) above unless
24 it finds:

25 (1) That one or more slum or blighted areas (as here-
26 in defined) exist in such community, and

27 (2) That the redevelopment of such area or areas is
28 necessary in the interest of the public health, safety,
29 morals or welfare of the residents of such community.

30 (c) If the governing body of each of two or more com-
31 munities declares, by resolution, that there is a need for
32 one slum clearance and redevelopment authority to be cre-
33 ated for all of such communities, and has made the find-
34 ings required by paragraph (b), a public body, corporate
35 and politic, to be known as a regional slum clearance and
36 redevelopment authority (herein referred to as regional
37 authority or authority) shall thereupon exist for all of
38 such communities and may exercise the powers and other
39 functions of an authority under this article in such com-
40 munities.

41 (d) The area of operation of a regional authority shall
42 be increased from time to time to include one or more
43 additional communities if the governing body of each of
44 such additional communities adopts the resolution de-
45 scribed in paragraph (c) and makes the findings required
46 by paragraph (b), and the commissioners of the regional
47 authority consent to the inclusion within its area of op-
48 eration of such additional communities.

49 (e) When the governing body of a municipality adopts

50 a resolution as aforesaid, it shall promptly notify the
51 mayor of such adoption. If the resolution adopted is one
52 approving the exercise of powers hereunder by a slum
53 clearance and redevelopment authority, the mayor, by
54 and with the advice and consent of the governing body,
55 shall appoint a board of commissioners of the authority
56 created for such municipality which shall consist of five
57 commissioners, and when the governing body of a county
58 adopts such a resolution, said body shall appoint a board
59 of commissioners of the authority created for such county
60 which shall consist of five commissioners. The commis-
61 sioners who are first appointed pursuant to this article
62 shall be designated to serve for terms of one, two, three,
63 four and five years, respectively, from the date of their ap-
64 pointment, but thereafter commissioners shall be appoint-
65 ed as aforesaid for a term of office of five years except that
66 all vacancies shall be filled for the unexpired term.

67 (f) If a regional authority is created as herein provided,
68 one person shall be appointed as a commissioner of such
69 authority for each community for which such authority is
70 created. When the area of operation of a regional au-
71 thority is increased to include an additional community or
72 communities as herein provided, one additional person
73 shall be appointed as a commissioner of such authority
74 for each such additional community. Each such commis-
75 sioner appointed for a municipality shall be appointed
76 by the mayor thereof, by and with the advice and consent
77 of the governing body, and each such commissioner ap-
78 pointed for a county shall be appointed by the governing
79 body thereof. The first appointment of commissioner of
80 a regional authority may be made at or after the time of
81 the adoption of the resolution declaring the need for such
82 authority or declaring the need for the inclusion of such
83 community in the area of operation of such authority. The
84 commissioners of a regional authority and their successors
85 shall be appointed as aforesaid for terms of five years
86 except that all vacancies shall be filled for the unexpired
87 terms.

88 If the area of operation of a regional authority consists
89 at any time of an even number of communities, the com-
90 missioners of the regional authority already appointed in

91 the manner described above shall appoint one additional
92 commissioner whose term of office shall be as provided
93 for a commissioner of a regional authority except that
94 such term shall end at any earlier time that the area
95 of operation of the regional authority shall be changed
96 to consist of an odd number of communities. The com-
97 missioners of such authority already appointed in the
98 manner described above shall likewise appoint each per-
99 son to succeed such additional commissioner: *Provided*,
100 That the term of office of such person begins during the
101 terms of office of the commissioners appointing him. A
102 certificate of the appointment of any such additional com-
103 missioner of such regional authority shall be filed with
104 the other records of the regional authority and shall be
105 conclusive evidence of the due and proper appointment
106 of such additional commissioner.

107 (g) A commissioner of an authority shall receive no
108 compensation for his services, but shall be entitled to the
109 necessary expenses, including traveling expenses, incurred
110 in the discharge of his duties. Each commissioner shall
111 hold office until his successor has been appointed and has
112 qualified. A certificate of the appointment or reappoint-
113 ment of any commissioner shall be filed with the municipi-
114 pal or county clerk, as the case may be, and such certificate
115 shall be conclusive evidence of the due and proper ap-
116 pointment of such commissioner.

117 The powers hereunder vested in each slum clearance
118 and redevelopment authority shall be exercised by the
119 board of commissioners thereof. A majority of the com-
120 missioners shall constitute a quorum of such board for
121 the purpose of conducting business and exercising the
122 powers of the authority and for all other purposes. Ac-
123 tion may be taken by the board upon a vote of a majority
124 of the commissioners present, unless in any case the by-
125 laws of the authority shall require a larger number. Meet-
126 ings of the board of an authority may be held anywhere
127 within the perimeter boundaries of the area of operation
128 of the authority. Any persons may be appointed as com-
129 missioners of the authority if they reside within such
130 area, and are otherwise eligible for such appointments
131 under this article.

132 . The commissioners of an authority shall elect a chair-
133 man and vice-chairman from among the commissioners.
134 An authority may employ an executive director, technical
135 experts and such other officers, agents and employees,
136 permanent and temporary, as it may require, and shall
137 determine their qualifications, duties and compensation.
138 For such legal services as it may require, an authority
139 may, with the approval of the mayor (or of the governing
140 body in the case of a county), call upon the chief law
141 officer of the communities within its area of operation or
142 it may employ its own counsel and legal staff. An au-
143 thority may delegate to one or more of its agents or em-
144 ployees such powers or duties as it may deem proper.

145 (h) For inefficiency or neglect of duty or misconduct
146 in office, a commissioner of an authority may be removed
147 by the official or public body which appointed such com-
148 missioner, but a commissioner shall be removed only after
149 a hearing and after he shall have been given a copy of the
150 charges at least ten days prior to such hearing and have
151 had an opportunity to be heard in person or by counsel.
152 In the event of the removal of any commissioner, a record
153 of the proceedings, together with the charges and findings
154 thereof, shall be filed in the office of the municipal or
155 county clerk, as the case may be.

156 (i) In any suit, action or proceeding involving the
157 validity or enforcement of or relating to any contract of
158 or bonds issued by an authority, the authority shall be
159 conclusively deemed to have become established and au-
160 thorized to transact business and exercise its powers here-
161 under upon proof of the adoption of the appropriate reso-
162 lution prescribed in subsection (a) or (c) above. Each
163 such resolution shall be deemed sufficient if it authorizes
164 the exercise of powers hereunder by the authority or other
165 public body and finds in substantially the terms provided
166 in subsection (b) (no further detail being necessary) that
167 the conditions therein enumerated exist. A copy of such
168 resolution duly certified by the municipal or county clerk,
169 as the case may be, shall be admissible in evidence in any
170 suit, action or proceeding.

171 (j) No commissioner or employee of an authority shall
172 voluntarily acquire any interest, direct or indirect, in any

173 redevelopment project or in any property included or
174 planned by the authority to be included in any such pro-
175 ject, or in any contract or proposed contract in connection
176 with any such project. Where the acquisition is not volun-
177 tary such commissioner or employee shall immediately
178 disclose such interest in writing to the authority and such
179 disclosure shall be entered upon the minutes of the au-
180 thority. A commissioner or employee who owns or con-
181 trols any interest, direct or indirect, in such property shall
182 not participate in any action by the authority affecting
183 the property. If any commissioner or employee of an au-
184 thority owned or controlled within the preceding two
185 years an interest, direct or indirect, in any property in-
186 cluded or planned by the authority to be included in any
187 redevelopment project, he immediately shall disclose such
188 interest in writing to the authority and such disclosure
189 shall be entered upon the minutes of the authority. Upon
190 such disclosure such commissioner or employee shall not
191 participate in any action by the authority affecting such
192 property. Any violation of the provisions of this section
193 shall constitute misconduct in office.

Sec. 5. *Powers of an Authority.*—An authority shall
2 constitute a public body corporate and politic, exercising
3 public and essential governmental functions, and having
4 all the powers necessary or convenient to carry out and
5 effectuate the purposes and provisions of this article, in-
6 cluding the following powers in addition to others herein
7 granted:

8 (a) To sue and to be sued; to have a seal and to alter the
9 same at pleasure; to have perpetual succession; to make
10 and execute contracts and other instruments necessary or
11 convenient to the exercise of the powers of the authority;
12 and to make and from time to time amend and repeal by-
13 laws, rules and regulations, not inconsistent with this
14 article, to carry out the provisions of this article.

15 (b) To prepare or cause to be prepared and recom-
16 mend redevelopment plans to the governing body of the
17 community or communities within its area of operation
18 and to undertake and carry out redevelopment projects
19 within its area of operation.

20 (c) To arrange or contract for the furnishing or repair,
21 by any person or agency, public or private, of services,
22 privileges, works, streets, roads, public utilities or other
23 facilities for or in connection with a redevelopment
24 project; and (notwithstanding anything to the contrary
25 contained in this article or any other provision of law), to
26 agree to any conditions that it may deem reasonable and
27 appropriate attached to federal financial assistance and
28 imposed pursuant to federal law relating to the determi-
29 nation of prevailing salaries or wages or compliance with
30 labor standards, in the undertaking or carrying out of a
31 redevelopment project, and to include in any contract
32 let in connection with such a project, provisions to ful-
33 fill such of said conditions as it may deem reasonable and
34 appropriate.

35 (d) Within its area of operation, to purchase, lease,
36 obtain options upon, acquire by gift, grant, bequest, de-
37 vise, eminent domain or otherwise, any real or personal
38 property or any interest therein, together with any im-
39 provements thereon, necessary or incidental to a re-
40 development project; to hold, improve, clear or prepare
41 for redevelopment any such property; to sell, lease, ex-
42 change, transfer, assign, subdivide, retain for its own use,
43 mortgage, pledge, hypothecate or otherwise encumber
44 or dispose of any real or personal property or any inter-
45 est therein; to enter into contracts with redevelopers of
46 property containing covenants, restrictions and conditions
47 regarding the use of such property for residential, com-
48 mercial, industrial, recreational purposes or for public
49 purposes in accordance with the redevelopment plan and
50 such other covenants, restrictions and conditions as the
51 authority may deem necessary to prevent a recurrence of
52 slum or blighted areas or to effectuate the purposes of this
53 article; to make any of the covenants, restrictions or con-
54 ditions of the foregoing contracts covenants running with
55 the land, and to provide appropriate remedies for any
56 breach of any such covenants or conditions, including the
57 right in the authority to terminate such contracts and
58 any interest in the property created pursuant thereto;
59 to borrow money and issue bonds and provide security
60 for loans or bonds; to insure or provide for the insurance

61 of any real or personal property or operations of the
62 authority against any risks or hazards, including the
63 power to pay premiums on any such insurance; and to
64 enter into any contracts necessary to effectuate the pur-
65 poses of this article: *Provided, however,* That no statutory
66 provision with respect to the acquisition, clearance or
67 disposition of property by other public bodies shall restrict
68 an authority or other public body exercising powers
69 hereunder, in such functions, unless the Legislature shall
70 specifically so state.

71 (e) To invest any funds held in reserves or sinking
72 funds or any funds not required for immediate disburse-
73 ment, in property or securities in which savings banks
74 may legally invest funds subject to their control; to re-
75 deem its bonds at the redemption price established there-
76 in or to purchase its bonds at less than redemption price,
77 all bonds so redeemed or purchased to be canceled.

78 (f) To borrow money and to apply for and accept ad-
79 vances, loans, grants, contributions and any other form
80 of financial assistance from the federal government, the
81 state, county, municipality or other public body or from
82 any sources, public or private, for the purposes of this ar-
83 ticle, to give such security as may be required and to enter
84 into and carry out contracts in connection therewith; an
85 authority, notwithstanding the provisions of any other
86 law, may include in any contract for financial assistance
87 with the federal government for a redevelopment project
88 such conditions imposed pursuant to federal law as the au-
89 thority may deem reasonable and appropriate and which
90 are not inconsistent with the purposes of this article.

91 (g) Acting through one or more commissioners or
92 other persons designated by the authority, to conduct ex-
93 aminations and investigations and to hear testimony and
94 take proof under oath at public or private hearings on
95 any matter material for its information; to administer
96 oaths, and to issue commissions for the examination of
97 witnesses who are outside of the state or unable to attend
98 before the authority, or excused from attendance; to
99 make available to appropriate agencies or public officials
100 (including those charged with the duty of abating or
101 requiring the correction of nuisances or like conditions

102 or of demolishing unsafe or insanitary structures or
103 eliminating slums or conditions of blight within its area
104 of operation) its findings and recommendations with re-
105 gard to any building or property where conditions exist
106 which are dangerous to the public health, safety, morals
107 or welfare.

108 (h) Within its area of operation, to make or have
109 made all surveys, appraisals, studies and plans (but not
110 including the preparation of a general plan for the com-
111 munity) necessary to the carrying out of the purposes of
112 this article and to contract or cooperate with any and all
113 persons or agencies, public or private, in the making
114 and carrying out of such surveys, appraisals, studies and
115 plans.

116 (i) To prepare plans and provide reasonable assistance
117 for the relocation of families displaced from a redevelop-
118 ment project area to permit the carrying out of the re-
119 development project, to the extent essential for acquir-
120 ing possession of and clearing such area or parts thereof.

121 (j) To make such expenditures as may be necessary to
122 carry out the purposes of this article; and to make expend-
123 itures from funds obtained from the federal government
124 without regard to any other laws pertaining to the mak-
125 ing and approval of appropriations and expenditures.

126 (k) To exercise all or any part or combination of pow-
127 ers herein granted.

Sec. 6. *Preparation and Approval of Redevelopment*

2 *Plans.*—(a) An authority shall not acquire real prop-
3 erty for a redevelopment project unless the govern-
4 ing body of the community in which the redevelop-
5 ment project area is located has approved the rede-
6 velopment plans, as prescribed in subsection (i) be-
7 low.

8 (b) An authority shall not prepare a redevelopment
9 plan for a redevelopment project area unless the govern-
10 ing body of the community in which such area is located
11 has, by resolution, declared such area to be a slum or
12 blighted area in need of redevelopment.

13 (c) An authority shall not recommend a redevelop-
14 ment plan to the governing body of the community in
15 which the redevelopment project area is located until

16 a general plan for the development of the community
17 has been prepared.

18 (d) The authority may itself prepare or cause to be
19 prepared a redevelopment plan or any person or agency,
20 public or private, may submit such a plan to an author-
21 ity. A redevelopment plan shall be sufficiently complete
22 to indicate its relationship to definite local objectives as
23 to appropriate land uses, improved traffic, public trans-
24 portation, public utilities, recreational and community
25 facilities and other public improvements and the proposed
26 land uses and building requirements in the redevelop-
27 ment project area, and shall include without being limited
28 to:

29 (1) The boundaries of the redevelopment project area,
30 with a map showing the existing uses and conditions of
31 the real property therein;

32 (2) A land use plan showing proposed uses of the
33 area;

34 (3) Information showing the standards of population
35 densities, land coverage and building intensities in the
36 area after redevelopment;

37 (4) A statement of the proposed changes, if any, in
38 zoning ordinances or maps, street layouts, street levels
39 or grades, building codes and ordinances;

40 (5) A site plan of the area; and

41 (6) A statement as to the kind and number of addi-
42 tional public facilities or utilities which will be required
43 to support the new land uses in the area after redevelop-
44 ment.

45 (e) Prior to recommending a redevelopment plan to
46 the governing body for approval, an authority shall sub-
47 mit such plan to the planning commission of the com-
48 munity in which the redevelopment project area is
49 located for review and recommendations as to its con-
50 formity with the general plan for the development of
51 the community as a whole. The planning commission shall
52 submit its written recommendations with respect to the
53 proposed redevelopment plan to the authority within
54 thirty days after receipt of the plan for review. Upon
55 receipt of the recommendations of the planning com-
56 mission or, if no recommendations are received within

57 said thirty days, then without such recommendations,
58 an authority may recommend the redevelopment plan to
59 the governing body of the community for approval.

60 (f) Prior to recommending a redevelopment plan to
61 the governing body for approval, an authority shall con-
62 sider whether the proposed land uses and building re-
63 quirements in the redevelopment project area are de-
64 signed with the general purpose of accomplishing, in con-
65 formance with the general plan, a coordinated, adjusted
66 and harmonious development of the community and its
67 environs which will, in accordance with present and
68 future needs, promote health, safety, morals, order, con-
69 venience, prosperity and the general welfare, as well as
70 efficiency and economy in the process of development; in-
71 cluding, among other things, adequate provision for
72 traffic, vehicular parking, the promotion of safety from
73 fire, panic and other dangers, adequate provision for light
74 and air, the promotion of the healthful and convenient
75 distribution of population, the provision of adequate
76 transportation, water, sewerage and other public utilities,
77 schools, parks, recreational and community facilities and
78 other public requirements, the promotion of sound design
79 and arrangement, the wise and efficient expenditure of
80 public funds, the prevention of the recurrence of insani-
81 tary or unsafe dwelling accommodations, slums, or con-
82 ditions of blight, and the provision of adequate, safe and
83 sanitary dwelling accommodations.

84 (g) The recommendation of a redevelopment plan by
85 an authority to the governing body shall be accompanied
86 by the recommendations, if any, of the planning com-
87 mission concerning the redevelopment plan; a statement
88 of the proposed method and estimated cost of the acquisi-
89 tion and preparation for redevelopment of the redevelop-
90 ment project area and the estimated proceeds or rev-
91 enues from its disposal to redevelopers; a statement of
92 the proposed method of financing the redevelopment
93 project; and a statement of a feasible method proposed
94 for the relocation of families to be displaced from the
95 redevelopment project area.

96 (h) The governing body of the community shall hold
97 a public hearing on any redevelopment plan or substan-

98 ital modification thereof recommended by the authority,
99 after public notice thereof by publication in a newspaper
100 of general circulation in the community once each week
101 for two consecutive weeks, the last publication to be at
102 least ten days prior to the date set for hearing, or, if there
103 be no such newspaper, by posting such notice in three
104 public places at least ten days prior to the date set for
105 hearing. The notice shall describe the time, date, place
106 and purpose of the hearing and shall also generally
107 identify the area to be redeveloped under the plan. All
108 interested parties shall be afforded at such public hear-
109 ing a reasonable opportunity to express their views re-
110 specting the proposed redevelopment plan.

111 (i) Following such hearing, the governing body may
112 approve a redevelopment plan if it finds that said plan is
113 feasible and in conformity with the general plan for the
114 development of the community as a whole: *Provided*, That
115 if the redevelopment project area is a blighted area, the
116 governing body must also find that a shortage of housing
117 of sound standards and design, adequate for family life,
118 exists in the community; the need for housing accommo-
119 dations has been or will be increased as a result of the
120 clearance of slums in other areas under redevelopment;
121 the conditions of blight in the redevelopment project
122 area and the shortage of decent, safe and sanitary hous-
123 ing cause or contribute to an increase in and spread of
124 disease and crime and constitute a menace to the public
125 health, safety, morals or welfare; and that the develop-
126 ment of the blighted area for predominantly residential
127 uses is an integral part of and essential to the program
128 of the community for the elimination of slum areas. A
129 redevelopment plan which has not been approved by the
130 governing body when recommended by the authority
131 may again be recommended to it with any modifications
132 deemed advisable.

133 (j) A redevelopment plan may be modified at any
134 time by the authority: *Provided*, That if modified after
135 the lease or sale of real property in the redevelopment
136 project area, the modification must be consented to by
137 the redeveloper or redevelopers of such real property
138 or his successor, or their successors in interest affected by

139 the proposed modification. Where the proposed modifica-
140 tion will substantially change the redevelopment plan as
141 previously approved by the governing body the modifi-
142 cation must similarly be approved by the governing body.

Sec. 7. *Disposal of Property in Redevelopment Project.*—

2 (a) An authority may sell, lease, exchange or otherwise
3 transfer real property or any interest therein in a re-
4 development project area to any redeveloper for resi-
5 dential, recreational, commercial, industrial or other uses
6 or for public use in accordance with the redevelopment
7 plan, subject to such covenants, conditions and restric-
8 tions as it may deem to be in the public interest or to car-
9 ry out the purposes of this article: *Provided*, That such
10 sale, lease, exchange or other transfer, and any agreement
11 relating thereto, may be made only after, or subject to,
12 the approval of the redevelopment plan by the governing
13 body of the community. Such real property shall be sold,
14 leased or transferred at its fair value for uses in accord-
15 ance with the redevelopment plan notwithstanding such
16 value may be less than the cost of acquiring and pre-
17 paring such property for redevelopment. In determining
18 the fair value of real property for uses in accordance
19 with the redevelopment plan, an authority shall take
20 into account and give consideration to the uses and pur-
21 poses required by such plan; the restrictions upon, and
22 the covenants, conditions and obligations assumed by
23 the redeveloper of, such property; the objectives of the
24 redevelopment plan for the prevention of the recurrence
25 of slum or blighted areas; and such other matters as the
26 authority shall specify as being appropriate. In fixing
27 rentals and selling prices, an authority shall give con-
28 sideration to appraisals of the property for such uses
29 made by land experts employed by the authority.

30 (b) An authority shall, by public notice published at
31 least once a week for two consecutive weeks in a news-
32 paper of general circulation in the community, or, if
33 there be no such newspaper, by posting such notice in
34 three public places in the community, prior to the con-
35 sideration of any redevelopment contract proposal, invite
36 proposals from, and make available all pertinent infor-
37 mation to private redevelopers or any persons interested

38 in undertaking the redevelopment of an area, or any
39 part thereof, which the governing body has declared to
40 be in need of redevelopment. Such notice shall identify
41 the area, and shall state that such further information
42 as is available may be obtained at the office of the au-
43 thority. The authority shall consider all redevelopment
44 proposals and the financial and legal ability of the pros-
45 pective redevelopers to carry out their proposals and may
46 negotiate with any redevelopers for proposals for the pur-
47 chase or lease of any real property in the redevelopment
48 project area. The authority may accept such redevelop-
49 ment contract proposal as it deems to be in the public in-
50 terest and in furtherance of the purposes of this article:
51 *Provided*, That the authority has, not less than thirty days
52 prior thereto, notified the governing body in writing of its
53 intention to accept such redevelopment contract proposal.
54 Thereafter, the authority may execute such redevelopment
55 contract in accordance with the provisions of subsection
56 (a) and deliver deeds, leases and other instruments and
57 take all steps necessary to effectuate such redevelopment
58 contract. In its discretion, the authority may, without
59 regard to the foregoing provisions of this paragraph,
60 dispose of real property in a redevelopment project area
61 to private redevelopers for redevelopment under such
62 reasonable competitive bidding procedures as it shall
63 prescribe, subject to the provisions of subsection (a).

64 (c) In carrying out a redevelopment project, an au-
65 thority may:

66 (1) Convey to the community in which the project is
67 located, such real property as, in accordance with the
68 redevelopment plan, is to be laid out into streets, alleys,
69 and public ways;

70 (2) Grant servitudes, easements and rights of way, for
71 public utilities, sewers, streets and other similar facilities,
72 in accordance with the redevelopment plan; and

73 (3) Convey to the municipality, county or other ap-
74 propriate public body, such real property as, in accord-
75 ance with the redevelopment plan, is to be used for parks,
76 schools, public buildings, facilities or other public pur-
77 poses.

78 (d) An authority may temporarily operate and main-

79 tain real property in a redevelopment project area pend-
80 ing the disposition of the property for redevelopment,
81 without regard to the provisions of subsections (a) and
82 (b) above, for such uses and purposes as may be deemed
83 desirable even though not in conformity with the rede-
84 velopment plan.

Sec. 8. *Eminent Domain*.—An authority shall have the
2 right to acquire by the exercise of the power of eminent
3 domain any real property which it may deem necessary
4 for a redevelopment project or for its purposes under this
5 article after the adoption by it of a resolution declaring
6 that the acquisition of the real property described therein
7 is necessary for such purposes. An authority may exercise
8 the power of eminent domain in the manner provided
9 for condemnation proceedings, in chapter fifty-four of
10 the code of West Virginia, one thousand nine hundred
11 thirty-one, as amended, or it may exercise the power of
12 eminent domain in the manner now or which may be
13 hereafter provided by any other statutory provisions for
14 the exercise of the power of eminent domain. Property
15 already devoted to a public use may be acquired in like
16 manner: *Provided*, That no real property belonging to the
17 municipality, the county or the state may be acquired
18 without its consent. When an authority has found and
19 determined by resolution that certain real property de-
20 scribed therein is necessary for a redevelopment project
21 or for its purposes under this article, the resolution shall
22 be conclusive evidence that the acquisition of such real
23 property is necessary for the purposes described therein.

Sec. 9. *Acquisition and Development of Undeveloped
2 Vacant Land*.—Upon a determination, by resolution, of
3 the governing body of the community in which such land
4 is located that the acquisition and development of un-
5 developed vacant land, not within a slum or blighted area,
6 is essential to the proper clearance or redevelopment of
7 slum or blighted areas or a necessary part of the general
8 slum clearance program of the community, the acquisi-
9 tion, planning, preparation for development or disposal
10 of such land shall constitute a redevelopment project
11 which may be undertaken by the authority in the manner

12 provided in the foregoing sections. The determination by
13 the governing body shall be in lieu of the declaration
14 required by section six-b above but shall not be made
15 until the governing body finds that there is a shortage of
16 decent, safe and sanitary housing in the community;
17 that such undeveloped vacant land will be developed for
18 predominantly residential uses; and that the provision
19 of dwelling accommodations on such undeveloped vacant
20 land is necessary to accomplish the relocation, in decent,
21 safe and sanitary housing in the community, of families
22 to be displaced from slum or blighted areas which are
23 to be redeveloped: *Provided, however,* That in the un-
24 dertaking of redevelopment projects on a regional or
25 unified metropolitan basis, involving the acquisition and
26 development of undeveloped vacant land in one com-
27 munity as an adjunct to the redevelopment of slum or
28 blighted areas in another community, each determination
29 or finding required in this subsection shall be made by
30 the governing body of the community with respect to
31 which the determination or finding relates.

Sec. 10. *Issuance of Bonds.*—(a) An authority shall
2 have power to issue bonds from time to time in its
3 discretion for any of its corporate purposes including
4 the payment of principal and interest upon any ad-
5 vances for surveys and plans for redevelopment pro-
6 jects. An authority shall also have power to issue re-
7 funding bonds for the purpose of paying or retiring or
8 in exchange for bonds previously issued by it. An au-
9 thority may issue such types of bonds as it may deter-
10 mine, including (without limiting the generality of
11 the foregoing) bonds on which the principal and interest
12 are payable:

13 (1) Exclusively from the income, proceeds, and reve-
14 nues of the redevelopment project financed with the
15 proceeds of such bonds; or

16 (2) Exclusively from the income, proceeds, and reve-
17 nues of any of its redevelopment projects whether or not
18 they are financed in whole or in part with the proceeds of
19 such bonds: *Provided,* That any such bonds may be
20 additionally secured by a pledge of any loan, grant or con-

21 tributions, or parts thereof, from the federal government
22 or other sources, or a mortgage of any redevelopment
23 project or projects of the authority.

24 (b) Neither the commissioners of an authority nor
25 any person executing the bonds shall be liable person-
26 ally on the bonds by reason of the issuance thereof. The
27 bonds and other obligations of the authority (and such
28 bonds and obligations shall so state on their face) shall
29 not be a debt of the municipality, the county, or the
30 state and neither the municipality, the county, nor the
31 state shall be liable thereon, nor in any event shall such
32 bonds or obligations be payable out of any funds or
33 properties other than those of said authority acquired
34 for the purposes of this article. The bonds shall not consti-
35 tute an indebtedness within the meaning of any consti-
36 tutional or statutory debt limitation or restriction.
37 Bonds of an authority are declared to be issued for
38 an essential public and governmental purpose and to
39 be public instrumentalities and, together with interest
40 thereon and income therefrom, shall be exempt from
41 all taxes. Such bonds need not be offered by the au-
42 thority to the state sinking fund commission at any
43 time and an authority shall not be required to turn over
44 any surplus or sinking funds to the state sinking fund
45 commission.

46 (c) Bonds of an authority shall be authorized by its
47 resolution and may be issued in one or more series and
48 shall bear such date or dates, be payable upon demand
49 or mature at such time or times, bear interest at such
50 rate or rates, not exceeding six per centum per annum,
51 be in such denomination or denominations, be in such
52 form either coupon or registered, carry such conversion
53 or registration privileges, have such rank or priority,
54 be executed in such manner, be payable in such medium
55 of payment, at such place or places, and be subject to
56 such terms of redemption (with or without premium)
57 as such resolution, its trust indenture or mortgage may
58 provide.

59 (d) The bonds shall be sold at not less than par at
60 public sale held after notice published once at least ten
61 days prior to such sale in a newspaper having a general

62 circulation in the area of operation and in such other
63 medium of publication as the authority may determine;
64 *Provided*, That such bonds may be sold to the federal
65 government at private sale at not less than par, and,
66 in the event less than all of the bonds authorized in
67 connection with any project or projects are sold to the
68 federal government, the balance of such bonds may be
69 sold at private sale at not less than par at an interest
70 cost to the authority of not to exceed the interest cost
71 to the authority of the portion of the bonds sold to the
72 federal government.

73 (e) In case any of the commissioners or officers of
74 the authority whose signatures appear on any bonds or
75 coupons shall cease to be such commissioners or officers
76 before the delivery of such bonds, such signatures shall,
77 nevertheless, be valid and sufficient for all purposes,
78 the same as if such commissioners or officers had re-
79 mained in office until such delivery. Any provision of
80 any law to the contrary notwithstanding, any bonds
81 issued pursuant to this article shall be fully negotiable.

82 (f) In any suit, action or proceedings involving the
83 validity or enforceability of any bond of an authority
84 or the security therefor, any such bond reciting in sub-
85 stance that it has been issued by the authority to aid
86 in financing a redevelopment project, as herein defined,
87 shall be conclusively deemed to have been issued for
88 such purpose and such project shall be conclusively
89 deemed to have been planned, located and carried out
90 in accordance with the purposes and provisions of this
91 article.

Sec. 11. *Powers in Connection with Issuance of Bonds.*—

2 (a) In connection with the issuance of bonds or the in-
3 curring of obligations under leases and in order to secure
4 the payment of such bonds or obligations, an authority,
5 in addition to its other powers, shall have power:

6 (1) To pledge all or any part of its gross or net rents,
7 fees or revenues to which its right then exists or may
8 thereafter come into existence.

9 (2) To mortgage all or any part of its real or personal
10 property, then owned or thereafter acquired.

11 (3) To covenant against pledging all or any part of its
12 rents, fees and revenues, or against mortgaging all or any
13 part of its real or personal property, to which its right or
14 title then exists or may thereafter come into existence
15 or against permitting or suffering any lien on such reve-
16 nues or property; to covenant with respect to limitations
17 on its right to sell, lease or otherwise dispose of any re-
18 development project or any part thereof; and to covenant
19 as to what other, or additional debts or obligations may be
20 incurred by it.

21 (4) To covenant as to the bonds to be issued and as to
22 the issuance of such bonds in escrow or otherwise, and as
23 to the use and disposition of the proceeds thereof; to
24 provide for the replacement of lost, destroyed or mutilated
25 bonds; to covenant against extending the time for the
26 payment of its bonds or interest thereon; and to covenant
27 for the redemption of the bonds and to provide the terms
28 and conditions thereof.

29 (5) To covenant (subject to the limitations contained
30 in this article) as to the amount of revenues to be raised
31 each year or other period of time by rents, fees and other
32 revenues, and as to the use and disposition to be made
33 thereof; to create or to authorize the creation of special
34 funds for moneys held for operating costs, debt service,
35 reserves, or other purposes, and to covenant as to the use
36 and disposition of the moneys held in such funds.

37 (6) To prescribe the procedure, if any, by which the
38 terms of any contract with bondholders may be amended
39 or abrogated, the amount of bonds the holders of which
40 must consent thereto and the manner in which such con-
41 sent may be given.

42 (7) To covenant as to the use, maintenance and replace-
43 ment of any or all of its real or personal property, the
44 insurance to be carried thereon and the use and disposition
45 of insurance moneys, and to warrant its title to such
46 property.

47 (8) To covenant as to the rights, liabilities, powers and
48 duties arising upon the breach by it of any covenants,
49 condition or obligation; and to covenant and prescribe as
50 to events of default and terms and conditions upon which
51 any or all of its bonds or obligations shall become or may

52 be declared due before maturity, and as to the terms and
53 conditions upon which such declaration and its conse-
54 quences may be waived.

55 (9) To vest in any obligees of the authority the right
56 to enforce the payment of the bonds or any covenants se-
57 curing or relating to the bonds; to vest in any obligee or
58 obligees holding a specified amount in bonds the right, in
59 the event of a default by said authority, to take possession
60 of and use, operate and manage any redevelopment project
61 or any part thereof, title to which is in the authority, or
62 any funds connected therewith, and to collect the rents and
63 revenues arising therefrom and to dispose of such moneys
64 in accordance with the agreement of the authority with
65 such obligees; to provide for the powers and duties of such
66 obligees and to limit the liabilities thereof; and to provide
67 the terms and conditions upon which such obligees may
68 enforce any covenant or rights securing or relating to the
69 bonds.

70 (10) To exercise all or any part or combination of the
71 powers herein granted; to make such covenants (other
72 than and in addition to the covenants herein expressly
73 authorized) and to do any and all such acts and things
74 as may be necessary or convenient or desirable in order
75 to secure its bonds, or, in the absolute discretion of said
76 authority, as will tend to make the bonds more market-
77 able notwithstanding that such covenants, acts or things
78 may not be enumerated herein.

79 (b) An authority shall have power by its resolution,
80 trust indenture, mortgage, lease or other contract to con-
81 fer upon any obligee holding or representing a specified
82 amount in bonds, the right (in addition to all rights that
83 may otherwise be conferred), upon the happening of an
84 event of default as defined in such resolution or instru-
85 ment, by suit, action or proceeding in any court of com-
86 petent jurisdiction:

87 (1) To cause possession of any redevelopment project
88 or any part thereof, title to which is in the authority, to
89 be surrendered to any such obligee;

90 (2) To obtain the appointment of a receiver of any
91 redevelopment project of said authority or any part there-
92 of, title to which is in the authority, and of the rents and

93 profits therefrom. If such receiver be appointed, he may
94 enter and take possession of, carry out, operate and main-
95 tain such project or any part thereof and collect and re-
96 ceive all fees, rents, revenues, or other charges thereafter
97 arising therefrom, and shall keep such moneys in a sepa-
98 rate account or accounts and apply the same in accordance
99 with the obligations of said authority as the court shall
100 direct; and

101 (3) To require said authority and the commissioner,
102 officers, agents and employees thereof to account as if it
103 and they were the trustees of an express trust.

Sec. 12. *Rights of Obligee.*—An obligee of an authority
2 shall have the right in addition to all other rights which
3 may be conferred on such obligee, subject only to any
4 contractual restrictions binding upon such obligee:

5 (a) By mandamus, suit, action or proceeding at law
6 or in equity to compel said authority and the commis-
7 sioners, officers, agents or employees thereof to perform
8 each and every term, provision and covenant contained
9 in any contract of said authority with or for the benefit
10 of such obligee, and to require the carrying out of any
11 or all such covenants and agreements of said authority
12 and the fulfillment of all duties imposed upon said au-
13 thority by this article; and

14 (b) By suit, action or proceeding in equity, to enjoin
15 any acts or things which may be unlawful, or the violation
16 of any of the rights of such obligee of said authority.

Sec. 13. *Bonds as Legal Investments.*—All public offi-
2 cers, municipal corporations, political subdivisions and
3 public bodies; all banks, trust companies, bankers, sav-
4 ings banks and institutions, building and loan associations,
5 savings and loan associations, investment companies and
6 other persons carrying on a banking business; all insur-
7 ance companies, insurance associations, and other persons
8 carrying on an insurance business; and all executors, ad-
9 ministrators, curators, trustees, and other fiduciaries may
10 legally invest any sinking funds, moneys, or other funds
11 belonging to them or within their control in any bonds
12 or other obligations issued by an authority pursuant to
13 this article or by any public housing or redevelopment au-

14 thority or commission, or agency or any other public body
15 in the United States for redevelopment purposes, when
16 such bonds and other obligations are secured by an agree-
17 ment between the issuing agency and the federal govern-
18 ment in which the issuing agency agrees to borrow from
19 the federal government and the federal government agrees
20 to lend to the issuing agency, prior to the maturity of
21 such bonds or other obligations, moneys in an amount
22 which (together with any other moneys irrevocably com-
23 mitted to the payment of interest on such bonds or other
24 obligation) will suffice to pay the principal of such bonds
25 or other obligations with interest to maturity thereon,
26 which moneys under the terms of said agreement are re-
27 quired to be used for the purpose of paying the principal of
28 and the interest on such bonds or other obligations at their
29 maturity, and such bonds and other obligations shall be
30 authorized security for all public deposits. It is the pur-
31 pose of this section to authorize any persons, political sub-
32 divisions and officers, public or private, to use any funds
33 owned or controlled by them for the purchase of any such
34 bonds or other obligations. However, nothing contained
35 in this section with regard to legal investments shall be
36 construed as relieving any person of any duty of exercis-
37 ing reasonable care in selecting securities.

2 *Sec. 14. Conveyance to Federal Government on De-*
3 *fault.*—In any contract for financial assistance with the
4 federal government the authority may obligate itself
5 (which obligation shall be specifically enforceable and
6 shall not constitute a mortgage, notwithstanding any
7 other laws) to convey to the federal government pos-
8 sessions of or title to the redevelopment project and land
9 therein to which such contract relates which is owned
10 by the authority, upon the occurrence of a substantial
11 default (as defined in such contract) with respect to
12 the covenants or conditions to which the authority is
13 subject; such contract may further provide that in case
14 of such conveyance, the federal government may com-
15 plete, operate, manage, lease, convey or otherwise deal
16 with the redevelopment project in accordance with the
17 terms of such contract: *Provided*, That the contract
requires that, as soon as practicable after the federal

18 government is satisfied that all defaults with respect
19 to the redevelopment project have been cured and that
20 the redevelopment project will thereafter be operated in
21 accordance with the terms of the contract, the federal
22 government shall reconvey to the authority the redevel-
23 opment project as then constituted.

Sec. 15. *Property of Authority Exempt from Taxes and
2 from Levy and Sale by Virtue of an Execution.*—(a) All
3 property including funds of an authority shall be ex-
4 empt from levy and sale by virtue of an execution,
5 and no execution or other judicial process shall issue
6 against the same nor shall judgment against an authority
7 be a charge or lien upon its property: *Provided, however,*
8 *That the provisions of this section shall not apply to or lim-*
9 *it the right of obligees to foreclose or otherwise enforce*
10 *any mortgage of an authority or the right of obligees to*
11 *pursue any remedies for the enforcement of any pledge or*
12 *lien given by an authority on its rents, fees, grants or*
13 *revenues.*

14 (b) The property of an authority is declared to be
15 public property used for essential public and govern-
16 mental purposes and such property and an authority shall
17 be exempt from all taxes of the municipality, the county,
18 the state or any political subdivision thereof: *Provided,*
19 *That with respect to any property in a redevelopment*
20 *project, the tax exemption provided herein shall ter-*
21 *minate when the authority sells, leases or otherwise*
22 *disposes of such property to a redeveloper for redevel-*
23 *opment.*

Sec. 16. *Cooperation by Public Bodies.*—(a) For
2 the purpose of aiding and cooperating in the plan-
3 ning, undertaking or carrying out of a redevelopment
4 project located within the area in which it is autho-
5 rized to act, any public body may, upon such terms,
6 with or without consideration, as it may determine:

7 (1) Dedicate, sell, convey or lease any of its interest
8 in any property, or grant easements, licenses or any other
9 rights or privileges therein to an authority;

10 (2) Cause parks, playgrounds, recreational, commun-
11 ity, educational, water, sewer or drainage facilities, or
12 any other works which it is otherwise empowered to

13 undertake, to be furnished in connection with a redevelop-
14 opment project;

15 (3) Furnish, dedicate, close, vacate, pave, install, grade,
16 regrade, plan or replan streets, roads, sidewalks, ways
17 or other places, which it is otherwise empowered to un-
18 dertake;

19 (4) Plan or replan, zone or rezone any part of the
20 public body or make exceptions from building regula-
21 tions and ordinances if such functions are of the charac-
22 ter which the public body is otherwise empowered to
23 perform;

24 (5) Cause administrative and other services to be
25 furnished to the authority of the character which the
26 public body is otherwise empowered to undertake or
27 furnish for the same or other purposes;

28 (6) Incur the entire expense of any public improve-
29 ments made by such public body in exercising the powers
30 granted in this section;

31 (7) Do any and all things necessary or convenient to
32 aid and cooperate in the planning or carrying out of a
33 redevelopment plan;

34 (8) Lend, grant or contribute funds to an authority;

35 (9) Employ any funds belonging to or within the con-
36 trol of such public body, including funds derived from
37 the sale or furnishing of property, service, or facilities
38 to an authority, in the purchase of the bonds or other
39 obligations of an authority and, as the holder of such
40 bonds or other obligations, exercise the rights connected
41 therewith; and

42 (10) Enter into agreements (which may extend over
43 any period, notwithstanding any provision or rule of
44 law to the contrary), with an authority respecting action
45 to be taken by such public body pursuant to any of the
46 powers granted by this article. If at any time title to, or
47 possession of, any redevelopment project is held by any
48 public body or governmental agency, other than the
49 the authority, authorized by law to engage in the under-
50 taking, carrying out or administration of redevelopment
51 projects, including any agency or instrumentality of
52 the United States of America, the provisions of such

53 agreements shall inure to the benefit of and may be en-
54 forced by such public body or governmental agency.

55 (b) Any sale, conveyance, lease or agreement provided
56 for in this section may be made by a public body without
57 appraisal, public notice, advertising or public bidding.

Sec. 17. *Grants of Funds by Community.*—Any com-
2 munity located in whole or in part within the area of op-
3 eration of an authority may grant funds to an authority
4 for the purpose of aiding such authority in carrying out
5 any of its powers and functions under this article. To ob-
6 tain funds for this purpose, the community may levy taxes
7 or may issue and sell its bonds. Any bonds to be issued
8 by the community pursuant to the provisions of this
9 section shall be issued in the manner and within the
10 limitations except as herein otherwise provided, pre-
11 scribed by the laws of this state for the issuance and
12 authorization of such bonds for public purposes generally.

Sec. 18. *Cooperation between Authorities.*—Any two
2 or more authorities may join or cooperate with one an-
3 other in the exercise of any or all of the powers conferred
4 hereby for the purpose of planning, undertaking or
5 financing a redevelopment project or projects located
6 within the area or areas of operation of any one or more
7 of said authorities. When a redevelopment project or
8 projects are planned, undertaken or financed on a regional
9 or unified metropolitan basis, the terms "governing
10 body" and "community" as used in this article shall mean
11 the governing bodies of the appropriate communities and
12 the appropriate communities cooperating in the planning,
13 undertaking or financing of such project or projects.

Sec. 19. *Annual Report.*—At least once a year, an au-
2 thority shall file with the mayor (or with the governing
3 body, in the case of a county) a report of its activities for
4 the preceding year, and shall make recommendations
5 with reference to such additional legislation or other
6 action as it deems necessary in order to carry out the
7 purposes of this article.

Sec. 20. *Title of Purchaser.*—Any instrument executed
2 by an authority and purporting to convey any right,

3 title or interest in any property under this article shall be
4 conclusive evidence of compliance with the provisions of
5 this article insofar as title or other interest of any bona fide
6 purchasers, lessees or transferees of such property is
7 concerned.

Sec. 21. *Separability of Provisions.*—Notwithstanding
2 any other evidence of legislative intent, it is hereby de-
3 clared to be the controlling legislative intent that if any
4 provision of this article, or the application thereof to any
5 person or circumstances, is held invalid, the remainder
6 of the article and the application of such provision to per-
7 sons or circumstances other than those as to which it is
8 held invalid, shall not be affected thereby.

Sec. 22. *Inconsistent Provisions.*—Insofar as the pro-
2 visions of this article are inconsistent with the provisions
3 of any other law, the provisions of this article shall be
4 controlling.

Sec. 23. *Additional Conferred Powers.*—The powers
2 conferred by this article shall be in addition and supple-
3 mental to the powers conferred by any other law.

CHAPTER 157

(House Bill No. 219—By Mr. McElwee)

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

[Passed February 28, 1951: in effect from passage. Approved by the Governor.]

Article 1. State Depositories.

Section

2. Bonds to be given by depositories; surety accepted thereon.

Be it enacted by the Legislature of West Virginia:

That section two, article one, chapter twelve of the code of

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

Section 2. *Bonds to Be Given by Depositories; Surety*

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

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

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

20 (b) Persons or corporations which are duly author-
21 ized to become surety for another, who are owners of
22 property situate in this state of an aggregate assessed
23 valuation as shown on the current assessment books
24 equal to the penalty of the bond plus all liens or charges
25 against such property, and all bonds so secured are here
26 designated as personal bonds. Any person or any officer
27 of any corporation becoming or offering to become surety
28 on a personal bond may be required by the board of
29 public works or the state treasurer to furnish to said
30 board under oath in writing such data and documentary
31 evidence as to the financial status of such surety as such
32 board may request. Any person who shall knowingly
33 make a false statement in the matter of supplying the in-
34 formation so requested as aforesaid shall be guilty of
35 a misdemeanor, and upon conviction thereof shall be
36 fined not less than twenty-five dollars nor more than five
37 hundred dollars, and may, at the discretion of the court,
38 be confined in the county jail for not exceeding one year;

39 (c) Collateral security consisting of bonds of the
40 United States, and its possessions, of the federal land
41 banks, of the home owners' loan corporation, of the state
42 of West Virginia or of any county, district or municipality
43 of this state or other bonds or securities approved by the
44 said board of public works. All bonds so secured are
45 here designated as collaterally secured bonds. With-
46 drawal or substitution of any collateral pledged as secur-
47 ity for the performance of the conditions of such bond
48 may be permitted with the approval in writing of the
49 treasurer of the state of West Virginia and three other
50 members of the board of public works who shall report
51 such withdrawal or substitution at the next meeting of
52 the board. All depository bonds shall be recorded by the
53 secretary of state in a book kept in his office for the pur-
54 pose, and a copy of such record, certified by him, shall
55 be prima facie evidence of the execution and contents
56 of such bond in any suit or legal proceeding. All collateral
57 securities shall be delivered to or deposited for the ac-
58 count of the treasurer of the state of West Virginia, and
59 in the event actual possession of said securities shall be
60 delivered to the treasurer, then he shall receipt therefor
61 to the owner thereof. The said treasurer and his bondsmen
62 shall be liable to any person for any loss by reason of the
63 embezzlement or misapplication of said securities by said
64 treasurer or any of his official employees, and for the loss
65 thereof due to his negligence or the negligence of any
66 of his official employees; and such securities shall be
67 delivered to the owner thereof when liability under the
68 bond which they are pledged to secure has terminated.
69 The treasurer may permit the deposit under proper re-
70 ceipt of such securities with one or more banking insti-
71 tutions within or without the state of West Virginia and
72 may contract with any such institution for safe keeping
73 and exchange of any such collateral securities, and may
74 prescribe the rules and regulations for handling and
75 protecting the same, subject to the approval of the board
76 of public works.

CHAPTER 158

(Senate Bill No. 59—By Mr. Eddy)

AN ACT to amend and reenact section eleven, article three, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the authorization and payment of claims for traveling expenses and dues to voluntary organizations.

[Passed February 8, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 3. Appropriations and Expenditures.

Section

11. Traveling expenses; audit by state board; dues to voluntary organizations.

Be it enacted by the Legislature of West Virginia:

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

Section 11. *Traveling Expenses; Audit by State Board; Dues to Voluntary Organizations.*—The board known as the state auditing board of traveling expenses shall continue as heretofore by law created. The governor, attorney general and the secretary of state shall be ex officio members of and constitute the board. The governor shall be president, and the secretary of state shall be secretary. A minute record shall be kept by the board in which shall be entered a record of all its proceedings. It shall be unlawful for the auditor to issue his warrant in payment of any claim presented by a state officer or employee for expenses incurred while traveling without the state, unless the trip is authorized and the claim is approved by the state auditing board of traveling expenses: *Provided, however,* That the auditor is authorized to issue his warrant in payment of claims of state officers or employees without the approval hereinbefore required for expenses incurred while traveling without the state where the state officer or employee is required

20 to be present in a proceeding before a court on official
21 state business. Payment for dues or membership in
22 annual or other voluntary organizations shall be made
23 from the proper item or appropriation only after an
24 itemized schedule of such organizations, together with
25 the amount of such dues or membership, has been sub-
26 mitted to the budget director and approved by the board
27 of public works. A requisition for items of such schedule
28 authorized by the board of public works for payment
29 shall be approved by the director of the budget and hon-
30 ored for payment by the state auditor. All accounts of
31 expenses incurred by state officers or employees, whether
32 traveling within or without the state, shall be verified
33 by affidavit of the person incurring the expense, shall be
34 itemized in detail, and no item shall be designated as
35 "miscellaneous," "sundry," or by any term of like gen-
36 eral nature. If the account is for traveling without the
37 state, it shall be made out in triplicate, one copy retained
38 in the office of the officer or employee incurring the ex-
39 pense, one copy filed with the state auditing board of
40 traveling expenses, and the other copy filed with the
41 auditor. If the account is for traveling within the state,
42 it shall be made out in duplicate, one copy retained in the
43 office of the officer or employee incurring the expense
44 and the other copy filed with the auditor.

45 It shall be lawful for the governing board of any state
46 institution of higher education to authorize the payment
47 of traveling expenses incurred by any person invited to
48 visit the campus of such institution to be interviewed
49 concerning his possible employment by such governing
50 board, but it shall be unlawful for the auditor to issue
51 his warrant in payment of any claim for such expenses
52 unless the state auditing board of traveling expenses
53 authorized the trip in advance and subsequently approved
54 the claim.

CHAPTER 159

(Senate Bill No. 115—By Mr. Johnston, Mr. President)

AN ACT to amend and reenact section fifteen, article one, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to enlistments in the national guard.

[Passed February 19, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 1. National Guard.

Section

15. Enlistments.

Be it enacted by the Legislature of West Virginia:

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

Section 15. *Enlistments.*—Able-bodied men of good
2 character who conform in all respects to the qualifications
3 prescribed by federal law and regulations now in force,
4 or that may hereafter become operative and applicable,
5 governing enlistment in the national guard, may be en-
6 listed in the national guard of West Virginia under the
7 same conditions and the same enlistment period as are
8 now, or may hereafter be, prescribed by federal law
9 for the national guard of the United States. By order
10 of the governor, the period of such enlistments may be
11 extended for one year beyond the normal expiration
12 date whenever the president or congress declares an
13 emergency, or whenever the president is given authority
14 under federal law to extend enlistments of other reserve
15 components, or whenever in the opinion of the governor
16 there exists such a state of emergency as to justify such
17 extension, in which case every enlisted man affected
18 thereby shall retain rank and be eligible for promotion.
19 Every enlisted man, if in active state service, may con-
20 tinue to be held for duty for a period not exceeding three
21 months after the expiration of his term of enlist-

22 ment or reenlistment, and shall retain rank and be
23 eligible to promotion until he is actually discharged.
24 When an organization is consolidated or disbanded, its
25 enlisted men discharged by reason thereof who shall
26 hereafter reenter the service shall have allowed to them
27 as part of their term of service the time already served.
28 An enlisted man may be transferred from one organiza-
29 tion to another upon such regulations as the governor
30 may prescribe.

CHAPTER 160

(Senate Bill No. 113—By Mr. Jackson, of Logan)

AN ACT to amend and reenact section one, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the superintendent of the department of public safety.

[Passed March 8, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 2. Department of Public Safety.

Section

1. Superintendent; offices.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Superintendent; Offices.*—The department
2 of public safety, heretofore established, shall be contin-
3 ued. The executive and administrative head of the de-
4 partment shall be a superintendent, who shall be
5 appointed by the governor, by and with the advice and
6 consent of the senate. The superintendent shall be en-
7 titled to all rights, benefits and privileges of regularly
8 enlisted members. The superintendent shall be, on the
9 date of his appointment, at least thirty years of age. He
10 shall receive an annual salary of seven thousand dollars.

11 to be paid as provided by law. He shall, before entering
12 upon the discharge of the duties of his office, execute a
13 bond in the penalty of ten thousand dollars, with security
14 thereon, payable to the state of West Virginia and condi-
15 tioned for the faithful performance of his duties. Such
16 bond both as to form and security shall be approved by
17 the board of public works. Before entering upon the
18 duties of his office the superintendent shall subscribe to
19 the oath hereinafter provided. This section does hereby
20 repeal all previous statutes concerning the appointment
21 of the superintendent. The board of public works shall
22 provide suitable and adequate offices at the capitol of the
23 state for the use of the department of public safety.

CHAPTER 161

(Senate Bill No. 121—By Mr. McKown)

AN ACT to amend and reenact section three, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred six, acts of the Legislature, regular session, one thousand nine hundred forty-nine, relating to the appointment of an inspector, other commissioned officers, non-commissioned officers, troopers and civilian employees; and to the forming of companies or platoons, training of members of the department of public safety and other police officers and to salaries and bonds of members.

[Passed March 5, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 2. Department of Public Safety.

Section

3. Companies and platoons and how constituted; training of members and other peace officers; salaries and bonds of members.

Be it enacted by the Legislature of West Virginia:

That section three, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred six, acts of the Legislature,

regular session, one thousand nine hundred forty-nine, be amended and reenacted to read as follows:

Section 3. *Companies and Platoons and How Constituted; Training of Members and Other Peace Officers; Salaries and Bonds of Members.*—The superintendent shall create, appoint and equip a department of public safety which shall, in addition to the personnel provided for in section two of this article, consist of four companies or platoons. Each company or platoon shall be composed of one captain, one lieutenant, one first sergeant, five sergeants, ten corporals and such number of troopers as the superintendent may decide best, but such number of troopers in any company or platoon shall not at any time be less than twenty-five nor more than sixty-five.

The superintendent shall provide adequate facilities for the training of all members of the department and shall prescribe a basic training course for newly enlisted members. He shall also provide advanced or in service training from time to time for all members of the department. The superintendent may, in his discretion, hold training classes for other peace officers in the state without cost to such officers, except actual expenses for food, lodging and school supplies.

Members of the department shall receive salaries, as follows:

The inspector shall receive an annual salary of four thousand nine hundred twenty dollars; captains shall receive an annual salary of four thousand one hundred forty dollars; lieutenants shall each receive an annual salary of three thousand eight hundred forty dollars; the master sergeants, master technical sergeants and first sergeants shall each receive an annual salary of three thousand four hundred eighty dollars; technical sergeants shall each receive an annual salary of three thousand four hundred twenty dollars; sergeants and sergeant technicians shall each receive an annual salary of three thousand three hundred dollars; corporals and corporal technicians shall each receive an annual salary of three thousand one hundred eighty dollars; and each newly enlisted trooper shall receive a salary of one hun-

40 dred seventy-five dollars during the period of his basic
41 training and upon the satisfactory completion of such
42 training and assignment to active duty each such trooper
43 shall receive, during the remainder of his first year's
44 service, a salary of two hundred twenty-five dollars
45 monthly. During the second year of his service in the
46 department each trooper shall receive an annual salary
47 of two thousand eight hundred twenty dollars; during
48 the third year of his service each trooper shall receive an
49 annual salary of two thousand nine hundred forty dol-
50 lars; and during the fourth year of his service and there-
51 after as long as he shall remain at the grade of trooper,
52 each trooper shall receive an annual salary of three thou-
53 sand sixty dollars.

54 In applying the foregoing salary schedule where sal-
55 ary increases are provided for continuous service, mem-
56 bers of the department in service at the time this article
57 becomes effective shall be given credit for prior service
58 and shall be paid such salaries as the same length of
59 service will entitle them to receive under the provisions
60 hereof.

61 Each member of the department of public safety, ex-
62 cept the superintendent and civilian employees, shall,
63 before entering upon the discharge of his duties, execute
64 a bond with security in the sum of three thousand five
65 hundred dollars payable to the state of West Virginia,
66 conditioned for the faithful performance of his duties as
67 such, and such bond shall be approved as to form by the
68 attorney general, and as to sufficiency by the board of
69 public works and the same shall be filed with the secre-
70 tary of state and preserved in his office.

CHAPTER 162

(House Bill No. 305—By Mr. Speaker, Mr. Flannery)

AN ACT to repeal chapter sixty-one, acts of the Legislature, regular session, one thousand nine hundred forty-one, as amended by chapter one hundred forty-eight, acts of the Legislature, regular session, one thousand nine hundred

forty-five, and to amend chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article five, relating to the establishment of a civil defense agency and other organizations for civil defense within this state and granting certain executive powers with respect thereto.

[Passed March 9, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 5. Civil Defense.

Section

1. Policy and purpose.
2. Definitions.
3. State civil defense agency.
4. Civil defense advisory council.
5. Civil defense powers of the governor.
6. Mobile reserve battalions.
7. Local organization for civil defense.
8. Mutual aid arrangements.
9. Immunity.
10. Appropriations and authority to accept services, gifts, grants and loans.
11. Utilization of existing services and facilities.
12. Political activity prohibited.
13. Civil defense personnel.
14. Separability.
15. Enforcement.
16. Expiration of act.

Be it enacted by the Legislature of West Virginia:

That chapter sixty-one, acts of the Legislature, regular session, one thousand nine hundred forty-one, as amended by chapter one hundred forty-eight, acts of the Legislature, regular session, one thousand nine hundred forty-five, be repealed, and that chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended, by adding thereto a new article, to be designated article five, to read as follows:

- Section 1. *Policy and Purpose.*—In view of the existing
- 2 and increasing possibility of the occurrence of disasters of
 - 3 unprecedented size and destructiveness resulting from
 - 4 enemy attack, sabotage or other hostile action, or from
 - 5 fire, flood, earthquakes, or other natural causes, and in
 - 6 order to insure that preparations of this state will be ade-

7 quate to deal with such disasters, and generally to pro-
8 vide for the common defense and to protect the public
9 peace, health, and safety, and to preserve the lives and
10 property of the people of the state, it is hereby found and
11 declared to be necessary: (1) to create a state civil de-
12 fense agency, and to authorize the creation of local or-
13 ganizations for civil defense in the political subdivisions
14 of the state; (2) to confer upon the governor and upon the
15 executive heads of governing bodies of the political sub-
16 divisions of the state the emergency powers provided here-
17 in; and (3) to provide for the rendering of mutual aid
18 among the political subdivisions of the state and with
19 other states with respect to the carrying out of civil de-
20 fense functions.

21 It is further declared to be the purpose of this article and
22 the policy of the state that all civil defense functions of
23 this state be coordinated to the maximum extent with the
24 comparable functions of the federal government including
25 its various departments and agencies, of other states and
26 localities, and of private agencies of every type, to the
27 end that the most effective preparation and use may be
28 made of the nation's manpower, resources, and facilities
29 for dealing with any disaster that may occur.

Sec. 2. *Definitions.*—As used in this article:

2 (a) "Civil defense" shall mean the preparation for and
3 the carrying out of all emergency functions, other than
4 functions for which military forces are primarily respon-
5 sible, to minimize and repair injury and damage result-
6 ing from disasters caused by enemy attack, sabotage or
7 other hostile action, or by fire, flood, earthquake, or other
8 natural causes. These functions include, without limita-
9 tion, fire fighting services, police services, medical and
10 health services, rescue, engineering, air raid warning serv-
11 ices, communications, radiological, chemical and other
12 special weapons defense, evacuation of persons from strick-
13 en areas, emergency welfare services, emergency trans-
14 portation, existing or property assigned functions of plant
15 protection, temporary restoration of public utility serv-
16 ices, and other functions related to civilian protection, to-
17 gether with all other activities necessary or incidental to

18 the preparation for and carrying out of the foregoing func-
19 tions.

20 (b) "Local organization for civil defense" shall mean
21 an organization created in accordance with the provisions
22 of this article by state or local authority to perform local
23 civil defense functions.

24 (c) "Mobile reserve battalion" shall mean an organiza-
25 tion for civil defense created in accordance with the pro-
26 visions of this article by state or local authority to be dis-
27 patched by the governor to supplement local organizations
28 for civil defense in a stricken area.

29 (d) "Political subdivision" shall mean any county or
30 municipal corporation.

Sec. 3. *State Civil Defense Agency.*—There is hereby
2 created within the executive branch of the state govern-
3 ment a department of civil defense, hereinafter called the
4 civil defense agency, and a director of civil defense, here-
5 inafter called the director, who shall be the head thereof.
6 The director shall be appointed by the governor, with the
7 advice and consent of the Senate, to serve during the
8 pleasure of the governor.

9 The director may employ such technical, clerical, steno-
10 graphic and other personnel and fix their compensation,
11 and may make such expenditures within the appropria-
12 tion therefor, or from other funds made available to him
13 for the purpose of civil defense, as may be necessary to
14 carry out the purposes of this article.

15 The director and other personnel of the civil defense
16 agency shall be provided with appropriate office space,
17 furniture, equipment, supplies, stationery and printing in
18 the same manner as provided for personnel of other state
19 agencies.

20 The director, subject to the direction and control of the
21 governor, shall be the executive head of the civil defense
22 agency and shall be responsible to the governor for car-
23 rying out the program for civil defense of this state. He
24 shall coordinate the activities of all organizations for civil
25 defense within the state, and shall maintain liaison with
26 and cooperate with civil defense agencies and organiza-
27 tions of other states and of the federal government, and

28 shall have such additional authority, duties, and respon-
29 sibilities authorized by this article as may be prescribed
30 by the governor.

Sec. 4. *Civil Defense Advisory Council.*—There is hereby
2 created a civil defense advisory council, hereinafter called
3 the council, which shall consist of seven members to be
4 appointed by the governor. The council shall advise the
5 governor and the director on all matters pertaining to
6 civil defense. The governor shall serve as chairman of
7 the council, and the members thereof shall serve without
8 compensation, but shall be reimbursed for the reasonable
9 and necessary expenses incurred in the performance of
10 their duties.

Sec. 5. *Civil Defense Powers of the Governor.*—The
2 governor shall have general direction and control of the
3 civil defense agency, and shall be responsible for the
4 carrying out of the provisions of this article, and in the
5 event of disaster beyond local control, may assume direct
6 operational control over all or any part of the civil defense
7 functions within this state.

8 In performing his duties under this article, the governor
9 is authorized to cooperate with the federal government,
10 with other states, and with private agencies in all matters
11 pertaining to the civil defense of this state and of the
12 nation.

13 In performing his duties under this article, the governor
14 is further authorized and empowered:

15 (1) To make, amend, and rescind the necessary orders,
16 rules and regulations to carry out the provisions of this
17 article within the limits of the authority conferred upon
18 him herein, with due consideration of the plans of the
19 federal government.

20 (2) To prepare a comprehensive plan and program for
21 the civil defense of this state, such plan and program to
22 be integrated into and coordinated with the civil defense
23 plans of the federal government and of other states to
24 the fullest possible extent, and to coordinate the prepara-
25 tion of plans and programs for civil defense by the po-
26 litical subdivisions of this state, such plans to be in-
27 tegrated into and coordinated with the civil defense plan

28 and program of this state to the fullest possible extent.

29 (3) In accordance with such plan and program for
30 the civil defense of this state, to procure supplies and
31 equipment, to institute training programs and public in-
32 formation programs, and to take all other preparatory
33 steps including the partial or full mobilization of civil de-
34 fense organizations in advance of actual disaster, to in-
35 sure the furnishing of adequately trained and equipped
36 forces of civil defense personnel in time of need.

37 (4) To make such studies and surveys of the indus-
38 tries, resources, and facilities in this state as may be neces-
39 sary to ascertain the capabilities of the state for civil de-
40 fense, and to plan for the most efficient emergency use
41 thereof.

42 (5) On behalf of this state, to enter into mutual aid ar-
43 rangements with other states and to coordinate mutual aid
44 plans between political subdivisions of this state.

45 (6) To delegate any administrative authority vested
46 in him under this article, and to provide for the subdelega-
47 tion of any such authority.

48 (7) To appoint, in cooperation with local authorities,
49 metropolitan area directors when practicable.

Sec. 6. *Mobile Reserve Battalions.*—The governor or his
2 duly designated representative is authorized to create
3 and establish such number of mobile reserve battalions
4 as may be necessary to reinforce civil defense organiza-
5 tions in stricken areas and with due consideration of the
6 plans of the federal government and of other states. He
7 shall appoint a commander for each such battalion who
8 shall have primary responsibility for the organization,
9 administration and operation of such battalion. Mobile
10 reserve battalions shall be called to duty upon orders of
11 the governor and shall perform their functions in any part
12 of the state, or, upon the conditions specified in this sec-
13 tion, in other states.

14 Personnel of mobile reserve battalions while on duty,
15 whether within or without the state, shall: (1) if they are
16 employees of the state, have the powers, duties, rights,
17 privileges and immunities and receive the compensation
18 incidental to their employment; (2) if they are employees
19 of a political subdivision of the state, and whether serving

20 within or without such political subdivision, have the
21 powers, duties, rights, privileges and immunities and re-
22 ceive the compensation incidental to their employment;
23 and (3) if they are not employees of the state or a
24 political subdivision thereof, be entitled to compensation
25 by the state at the same rate as is paid members of the
26 national guard and to the same rights and immunities
27 as are provided by law for the employees of this state.
28 All personnel of mobile reserve battalions shall, while
29 on duty, be subject to the operational control of the au-
30 thority in charge of civil defense activities in the area in
31 which they are serving, and shall be reimbursed for all
32 actual and necessary travel and subsistence expenses.

33 The state shall reimburse a political subdivision for the
34 compensation paid and actual and necessary travel, sub-
35 sistence and maintenance expenses of employees of such
36 political subdivision while serving as members of a mobile
37 reserve battalion, and for all payments for death, dis-
38 ability or injury of such employees incurred in the course
39 of such duty, and for all losses of or damage to supplies
40 and equipment of such political subdivision resulting from
41 the operation of such mobile reserve battalion.

42 Whenever a mobile reserve battalion of another state
43 shall render aid in this state pursuant to the orders of
44 the governor of its home state and upon the request of
45 the governor of this state, this state shall reimburse such
46 other state for the compensation paid and actual and neces-
47 sary travel, subsistence and maintenance expenses of the
48 personnel of such mobile reserve battalion while render-
49 ing such aid, and for all payments for death, disability
50 or injury of such personnel incurred in the course of
51 rendering such aid, and for all losses of or damage to
52 supplies and equipment of such other state or a political
53 subdivision thereof resulting from the rendering of such
54 aid, if the laws of such other state contain provisions sub-
55 stantially similar to this section.

56 No personnel of mobile reserve battalions of this state
57 shall be ordered by the governor to operate in any other
58 state unless the laws of such other state contain provisions
59 substantially similar to this section.

Sec. 7. Local Organization for Civil Defense.—Each po-

2 litical subdivision of this state is hereby authorized and
3 directed to establish a local organization for civil defense
4 in accordance with the state civil defense plan and pro-
5 gram. Each local organization for civil defense shall
6 have a director who shall be appointed by the local
7 civil defense council, and who shall have direct re-
8 sponsibility for the organization, administration and
9 operation of such local organization for civil defense,
10 subject to the direction and control of such local civil
11 defense council. Each local organization for civil de-
12 fense shall perform civil defense functions within the
13 territorial limits of the political subdivision within
14 which it is organized, and, in addition, shall conduct
15 such functions outside of such territorial limits as may
16 be required pursuant to the provisions of section eight of
17 this article.

18 In carrying out the provisions of this article each politi-
19 cal subdivision, in which any disaster as described in sec-
20 tion one hereof occurs, shall have the power to enter into
21 contracts and incur obligations necessary to combat such
22 disaster, protecting the health and safety of persons and
23 property, and providing emergency assistance to the vic-
24 tims of such disaster. Each political subdivision is author-
25 ized to exercise the powers vested under this section in
26 the light of the exigencies of the extreme emergency
27 situation without regard to time-consuming procedures
28 and formalities prescribed by law, (excepting mandatory
29 constitutional requirements), pertaining to the perform-
30 ance of public work, entering into contracts, the incurring
31 of obligations, the employment of temporary workers, the
32 rental of equipment, the purchase of supplies and mate-
33 rials, the levying of taxes, and the appropriation and ex-
34 penditure of public funds.

Sec. 8. *Mutual Aid Arrangements.*—The director of
2 each local organization for civil defense may, in collabor-
3 ating with other public and private agencies within this
4 state, develop or cause to be developed mutual aid ar-
5 rangements for reciprocal civil defense aid and assistance
6 in case of disaster too great to be dealt with unassisted.
7 Such arrangements shall be consistent with the state civil
8 defense plan and program, and in time of emergency it

9 shall be the duty of each local organization for civil de-
10 fense to render assistance in accordance with the pro-
11 visions of such mutual aid arrangements.

12 The director of each local organization for civil defense
13 may, subject to the approval of the governor, enter into
14 mutual aid arrangements with civil defense agencies or
15 organizations in other states for reciprocal civil defense
16 aid and assistance in case of disaster too great to be dealt
17 with unassisted.

Sec. 9. *Immunity.*—Neither the state nor any political
2 subdivision thereof, nor other agencies, nor, except in
3 cases of willful misconduct, the agents, employees, or
4 representatives of any of them, engaged in any civil de-
5 fense activities, while complying with or attempting to
6 comply with this article or any rule or regulation promul-
7 gated pursuant to the provisions of this article, shall be
8 liable for the death of or any injury to persons, or damage
9 to property, as a result of such activity. The provisions of
10 this section shall not affect the right of any person to
11 receive benefits to which he would otherwise be entitled
12 under this article, or under the workmen's compensation
13 law, or under any pension law, nor the right of any such
14 person to receive any benefits or compensation under any
15 act of congress.

Sec. 10. *Appropriations and Authority to Accept Serv-*
2 *ices, Gifts, Grants and Loans.*—Each political subdivision
3 shall have the power to make appropriations in the man-
4 ner provided by law for making appropriations for the
5 ordinary expenses of such political subdivision for the
6 payment of expenses of its local organization for civil
7 defense.

8 Whenever the federal government or any agency or
9 officer thereof shall offer to the state, or through the state
10 to any political subdivision thereof, services, equipment,
11 supplies, materials, or funds by way of gift, grant or loan,
12 for purposes of civil defense, the state, acting through the
13 governor, or such political subdivision, acting with the
14 consent of the governor and through its executive officer
15 or governing body, may accept such offer and upon such
16 acceptance the governor of the state or executive officer

17 or governing body of such political subdivision may au-
18 thorize any officer of the state or of the political sub-
19 division, as the case may be, to receive such services,
20 equipment, supplies, materials, or funds on behalf of the
21 state or such political subdivision, and subject to the
22 terms of the offer and the rules and regulations, if any,
23 of the agency making the offer.

24 Whenever any person, firm or corporation shall offer to
25 the state or to any political subdivision thereof, services,
26 equipment, supplies, materials, or funds by way of gift,
27 grant or loan, for purposes of civil defense, the state,
28 acting through the governor, or such political subdivision,
29 acting through its executive officer or governing body,
30 may accept such offer and upon such acceptance the gov-
31 ernor of the state or executive officer or governing body
32 of such political subdivision may authorize any officer of
33 the state or of the political subdivision, as the case may
34 be, to receive such services, equipment, supplies, mate-
35 rials, or funds on behalf of the state or such political sub-
36 division, and subject to the terms of the offer.

Sec. 11. *Utilization of Existing Services and Facilities.*—

2 In carrying out the provisions of this article, the governor
3 and the executive officers or governing bodies of the
4 political subdivisions of the state are directed to utilize
5 the services, equipment, supplies and facilities of existing
6 departments, offices, and agencies of the state and of the
7 political subdivisions thereof to the maximum extent prac-
8 ticable, and the officers and personnel of all such depart-
9 ments, offices, and agencies are directed to cooperate with
10 and extend such services and facilities to the governor
11 and to the civil defense organizations of the state upon
12 request.

Sec. 12. *Political Activity Prohibited.*—No organization
2 for civil defense established under the authority of this
3 article shall participate in any form of political activity,
4 nor shall it be employed directly or indirectly for political
5 purposes.

Sec. 13. *Civil Defense Personnel.*—No person shall be
2 employed or associated in any capacity in any civil de-
3 fense organization established under this article who ad-

4 vocates or has advocated a change by force or violence in
5 the constitutional form of the government of the United
6 States or in this state or the overthrow of any govern--
7 ment in the United States by force or violence, or who has
8 been convicted of or is under indictment or information
9 charging any subversive act against the United States.
10 Each person who is appointed to serve in an organization
11 for civil defense shall, before entering upon his duties,
12 take an oath, in writing, before a person authorized to ad-
13 minister oaths in this state, which oath shall be substan-
14 tially as follows:

15 "I _____, do solemnly swear,
16 or affirm, that I will support and defend the constitution
17 of the United States and the constitution of the state of
18 West Virginia, against all enemies, foreign and domestic;
19 that I will bear true faith and allegiance to the same; that
20 I take this obligation freely, without any mental reserva-
21 tion or purpose of evasion; and that I will well and faith-
22 fully discharge the duties upon which I am about to enter.

23 "And I do further swear, or affirm, that I do not ad-
24 vocate, nor am I a member of any political party or or-
25 ganization that advocates the overthrow of the govern-
26 ment of the United States or of this state by force or
27 violence; and that during such time as I am a member of
28 the_____ (name of organization)_____, I will not advocate
29 nor become a member of any political party or organiza-
30 tion that advocates the overthrow of the government of
31 the United States or of this state by force or violence."

Sec. 14. *Separability.*—If any provision of this article or
2 the application thereof to any person or circumstance is
3 held invalid, such invalidity shall not affect other pro-
4 visions or applications of the article which can be given
5 effect without the invalid provision or application, and to
6 this end the provisions of this article are declared to be
7 severable.

Sec. 15. *Enforcement.*—It shall be the duty of every
2 organization for civil defense established pursuant to this
3 article and of the officers thereof to execute and enforce
4 such orders, rules and regulations as may be made by the
5 governor under authority of this article. Each such or-

6 ganization shall have available for inspection at its office
7 all orders, rules and regulations made by the governor, or
8 under his authority.

Sec. 16. *Expiration of Act.*—This act shall expire two
2 years from date of passage, unless the Legislature at its
3 next regular session, shall provide otherwise.

CHAPTER 163

(Senate Bill No. 233—By Mr. Byrd)

AN ACT to amend and reenact section eleven, article one, chapter thirty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the recordation of writings and plats and papers annexed, index and interlineations, and providing that chattel deeds of trust may be filed and not recorded in a well-bound book.

[Passed March 9, 1951; in effect ninety days from passage. Approved by the Governor.]

Article I. Authentication and Record of Writings.

Section

11. Recordation of writings and plats and papers annexed; index; interlineations.

Be it enacted by the Legislature of West Virginia:

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

Section 11. *Recordation of Writings and Plats and Papers Annexed; Index; Interlineations.*—Every writing, except chattel deeds of trust, authorized by law to be recorded, when admitted to record, shall, with all certificates of acknowledgment, and all plats, schedules and other papers thereto annexed or thereon indorsed, be recorded by, or under the direction of, the clerk of the county court, in a well-bound book, to be carefully preserved; and there shall be an index to such book as well in the name of the grantee as of the grantor. After be-

11 ing so recorded, such writing may be delivered to the
12 party entitled to claim under the same. If there appear
13 upon such writing, or any paper or certificate annexed
14 thereto, any interlineation, erasure or alteration, of which
15 no memorandum is contained in the writing, paper or
16 certificate, the clerk shall append to the record thereof
17 a memorandum describing as accurately as may be such
18 interlineation, erasure or alteration; and such memo-
19 randum shall be copied into every such writing, paper
20 or certificate. Every such memorandum shall be prima
21 facie evidence of what is therein stated: *Provided, how-*
22 *ever,* That the clerk of the county court may refuse to
23 accept for recordation any printed instrument printed in
24 whole or in part in smaller than ten point type with at
25 least two points separating each line. Any failure of such
26 instrument to be so accepted by the clerk of the county
27 court shall not affect the validity thereof as to the parties
28 thereto: *Provided further,* That any such instrument shall
29 be accepted by the clerk for recordation at two times the
30 legal fee therefor.

31 The clerk of the county court shall record chattel deeds
32 of trust in a well-bound book, when the principal amount
33 secured is in excess of two thousand dollars and the index
34 kept in his office shall give the names of the grantors,
35 beneficiary of the lien, date and hour of recording, book
36 and page number in which recorded, amount or principal
37 sum, and brief description of property conveyed: *Pro-*
38 *vided further,* That any chattel deed of trust, in which the
39 principal amount secured is two thousand dollars or
40 less, may at the discretion of the clerk be filed instead of
41 recorded, the index shall be the same as provided for re-
42 corded chattel deeds of trust, except that the same shall
43 indicate a filing number instead of a book and page num-
44 ber; provided that any such chattel deed of trust that has
45 been recorded in a well-bound book shall be returned to
46 the beneficiary named therein: *Provided further,* That
47 any such chattel deed of trust that is filed by the clerk
48 shall be retained by said clerk in a proper file kept in his
49 office: *Provided further,* That any chattel deed of trust
50 may after the lapse of a ten year period from the last
51 payment date provided therein be removed from the files

52 in the office of the clerk of the county court and at his
53 discretion be either destroyed or returned to the benefi-
54 ciary named therein. Interlineations, erasures or altera-
55 tions appearing in chattel deeds of trust or copies thereof
56 shall be dealt with the same as provided for other instru-
57 ments covered by this act.

CHAPTER 164

(Senate Bill No. 227—By Mr. Mitchell)

AN ACT to amend article one, chapter thirty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be designated section eleven-a, relating to the recordation of writings and plats, maps and papers annexed photographically.

[Passed March 5, 1951: in effect ninety days from passage. Approved by the Governor.]

Article 1. Authentication and Record of Writings.

Section

11-a. Recordation of writings and plats, maps and papers annexed photographically.

Be it enacted by the Legislature of West Virginia:

That article one, chapter thirty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section to be designated section eleven-a to read as follows:

Section 11-a. *Recordation of Writings and Plats, Maps and Papers Annexed Photographically.*—It shall be legal and effective in all respects to photographically record writings, plats and maps and the papers thereto annexed as if such writings, plats and maps and papers thereto annexed had been recorded by handwriting, or by the use of a typewriter, or by any other means useful for the purpose.

CHAPTER 165

(Senate Bill No. 296—By Mr. Mitchell)

AN ACT to amend and reenact sections one and three, article two, chapter one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to apportionment of representation as to senatorial and congressional districts.

[Passed March 10, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 2. Apportionment of Representation.

Section

1. Senatorial districts.
3. Congressional districts.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Senatorial Districts.*—The state shall consist of sixteen senatorial districts as follows:

2 The counties of Brooke, Hancock and Ohio shall constitute the first senatorial district;

3 The counties of Doddridge, Marshall, Tyler and Wetzel shall constitute the second senatorial district;

4 The counties of Calhoun, Pleasants, Ritchie, Wirt and Wood shall constitute the third senatorial district;

5 The counties of Clay, Jackson, Mason, Putnam and Roane shall constitute the fourth senatorial district;

6 The counties of Cabell and Wayne shall constitute the fifth senatorial district;

7 The counties of McDowell and Mingo shall constitute the sixth senatorial district;

8 The counties of Boone, Lincoln and Logan shall constitute the seventh senatorial district;

9 The county of Kanawha shall constitute the eighth senatorial district;

20 The counties of Raleigh and Wyoming shall constitute
21 the ninth senatorial district;

22 The counties of Mercer, Monroe and Summers shall
23 constitute the tenth senatorial district;

24 The counties of Fayette and Greenbrier shall con-
25 stitute the eleventh senatorial district;

26 The counties of Braxton, Nicholas, Pendleton, Poca-
27 hontas, Randolph and Webster shall constitute the
28 twelfth senatorial district;

29 The counties of Gilmer, Harrison and Lewis shall con-
30 stitute the thirteenth senatorial district;

31 The counties of Marion and Monongalia shall consti-
32 tute the fourteenth senatorial district;

33 The counties of Barbour, Grant, Preston, Taylor,
34 Tucker and Upshur shall constitute the fifteenth sena-
35 torial district; and

36 The counties of Berkeley, Hampshire, Hardy, Jefferson,
37 Mineral and Morgan shall constitute the sixteenth sena-
38 torial district.

39 Each of the said districts shall have two senators, and,
40 regardless of the changes in district lines made by this
41 act, the senators elected at the general election of one
42 thousand nine hundred forty-eight and at the general
43 election of one thousand nine hundred fifty shall continue
44 to hold their seats as members of the senate for the term,
45 and as representatives of the senatorial districts, for
46 which each thereof, respectively, was elected.

47 One senator shall be nominated and elected at the
48 general election of one thousand nine hundred fifty-two
49 from each of the senatorial districts herein above de-
50 scribed for a term of four years, and one shall be nomi-
51 nated and elected from each of the said senatorial dis-
52 tricts biennially thereafter for a term of four years.

Sec. 3. *Congressional Districts.*—The number of mem-
2 bers to which the state is entitled in the house of rep-
3 resentatives of the congress of the United States shall be
4 apportioned among the several counties of the state,
5 arranged into six congressional districts, numbered as fol-
6 lows, that is to say:

7 First District: Brooke, Hancock, Marion, Marshall,
8 Ohio, Taylor and Wetzel.

- 9 Second District: Barbour, Berkeley, Grant, Hampshire,
10 Hardy, Jefferson, Mineral, Monongalia, Morgan, Pendle-
11 ton, Pocahontas, Preston, Randolph, Tucker and Webster.
12 Third District: Braxton, Calhoun, Clay, Doddridge,
13 Fayette, Gilmer, Harrison, Lewis, Nicholas, Ritchie, Up-
14 shur and Wirt.
15 Fourth District: Cabell, Jackson, Lincoln, Mason,
16 Pleasants, Putnam, Roane, Tyler, Wayne and Wood.
17 Fifth District: Greenbrier, Mercer, Mingo, Monroe,
18 McDowell, Summers and Wyoming.
19 Sixth District: Boone, Kanawha, Logan and Raleigh.
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CHAPTER 166

(House Bill No. 30—By Mr. Blankenship)

AN ACT to amend and reenact section two, article two, chapter one of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter fifty-three, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, relating to apportionment of membership of the House of Delegates.

[Passed March 10, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 2. Apportionment of Representation.

Section

2. Apportionment of membership of House of Delegates.

Be it enacted by the Legislature of West Virginia:

That section two, article two, chapter one of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter fifty-three, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

- Section 2. *Apportionment of Membership of House of Delegates.*—The house of delegates shall consist of one
3 hundred members, who shall be apportioned as follows:

- 4 The counties of Barbour, Berkeley, Boone, Braxton,
5 Brooke, Calhoun, Clay, Doddridge, Gilmer, Grant, Hamp-
6 shire, Hancock, Hardy, Jackson, Jefferson, Lewis, Lincoln,
7 Mason, Mineral, Monroe, Morgan, Nicholas, Pendleton,
8 Pleasants, Pocahontas, Preston, Putnam, Randolph, Rit-
9 chie, Roane, Summers, Taylor, Tucker, Tyler, Upshur,
10 Webster, Wetzel, and Wirt shall have one delegate each.
11 The counties of Greenbrier, Marshall, Mingo, Wayne,
12 and Wyoming shall have two delegates each.
13 The counties of Marion, Mercer, Monongalia, Ohio,
14 and Wood shall have three delegates each.
15 The counties of Fayette, Harrison, Logan, and Raleigh
16 shall have four delegates each.
17 The counties of Cabell and McDowell shall have five
18 delegates each.
19 The county of Kanawha shall have eleven delegates.

CHAPTER 167

(House Bill No. 193—By Mr. Davis)

AN ACT to amend and reenact section nine, article two-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new subsection to be known as subsection nineteen, giving to the state road commission authority to acquire, establish, construct and maintain roadside recreational areas.

[Passed February 15, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 2-a. State Road Commission.

Section

9. Additional sole powers of commissioner.

Be it enacted by the Legislature of West Virginia:

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

Section 9. *Additional Sole Powers of Commissioner.*—

- 2 The commissioner, in addition to the other powers
3 granted by this chapter shall have the sole authority to:
- 4 (1) Exercise general supervision over the state road
5 program and the construction and maintenance of the
6 state roads;
 - 7 (2) Make rules and regulations for the government
8 of his department;
 - 9 (3) Sign and execute, in the name of "The State Road
10 Commission" any contract or agreement with the fed-
11 eral government or its departments, subdivisions of the
12 state, corporations, associations, copartnerships and in-
13 dividuals;
 - 14 (4) Supervise the fiscal affairs and responsibilities of
15 the department;
 - 16 (5) Make a general road or highway plan of the state
17 and compile and publish information relative to mileage,
18 character and condition of the roads;
 - 19 (6) Determine the various methods of road construc-
20 tion best adapted to the various sections of the state and
21 establish standards for the construction and mainten-
22 ance of roads and highways;
 - 23 (7) Conduct investigations and experiments, hold
24 public meetings and attend meetings and conventions
25 inside or outside of the state as may, in his judgment,
26 tend to promote better highway construction;
 - 27 (8) Cooperate with state and national organizations
28 in experiments and work for the advancement of high-
29 way construction;
 - 30 (9) Enter private lands to make surveys and inspec-
31 tions for road purposes;
 - 32 (10) Acquire land necessary for roads and road main-
33 tenance;
 - 34 (11) Procure photostatic copies of any or all public rec-
35 ords on file at the state capitol of Virginia which the
36 commissioner may deem necessary or proper in ascer-
37 taining the location of rights-of-way of public roads lo-
38 cated or established in what is now the state of West
39 Virginia. A copy of such photostatic copies so made,
40 when certified by the commissioner, may be admitted as

41 evidence in lieu of the original in any of the courts in
42 this state;

43 (12) Administer the motor vehicle law of this state as
44 provided for in section twelve, article two-a, chapter
45 seventeen of this code;

46 (13) Keep a complete and accurate record of all pro-
47 ceedings, record and file all bonds and contracts taken
48 or entered into, and assume responsibility for the custody
49 and preservation of all papers and documents pertaining
50 to his office. Rules and regulations shall be recorded in
51 a book especially kept for that purpose, and may be in
52 his discretion published for general circulation. All other
53 records and entries necessary to show the official con-
54 duct of the department shall be preserved and shall be
55 public records and open for inspection during business
56 hours;

57 (14) Purchase as provided by law all equipment nec-
58 essary to the conduct of his department. Dispose of any
59 equipment either by public or private sale when such
60 equipment can no longer be used to advantage. The pro-
61 ceeds of such sale shall be paid to the state treasurer and
62 credited to the state road fund;

63 (15) Conduct hearings as provided by this chapter;

64 (16) Report to the governor each year all information
65 relative to the operation of the department and the con-
66 struction and maintenance of the state roads. Make such
67 other reports and recommendations as may be required
68 by the governor or which in his judgment would be bene-
69 ficial to the general public; and

70 (17) Exercise any other power that may be necessary
71 or proper for the orderly conduct of his business and the
72 effective discharge of his duties. Invoke any legal or
73 equitable remedies for the enforcement of his orders or
74 the provisions of this department.

75 (18) As a member of the West Virginia board of
76 aeronautics, exercise general supervision of construction
77 and maintenance of such airports and landing fields as
78 are under the jurisdiction of said board, and make a study
79 and general plan of a statewide system of airports and
80 landing fields.

81 (19) Acquire, establish, construct, maintain and op-
82 erate adjacent to state highways roadside recreational
83 areas.

CHAPTER 168

(House Bill No. 488—By Mr. Parker and Mr. Earley)

AN ACT to amend article seventeen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting sections twenty-two and twenty-three thereof, relating to toll bridges so as to provide for the collection and disposition of tolls for the use of the existing Parkersburg-Belpre bridge and the new Parkersburg-Belpre bridge to be constructed near the existing bridge.

[Passed March 7, 1951; in effect from passage. Approved by the Governor.]

Article 17. Toll Bridges.

Section

22. Tolls to be charged; intrastate and interstate bridges; purchase of existing bridges; disposition of tolls.
23. When tolls to cease.

Be it enacted by the Legislature of West Virginia:

That article seventeen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting sections twenty-two and twenty-three thereof, to read as follows:

- Section 22. *Tolls to Be Charged; Intrastate and Interstate Bridges; Purchase of Existing Bridges; Disposition of Tolls.*—Tolls shall be fixed, charged and collected for transit over such bridges and shall be so fixed and adjusted, in respect of the aggregate of tolls from the bridge or bridges for which a single issue of bonds is issued, as to provide a fund sufficient to pay the principal and interest of such issue of bonds and to provide an additional fund to pay the cost of maintaining, repairing and oper-

10 ating such bridge or bridges, subject, however, to any
11 applicable law or regulation of the United States of
12 America now in force or hereafter to be enacted or made.
13 Two or more bridges may be included in one issue of
14 bonds, and intrastate and interstate bridges may be group-
15 ed in the same issue: *Provided*, That no existing bridge
16 or bridges shall be acquired by purchase, eminent do-
17 main, or otherwise, unless the state road commissioner
18 shall have determined that the income therefrom, based
19 upon the toll receipts for the next preceding fiscal or
20 calendar year, will be sufficient to pay all expenses of
21 operating and maintaining such bridge, in addition to the
22 interest and sinking fund requirements of the bonds to
23 be issued to pay the purchase price thereof. The tolls
24 from the bridge or bridges for which a single issue of
25 bonds is issued, except such part thereof as may be neces-
26 sary to pay such cost of maintaining, repairing and oper-
27 ating during any period in which such cost is not other-
28 wise provided for (during which period the tolls may be
29 reduced accordingly), shall be transmitted each month
30 to the state sinking fund commission and by it placed in
31 a special fund which is hereby pledged to and charged
32 with the payment of the principal of such bonds and the
33 interest thereon, and to the redemption or repurchase
34 of such bonds, such special fund to be a fund for all such
35 bonds without distinction or priority of one over another.
36 The moneys in such special fund, less a reserve for pay-
37 ment of interest, if not used by the sinking fund commis-
38 sion within a reasonable time for the purchase of bonds
39 for cancellation at a price not exceeding the market price
40 and not exceeding the redemption price, shall be applied
41 to the redemption of bonds by lot at the redemption price
42 then applicable: *Provided, however*, That tolls for the
43 use of the existing Parkersburg-Belpre bridge crossing
44 the Ohio river from Parkersburg, West Virginia, to Bel-
45 pre, Ohio, as a part of United States route fifty may be
46 charged upon the construction and opening to traffic of
47 the new bridge also crossing the Ohio river from Park-
48 ersburg, West Virginia, to Belpre, Ohio, near the site of
49 said existing bridge, said new bridge also to be a part of
50 United States route fifty, the tolls on both said bridges

51 to commence on the day said new bridge is opened to
52 traffic, said tolls on both said bridges to be so fixed and
53 adjusted, in respect to the aggregate of tolls from both
54 said bridges, as to provide a fund sufficient to pay the
55 principal and interest of the issue of bonds for said new
56 bridge and to provide an additional fund to pay the cost
57 of maintaining, repairing and operating said new bridge
58 and of operating said existing bridge. The tolls from both
59 said bridges, except such part thereof as may be neces-
60 sary to pay such cost of maintaining, repairing and oper-
61 ating said new bridge and of operating said existing
62 bridge, shall be transmitted each month to the state sink-
63 ing fund commission and by it placed in a special fund
64 which is hereby pledged to and charged with the payment
65 of the principal of the bonds to be issued for said new
66 bridge and the interest thereon, and to the redemption
67 or repurchase of such bonds, in the same manner as here-
68 inbefore in this section provided for the redemption of
69 bonds for other toll bridges: *Provided*, That this para-
70 graph as well as the provision in section twenty-three fol-
71 lowing, in reference thereto, is expressly limited to the
72 Parkersburg-Belpre bridges and shall have no application
73 to any other bridge or bridges.

74 Any bridge or bridges constructed under the provisions
75 hereof and forming a connecting link between two or
76 more state highways, or providing a river crossing for a
77 state highway, are hereby adopted as a part of the state
78 road system, but no such bridge or bridges shall be con-
79 structed without the approval in writing of the state road
80 commissioner and the governor. If there be in the funds
81 of the state sinking fund commission an amount insuffi-
82 cient to pay the interest and sinking fund on any bonds
83 issued for the purpose of constructing such bridge or
84 bridges, the state road commission is authorized and di-
85 rected to allocate to said commission, from the state road
86 fund, an amount sufficient to pay the interest on said bonds
87 and/or the principal thereof, as either may become due
88 and payable.

2 *Sec. 23. When Tolls to Cease.*—When the particular
bonds issued for any bridge or bridges and the interest

3 thereon shall have been paid, or a sufficient amount shall
4 have been provided for their payment and shall continue
5 to be held for that purpose, tolls for the use of such bridge
6 or bridges shall cease except for the cost of maintaining,
7 repairing and operating such bridge or bridges: *Provided,*
8 *however,* That tolls may be charged for the use of the
9 existing Parkersburg-Belpre bridge in the manner pro-
10 vided in section twenty-two of this article, said tolls
11 to commence on the day the new Parkersburg-Belpre
12 bridge is opened to traffic and said tolls to cease upon
13 the payment of the bonds issued for said new Parkersburg-
14 Belpre bridge and the interest thereon or upon the pro-
15 viding of a sufficient amount for the payment of said
16 bonds and interest. Thereafter and as long as the cost of
17 maintaining, repairing and operating said bridge or
18 bridges shall be provided for through means other than
19 tolls, no tolls shall be charged for transit thereover and
20 such bridge or bridges shall be free.

CHAPTER 169

(Senate Bill No. 309—By Mr. Bean)

AN ACT to amend and reenact section fourteen, article twenty-two, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to signs erected by West Virginia firms, persons and corporations advertising natural scenic caverns located in this state.

[Passed March 10, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 22. Outdoor Advertising.

Section

14. Certain advertisements excepted.

Be it enacted by the Legislature of West Virginia:

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

Section 14. *Certain Advertisements Excepted.*—The following advertisements, advertising signs and the advertising structures, or parts thereof, upon which they are posted or displayed, are excepted from all the provisions of this article, except those contained in subsections (b), (c) and (d) of section nine hereof:

(a) Those constructed, erected, operated, used or maintained by the owner or lessee of a place of business or residence on land belonging to said owner or lessee and not more than two hundred fifty feet from such place of business or residence, and relating solely to merchandise, services or entertainment sold, produced, manufactured or furnished at such place of business or residence;

(b) Those constructed, erected, operated, used, or maintained on any farm by the owner or lessee of such farm and relating solely to farm produce, merchandise, services or entertainment sold, produced, manufactured or furnished on such farm;

(c) Those upon real property posted or displayed by the owner, or by the authority of the owner, stating that real property is for sale or rent;

(d) Official notices or advertisements posted or displayed by or under the direction of any public or court officer in the performance of his official or directed duties, or by trustees under deeds of trust, deeds of assignment or other similar instruments;

(e) Danger or precautionary signs relating to the premises on which they are, or signs warning of the conditions of or dangers of travel on a highway, erected or authorized by the commissioner; or forest fire warning signs erected under authority of the state conservation department and signs, notices or symbols erected by the United States government under the direction of the United States forestry service;

(f) Signs relating solely to any city, town, village or historic place or shrine;

(g) Notices of any railroad, bridge, ferry or other transportation or transmission company necessary for the direction or safety of the public;

(h) Signs, notices or symbols for the information of

42 aviators as to location, direction and landings and con-
43 ditions affecting safety in aviation erected or authorized
44 by the commissioner;

45 (i) Advertisements, advertising signs and advertising
46 structures not visible from any highway or other public
47 place;

48 (j) Signs or notices containing two square feet or
49 less, placed at a junction of two or more roads in the
50 state highway system denoting only the distance or
51 direction of a residence or place of business;

52 (k) Signs or notices erected or maintained upon prop-
53 erty giving the name of the owner, lessee or occupant
54 of the premises;

55 (l) Advertisements, advertising signs and advertising
56 structures within the corporate limits of cities and towns;

57 (m) Historical markers erected by duly constituted
58 and authorized public authorities;

59 (n) Highway markers and signs erected or caused to
60 be erected, by the commissioner or the state road com-
61 mission;

62 (o) Signs erected upon property warning the public
63 against hunting, fishing or trespassing thereon;

64 (p) Signs erected by Red Cross authorities relating to
65 Red Cross emergency stations;

66 (q) Signs painted on a barn, stable, or other perma-
67 nent farm building which is at least one hundred feet
68 from the center line of any highway;

69 (r) Signs erected by West Virginia firms, persons or
70 corporations advertising natural scenic caverns located
71 in this state.

CHAPTER 170

(House Bill No. 250—By Mr. Maloney)

AN ACT to establish the Crozet Superhighway across West Virginia, and to authorize the West Virginia turnpike commission to secure the preliminary surveys, and the advance engineering to determine the practicality and

exact location of a proposed east-west turnpike, said proposed turnpike to be the West Virginia part of the proposed federal Crozet Superhighway.

[Passed March 9, 1951; in effect ninety days from passage. Approved by the Governor.]

Crozet Superhighway.

Section

1. Crozet superhighway established.
2. West Virginia turnpike commission authorized to secure preliminary work on West Virginia section of proposed Crozet superhighway.

WHEREAS, A bill has been introduced before the Congress of the United States proposing the construction of the transcontinental Crozet Superhighway, to extend, in part, over improved United States highway numbered three hundred forty to Harpers Ferry, West Virginia (or, as an alternate route from Baltimore to Harpers Ferry, over United States highway numbered one to Washington, District of Columbia; thence over United States highway numbered fifty to the West Virginia Superhighway, a toll road);

Thence via Elkins and Charleston to Huntington, West Virginia, on the Ohio River, to further the national defense, to improve the facilities for transcontinental motor transportation, and to promote the public safety; and

WHEREAS, The federal bill provides,

Sec. 10. The States through which the Crozet Superhighway passes may use their present highways, if adequate; otherwise such states may build adequate freeways or superhighways, using state funds, under state toll-road laws where such laws are in existence.

Sec. 11. The commission shall not construct any section of the Crozet Superhighway unless the state through which it passes refuses to construct such section, or does not have the funds to construct such section, or does not have a suitable toll-road law under which it can construct such section.

Sec. 12. So far as practicable, each of the newly constructed sections or relocated sections of the Crozet Superhighway shall be constructed on a right-of-way approximately four hundred

and fifty feet in width, making a four-lane divided highway with ample parking space for each division of dual lane. At intervals near intersections, the right-of-way may be widened to three thousand feet or more if necessary to provide space for service centers, which shall consist of gasoline service stations, repair shops, restaurants, tourist camps, and other recreational and service facilities. Such right-of-way shall be made to conform to the already established toll or freeways where they are used, regardless of their present width, which may be increased if necessary.

Sec. 13. In the event that it is necessary for the commission to construct any section of the Crozet Superhighway, the commission, is hereby authorized to provide for the cost of such construction by selling revenue bonds without recourse against the federal government. The commission is authorized to levy and collect toll charges from any section which it builds. Such toll charges shall be fixed by the commission at a rate which, together with income derived by the commission from other sources, will provide income sufficient to (1) pay all expenses incident to the operation and maintenance of the superhighway system it builds, (2) pay all interest on the revenue bonds of the commission for the cost of the construction of such section, and (3) contribute to the reserve fund to enable the commission to retire its bonds on or before maturity. This provision may be invoked by the commission only where a state through which the Crozet Superhighway passes does not establish a turnpike commission to perform such construction.

Sec. 14. All contracts for the construction of the Crozet Superhighway and the facilities appurtenant thereto, and for the operation of private businesses at the service centers, shall be awarded by the commission on a competitive basis, except in the case of purchases under five hundred dollars.

Sec. 15. Any toll road constructed by the commission shall revert to the state through which it passes when it has been completely paid for and the state has indicated its willingness to take over, maintain, and operate it.

Sec. 16. The Government of the United States hereby reserves the right in case of war or national emergency declared by Congress to take possession of all or any part of the super-

highway system built under this act for the purpose of transporting troops, military supplies, equipment, and implements of war, but if this right is exercised by the United States it shall pay fair and reasonable compensation for damage suffered by any person who is injured thereby.

Sec. 17. It is the purpose of this act to encourage the development of a transcontinental superhighway to be designated by a route number and known as the Crozet Superhighway. No federal funds shall be expended under this act except in the form of direct grants to offset the benefit to the national defense. The federal government, through the commission with the assistance of the Bureau of Public Roads, shall supervise the construction of any section of the Crozet Superhighway where the state through which it passes does not have a proper toll-road law or will not perform such construction. The commission shall provide for the cost of any section built by it by the sale of revenue bonds without recourse or liability against the federal government; and

WHEREAS, West Virginia should rightfully bear its share of expense of the proposed Crozet Superhighway; and

WHEREAS, A major east-west highway has long been needed in this state along the proposed route hereinabove described; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. *Crozet Superhighway Established.*—There is
2 hereby established the Crozet Superhighway, to extend
3 across the state on existing or proposed routes, as the
4 state road commission may designate, from near the town
5 of Harpers Ferry on the east passing near Elkins, Sutton
6 and Charleston to near Huntington on the west, such
7 superhighway to become a part of the transcontinental
8 Crozet Superhighway if and when established by
9 Congress.

Sec. 2. *West Virginia Turnpike Commission. Authorized to Secure Preliminary Work on West Virginia Section of Proposed Crozet Superhighway.*—The West Virginia turnpike commission is hereby authorized to expend
2 such of its funds as may be necessary to obtain the pre-
3 liminary surveys and advance engineering which shall
4
5
6

7 determine the practicality of constructing, as part of the
8 proposed transcontinental Crozet Superhighway, a four
9 lane divided highway along the West Virginia sections of
10 the route and according to the general specifications de-
11 scribed in the recitals hereinabove, either as a toll road or
12 as a freeway, as may in the course of events seem advis-
13 able, and which shall determine the exact suitable loca-
14 tion of said highway if it be deemed practical to construct.

CHAPTER 171

(House Bill No. 96—By Mr. Speaker, Mr. Flannery)

AN ACT to amend and reenact section one, chapter one hundred twenty-one, acts of the Legislature, regular session, one thousand nine hundred forty-nine, relating to the sale and issuance of road bonds of the state of West Virginia, under and by virtue of the "fifty million dollar bond issue for roads amendment" to the constitution adopted at the general election held in November, one thousand nine hundred forty-eight.

[Passed February 8, 1951; in effect from passage. Approved by the Governor.]

Secondary Road Bonds.

Section

1. Road bonds; amount thereof and authority to issue.

Be it enacted by the Legislature of West Virginia:

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

- Section 1. *Road Bonds; Amount Thereof and Authority to Issue.*—The remainder of the fifty million dollar issue of secondary road bonds of the state of West Virginia, provided for by the fifty million dollar bond issue for roads amendment to the constitution, adopted at the general election held in November, one thousand nine hundred forty-eight, not yet sold, are hereby authorized to

8 be issued and sold for the purpose of raising funds for
 9 the building and construction, or for assisting in the build-
 10 ing and construction, of a system of state secondary roads
 11 and highways.

CHAPTER 172

(Senate Bill No. 263—By Mr. Johnston, Mr. President)

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 and maintenance 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 such bonds and the principal thereof within twenty-five years.

[Passed March 5, 1951; in effect from passage. Approved by the Governor.]

Road Bonds.

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.*—

- 2 Bonds of the state of West Virginia of the par value of

3 ten million dollars are hereby authorized to be issued
4 and sold for the purpose of raising funds for assisting in
5 building, constructing and maintaining the system of
6 roads and highways provided for by the constitution.
7 Such bonds may be issued by the governor in such
8 amounts, in coupon or registered form, in such denomina-
9 tions, at such times and bearing such date or dates as the
10 governor may determine, and shall become due and paya-
11 ble serially in equal amounts beginning one year and
12 ending twenty-five years from the date thereof: *Provided,*
13 *however,* That no bonds may be issued under the provi-
14 sions of this act until bonds authorized and issued under
15 the provisions of the "Good Roads Amendment" to the
16 constitution of the state, ratified at the general election
17 held in November, one thousand nine hundred twenty,
18 have been retired and canceled out of the state road
19 sinking fund created by section six, chapter one hundred
20 thirteen, acts of the Legislature of West Virginia, one
21 thousand nine hundred twenty-one, in an amount equal
22 to or greater than the amount to be issued hereunder at
23 any one time.

2 *Sec. 2. Transfer Fee; Registration Fee; Where Paya-*
3 *ble; Interest Rate; Tax Exempt.*—The auditor and the
4 treasurer are hereby authorized to arrange for the trans-
5 fer of registered bonds, and for each such transfer a fee
6 of fifty cents shall be charged by and paid to the state
7 of West Virginia, to the credit of the state road sinking
8 fund. Bonds taken in exchange shall be canceled by the
9 auditor and treasurer and be carefully preserved by the
10 treasurer. The treasurer shall make provisions for regis-
11 tering "payable to bearer" bonds, and for each bond regis-
12 tered a fee of fifty cents shall likewise be charged by and
13 paid to the state of West Virginia, to the credit of the
14 state road sinking fund. All of such bonds shall be payable
15 at the office of the treasurer of the state of West Virginia,
16 or, at the option of the holder, at some bank in the city of
17 New York to be designated by the governor. The bonds
18 shall bear interest at a rate not exceeding four and one-
19 half per cent per annum, payable semi-annually, on the
20 first day of, and the first day of,
of each year, to bearer, at the office of the treasurer of

21 the state of West Virginia, at the capitol of the state, or
 22 at the bank designated by the governor, upon presenta-
 23 tion and surrender of interest coupons, then due, in the
 24 case of coupon bonds. In the case of registered bonds the
 25 treasurer of the state of West Virginia shall issue his
 26 check for the interest then due on the first day of _____,
 27 and _____ of each year, and mail it to the registered
 28 owner at his address as shown by the record of registra-
 29 tion. Both the principal and interest of the bonds shall
 30 be payable in lawful money of the United States of
 31 America and the bonds shall be exempt from taxation by
 32 the state of West Virginia, or by any county, district, or
 33 municipality thereof, which facts shall appear on the
 34 face of the bonds as part of the contract with the holder
 35 thereof.

Sec. 3. *Form of Bond.*—The bonds and coupons shall
 2 be engraved and the bonds shall be signed on behalf of
 3 the state of West Virginia, by the treasurer thereof, under
 4 the great seal of the state, and countersigned by the audi-
 5 tor of the state, and shall be in the following form or to
 6 the following effect, as nearly as may be, namely:

7 COUPON ROAD BOND

8 (Or registered road bond, as the case may be)

9 OF THE

10 STATE OF WEST VIRGINIA

11 \$ _____ No. _____

12 The state of West Virginia, under and by virtue of
 13 authority of an act of the Legislature passed at the
 14 regular session of one thousand nine hundred fifty-one,
 15 on the _____ day of _____, one thousand nine hun-
 16 dred fifty-one, and approved by the governor on the
 17 _____ day of _____, one thousand nine hundred
 18 fifty-one, which is hereby made a part hereof as fully as
 19 if set forth at length herein, acknowledges itself to be
 20 indebted to, and hereby promises to pay to the bearer
 21 hereof (in the case of a coupon bond) or to _____
 22 or assigns (the owner of record, in case of registered
 23 bonds) on the _____ day of _____, 19_____, in lawful
 24 money of the United States of America at the office of
 25 the treasurer of the state of West Virginia at the capitol

26 of said state, or at the option of the holder at _____
 27 bank in the city of New York, the sum of _____ dollars,
 28 with interest thereon at _____ per centum per annum
 29 from date, payable semi-annually in like lawful money of
 30 the United States of America at the treasurer's office or
 31 bank aforesaid, on the first day of _____ and the
 32 first day of _____ of each year, (and in the case
 33 of coupon bonds) according to the tenor of the annexed
 34 coupons bearing the engraved facsimile signature of the
 35 treasurer of the state of West Virginia, upon surrender
 36 of such coupons. This bond (in case of a coupon bond)
 37 may be exchanged for a registered bond of like tenor
 38 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
 43 limits prescribed by the constitution, the board of public
 44 works of the state of West Virginia shall annually cause
 45 to be levied and collected an annual state tax on all
 46 property in the state, until this bond is fully paid, suffi-
 47 cient to pay the annual interest on this bond and the
 48 principal sum thereof within the time this bond becomes
 49 due and payable.

50 This bond is hereby made exempt from any taxation
 51 by the state of West Virginia, or by any county, district,
 52 or municipal corporation thereof.

53 In testimony whereof, witness the signature of the
 54 treasurer of the state of West Virginia, and the counter-
 55 signature of the auditor of the state, hereto affixed ac-
 56 cording to law, dated the _____ day of _____, one
 57 thousand nine hundred _____, and the seal of the
 58 state of West Virginia.

59 (Seal)

60 _____
 61 Treasurer of the State of West Virginia

62 Countersigned:

63 _____
 64 Auditor of the State of West Virginia

Sec. 4. *Form of Coupon.*—The form of coupon shall

2 be 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
6 West Virginia will pay to the bearer, in lawful money of
7 the United States of America, at the office of the treasurer
8 of the state, or at the option of the holder at
9 bank in the city of New York, the sum
10 of dollars, the same being semi-annual
11 interest on Road Bond No.

12
13 Treasurer of the State of West Virginia

14 The signature of the treasurer to such coupon shall be
15 by his engraved facsimile signature and the coupons shall
16 be numbered in the order of their maturity, from number
17 one consecutively. The bonds and coupons may be signed
18 by the present treasurer and auditor, or by any of their
19 respective successors in office, and bonds signed by the
20 persons now in office may be sold by the governor or his
21 successor in office without being signed by the successor
22 in office of the present treasurer or auditor.

Sec. 5. *Listing by Auditor.*—All coupon and registered
2 bonds issued under this act shall be separately listed by
3 the auditor of the state in books provided for the purpose,
4 in each case giving the date, number, character and
5 amount of obligations issued, and in case of registered
6 bonds, the name and post office address of the person, firm
7 or corporation registered as the owner thereof.

Sec. 6. *State Road Sinking Fund Sources Used to*
2 *Pay Bonds and Interest; Investment of Remainder.*—Into
3 the state road sinking fund there shall be paid all moneys
4 received from the annual state tax levy on the taxable
5 property in the state levied under the provisions of this
6 act, from any and all appropriations made by the state
7 from other sources for the purpose of paying the interest
8 on such bonds or paying off and retiring the bonds, from
9 fines, forfeitures and penalties, if any, made applicable
10 by law for the payment of such bonds or the interest
11 thereon, from transfer fees as herein provided, and from
12 any source whatsoever, which is made liable by law for

13 the payment of the principal of such bonds or the interest
14 thereon.

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

19 Such fund shall be applied by the treasurer of the state
20 first to the payment of the semi-annual interest on such
21 bonds as it shall become due as herein provided. The re-
22 mainder of the fund shall be turned over by the state
23 treasurer to the state sinking fund commission, whose
24 duty it shall be to invest the same in bonds of the gov-
25 ernment of the United States, bonds of the state of West
26 Virginia, or any political subdivision thereof: *Provided,*
27 *however,* That bonds so purchased by the state sinking
28 fund commission shall mature so as to provide sufficient
29 money to pay off all bonds herein provided to be issued as
30 they become due; and the money so paid into the state
31 road sinking fund under the provisions of this act shall
32 be expended for the purpose of paying the interest and
33 principal of the bonds hereby provided for as they sev-
34 erally become due and payable and for no other purpose
35 except that the fund may be invested until needed, as
36 herein provided.

Sec. 7. *Tax Levy to Pay, Unless Other Funds Avail-*
2 *able.*—In order to provide the revenue necessary for the
3 payment of the principal and interest of such bonds, as
4 hereinbefore provided, the board of public works, within
5 the limits prescribed by the constitution, is authorized,
6 empowered and directed to lay annually a tax upon all
7 real and personal property subject to taxation within
8 this state, sufficient to pay interest on the bonds accruing
9 during the current year and one twenty-fifth of the total
10 issue (at par value) of such bonds, for such number of
11 years, not exceeding twenty-five, as may be necessary to
12 pay the interest thereon and to pay off the principal sum
13 of the bonds; and such taxes, when so collected, shall not
14 be liable for or applicable to any other purpose: *Provided,*
15 *however,* That if there be other funds in the state
16 treasury, or in the state road funds, in any fiscal year, not

17 otherwise appropriated, or if other sources of revenue
18 be hereafter provided by law for the purpose, the board
19 of public works is authorized, empowered and directed
20 to set apart, in any year there be such funds, or other
21 sources of revenue provided for such purpose, a sum
22 sufficient to pay the interest on bonds accruing during the
23 current year, and to pay off, and retire the principal of
24 such bonds, or any part thereof, at maturity.

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

Sec. 8. *Sale by Governor; Minimum Price.*—The gov-
2 ernor shall sell the bonds herein mentioned at such time
3 or times as he may determine necessary to provide funds
4 for road construction and maintenance purposes, as
5 herein provided, upon recommendation of the state road
6 commission. All sales shall be at not less than par and
7 accrued interest. All interest coupons becoming payable
8 prior to the sale date shall be canceled by the treasurer
9 and rendered ineffective, before the delivery of the bonds
10 so sold.

Sec. 9. *Proceeds Paid Into State Road Fund.*—The pro-
2 ceeds of all sales of bonds herein authorized shall be paid
3 into the state road fund created by section one, article
4 three, chapter seventeen of the code of West Virginia, one
5 thousand nine hundred thirty-one, as last amended.

Sec. 10. *Plates Property of State.*—The plates from
2 which the bonds authorized by this act are engraved shall
3 be the property of the state of West Virginia.

Sec. 11. *Auditor to Be Custodian of Unsold Bonds.*—
2 The state auditor shall be the custodian of all unsold
3 bonds issued pursuant to the provisions of this act.

Sec. 12. *Interim Certificates.*—The governor may au-
2 thorize the issuance of interim certificates to be issued to
3 the purchasers of such bonds to be held by them in lieu
4 of engraved bonds. When interim certificates are so
5 issued, they shall become full and legal obligations of the
6 state of West Virginia under all of the provisions of this

7 act just as fully and completely as the engraved and per-
8 manent bonds.

2 Sec. 13. *Payment of Expenses.*—All necessary ex-
3 penses incurred in the execution of this act shall be paid
4 out of the state road fund on warrants of the auditor of
the state drawn on the state treasurer.

CHAPTER 173

(Senate Bill No. 293—By Mr. Bean)

AN ACT to amend and reenact section two-a, article one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred twenty-nine, acts of the legislature, regular session, one thousand nine hundred thirty-nine, relating to refunds of taxes erroneously collected.

[Passed March 10, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 1. Supervision.

Section

2-a. Refund of taxes erroneously collected.

Be it enacted by the Legislature of West Virginia:

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

Section 2-a. *Refund of Taxes Erroneously Collected.*—

2 On and after the effective date of this act, any taxpayer
3 claiming to be aggrieved through being required to pay
4 any tax into the treasury of this state, may, within three
5 years from the date of such payment, and not after, file
6 with the official or department through which the tax was
7 paid, a petition in writing to have refunded to him any

8 such tax, or any part thereof, the payment whereof is
9 claimed by him to have been required unlawfully; and
10 if, on such petition, and the proofs filed in support thereof,
11 the official collecting the same shall be of the opinion that
12 the payment of the tax collected, or any part thereof was
13 improperly required, he shall refund the same to the
14 taxpayer by the issuance of his or its requisition on the
15 treasury upon which the auditor shall issue his warrant
16 as hereinafter provided; if the official collecting the same
17 shall be in doubt as to whether or not such taxes were un-
18 lawfully paid, or if he be of the opinion that the payment
19 of the tax collected, or any part thereof, was lawful, and
20 the taxpayer within thirty days after notice of such
21 opinion is not satisfied with the ruling of such official,
22 then such tax official may, on his own initiative, and
23 shall, upon written notice so to do from the taxpayer given
24 within said thirty-day period, promptly institute against
25 said taxpayer, in a court of competent jurisdiction, a
26 declaratory judgment proceeding to ascertain whether
27 any such tax, or part thereof, has been unlawfully col-
28 lected; if it be determined in such proceeding that any
29 such tax, or part thereof was unlawfully collected, then
30 such official shall promptly refund the same to the tax-
31 payer by the issuance of his or its requisition on the
32 treasury; and the auditor shall issue his warrant on the
33 treasurer for any refund requisitioned under this section,
34 payable to the taxpayer entitled to the refund, and the
35 treasurer shall pay such warrant out of the fund into
36 which the amount so refunded was originally paid: *Pro-*
37 *vided, however,* That no refund shall be made at any
38 time on any claim involving the assessed valuation or
39 appraisement of the property which was fixed at the
40 time the tax was originally paid: *And provided further,*
41 That such official shall be under no duty to institute any
42 such declaratory judgment proceeding unless it shall
43 appear that the taxpayer giving the notice as herein pro-
44 vided is acting in good faith and that there is a substantial
45 question as to the lawfulness of the collection of such tax.

CHAPTER 174

(Com. Sub. for House Bill No. 293—Originating in the House Committee on Counties, Districts and Municipalities)

AN ACT to amend and reenact sections five through five- (fifty-six), article two, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to the annual salary of assessors.

[Passed March 10, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 2. Assessors.

Section

5. Annual salary of assessors.

5-(1) to 5-(55). Salaries of assessors in the various counties of the state.

5-(56). Additional compensation; salaries paid out of county fund.

Be it enacted by the Legislature of West Virginia:

That sections five through five- (fifty-six), 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 5. *Annual Salary of Assessors.*—The annual salary of the assessor in each county shall, on and after January one, one thousand nine hundred fifty-three, be in the amounts set forth in sections five- (one) to five- (fifty-five) inclusive, of this article.

Sec. 5- (1). *Barbour County.*—For the county of Barbour, two thousand four hundred dollars.

Sec. 5- (2). *Berkeley County.*—For the county of Berkeley, two thousand eight hundred dollars.

Sec. 5- (3). *Boone County.*—For the county of Boone, three thousand six hundred dollars.

Sec. 5- (4). *Braxton County.*—For the county of Braxton, two thousand three hundred dollars.

Sec. 5- (5). *Brooke County.*—For the county of Brooke, three thousand two hundred dollars.

2 Sec. 5-(6). *Cabell County*.—For the county of Cabell,
2 four thousand dollars.

2 Sec. 5-(7). *Calhoun County*.—For the county of Cal-
2 houn, one thousand two hundred dollars.

2 Sec. 5-(8). *Clay County*.—For the county of Clay, one
2 thousand seven hundred dollars.

2 Sec. 5-(9). *Doddridge County*.—For the county of Dod-
2 dridge, one thousand eight hundred dollars.

2 Sec 5-(10). *Fayette County*.—For the county of Fay-
2 ette, not less than four thousand two hundred dollars
3 nor more than four thousand eight hundred dollars, to
4 be fixed by the county court.

2 Sec. 5-(11). *Gilmer County*.—For the county of Gilmer,
2 one thousand eight hundred dollars.

2 Sec. 5-(12). *Grant County*.—For the county of Grant,
2 one thousand eight hundred dollars.

2 Sec. 5-(13). *Greenbrier County*.—For the county of
2 Greenbrier, two thousand five hundred dollars.

2 Sec. 5-(14). *Hampshire County*.—For the county of
2 Hampshire, one thousand eight hundred dollars.

2 Sec. 5-(15). *Hancock County*.—For the county of Han-
2 cock, four thousand dollars.

2 Sec. 5-(16). *Hardy County*.—For the county of Hardy,
2 two thousand dollars.

2 Sec. 5-(17). *Harrison County*.—For the county of Har-
2 rison, five thousand dollars.

2 Sec. 5-(18). *Jackson County*.—For the county of Jack-
2 son, one thousand eight hundred dollars.

2 Sec. 5-(19). *Jefferson County*.—For the county of Jef-
2 ferson, three thousand dollars.

2 Sec. 5-(20). *Kanawha County*.—For the county of
2 Kanawha, six thousand dollars.

2 Sec. 5-(21). *Lewis County*.—For the county of Lewis,
2 two thousand six hundred dollars.

2 Sec. 5-(22). *Lincoln County*.—For the county of Lin-
2 coln, three thousand two hundred dollars.

2 Sec. 5-(23). *Logan County*.—For the county of Logan,
2 four thousand dollars.

2 Sec. 5-(24). *Marion County*.—For the county of Marion,
2 four thousand two hundred dollars.

2 Sec. 5-(25). *Marshall County*.—For the county of Mar-
2 shall, three thousand dollars.

2 Sec. 5-(26). *Mason County*.—For the county of Mason,
2 two thousand five hundred dollars.

2 Sec. 5-(27). *McDowell County*.—For the county of Mc-
2 Dowell, three thousand nine hundred dollars.

2 Sec. 5-(28). *Mercer County*.—For the county of Mercer,
2 four thousand eight hundred dollars.

2 Sec. 5-(29). *Mineral County*.—For the county of Min-
2 eral, three thousand two hundred dollars.

2 Sec. 5-(30). *Mingo County*.—For the county of Mingo,
2 four thousand eight hundred dollars.

2 Sec. 5-(31). *Monongalia County*.—For the county of
2 Monongalia, three thousand two hundred dollars.

2 Sec. 5-(32). *Monroe County*.—For the county of Mon-
2 roe, one thousand five hundred dollars.

2 Sec. 5-(33). *Morgan County*.—For the county of Mor-
2 gan, not less than one thousand dollars nor more than
3 one thousand eight hundred dollars, to be fixed by the
4 county court.

2 Sec. 5-(34). *Nicholas County*.—For the county of Nich-
2 olas, two thousand eight hundred dollars.

2 Sec. 5-(35). *Ohio County*.—For the county of Ohio,
2 four thousand two hundred dollars.

2 Sec. 5-(36). *Pendleton County*.—For the county of
2 Pendleton, one thousand six hundred dollars.

2 Sec. 5-(37). *Pleasants County*.—For the county of
2 Pleasants, one thousand eight hundred dollars.

2 Sec. 5-(38). *Pocahontas County*.—For the county of
2 Pocahontas, one thousand eight hundred dollars.

2 Sec. 5-(39). *Preston County*.—For the county of Pres-
2 ton, two thousand eight hundred dollars.

2 Sec. 5-(40). *Putnam County*.—For the county of Put-
2 nam, two thousand four hundred dollars.

2 Sec. 5-(41). *Raleigh County*.—For the county of Raleigh,
2 four thousand eight hundred dollars.

2 Sec. 5-(42). *Randolph County*.—For the county of
2 Randolph, three thousand four hundred dollars.

2 Sec. 5-(43). *Ritchie County*.—For the county of Ritchie,
2 two thousand dollars.

2 Sec. 5-(44). *Roane County*.—For the county of Roane,
2 two thousand two hundred dollars.

2 Sec. 5-(45). *Summers County*.—For the county of Sum-
2 mers, two thousand two hundred dollars.

2 Sec. 5-(46). *Taylor County*.—For the county of Taylor,
2 two thousand eight hundred dollars.

2 Sec. 5-(47). *Tucker County*.—For the county of Tucker,
2 two thousand four hundred dollars.

2 Sec. 5-(48). *Tyler County*.—For the county of Tyler,
2 two thousand four hundred dollars.

2 Sec. 5-(49). *Upshur County*.—For the county of Up-
2 shur, two thousand two hundred dollars.

2 Sec. 5-(50). *Wayne County*.—For the county of Wayne,
2 three thousand six hundred dollars.

2 Sec. 5-(51). *Webster County*.—For the county of Web-
2 ster, two thousand dollars.

2 Sec. 5-(52). *Wetzel County*.—For the county of Wetzel,
2 two thousand six hundred dollars.

2 Sec. 5-(53). *Wirt County*.—For the county of Wirt, one
2 thousand eight hundred dollars.

2 Sec. 5-(54). *Wood County*.—For the county of Wood,
2 three thousand six hundred dollars.

Sec. 5-(55). *Wyoming County*.—For the county of
2 Wyoming, four thousand five hundred dollars.

Sec. 5-(56). *Additional Compensation; Salaries paid*
2 *out of County Fund*.—In addition to the above salary
3 each assessor shall receive a commission of ten per cent
4 on all state school, road and municipal capitation taxes
5 collected by him. The salaries of assessors and their
6 deputies, assistants and employees shall be paid out of
7 the county fund at the time and in the manner now pro-
8 vided by law for paying other county officers.

CHAPTER 175

(Senate Bill No. 305—By Mr. Martin)

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, relating to appeals from valuations by the board of public works.

(Passed March 10, 1951; in effect ninety days from passage. Approved by the Governor.)

Article 6. Assessment of Public Service Corporations.

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, be amended and reenacted to read as follows:

Section 12. *Appeal from Valuation by Board*.—Any
2 owner or operator claiming to be aggrieved by any such
3 decision may, within the time aforesaid, apply by petition
4 in writing, duly verified, to the circuit court of the county
5 in which the property so assessed is situated, or if such
6 property be situated in more than one county then in the
7 county in which the largest assessment of such owner or

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

44 If the court to which an application for appeal would
45 properly be made as aforesaid shall not be in session, the
46 judge thereof in vacation, shall forthwith allow the ap-
47 peal, and if the judge thereof be disqualified or for any
48 reason not be available, the filing of the aforesaid petition

49 in the office of the clerk of the circuit court of the county
50 in which the largest assessment of such owner or operator
51 was made in the preceding year, within the time aforesaid
52 shall constitute sufficient compliance with this section,
53 and the appeal shall thereafter be proceeded with as
54 otherwise provided in this section.

CHAPTER 176

(Senate Bill No. 144—By Mr. Love)

AN ACT to amend and reenact sections six-c, article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to tax levies by county boards of education under the tax limitation amendment and the school bond amendment.

[Passed February 13, 1951; in effect from passage. Approved by the Governor.]

Article 8. Levies.

Section

6-c. Maximum levies on each classification by county boards of education; order of levy; exceeding levy for school bond issues.

Be it enacted by the Legislature of West Virginia:

That section six-c, article eight, 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 6-c. *Maximum Levies on Each Classification by County Boards of Education; Order of Levy; Exceeding Levy for School Bond Issues.*—County boards of education are hereby authorized to lay not in excess of the following maximum levies, for the purposes specified and in the following order:

- (1) With respect to a magisterial, independent or other school district existing in a county prior to May twenty-second, one thousand nine hundred thirty-three, or any special taxing district for which the board of education is required to lay the levy, for the payment of (a) interest and sinking fund requirements for bonded in-

13 indebtedness incurred prior to the adoption of the tax lim-
14 itation amendment; and to the extent not so required;
15 (b) other legally incurred contractual indebtedness not
16 bonded, if any, incurred prior to the adoption of the tax
17 limitation amendment, as follows: On class I property,
18 thirty-five one-hundredths of one cent; on class II prop-
19 erty, seven-tenths of one cent; and on classes III and IV
20 property, one and four-tenths cents.

21 (2) For either or both of (a) the permanent improve-
22 ment fund and (b) the payment of interest and sinking
23 fund requirements for bonded indebtedness incurred
24 subsequent to the adoption of the tax limitation amend-
25 ment, as follows: On class I property, one and five-tenths
26 cents; on class II property, three cents; and on classes III
27 and IV property, six cents.

28 (3) For the general current expenses of schools, as
29 follows: On class I property, twenty-one and one-tenth
30 cents; on class II property, forty-two and two-tenths
31 cents; and on classes III and IV property, eighty-four and
32 four-tenths cents. But if the tax commissioner has ap-
33 proved the levy of an additional amount for the general
34 current expenses of the county as authorized by section
35 six-b, subsection three, the amount of the levy authorized
36 for boards of education by this subsection shall be reduced
37 by the tax commissioner to that extent.

38 If the rates of levy under (2) above are not required
39 in whole or in part for the purposes for which they are
40 allocated by this section, the county board of education
41 may, with the prior written approval of the state board
42 of school finance, created by section three, article nine-b,
43 chapter eighteen of the code, as amended, lay such rates
44 of levy or portion thereof not so required, for the general
45 current expenses of schools: *Provided, however,* That a
46 county board of education shall be required to levy out-
47 side the levy rates hereinabove provided sufficient to pay
48 the principal and interest requirements on bonds here-
49 after issued by any school district not exceeding in the
50 aggregate three per centum of the assessed value of all
51 taxable property in the county school district, to be ascer-
52 tained by the last assessment for state and county taxes,
53 previous to the incurring of such indebtedness, in the

54 manner provided by the "School Bond Amendment," as
55 ratified.

CHAPTER 177

(Com. Sub. for Senate Bill No. 6—Originating in the Senate Committee on
the Judiciary)

AN ACT to amend and reenact section four, article eleven,
chapter eleven of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to
inheritance and transfer taxes.

[Passed March 5, 1951; in effect 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, be amended and reenacted to read as follows:

- Section 4. *Exemptions.*—(a) All property transferred
2 to the state or to any county, school district, or municipal
3 corporation thereof for public purposes shall be exempt
4 from taxation under this article.
- 5 (b) No transfer of one hundred dollars or less shall
6 be taxable under this article. For this purpose all
7 transfers from a decedent to the same transferee shall
8 be treated as a unit.
- 9 (c) In computing the tax upon property transferred
10 to a widow or a widower of a deceased person, an ex-
11emption of fifteen thousand dollars shall be allowed.
- 12 (d) In computing the tax upon property transferred
13 to the father, mother, child or stepchild of the decedent
14 there shall be allowed an exemption of five thousand dol-
15 lars; from property transferred to a grandchild of the de-
16 cedent there shall be allowed an exemption of twenty-
17 five hundred dollars.

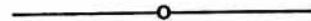
18 (e) There shall be exempt from taxation under this
19 article all property transferred to a person or corporation,
20 foreign or domestic, in trust or for use solely for educa-
21 tional, literary, scientific, religious or charitable pur-
22 poses: *Provided, however,* That the property so trans-
23 ferred for the purposes herein mentioned and the rentals,
24 profits, and proceeds thereof, are used exclusively in this
25 state, or for the sole benefit of persons domiciled in this
26 state, whether used within or without said state, and
27 provided that such use or uses for the purposes aforesaid
28 shall be evidenced by:

29 (1) Specific provision of a will or other instrument of
30 transfer requiring such use for such purposes; or

31 (2) Transfer to an institution, association, or orga-
32 nized group of persons, corporate or otherwise, or for
33 their use, and whose purposes and activities are devoted
34 exclusively to one or more of the purposes aforesaid; or

35 (3) An agreement with the tax commissioner, satis-
36 factory to him, executed by the trustee or other fiduciary,
37 or beneficiary named in any will or writing that all of the
38 property, rentals, profits, and proceeds received by it un-
39 der the will or other instrument of transfer for one or more
40 of the purposes aforesaid, will be used exclusively for the
41 use and benefit of persons domiciled within the state, or
42 exclusively within this state.

43 This amendment shall apply to all future devises, be-
44 quests, and gifts for such purposes, and shall be retroac-
45 tive and apply to all past devises, bequests, and gifts for
46 such purposes, wherein final payment of transfer or in-
47 heritance taxes has not been made to the state of West
48 Virginia.



CHAPTER 178

(House Bill No. 50—By Mr. Davis)

AN ACT to amend and reenact section twenty-three, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating

to license for private banker or money broker and exceptions thereto.

[Passed February 16, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 12. License Taxes.

Section

23. Private banker or money broker.

Be it enacted by the Legislature of West Virginia:

That section twenty-three, 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 23. *Private Banker or Money Broker.*—The annual license fee to carry on the business of money broker or private banker, shall be twenty-five dollars. The term “money broker” or “private banker” shall include every person, other than a national banking association and all institutions under the jurisdiction of the state banking department, that lends money on real or personal security, discounts paper, cashes time slips or scrip, or engages in any business of a similar or like character.

3

CHAPTER 179

(Senate Bill No. 210—By Mr. Bean and Mr. Stemple)

AN ACT to amend and reenact section two-b, article thirteen, chapter eleven, of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to business and occupation tax with reference to manufactured or compounded products.

[Passed March 6, 1951; in effect ninety days from passage. Became a law without the approval of the Governor.]

Article 13. Business and Occupation Tax.

Section

2-b. Manufactured or compounded products; processing of poultry and turkeys not considered as manufacturing or compounding.

Be it enacted by the Legislature of West Virginia:

That section two-b, article thirteen, 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 2-b. *Manufactured or Compounded Products; Processing of Poultry and Turkeys not Considered as Manufacturing or Compounding.*—Upon every person engaging or continuing within this state in the business of manufacturing, compounding, or preparing for sale, profit, or commercial use, either directly or through the activity of others in whole or part, any article or articles, substance or substances, commodity or commodities, or electric power not produced by public utilities taxable under other provisions of this article, the amount of the tax to be equal to the value of the article, substance, commodities or electric power manufactured, compounded or prepared for sale, as shown by the gross proceeds derived from the sale thereof by the manufacturer or person compounding or preparing the same except as herein-after provided, multiplied by a rate of three-tenths of one per cent. The measure of this tax is the value of the entire product manufactured, compounded, or prepared in this state for sale, profit or commercial use, regardless of the place of sale or the fact that deliveries may be made to points outside the state. However, the dressing and processing of poultry and turkeys by a person, firm or corporation, which poultry and turkeys are to be sold on a wholesale basis by such person, firm or corporation shall not be considered as manufacturing or compounding, but the sale of these products, on a wholesale basis shall be subject to the same tax as is imposed on wholesalers or jobbers as provided in section two-c of this article.

CHAPTER 180

(Senate Bill No. 65—By Mr. Bean and Mr. Stemple)

AN ACT to amend and reenact section three, article thirteen, chapter eleven of the code of West Virginia, one thousand

nine hundred thirty-one, as last amended by chapter one hundred fifty-three, acts of the Legislature, regular session, one thousand nine hundred forty-seven, relating to tax on production credit associations.

[Passed March 9, 1951: in effect ninety days from passage. Approved by the Governor.]

Article 13. Business and Occupation Tax.

Section

3. Exemptions; non-exempt businesses.

Be it enacted by the Legislature of West Virginia:

That section three, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred fifty-three, acts of the Legislature, regular session, one thousand nine hundred forty-seven be amended and reenacted to read as follows:

Section 3. *Exemptions; Non-Exempt Businesses.*—

2 There shall be an exemption in every case of fifty dol-
3 lars in amount of tax computed under the provisions of
4 this article. A person exercising a privilege taxable
5 hereunder for a fractional part of a tax year shall be
6 entitled to an exemption of the sum bearing the pro-
7 portions to fifty dollars that the period of time the
8 privilege is exercised bears to a whole year. Only one
9 exemption shall be allowed to any one person, whether
10 he exercises one or more privileges taxable hereunder.

11 The provisions of the article shall not apply to: (a)
12 Insurance companies which pay the state of West Vir-
13 ginia a tax upon premiums: *Provided, however,* That
14 said exemption shall not extend to that part of the gross
15 income of insurance companies which is received for the
16 use of real property, other than property in which any
17 such company maintains its office or offices, in this state,
18 whether such income be in the form of rentals or royal-
19 ties; (b) persons, engaged in the business of banking:
20 *Provided, however,* That said exemption shall not ex-
21 tend to that part of the gross income of such persons
22 which is received for the use of real property owned,

23 other than the banking house or building in which the
24 business of the bank is transacted, whether such income
25 be in the form of rentals or royalties; (c) non-profit
26 cemetery companies organized and operated for the ex-
27 clusive benefit of their members; (d) societies, organiza-
28 tions and associations organized and operated for the
29 exclusive benefits of their members and not for profit;
30 (e) corporations, associations and societies organized and
31 operated exclusively for religious or charitable purposes;
32 (f) production credit association, organized under the
33 provisions of the federal "Farm Credit Act of 1933":
34 *Provided, however,* That the exemptions of this section
35 shall not apply to corporations or cooperative associations
36 organized under the provisions of article four, chapter
37 nineteen of the code of West Virginia, one thousand nine
38 hundred thirty-one, as amended; (g) building and loan
39 associations and federal savings and loan associations;
40 (h) persons engaged in conducting the business of in-
41 dustrial loans under authority granted them by article
42 seven, chapter thirty-one of the code of West Virginia,
43 one thousand nine hundred thirty-one: *Provided, how-*
44 *ever,* That said exemption shall not extend to that part
45 of the gross income of such persons which is received
46 from the use of real property owned, other than the
47 business house or building in which the business of the
48 industrial loan company is transacted, whether such in-
49 come be in the form of rentals or royalties.

CHAPTER 181

(Senate Bill No. 290—By Mr. Amos)

AN ACT to amend and reenact section two, article fifteen, chap-
ter eleven of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to consumers
sales tax.

[Passed March 10, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 15. Consumers Sales Tax.

Section

2. Definitions.

Be it enacted by the Legislature of West Virginia:

That section two, article fifteen, 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 2. *Definitions.*—For the purpose of this article:

2 (1) "Persons" shall mean any person, firm, partner-
3 ship, association, corporation, guardian, or committee;

4 (2) "Tax commissioner" shall mean the state tax com-
5 missioner;

6 (3) "Gross proceeds" shall mean the amount received
7 in money, credits, property or other consideration from
8 sales at retail within this state, without deduction on
9 account of the cost of the property sold, amounts paid
10 for interest or discounts or other expenses whatsoever.
11 Losses shall not be deducted, but any credit or refund
12 made for goods returned may be deducted;

13 (4) "Sales at retail" shall mean any transaction by
14 which the ownership of tangible personal property is
15 transferred for a consideration, when the transfer is made
16 in the ordinary course of the transferor's business and
17 is made to the transferee for consumption or use or any
18 other purpose, except resale in its original form without
19 change or processing. "Sale at retail" includes condi-
20 tional sales and transactions under whatever name
21 whereby title is ultimately to pass, but presently retained
22 for security. "Sale at retail" shall not include an isolated
23 transaction in which any tangible personal property is
24 sold, transferred, offered for sale, or delivered by the
25 owner thereof, or by his representative for the owner's
26 account, such sales, transfer, offer for sale or delivery
27 not being made in the ordinary course of repeated and
28 successive transactions of a like character by such owner
29 or on his account by such representative;

30 (5) "Retail dealer" shall mean a person engaged in
31 the business of sale at retail, or one who furnishes serv-
32 ices taxed by this article, in this state, to the ultimate
33 consumer;

34 (6) "Wholesale dealer" shall mean a person engaged
35 in this state in the business of selling tangible personal
36 property or furnishing services to retail dealers for resale
37 only; but such person, when sales are made for personal

38 consumption or use, shall, with respect to such sales, be
39 classified as a "retail dealer"; and the fact that the pur-
40 chaser has a store license shall not exempt him from
41 paying the tax on the retail value of the goods or services
42 bought unless he is a bona fide retail dealer of such goods
43 or services. The term "wholesale dealer" shall also in-
44 clude any person engaged in this state in the business of
45 selling machinery, supplies and materials or of furnishing
46 services to churches, incorporated charitable organiza-
47 tions, contractors or to persons engaged in the business
48 of manufacturing, transportation, transmission, communi-
49 cation, or in the production of natural resources in this
50 state: *Provided, however,* That this exemption shall not
51 apply to fraternal or social organizations, nor to charit-
52 able organizations which charge for services rendered;

53 (7) "Ultimate consumer" shall mean a person who
54 uses or consumes services or personal property for the
55 immediate satisfaction of human desires or requirements,
56 distinguished from services and goods, used or consumed
57 in connection with the conduct of the business of pro-
58 ducing or selling personal property or dispensing a serv-
59 ice taxable under this article;

60 (8) "Business" shall include all activities engaged in
61 or caused to be engaged in with the object of gain or
62 economic benefit, direct or indirect;

63 (9) "Tax" shall include all taxes, interest or penalties
64 levied hereunder;

65 (10) "Purchaser" shall mean a person who purchases
66 tangible personal property or a service taxed by this
67 article;

68 (11) "Service, or selected service" shall include all
69 non-professional activities engaged in for other persons
70 for a consideration, which involve the rendering of a
71 service as distinguished from the sale of tangible prop-
72 erty, but shall not include personal services or the serv-
73 ices rendered by an employee to his employer or any
74 service rendered for resale.

75 (12) "Personal service" shall include those:

76 (a) Compensated by the payment of wages in the
77 ordinary course of employment;

78 (b) Rendered to the person of an individual without,

79 at the same time, selling tangible personal property or
80 the use of such property, such as nursing, barbering,
81 shoe shining, manicuring, and similar services;
82 (13) "Taxpayer" shall mean a retail dealer.

CHAPTER 182

(Senate Bill No. 299—By Mr. Johnston, Mr. President)

AN ACT to amend and reenact section nine, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to consumers sales tax exemptions.

[Passed March 9, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 15. Consumers Sales Tax.

Section

9. Sales not included.

Be it enacted by the Legislature of West Virginia:

That section nine, article fifteen, 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 9. *Sales Not Included.*—The provisions of this
2 article shall not apply to:
3 (1) Sales of gasoline, taxable under article fourteen,
4 chapter eleven of this code.
5 (2) Sales of gas, steam and water delivered to con-
6 sumers through mains or pipes, and sales of electricity.
7 (3) Sales of school books required to be used in any
8 of the schools of this state.
9 (4) Sales to the state, its institutions or subdivisions,
10 and sales to the United States, including sales to agencies
11 of federal, state or local governments for distribution in
12 public welfare or relief work.
13 (5) Sales on motor vehicles which are titled by the
14 state road commission.

CHAPTER 183

(Com. Sub. for Senate Bill No. 127—Originating in the Senate Committee on Finance)

AN ACT to amend chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article to be designated article fifteen-a, relating to an excise tax on the privilege of using within this state any article of tangible personal property purchased for use in this state, providing for the payment and collection of such tax, and prescribing penalties for the violation thereof.

[Passed March 10, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 15-a. Use Tax.

Section

1. Definitions.
2. Imposition of tax.
3. Exemptions.
4. Evidence of use.
5. How collected.
6. Collection by retailer.
7. Foreign retailers.
8. Absorbing tax.
9. Tax as debt.
10. Payment to tax commissioner.
11. Liability of user.
12. Bond to secure payment.
13. Determination by tax commissioner.
14. Appeal.
15. Service of notice.
16. Failure to pay; penalties.
17. Assessment; levy to collect tax.
18. Seller must show sale not at retail; presumption.
19. Fraud.
20. Criminal penalty.
21. Books; examination.
22. Revoking permits.
23. Tax imposed is in addition to all other taxes and charges.
24. Refund.
25. Administration of article.
26. Proceeds of tax for free schools.
27. Partial unconstitutionality.

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 adding thereto a new article, designated article fifteen-a, to read as follows:

Section 1. *Definitions.*—The following words, terms, and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Person" includes any individual, firm, co-partnership, joint adventure, association, corporation, estate, trust, business trust, receiver, or any other group or combination acting as a unit and the plural as well as the singular number.

2. "Use" means and includes the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, except that it shall not include processing, or the sale of that property in the regular course of business. Property used in "processing" within the meaning of this subsection shall mean and include (a) any tangible personal property including containers which it is intended shall, by means of fabrication, compounding, manufacturing, or germination, become an integral part of other tangible personal property, intended to be sold ultimately at retail, (b) fuel which is consumed in creating power, heat or steam for processing or for generating electric current, (c) industrial materials and equipment, which are not readily obtainable in West Virginia, and which are directly used in the actual fabricating, compounding, manufacturing or servicing of tangible personal property intended to be sold ultimately at retail.

3. "Purchase" means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration.

4. "Purchase price" means the total amount for which tangible personal property is sold, valued in money, whether paid in money or otherwise; provided that cash discounts allowed and taken on sales shall not be included.

5. "Tangible personal property" means tangible goods, wares, and merchandise when furnished or delivered within this state to consumers or users within this state.

6. "Retailer" means and includes every person engaged in the business of selling tangible personal property for use within the meaning of this article: *Provided,*

42 *however*, That when in the opinion of the tax commis-
43 sioner it is necessary for the efficient administration of
44 this article to regard any salesmen, representatives,
45 truckers, peddlers or canvassers as the agents of the
46 dealers, distributors, supervisors, employers or persons
47 under whom they operate or from whom they obtain the
48 tangible personal property sold by them, irrespective of
49 whether they are making sales on their own behalf or
50 on behalf of such dealers, distributors, supervisors, em-
51 ployers, or persons, the tax commissioner may so regard
52 them and may regard the dealers, distributors, super-
53 visors, employers, or persons as retailers for purposes of
54 this article.

55 7. "Retailer maintaining a place of business in this
56 state" or any like term shall mean and include any re-
57 tailer having or maintaining within this state, directly or
58 by a subsidiary, an office, distribution houses, sales house,
59 ware-house, or other place of business, or any agent oper-
60 ating within this state under the authority of the retailer
61 or its subsidiary, irrespective of whether such place of
62 business or agent is located here permanently or tem-
63 porarily, or whether such retailer or subsidiary is ad-
64 mitted to do business within this state pursuant to section
65 seventy-nine, article one, chapter thirty-one of the code
66 of West Virginia, one thousand nine hundred thirty-one.

67 8. The word "commissioner" means the state tax com-
68 missioner.

69 9. The word "taxpayer" includes any person within
70 the meaning of subsection one hereof, who is subject to a
71 tax imposed by this article, whether acting for himself or
72 as a fiduciary.

Sec. 2. *Imposition of Tax.*—An excise tax is hereby
2 imposed on the use in this state of tangible personal
3 property furnished or delivered within this state to con-
4 sumers or users within this state on or after the effec-
5 tive date of this article, at the rate of two per cent of the
6 purchase price of such property. Said tax is hereby im-
7 posed upon every person using such property within this
8 state until such tax has been paid directly to a retailer, or
9 to the state tax commissioner as hereinafter provided.

10 Purchases of tangible personal property made from the
11 government of the United States or any of its agencies
12 by ultimate consumers shall be subject to the tax imposed
13 by this section. Industrial materials and equipment owned
14 by the federal government within the state of West Vir-
15 ginia of a character not ordinarily readily obtainable
16 within the state, shall not be subject to use tax when
17 sold, if such industrial materials and equipment would not
18 be subject to use tax if such were sold outside of the state
19 for use in West Virginia.

20 This act shall not apply to purchases made by counties
21 or municipal corporations.

Sec. 3. *Exemptions.*—The use in this state of the fol-
2 lowing tangible personal property is hereby specifically
3 exempted from the tax imposed by this article.

4 1. All articles of tangible personal property brought
5 into the state of West Virginia by a non-resident indi-
6 vidual thereof for his or her use or enjoyment while
7 within the state.

8 2. Tangible personal property, the gross receipts from
9 the sale of which are exempted from the retail sales tax
10 by the terms of section nine, article fifteen, chapter eleven
11 of the code of West Virginia, one thousand nine hundred
12 thirty-one.

13 3. Tangible personal property, the gross receipts from
14 the sale of which are derived from the sale of machinery,
15 supplies and materials to contractors, or to persons en-
16 gaged in the business of manufacturing, transportation,
17 transmission, communication or in the production of nat-
18 ural resources in this state.

19 4. Tangible personal property, the gross receipts or
20 the gross proceeds from the sale of which are required
21 to be included in the measure of the tax imposed by arti-
22 cle fifteen, chapter eleven of the code of West Virginia,
23 one thousand nine hundred thirty-one, and any amend-
24 ment made or which may hereafter be made thereto.

25 5. Tangible personal property the sale of which in this
26 state is not subject to the West Virginia Consumers' Sales
27 Tax.

Sec. 4. *Evidence of Use.*—For the purpose of the

2 proper administration of this article to prevent evasion
3 of the tax, evidence that tangible personal property was
4 sold by any person for delivery in this state shall be
5 prima facie evidence that such tangible personal property
6 was sold for use in this state.

Sec. 5. *How Collected.*—The tax herein imposed shall
2 be collected in the following manner:

3 1. The tax upon the use of all tangible personal prop-
4 erty, which is sold by a retailer maintaining a place of
5 business in this state, or by such other retailer as the tax
6 commissioner shall authorize pursuant to section seven
7 of this article shall be collected by such retailer and re-
8 mitted to the state tax commissioner, pursuant to the
9 provisions of sections six to ten, inclusive of this article.

10 2. The tax upon the use of all tangible personal prop-
11 erty not paid pursuant to subsection one of this section
12 shall be paid to the tax commissioner directly by any
13 person using such property within this state, pursuant
14 to the provisions of section eleven of this article.

Sec. 6. *Collection by Retailer.*—Every retailer main-
2 taining a place of business in this state and making sales
3 of tangible personal property for use in this state, not
4 exempted under the provisions of section three of this
5 article, shall at the time of making such sales, whether
6 within or without the state, collect the tax imposed by this
7 article from the purchaser, and give to the purchaser a
8 receipt therefor in the manner and form prescribed by
9 the tax commissioner, if the tax commissioner shall, by
10 regulation, require such receipt. Each such retailer shall
11 list with the tax commissioner the name and address of
12 all his agents operating in this state, and the location of
13 any and all his distribution or sales houses or offices or
14 other places of business in this state.

Sec. 7. *Foreign Retailers.*—The tax commissioner may,
2 in his discretion, upon application authorize the collec-
3 tion of the tax herein imposed by any retailer not main-
4 taining a place of business within this state, who, to the
5 satisfaction of the tax commissioner furnishes adequate
6 security to insure collection and payment of the tax. Such
7 retailer shall be issued, without charge, a permit to col-

8 lect such tax in such manner, and subject to such regula-
9 tions and agreements as the tax commissioner shall pre-
10 scribe. When so authorized, it shall be the duty of such
11 retailer to collect the tax upon all tangible personal prop-
12 erty sold to his knowledge for use within this state, in
13 the same manner and subject to the same requirements as
14 a retailer maintaining a place of business within this
15 state. Such authority and permit may be cancelled when,
16 at any time, the tax commissioner considers the security
17 inadequate, or that such tax can more effectively be col-
18 lected from the person using such property in this state.

2 Sec. 8. *Absorbing Tax.*—It shall be unlawful for any
3 retailer to advertise or hold out or state to the public or
4 to any purchaser, consumer or user, directly or indirectly,
5 that the tax or any part thereof imposed by this article
6 will be assumed or absorbed by the retailer or that it will
7 not be added to the selling price of the property sold, or if
8 added that it or any part thereof will be refunded. The
9 tax commissioner shall have the power to adopt and
10 promulgate rules and regulations for adding such tax, or
11 the equivalent thereof, by providing different methods
12 applying uniformly to retailers within the same general
13 classification for the purpose of enabling such retailers
14 to add and collect, as far as practicable, the amount of
15 such tax. Any person violating any of the provisions of
16 this section within this state shall be guilty of a misde-
17 meanor and subject to the penalties provided in section
18 twenty of this article.

2 Sec. 9. *Tax as Debt.*—The tax herein required to be
3 collected by any retailer pursuant to sections six or seven,
4 and any tax collected by any retailer pursuant to said
5 sections, shall constitute a debt owed by the retailer to
6 this state.

2 Sec. 10. *Payment to Tax Commissioner.*—Each re-
3 tailer required or authorized, pursuant to sections six or
4 seven, to collect the tax herein imposed, shall be required
5 to pay to the tax commissioner the amount of such tax on
6 or before the fifteenth day of the month next succeeding
7 each quarterly period, the first such quarterly period
8 being the period commencing on the first day of July; one

8 thousand nine hundred fifty-one, and ending on the thir-
9 tieth day of September, one thousand nine hundred fifty-
10 one. At such time, each retailer shall file with the tax com-
11 missioner a return for the preceding quarterly period in
12 such form as may be prescribed by the tax commissioner
13 showing the sales price of any or all tangible personal prop-
14 erty sold by the retailer during such preceding quarterly
15 period, the use of which is subject to the tax imposed by
16 this article, and such other information as the tax com-
17 missioner may deem necessary for the proper adminis-
18 tration of this article. The return shall be accompanied
19 by a remittance of the amount of such tax, for the period
20 covered by the return, provided that where such tangible
21 personal property is sold under a conditional sales con-
22 tract, or under any other form of sale wherein the pay-
23 ment of the principal sum, or a part thereof, is extended
24 over a period longer than sixty days from the date of the
25 sale thereof, the retailer may collect and remit each quar-
26 terly period that portion of the tax—equal to two per cent
27 of that portion of the purchase price actually received
28 during such quarterly period. The tax commissioner, if
29 he deems it necessary in order to insure payment to the
30 state of the amount of such tax, may in any or all cases
31 require returns and payments of such amount to be made
32 for other than quarterly periods. The tax commissioner
33 may, upon request and a proper showing of the necessity
34 therefor, grant an extension of time not to exceed thirty
35 days for making any return and payment. Returns shall
36 be signed by the retailer or his duly authorized agent,
37 and must be certified by him to be correct.

2 Sec. 11. *Liability of User.*—Any person who uses any
3 tangible personal property upon which the tax herein im-
4 posed has not been paid either to a retailer or direct to the
5 tax commissioner as herein provided, shall be liable
6 therefor, and shall on or before the fifteenth day of the
7 month next succeeding each quarterly period pay the tax
8 herein imposed upon all such property used by him during
9 the preceding quarterly period in such manner and ac-
10 companied by such returns as the tax commissioner shall
prescribe. All of the provisions of section ten with refer-

11 ence to such returns and payment shall be applicable to
12 the returns and payments herein required.

Sec. 12. *Bond to Secure Payment.*—The tax commis-
2 sioner may, when in his judgment it is necessary and ad-
3 visable to do so in order to secure the collection of the
4 tax levied under this article, authorize any person subject
5 to such tax, and any retailer required or authorized to
6 collect such tax pursuant to the provisions of sections
7 six and seven, to file with him a bond issued by a surety
8 company authorized to transact business in this state and
9 approved by the insurance commissioner as to solvency
10 and responsibility, in such amount as the tax commis-
11 sioner may fix, to secure the payment of any tax, amount,
12 and/or penalties due or which may become due from such
13 person. In lieu of such bond, securities approved by the
14 tax commissioner, in such amount as he may prescribe,
15 may be deposited with him, which securities shall be kept
16 in the custody of the state treasurer and may be sold by
17 him at public or private sale, after notice to the de-
18 positor thereof, if it becomes necessary to do so in order
19 to recover any tax and/or penalties due. Upon any such
20 sale, the surplus, if any, above the amounts due under
21 this article shall be returned to the person who deposited
22 the securities.

Sec. 13. *Determination by Tax Commissioner.*—If any
2 return required by this article is not filed, or if a return
3 when filed is incorrect or insufficient and the maker fails
4 to file a corrected or sufficient return within twenty days
5 after the same is required by notice from the tax commis-
6 sioner, such tax commissioner shall determine the amount
7 of the tax due, from such evidence as he may be able
8 to obtain. The tax commissioner shall give notice of such
9 determination to the person liable for the tax. Such
10 determination shall finally and irrevocably fix the tax
11 unless the person against whom it is assessed shall,
12 within thirty days after the giving of notice of such
13 determination apply to the tax commissioner for a hearing
14 or unless the tax commissioner of his own motion shall
15 reduce the same. At such hearing evidence may be offered
16 to support such determination or to prove that it is in-

17 correct. After such hearing the tax commissioner shall
18 within a reasonable time give notice of his decision to
19 the person liable for the tax.

Sec. 14. *Appeal.*—An appeal may be taken by the tax-
2 payer to the circuit court of the county in which he re-
3 sides, or in which his principal place of business is lo-
4 cated, within thirty days after he shall have received
5 notice from the tax commissioner of his determination as
6 provided for in section thirteen of this article.

7 The appeal shall be taken by a written notice to the tax
8 commissioner and served as an original notice. When said
9 notice is so served it shall with the return thereon, be
10 filed in the office of the clerk of said circuit court, and
11 docketed as other cases, with the taxpayer as plaintiff
12 and the tax commissioner as defendant. The plaintiff
13 shall file with such clerk a bond for the use of the de-
14 fendant, with sureties approved by such clerk, in penalty
15 at least double the amount of tax appealed from, and in
16 no case shall the bond be less than fifty dollars, condi-
17 tioned that the plaintiff shall perform the orders of the
18 court.

19 The court shall hear the appeal in equity and determine
20 anew all questions submitted to it on appeal from the
21 determination of the tax commissioner. In such appeal
22 the burden of proof shall be upon the taxpayer. The court
23 shall render its decree thereon and a certified copy of said
24 decree shall be filed by the clerk of said court with the
25 tax commissioner who shall then correct the assessment
26 in accordance with said decree. An appeal may be taken
27 by the taxpayer or the tax commissioner to the supreme
28 court of Appeals of this state in the same manner that
29 appeals are taken in suits in equity.

Sec. 15. *Service of Notice.*—Any notice, except notice
2 of appeal, authorized or required under the provisions of
3 this article may be given by mailing the same to the per-
4 son for whom it is intended by registered mail, addressed
5 to such person at the address given in last return filed by
6 him pursuant to the provisions of this article, or if no
7 return has been filed, then to such address as may be ob-
8 tainable. The mailing of such notice shall be presumptive

9 evidence of the receipt of the same by the person to whom
10 addressed. Any period of time which is determined ac-
11 cording to the provision of this article by the giving of
12 notice shall commence to run from the date of registra-
13 tion and posting of such notice.

Sec. 16. *Failure to Pay; Penalties.*—Any person failing
2 to file a return or corrected return or to pay any tax
3 and/or amount required to be paid by this article within
4 the time required by this article, shall be subject to a
5 penalty of five per cent of the amount due plus one per
6 cent of such amount for each month of delay or fraction
7 thereof, after such return was required to be filed or such
8 tax or amount became due; but the tax commissioner, if
9 satisfied that the delay was excusable, may remit all or
10 any part of such penalty. Such penalty shall be paid to the
11 tax commissioner. Unpaid penalties may be enforced in
12 the same manner as the tax imposed by this article. The
13 certificate of the tax commissioner to the effect that a tax
14 and/or amount required to be paid by this article has not
15 been paid, that a return has not been filed, or that infor-
16 mation has not been supplied pursuant to the provisions
17 of this article, shall be prima facie evidence thereof.

Sec. 17. *Assessment; Levy to Collect Tax.*—The tax
2 commissioner shall have power to make an assessment
3 against any person subject to the tax imposed by this
4 article which is due and unpaid. Such assessment may
5 include penalties. The tax commissioner may collect
6 such assessment by levy, action at law, distraint or any
7 other method of enforcing or collecting taxes which may
8 be provided by law and shall have the right to file liens
9 therefor in any county.

Sec. 18. *Seller Must Show Sale Not at Retail; Presump-
2 tion.*—The burden of proving that a sale was not at retail
3 shall be upon the seller, unless he takes from the pur-
4 chaser a certificate signed by and bearing the address of
5 the purchaser to the effect that the property was pur-
6 chased for resale. To prevent evasion it shall be pre-
7 sumed that all proceeds are subject to the tax until the
8 contrary is clearly established.

Sec. 19. *Fraud.*—Any person required to make, render,

2 sign, or certify any return or supplementary return,
3 who makes any false or fraudulent return with intent
4 to defeat or evade the tax, and/or amount required to
5 be paid by this article, shall be guilty of a misdemeanor
6 and shall, for each such offense, be fined not less than
7 fifty dollars and not more than five hundred dollars, or
8 be confined in jail not more than sixty days, or be sub-
9 ject to both such fine and confinement in the discretion
10 of the court.

Sec. 20. *Criminal Penalty.*—Any retailer or other per-
2 son failing or refusing within a reasonable time to fur-
3 nish any return herein required to be made, or failing or
4 refusing within a reasonable time to furnish a supple-
5 mental return or other data required by the tax com-
6 missioner, shall be guilty of a misdemeanor and subject
7 to a fine of not to exceed one hundred dollars for each
8 such offense, or to imprisonment for not to exceed thirty
9 days, or to both such fine and imprisonment in the dis-
10 cretion of the court.

Sec. 21. *Books; Examination.*—Every retailer required
2 or authorized to collect taxes imposed by this article
3 and every person using in this state tangible personal
4 property purchased on or after the effective date of this
5 article, shall keep such records, receipts, invoices, and
6 other pertinent papers as the tax commissioner shall
7 require, in such form as the tax commissioner shall re-
8 quire. The tax commissioner or any of his duly author-
9 ized agents is hereby authorized to examine the books,
10 papers, records, and equipment of any person either
11 selling tangible personal property or liable for the tax
12 imposed by this article, and to investigate the character
13 of the business of any such person in order to verify the
14 accuracy of any return made, or if no return was made
15 by such person, to ascertain and determine the amount
16 due under the provisions of this article. Any such books,
17 papers, and records shall be made available within this
18 state for such examination upon reasonable notice when
19 the tax commissioner shall deem it advisable and shall
20 so order. However, where the taxpayer's records must
21 be kept out of state, the taxpayer may upon being noti-

22 fied by the tax commissioner that an examination is to
23 be made, elect to do one of the following: (1) Forthwith
24 transport the required records to a convenient point in
25 West Virginia and notify the tax commissioner that they
26 are available; or (2) pay the reasonable traveling ex-
27 penses of the tax commissioner's representatives from
28 Charleston, West Virginia, to the out of state place where
29 the records are kept, and return, and reasonable living
30 expenses of such representatives while engaged in their
31 examination.

Sec. 22. *Revoking Permits.*—Whenever any retailer
2 maintaining a place of business in this state, or authorized
3 to collect the tax herein imposed pursuant to section
4 seven of this article fails to comply with any of the pro-
5 visions of this article or any orders, rules or regulations
6 of the tax commissioner prescribed and adopted under
7 this article, the tax commissioner may, upon notice and
8 hearing hereinafter provided, by order revoke the store
9 license, if any, issued to such retailer under article
10 thirteen-a, chapter eleven of the code of West Virginia,
11 one thousand nine hundred thirty-one, as amended, or
12 if such retailer is a corporation authorized to do business
13 in this state under section seventy-nine, article one,
14 chapter thirty-one of said code, may certify to the secre-
15 tary of state a copy of an order finding that such retailer
16 has failed to comply with certain specified provisions,
17 orders, rules or regulations. The secretary of state shall,
18 upon receipt of such certified copy, revoke the permit
19 authorizing said corporation to do business in this state,
20 and shall issue a new permit only when such corporation
21 shall have obtained from the tax commissioner an order
22 finding that such corporation has complied with its ob-
23 ligations under this article. No order authorized in this
24 section shall be made until the retailer is given an op-
25 portunity to be heard and to show cause why such order
26 should not be made, and he shall be given twenty days
27 notice of the time, place, and purpose of such hearing.
28 The tax commissioner shall have the power in his dis-
29 cretion to issue a new store permit after such revocation.

Sec. 23. *Tax Imposed Is in Addition to all other Taxes
2 and Charges.*—The tax imposed under this article shall

3 be in addition to all other taxes, licenses or charges to
4 which the persons taxed herein are subject under the law
5 of this state. It is the purpose of this article to rest a
6 fair share of the tax burden, commensurate with the
7 benefits received, upon those exercising the privilege
8 taxed hereby within this state.

Sec. 24. *Refund.*—All claims for the refund of over-
2 payments of the tax imposed by this article must be ac-
3 companied by amended returns showing the amount of
4 taxes due, the amount paid in error and the amount
5 overpaid. Where such error is not apparent from an
6 examination of the return, the taxpayer must furnish
7 a full and complete statement of the reasons for the dif-
8 ferences between the original and amended returns.
9 Before finally passing upon a claim the tax commissioner
10 may require the production of any further evidence con-
11 sidered necessary in order to arrive at a correct finding.
12 The tax commissioner can issue refunds of the tax im-
13 posed by this article only where application for such
14 refund is made within two years from the date of pay-
15 ment of such tax as provided for in section two-a, article
16 one, chapter eleven of the code of West Virginia, one
17 thousand nine hundred thirty-one, as amended.

Sec. 25. *Administration of Article.*—The administra-
2 tion of this article is vested in and shall be exercised by
3 the tax commissioner who shall prescribe forms and
4 reasonable rules and regulations in conformity with this
5 article for the making of returns and for the ascertain-
6 ment, assessment and collection of the taxes imposed
7 hereunder; and the enforcement of any provisions of this
8 article in any of the courts of the state shall be under the
9 exclusive jurisdiction of the tax commissioner.

Sec. 26. *Proceeds of Tax for Free Schools.*—The pro-
2 ceeds of the tax imposed by this article shall be devoted
3 to the support of the free schools, and be expended in
4 such manner as may be provided by law.

Sec. 27. *Partial Unconstitutionality.*—The provisions of
2 this article shall be deemed to be severable and if for any
3 reason any provision shall be determined to be uncon-

4 stitutional or invalid, such determination shall not be
5 held to affect any other provision hereof.

CHAPTER 184

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

AN ACT to amend article sixteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section six-a, relating to the imposition, collection and disposition of an additional barrel tax on nonintoxicating beer manufactured, sold or distributed in this state.

[Passed February 1, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 16. Nonintoxicating Beer.

Section

6-a. Additional barrel tax for payment of veterans' bonus bonds.

Be it enacted by the Legislature of West Virginia:

That article sixteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, to be designated section six-a, to read as follows:

Section 6-a. *Additional Barrel Tax for Payment of Veterans' Bonus Bonds.*—For the purpose of providing revenue for the payment of bonds issued under and by virtue of the veterans' bonus amendment to the constitution, there is hereby levied and imposed, on and after midnight of the last day of June, one thousand nine hundred fifty-one, an additional tax of two dollars and seventy-five cents on each barrel of thirty-one gallons and in like ratio on each part barrel of nonintoxicating beer manufactured in this state for sale within this state, whether contained or sold in barrels, bottles or other containers, and a like tax is hereby levied and imposed on and after such date on all nonintoxicating beer manufactured outside of this state

14 and brought into this state for sale within this state. Ex-
15 cept as otherwise provided in this section, all provisions
16 of this article relating to the levy, imposition and collec-
17 tion of the regular barrel tax on beer manufactured, sold
18 or distributed in this state shall be applicable to the levy,
19 imposition and collection of such additional barrel tax.
20 Notwithstanding other provisions of this article to the
21 contrary, all moneys received from the additional tax
22 imposed by this section, less deductions allowed by this
23 article for costs of administration and enforcement, shall
24 be paid into the veterans' bonus sinking fund, to be used
25 solely for the payment of veterans' bonus bonds and the
26 interest due thereon. Whenever in any fiscal year the
27 amount of money accumulated in the veterans' bonus
28 sinking fund shall be sufficient to pay at maturity all out-
29 standing bonus bonds, together with the interest due or
30 payable thereon, the additional tax imposed by this sec-
31 tion shall expire at the end of such fiscal year.

CHAPTER 185

(Com. Sub. for Senate Bill No. 39—Originating in the Senate Committee on
the Judiciary)

AN ACT to amend and reenact section twelve, article sixteen,
chapter eleven of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to licenses
for the sale of nonintoxicating beer, and prohibiting li-
censes for such sale in the vicinity of schools and churches.

[Passed March 6, 1951: in effect ninety days from passage. Approved by the
Governor.]

Article 16. Nonintoxicating Beer.

Section

12. Form of application for license; fee and bond; refusal of license.

Be it enacted by the Legislature of West Virginia:

That section twelve, article sixteen, 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 12. *Form of Application for License; Fee and Bond; Refusal of License.*—A license may be issued by the commissioner to any person who submits an application therefor, accompanied by a license fee, and, where required, a bond, stating under oath:

(a) The name and residence of the applicant, how long he has resided there, that he has been a resident of the state for a period of two years next preceding the date of his application, that he is twenty-one years of age, and, if a firm, association, partnership or corporation, the residence of the members or officers for a period of two years next preceding the date of such application: *Provided*, That if any person, firm, partnership, association or corporation applies for a license as a distributor, such person, or in the case of a firm, partnership, association, the members or officers thereof, shall state under oath that he or they have been bona fide residents of the state for four years preceding the date of such application;

(b) The place of birth of applicant and that he is a citizen of the United States and, if a naturalized citizen, when and where naturalized; and, if a corporation, organized or authorized to do business under the laws of the state, when and where incorporated, with the names and address of each officer; that each officer is a citizen of the United States and a person of good moral character; and if a firm, association or partnership, the place of birth of each member of the firm, association or partnership, that each member is a citizen of the United States and if a naturalized citizen, when and where naturalized, each of whom must qualify and sign the application: *Provided, however*, That the requirements as to residence shall not apply to the officers of a corporation which shall apply for a class B retailer's license, but the officers, agent, or employee who shall manage and be in charge of the licensed premises shall possess all of the qualifications required of an individual applicant for a retailer's license, including the requirement as to residence;

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

40 (d) The name of the owner of the building and, if
41 the owner is not the applicant, that such applicant is the
42 actual and bona fide lessee of the premises;

43 (e) That the place or building in which it is proposed
44 to do business conforms to all laws of health and fire reg-
45 ulations applicable thereto, and is a safe and proper place
46 or building, and is not within three hundred feet of any
47 school or church, measured from front door to front door
48 along the street or streets: *Provided, however,* That this
49 requirement shall not apply to a class B licensee, or to
50 any place now occupied by a beer licensee, so long as it is
51 continuously so occupied;

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

55 (g) That the applicant is the only person in any man-
56 ner pecuniarily interested in the business so asked to be
57 licensed, and that no other person shall be in any manner
58 pecuniarily interested therein during the continuance of
59 the license;

60 (h) That the applicant has not during five years next
61 immediately preceding the date of said application had a
62 nonintoxicating beer license revoked, nor during the same
63 period been convicted of any criminal offense.

64 The foregoing provisions and requirements are man-
65 datory prerequisites for the issuance of a license, and in
66 the event any applicant fails to qualify under the same,
67 license shall be refused. In addition to the information
68 furnished in any application, the commissioner may make
69 such additional and independent investigation of each
70 applicant, and of the place to be occupied, as deemed
71 necessary or advisable; and for this reason each and all
72 applications, with license fee and bond, must be filed
73 thirty days prior to the beginning of any fiscal year, and if
74 application is for an unexpired portion of any fiscal year,
75 issuance of license may be withheld for such reasonable
76 time as necessary for investigation.

77 The commissioner may refuse a license to any applicant
78 under the provisions of this article if he shall be of the
79 opinion:

80 (a) That the applicant is not a suitable person to be
81 licensed; or,

82 (b) That the place to be occupied by the applicant is
83 not a suitable place; or is within three hundred feet
84 of any school or church, measured from front door to
85 front door along the street or streets: *Provided, however,*
86 That this requirement shall not apply to a class B li-
87 censee, or to any place now occupied by a beer licensee,
88 so long as it is continuously so occupied; or,

89 (c) That the license should not be issued for reason of
90 conduct declared to be unlawful by this article.

CHAPTER 186

(Senate Bill No. 284—Originating in the Senate Committee on Finance)

AN ACT to amend and reenact section eighteen, article six-
teen, chapter eleven of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating
to salary of the nonintoxicating beer commissioner.

[Passed March 8, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 16. Nonintoxicating Beer.

Section

18. Office of nonintoxicating beer commissioner created; deputy com-
missioner and agents; bonds; payment of administration and
enforcement expenses.

Be it enacted by the Legislature of West Virginia:

That section eighteen, article sixteen, 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 18. *Office of Nonintoxicating Beer Commission-
2 er Created; Deputy Commissioner and Agents; Bonds;
3 Payment of Administration and Enforcement Expenses.—*

4 (a) The office of an independent administrator to be
5 known as "West Virginia Nonintoxicating Beer Com-
6 missioner" is hereby created and the administration of

7 this article is vested in and shall be exercised by said
8 commissioner, to whom is hereby given all necessary pow-
9 er and authority in the premises.

10 Whenever, in this article, the word "commissioner"
11 or "tax commissioner" is used, it shall mean the "West
12 Virginia Nonintoxicating Beer Commissioner". All acts
13 heretofore performed by the tax commissioner under
14 the provisions of this article are ratified and confirmed,
15 and the commissioner shall succeed to the same position
16 maintained by the tax commissioner in all proceedings
17 and official acts instituted and perfected under the pro-
18 visions of this article prior to the appointment of the
19 commissioner. The commissioner shall be appointed by
20 the governor with the advice and consent of the senate.
21 The term of office for such commissioner shall be six
22 years from the date of his appointment and until his
23 successor shall have been appointed and qualified. The
24 commissioner shall receive an annual salary of seven
25 thousand dollars.

26 (b) The commissioner at the time of his appointment
27 and qualification shall be a citizen of the United States
28 and a resident of the state of West Virginia; shall have
29 been a qualified voter in the state for a period of at least
30 one year next preceding his appointment, and shall be
31 not less than thirty years of age; no commissioner dur-
32 ing his period of service as such shall hold any other
33 office under the laws of this state or of the United
34 States.

35 (c) The commissioner, with the consent of the gover-
36 nor, shall appoint a deputy commissioner who shall have
37 the same qualifications as are required of a commissioner.
38 The deputy commissioner in the absence of the commis-
39 sioner shall exercise all the powers of the commissioner
40 and generally shall exercise such powers as are dele-
41 gated to him by the commissioner.

42 (d) Before entering upon the duties of their respective
43 offices, the commissioner and his deputy shall execute
44 and file with the state treasurer a penal bond in such
45 sum as shall be fixed by the governor, but the amount of
46 such bond shall not be less than five thousand dollars.
47 Penal bonds in such penal sums as shall be fixed by the

48 governor likewise shall be executed and filed with the
49 state treasurer by such employees of the commissioner
50 as the commissioner with the consent of the governor
51 shall prescribe: *Provided, however,* That no bond of any
52 employee handling moneys collected by the commission-
53 er under the provisions of this article shall be less than
54 five thousand dollars. All such bonds shall be payable
55 to the state of West Virginia and shall be conditioned
56 for the faithful performance of the duties imposed by
57 law or lawful authority upon the commissioner, deputy
58 commissioner or employees, and further conditioned that
59 the person bonded will not knowingly violate the pro-
60 visions of any act relating to the manufacture, sale, dis-
61 tribution or transportation of alcohol, alcoholic liquors
62 or non-intoxicating beer. All bonds required to be given
63 under this section, before being accepted by the state
64 treasurer, shall be approved by the attorney general and
65 all such bonds shall be given with surety approved by
66 the attorney general. The cost of such bond shall be
67 borne by the commissioner as part of his operating ex-
68 pense.

69 (e) In addition to the service of the deputy commis-
70 sioner hereinabove provided for, the commissioner shall
71 appoint an adequate number of competent persons to
72 serve as agents of the commissioner for the purpose of
73 keeping all necessary accounts and records required un-
74 der the provisions of this article; investigating the books,
75 accounts, records and other papers of retailers, distribu-
76 tors and brewers; investigating applicants for license and
77 the places of business of retailers, distributors and brew-
78 ers; procuring evidence with respect to violations of the
79 provisions of this article, and particularly for use at hear-
80 ings held by the commissioner and on proceedings in-
81 stituted in court for the purpose of revoking or suspend-
82 ing licenses hereunder; and such agents shall perform
83 such other duties as the commissioner may direct. Such
84 agents shall have the right to enter any licensed premises
85 in the state in the performance of their duties at any
86 hour of the day or night when beer is being sold or
87 consumed on such licensed premises. Refusal by any
88 licensee or by any employee of a licensee to permit such

89 agents to enter the licensed premises shall be an ad-
90 ditional cause for revocation or suspension of the license
91 of such licensee by the commissioner. The compensa-
92 tion of such deputy commissioner, employees and agents
93 shall be fixed by the commissioner.

94 Services rendered the state by clerks, sheriffs, com-
95 missioners in chancery and special commissioners desig-
96 nated by the court, and court reporters and stenographers
97 performing services for said commissioners and fees of
98 witnesses summoned on behalf of the state in proceedings
99 to revoke or suspend retailer's licenses, shall be treated
100 as a part of the expenses of administration and enforce-
101 ment, and such officers and said other persons shall be
102 paid the same fees and charges as would be chargeable
103 for like services performed for an individual; and the
104 compensation of such clerks, sheriffs and other persons,
105 shall be paid out of the amount allocated for the ex-
106 pense of administration and enforcement, after the
107 amount of such fees and other charges shall be certified
108 by the court to the auditor.

CHAPTER 187

(House Bill No. 57—By Mr. Speaker, Mr. Flannery)

AN ACT to amend article seventeen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section two-a, relating to the imposition, collection and disposition of an additional excise tax on the sale of cigarettes.

[Passed February 1, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 17. Excise Tax on Sale of Cigarettes.

Section

2-a. Additional cigarette tax for payment of veterans' bonus bonds.

Be it enacted by the Legislature of West Virginia:

That article seventeen, chapter eleven of the code of West

Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, to be designated section two-a, to read as follows:

Section 2-a. *Additional Cigarette Tax for Payment of Veterans' Bonus Bonds.*—For the purpose of providing revenue for the payment of bonds issued under and by virtue of the veterans' bonus amendment to the constitution, there is hereby levied and imposed, on and after midnight of the last day of June, one thousand nine hundred fifty-one, an additional excise tax of one-half cent on each ten cigarettes, or fractional part thereof, sold within this state. Except as otherwise provided in this section, all provisions of this article relating to the levy, imposition and collection of the regular excise tax on the sale of cigarettes shall be applicable to the levy, imposition and collection of such additional tax. Notwithstanding other provisions of this article to the contrary, all moneys received from the additional tax imposed by this section, less deductions allowed by this article for refunds and for costs of administration and operation, shall be paid by the tax commissioner into the veterans' bonus sinking fund, to be used solely for the payment of veterans' bonus bonds and the interest due thereon. Whenever in any fiscal year the amount of money accumulated in the veterans' bonus sinking fund shall be sufficient to pay at maturity all outstanding bonus bonds, together with the interest due or payable thereon, the additional tax imposed by this section shall expire at the end of such fiscal year.

CHAPTER 188

(Com. Sub. for Senate Bill No. 291—Originating in the Senate Committee on Finance.)

AN ACT to amend article seventeen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be desig-

nated section two-b, relating to the imposition, collection and disposition of an additional excise tax on the sale of cigarettes in order to provide additional revenue for the support of free schools.

[Passed March 10, 1951; in effect July 1, 1951. Approved by the Governor]

Article 17. Excise Tax on Sale of Cigarettes.

Section

2-b. Additional cigarette tax for support of schools.

Be it enacted by the Legislature of West Virginia:

That article seventeen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, to be designated section two-b, to read as follows:

Section 2-b. *Additional Cigarette Tax for Support of Schools.*—For the purpose of providing additional revenue for the support of free schools, there is hereby levied and imposed, on and after midnight of the last day of June, one thousand nine hundred fifty-one, in addition to the taxes imposed by sections two and two-a of this article an additional excise tax of one cent on each ten cigarettes, or fractional part thereof, sold within this state. Except as otherwise provided in this section, all provisions of this article relating to the levy, imposition and collection of the regular excise tax on the sale of cigarettes shall be applicable to the levy, imposition and collection of such additional tax. Notwithstanding other provisions of this article to the contrary, all moneys received from the additional tax imposed by this section, less deductions allowed by this article for refunds and for costs of administration and operation, shall be paid by the tax commissioner into the general school fund, to be used solely for the support of free schools.

CHAPTER 189

(Senate Bill No. 181—By Mr. Bean)

AN ACT to amend and reenact sections one, four, six, nine, ten, eleven, nineteen and twenty, article seventeen, and the whole of article eighteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one hundred fifty-six, acts of the Legislature, regular session, one thousand nine hundred forty-seven, relative to a tax on cigarettes, levying and imposing a tax upon the sale of cigarettes to raise revenues, providing for the payment and collection of such tax and the administration thereof, levying a tax on the use, consumption or storage of cigarettes and prescribing penalties for the violation thereof.

[Passed March 10, 1951; in effect July 1, 1951. Approved by the Governor.]

Article

17. Excise Tax on Sale of Cigarettes.
18. Excise Tax on Use, Consumption or Storage of Cigarettes.

Be it enacted by the Legislature of West Virginia:

That sections one, four, six, nine, ten, eleven, nineteen and twenty, article seventeen, and the whole of article eighteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one hundred fifty-six, acts of the Legislature, regular session, one thousand nine hundred forty-seven, be amended and reenacted, all to read as follows:

Article 17. Excise Tax on Sale of Cigarettes.

Section

1. Definitions.
4. How tax paid; stamps; how affixed and canceled; violations.
6. Tobacco license required.
9. Power of tax commissioner; rules and regulations; records of wholesalers and retailers; metering in lieu of stamping; agents for metering; levy to collect tax.
10. Form of stamps; custody; discounts; security for payments.
11. Sales by deputies; fees; reports of deputies.
19. Issuance of warrant to sheriff by attorney general or commissioner; priority of tax.
20. Revocation of licenses.

Section 1. *Definitions.*—As used in this article:

- 2 "Person" includes firms and corporations;
3 "Wholesale dealer" shall mean and include any person,
4 distributor or commissary servicing, supplying or selling
5 to affiliated or non-affiliated stores, who acquire cigarettes
6 for purposes of sale to retailers, or to other persons for
7 purposes of resale;
8 "Retail dealer" includes every person in this state,
9 other than a wholesale dealer, engaged in the business of
10 selling cigarettes irrespective of quantity or amount or
11 number of sales thereof;
12 "Sale" includes exchange, barter, gift, offer for sale
13 and distribution;
14 "Cigarette" includes any roll for smoking made wholly
15 or in any part of tobacco irrespective of size or shape
16 and whether or not such tobacco is flavored, adulterated
17 or mixed with any other ingredient, the wrapper or cover
18 of which is made of paper or any other material excepting
19 tobacco;
20 "Package" means the individual package, box or other
21 container in or from which retail sales of cigarettes are
22 normally made or intended to be made;
23 "Stamp" shall mean any cigarette stamps required un-
24 der this article, or any meter or ink impression author-
25 ized by the tax commissioner to serve as such stamp;
26 "Commissioner" means the state tax commissioner and
27 where the meaning of the context requires, all deputies,
28 and employees duly authorized by him.

Sec. 4. *How Tax Paid; Stamps; How Affixed and Can-
2 celed; Violations.*—The tax hereby imposed shall be paid
3 by the purchase of stamps as provided in this article. No
4 stamp shall be in a denomination of less than one-half
5 cent. A stamp or stamps shall be affixed to or printed on
6 each package of an aggregate denomination of not less
7 than the amount of the tax upon the contents thereof.
8 The stamp or stamps, so affixed, shall be prima facie
9 evidence of payment of the tax imposed by this article.
10 Except as may be otherwise provided in the rules and
11 regulations prescribed by the commissioner under au-
12 thority of this article, and unless such stamps have been
13 previously affixed, they shall be so affixed by each whole-

14 sale dealer in this state, and canceled, by writing across
15 the face thereof the name of such wholesale dealer and
16 the date of cancellation, prior to the delivery of any cig-
17 arettes to any retail dealer in this state.

18 Each retail dealer, authorized to deal in unstamped
19 cigarettes, who receives, brings or causes to be brought
20 into this state unstamped cigarettes, shall immediately
21 upon receipt of such unstamped cigarettes at his place
22 of business, so affix such stamp to each package and shall
23 cancel the same by writing or stamping his name and the
24 date of cancellation across the face thereof, or as other-
25 wise directed by regulation of the commissioner, or shall
26 immediately mark in ink on each unopened box, carton
27 or other container of such cigarettes the word "Received"
28 and the month, day and hour of such receipt and shall
29 affix his signature thereto, or as otherwise directed by
30 regulation of the commissioner. He shall in any event
31 open such box, carton or other container and immediate-
32 ly so affix such stamps to each package therein, and
33 cancel the same in the manner herein designated, within
34 twenty-four hours after such receipt and prior to the sale
35 of such cigarettes.

36 Whenever any cigarettes are found in the place of
37 business of such retail dealer without the stamps so af-
38 fixed and canceled or not so marked as having been
39 received within the preceding twenty-four hours, the
40 prima facie presumption shall arise that such cigarettes
41 are kept therein in violation of the provisions of this
42 article.

Sec. 6. *Tobacco License Required.*—No person shall
2 engage in the business of selling cigarettes at retail
3 within this state without having first secured the license
4 provided in section six, article twelve, chapter eleven of
5 this code or having taken an assignment of such license
6 in the manner permitted by law. Companies operating
7 club or dining cars or other cars upon which cigarettes
8 are sold shall comply with the requirements of this article
9 with respect to the imposition of cigarette tax and af-
10 fixing stamps to packages in which the same are sold
11 in the state of West Virginia.

2 *Sec. 9. Power of Tax Commissioner; Rules and Regu-*
3 *lations; Records of Wholesalers and Retailers; Metering*
4 *in Lieu of Stamping; Agents for Metering; Levy to Collect*
5 *Tax.*—The tax commissioner shall have power and au-
6 thority to enforce and administer the provisions of this
7 article and article eighteen of this chapter. The tax
8 commissioner shall have authority to promulgate in ac-
9 cordance with the provisions of this article such rules
10 and regulations as he may deem necessary to carry out
11 its provisions, and may adopt different detailed regu-
12 lations applicable to diverse methods and conditions of
13 sale of cigarettes in this state, prescribing, in each class
14 of cases upon whom, as between the wholesale dealer
15 and the retail dealer, the primary duty of affixing stamps
16 shall rest and the manner in which stamps shall be af-
17 fixed. Each licensed dealer shall be furnished a copy of
18 such regulations upon request. Any such rule or regu-
19 lation so furnished, excusing a wholesale dealer from
20 affixing stamps under the circumstances of the particular
21 case, shall be a defense in the prosecution of such dealer
22 for violation of section sixteen of this article.

23 All books, papers, invoices and records of any whole-
24 sale or retail dealer in this state, whether or not re-
25 quired under the provisions of this article to be kept
26 by him, showing his sales, receipts and purchases of
27 cigarettes, shall at all times, during the usual business
28 hours of the day, be open for the inspection of the tax
29 commissioner, or his authorized agent, for such pur-
30 poses; and the tax commissioner or a deputy shall have
31 power to investigate and examine the stock of cigarettes
32 in and upon any premises where the same are placed,
33 stored or sold, for the purpose of determining whether
34 or not the provisions of this act are being obeyed.

35 The tax commissioner, if he shall determine that it is
36 practicable to stamp packages of cigarettes by impression
37 by means of a metering device, shall provide that such
38 metering device and its impression may be used in lieu
39 of the stamps otherwise required by law. The tax com-
40 missioner shall authorize any wholesale, or retail dealer,
41 purchasing unstamped cigarettes and holding the license
herein required, to use any metering device approved

42 by the commissioner, such device to be sealed by the
43 commissioner or a deputy, or agent authorized by the
44 commissioner, before being used, and which device shall
45 be used only in accordance with the regulations pre-
46 scribed by the commissioner.

47 Any wholesale or retail dealer authorized by the tax
48 commissioner to affix stamps to packages of cigarettes by
49 means of a metering device shall file with the tax com-
50 missioner a bond in such amount as the tax commissioner
51 may designate, conditioned upon the payment of the tax
52 upon the cigarettes so stamped.

53 Wholesale and retail dealers licensed to use said de-
54 vice shall make a monthly return to the commissioner
55 and remit monthly the amounts of tax due the state:
56 *Provided, however,* That a wholesale or retail dealer
57 may elect to pay the tax in advance where a metering
58 device is used, in which event such dealer shall deliver
59 the metering device to the commissioner, or his agent
60 authorized for the purpose, who shall seal the meter in
61 accordance with the prepayment so made. The com-
62 missioner may designate and authorize any bank or
63 trust company with banking offices in any county of
64 this state, to act as his deputy or agent for the purpose
65 of performing his duties with respect to sealing of meter-
66 ing devices in such county, and may require bond, and
67 the action of any such deputy by its duly authorized of-
68 ficer or employees shall be as valid as though performed
69 by the commissioner.

70 The commissioner shall have power to make an assess-
71 ment, against any retail or wholesale dealer who fails
72 to return or make a false or erroneous return. The com-
73 missioner may collect such assessment by levy, action at
74 law, distraint or any other method of enforcing taxes
75 which may be provided by law and shall have the right
76 to file liens therefor in any county.

Sec. 10. *Form of Stamps; Custody; Discounts; Security*
2 *for Payments.*—The commissioner shall design, and pro-
3 cure stamps to be used as herein provided for, affixed
4 and attached to containers, packages or receptacle of
5 whatever kind that may be used for containing ciga-
6 rettes. In the preparing of said stamp or stamps the

7 same shall have printed or impressed thereon the words
8 "State of West Virginia—Cigarette Tax Stamp" and such
9 other words and figures as he may deem proper to show
10 the value and denomination of the stamp or stamps. He
11 shall also prescribe the form of impression to be placed
12 upon any package or container of cigarettes by any meter-
13 ing device. The state tax commissioner shall collect the
14 taxes provided for by this article.

15 Such stamps shall be kept in the custody of the state
16 tax commissioner or such deputies as he may designate to
17 sell the same. Such stamps shall be sold and accounted
18 for at the face value thereof except that the tax com-
19 missioner may authorize sale thereof, or sell to whole-
20 sale or retail dealers in this state, or to wholesalers out-
21 side of this state such stamps at a discount of four per
22 cent of the face value of such stamps, the same to be
23 allowed as a commission for affixing and canceling such
24 stamps; and excepting further that the tax commissioner
25 may, by like regulation so certified, authorize the de-
26 livery of stamps to wholesale or retail dealers in this
27 state, or to wholesale dealers outside of this state on
28 credit, allowing the same discount as when sold for
29 cash, if when the purchaser shall file with the tax com-
30 missioner a bond not exceeding forty thousand dollars,
31 payable to the state of West Virginia, in such form and
32 amount as the commissioner shall prescribe, and with
33 surety or sureties to the satisfaction of the commissioner,
34 conditioned as he may require, to guarantee payment
35 within thirty days for stamps so delivered within such
36 period of time and by making of such reports and settle-
37 ment as the commissioner may require. In the event a
38 wholesale dealer in this state has aggregate purchases
39 during thirty-day credit periods in excess of forty thou-
40 sand dollars, such dealer may file with the commissioner
41 a statement of excess credit requirement, together with a
42 financial statement duly verified by a certified public
43 accountant or public accountant. Should the commis-
44 sioner determine that the maximum bond together with
45 such dealer's known assets are sufficient to insure pay-
46 ment to the state for stamps purchased, the commissioner
47 shall authorize the delivery of stamps to such dealer on

48 credit. The commissioner may, by further regulations,
49 provide for canceling, renewing or increasing such bond
50 or for the substitution of the surety thereon. The com-
51 missioner shall redeem any unused or mutilated, but
52 identifiable stamps, that any licensed wholesale dealer
53 or retail dealer may present for redemption, on written
54 verified requests made by the purchaser, his adminis-
55 trators, executors, successors, or assigns, and refund
56 therefor, ninety-five per cent of the face value of said
57 stamps, less any discounts allowed on the purchase of
58 said stamps. The commissioner shall pay on a like basis
59 for stamps destroyed by fire upon presentation of proof
60 of such loss satisfactory to him. Such payments shall for
61 purposes hereof be deemed to be refunds of taxes im-
62 properly collected and shall be allowed and paid as part
63 of the cost of administration of this article as in this article
64 provided.

Sec. 11. *Sales by Deputies; Fees; Reports of Deputies.*

2 —The tax commissioner may appoint any sheriff, or any
3 bank or trust company authorized to do business in, and
4 doing business in this state, as his deputy for the purpose
5 of selling such stamps, excepting that no such deputy
6 shall be thereby authorized to sell the same at a discount
7 or on credit, and excepting, further, that provisions hereof
8 relating to sale of stamps shall not prevent any bank or
9 trust company from acting as the commissioner's deputy
10 for purposes of checking and sealing meters under other
11 provisions of this article. The tax commissioner is hereby
12 authorized to allow such deputy, authorized to sell stamps
13 hereunder, a fee of one-eighth of one per cent of the face
14 value of all stamps sold by such deputy and charge the
15 same as a part of the costs of administration of this article.
16 It shall be the duty of any such deputy to act as such dep-
17 uty and all the powers and duties thereby imposed upon
18 any such sheriff shall be deemed and considered to be
19 within the scope of his office as county treasurer for all
20 purposes. The state tax commissioner shall be responsible
21 for the delivery of stamps to any county sheriff or other
22 deputy so appointed, and may prescribe such regulations
23 and forms of receipts and reports as he may deem neces-
24 sary and advisable for the transaction of the business of

25 selling such stamps. Each such deputy shall remit
26 monthly or oftener as requested, to the tax commissioner
27 all moneys arising from the sale of such stamps by him,
28 together with a report showing the names of the pur-
29 chasers and the number of each denomination and the
30 aggregate face value sold by each such deputy. Commis-
31 sions or allowances retained or paid to sheriffs shall be
32 paid by such sheriffs into the general fund of his county.
33 The tax commissioner may sell stamps at his office.

Sec. 19. *Issuance of Warrant to Sheriff by Attorney
2 General or Commissioner; Priority of Tax.*—In addition
3 to all other remedies for the collection of any taxes or fees
4 due under the provisions of law, the attorney general or
5 the tax commissioner may issue a warrant directed to the
6 sheriff of any county of the state commanding said sher-
7 iff to levy upon and sell the goods and chattels of such
8 dealer, without exemption, found within his jurisdiction,
9 for the payment of the amount of such delinquency with
10 the added penalties and interest and the cost of executing
11 the warrant and to return such warrant to the tax com-
12 missioner or attorney general and to pay him the money
13 collected by virtue thereof within the time to be therein
14 specified which shall not be less than twenty nor more
15 than sixty days from the date of the warrant. The sheriff
16 to whom any such warrant shall be directed shall proceed
17 upon the same in all respects and with like effect and in
18 the same manner as prescribed by law in respect to exe-
19 cutions issued against goods and chattels upon judgments
20 by a court of record, and shall be entitled to the same fees
21 for his services in executing the warrant to be collected
22 in the same manner.

23 The claim arising by reason of delinquent cigarette
24 taxes shall be a preferred claim against all of the assets
25 of the dealer, real and personal, with priority over all
26 taxes except real property taxes and other recorded state
27 tax claims docketed according to law.

Sec. 20. *Revocation of Licenses.*—The commissioner
2 shall have the right to revoke any license issued under
3 the provisions of this article and any tobacco license
4 issued under article twelve, chapter eleven of this code,

5 for violation by licensee thereunder of the provisions of
6 this article, article eighteen of this chapter, and the pro-
7 visions of any other statute regulating the business of
8 wholesale and retail dealers of cigarettes. Persons whose
9 licenses are revoked hereunder shall have the same rights
10 of appeal provided in sections forty-seven and forty-eight
11 of article twelve of this chapter.

Article 18. Excise Tax on Use, Consumption or Storage of Cigarettes.

Section

1. Definitions.
2. Levy of Tax on Cigarettes.
3. Returns; Remittance.
4. Assessment by Commissioner.
5. Penalties for failure to make and file return.
6. Disposition of taxes collected.
7. Separability of provisions of act.

Section 1. *Definitions.*—As used in this article:

2 “Person” includes individuals, firms, partnerships, as-
3 sociation, joint stock companies and corporations, and
4 combinations or individuals of whatsoever form and
5 character.

6 “Commissioner” means the tax commissioner of West
7 Virginia.

8 “Storage” means and includes any keeping or retention
9 of cigarettes for any period of time in this state.

10 “Use” means and includes the exercise of any right or
11 power incidental to the ownership of cigarettes.

12 “Consumer” means any person who shall have title to or
13 possession of cigarettes in storage, for use or consumption
14 in this state.

15 Other terms defined in section one, article seventeen
16 of this chapter shall have the same meaning when used
17 in this article insofar as the same are applicable hereto.

Sec. 2. *Levy of Tax on Cigarettes.*—For the purpose
2 of providing revenue for the general fund of this state an
3 excise tax is hereby levied on the use, consumption or
4 storage of cigarettes by consumers in this state at the rate
5 of two-cents on each ten or fractional part thereof:
6 *Provided, however,* That the tax shall not apply if the tax
7 levied in article seventeen of this chapter has been paid.

Sec. 3. *Returns; Remittance.*—Every person who has

2 acquired cigarettes for use, storage or consumption sub-
3 ject to the tax herein levied shall, on or before the fif-
4 teenth day of the month following receipt of such cigar-
5 ettes, make and file with the commissioner a return
6 showing the amount of cigarettes acquired, together with
7 remittance of the tax thereon.

Sec. 4. *Assessment by Commissioner.*—In case any
2 person required to pay the taxes levied by this article,
3 fails to make remittance as herein required, the commis-
4 sioner shall have the power to issue an assessment against
5 such person, based on any information in his possession
6 or which may come to his possession or knowledge.

7 All of the provisions of sections nine and nineteen of
8 article seventeen of this chapter, and other provisions of
9 law, relating to assessments, distraints, levies, findings or
10 appeals from assessments or findings, and the effect of
11 assessments or findings before or after hearing, and before
12 or after filing same in the office of the clerk of the county
13 court, and all provisions of such sections relating to the
14 procedure, authority, duties, liabilities, powers and privi-
15 leges of the person assessed, the commissioner, the clerk
16 of the county court and all other public officials shall be
17 applicable to assessments made pursuant to the provisions
18 of this article.

Sec. 5. *Penalties for Failure to Make and File Return.*
2 —If any person required by this act to make and file a re-
3 turn with the commissioner, neglects or refuses to make
4 such return, or neglects or refuses to pay the tax levied
5 by this article, or neglects or refuses to pay any lawful
6 assessment issued by the commissioner he shall be guilty
7 of a misdemeanor and upon conviction thereof shall be
8 fined not less than twenty-five dollars nor more than one
9 hundred dollars.

Sec. 6. *Disposition of Taxes Collected.*—The moneys
2 received as taxes under the provisions of this article, shall
3 be credited and held for the same purposes as taxes col-
4 lected under article seventeen of this chapter.

Sec. 7. *Separability of Provision of Act.*—The various
2 provisions of the several sections of article seventeen and

3 article eighteen, contained in this act, shall be deemed
4 to be separable insofar as they or their meaning is not
5 inseparably connected, and if any provisions of this act
6 shall be held unconstitutional, such holding shall not
7 affect any of the other provisions of this act, and said
8 articles seventeen and eighteen, not inseparably con-
9 nected in meaning and effect with such part so held un-
10 constitutional.

CHAPTER 190

(House Bill No. 268—By Mr. Speaker, Mr. Flannery)

AN ACT to amend chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article nineteen, relating to the imposition and collection of an excise tax upon the sale, use, handling or distribution of bottled soft drinks and soft drink syrups, and prescribing penalties for the violation thereof.

[Passed March 9, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 19. Soft Drinks Tax.

Section

1. Definitions.
2. Excise tax on bottled soft drinks and syrups; disposition thereof.
3. Soft drink permits required.
4. Affixing of tax stamps or tax crowns.
5. Purchase of tax stamps or tax crowns; discounts and commissions; provisions for credit.
6. Rules and regulations.
7. Lien for delinquent taxes.
8. Amount allowed for administration.
9. Altering, counterfeiting or reusing tax stamps or tax crowns; penalty.
10. Penalties.
11. Separability.

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 adding thereto a new article, to be designated article nineteen, to read as follows:

Section 1. *Definitions.*—As used in this article:

2 (1) "Bottled soft drinks" shall include any and all
3 nonalcoholic beverages, whether carbonated or not, such
4 as soda water, ginger ale, coca cola, lime cola, pepsi cola,
5 doctor pepper, root beer, carbonated water, orangeade,
6 lemonade, fruit juice when any plain or carbonated water,
7 flavoring or syrup is added, or any and all preparations
8 commonly referred to as "soft drinks" of whatever kind,
9 which are closed and sealed in glass, paper, or any other
10 type of container or bottle, whether manufactured with
11 or without the use of any syrup. The term "bottled soft
12 drinks" shall not include fluid milk to which no flavor-
13 ing has been added, or natural undiluted fruit juice or
14 vegetable juice.

15 (2) "Soft drink syrups" shall include the compound
16 mixture or the basic ingredients, whether dry or liquid,
17 practically and commercially usable in making, mixing
18 or compounding soft drinks at soda fountains by the
19 mixing thereof with carbonated or plain water, ice, fruit,
20 milk or any other product suitable to make a soft drink,
21 among such syrups being such products as coca cola
22 syrup, chero cola syrup, pepsi cola syrup, doctor pepper
23 syrup, root beer syrup, nu-grape syrup, lemon syrup,
24 vanilla syrup, chocolate syrup, cherry smash syrup, rock
25 candy syrup, simple syrup, among such syrups being all
26 these or any other prepared syrups sold or used for the
27 purpose of mixing soft drinks at soda fountains.

28 (3) "Person" shall mean and include an individual,
29 firm, partnership, association or corporation.

30 (4) "Wholesale dealer" includes only those persons
31 who sell any bottled soft drink or soft drink syrup to
32 retail dealers for the purpose of resale.

33 (5) "Retail dealer" includes every person other than
34 a wholesale dealer selling, serving or delivering or other-
35 wise dispensing any bottled soft drink or any drink made
36 from soft drink syrup.

37 (6) "Distributor" shall mean any person who manu-
38 factures, bottles, produces or purchases for sale to retail
39 dealers any bottled soft drink or soft drink syrup.

40 (7) "Commissioner" means the state tax commissioner,

41 and where the meaning of the context requires, all depu-
42 ties and employees duly authorized by him.

Sec. 2. *Excise Tax on Bottled Soft Drinks and Syrups;*
2 *Disposition Thereof.*—For the purpose of providing rev-
3 enue for the construction, maintenance and operation of
4 a four-year school of medicine, dentistry and nursing of
5 West Virginia university, an excise tax is hereby levied
6 and imposed on and after midnight of the last day of
7 June, one thousand nine hundred fifty-one, upon the sale,
8 use, handling or distribution of all bottled soft drinks and
9 all soft drink syrups, whether manufactured within or
10 without this state, as follows:

11 (1) On each bottled soft drink, a tax of one cent on
12 each sixteen fluid ounces, or fraction thereof, contained
13 therein.

14 (2) On each gallon of soft drink syrup, a tax of eighty
15 cents, and in like ratio on each part gallon thereof, and
16 on each ounce of dry mixture used for making soft drinks,
17 a tax proportionate to that levied on soft drink syrup, in
18 a ratio to be determined by the commissioner.

19 The person manufacturing or producing within this
20 state any bottled soft drink or soft drink syrup for sale
21 within this state shall pay the excise tax hereby imposed,
22 and the distributor, wholesale dealer or retail dealer or
23 any other person who is the original consignee of any
24 bottled soft drink or soft drink syrup manufactured
25 or produced outside this state, or who brings such drinks
26 or syrups into this state, shall pay such excise tax. The
27 excise tax hereby imposed shall not be collected more
28 than once in respect to any bottled soft drink or soft
29 drink syrup manufactured, sold, used or distributed in
30 this state.

31 All revenue collected by the commissioner under the
32 provisions of this article, less such costs of administration
33 as are hereinafter provided for, shall be paid by him into
34 a special medical school fund, which is hereby created
35 in the state treasury, to be used solely for the construc-
36 tion, maintenance and operation of a four-year school of
37 medicine, dentistry and nursing, as otherwise provided by
38 law.

Sec. 3. *Soft Drink Permits Required.*—On and after the first day of July, one thousand nine hundred fifty-one, it shall be unlawful for any person to manufacture, bottle, import, distribute or sell in this state any bottled soft drink or any soft drink syrup without having first obtained from the commissioner a soft drink permit as provided in this section. Each wholesale dealer and each distributor shall each year obtain from the commissioner a soft drink permit for each place of business owned or operated by him within the state and shall pay for each permit an annual fee of ten dollars. Each wholesale dealer and each distributor who sells or distributes any such drink or syrup within the state, but who does not own or operate any place of business within the state, shall likewise obtain each year from the commissioner a soft drink permit and shall pay therefor a fee of ten dollars. Each retail dealer shall each year obtain from the commissioner a soft drink permit for each place of business owned or operated by him within the state and shall pay for each permit an annual fee of one dollar. The commissioner may suspend or, after a hearing, revoke any soft drink permit whenever the holder thereof has failed to comply with any of the provisions of this article or any rules or regulations made and promulgated by him as provided herein.

Sec. 4. *Affixing of Tax Stamps or Tax Crowns.*—The payment of the taxes herein provided shall be evidenced by the affixing of soft drink tax stamps or tax crowns to the original containers or bottles in which any bottled soft drink or syrup is placed, received, stored or handled. Such stamps or crowns, of the appropriate denomination, shall be affixed to each container of syrup and to each bottled soft drink by the person who under the provisions of this article is first required to pay the tax thereon, within twenty-four hours after such person has such bottled soft drink or syrup in his possession for the first time. The provisions of this paragraph shall not apply to syrup used by bottlers in the manufacture of bottled soft drinks, or to bottled soft drinks or syrups which are transported through this state and which are not sold, delivered, used or stored herein, if transported in accord-

17 ance with such rules and regulations as may be promul-
18 gated by the commissioner, or to any bottled drink or
19 syrup which is manufactured in this state and sold to a
20 purchaser outside this state.

21 Except as otherwise provided in this section, it shall
22 be unlawful for any person to sell, use, handle or dis-
23 tribute any bottled soft drink or soft drink syrup to which
24 the tax stamps or tax crowns required by this section are
25 not affixed, and any person who shall violate this pro-
26 vision shall be guilty of a misdemeanor and, upon con-
27 viction thereof, shall be punished by a fine of not less
28 than one hundred dollars nor more than five hundred
29 dollars, or by imprisonment for not more than six months,
30 or by both such fine and imprisonment.

Sec. 5. *Purchase of Tax Stamps or Tax Crowns; Dis-*
2 *counts and Commissions; Provisions for Credit.*—The
3 commissioner is hereby authorized to promulgate rules
4 and regulations governing the design, purchase, sale and
5 distribution of tax stamps and tax crowns required by
6 this article. Manufacturers or distributors of crowns may
7 be required to furnish bond to insure faithful compliance
8 with such regulations. Any person desiring to purchase
9 such crowns shall obtain from the commissioner an auth-
10 orization to do so, which shall specify the number of
11 crowns to be purchased, and upon shipment thereof the
12 manufacturer shall transmit to the commissioner a copy
13 of the invoice of such shipment. The commissioner shall
14 not authorize the purchase of crowns by any person who
15 is in default in the payment of any tax required by this
16 article.

17 The commissioner shall sell the stamps required by this
18 article, or may authorize any sheriff, or any bank or
19 trust company in this state, to sell such stamps as his
20 deputy, and may allow as a commission a fee of one-
21 half of one per cent of the face value of all stamps sold
22 by such deputy. In the sale of such stamps the commis-
23 sioner shall allow the following discounts: on a sale of
24 less than twenty-five dollars, no discount; on a sale of
25 twenty-five dollars or over and less than fifty dollars,
26 a discount of five per cent; and on a sale of fifty dollars
27 or more, a discount of ten per cent.

28 In the case of stamps, the tax imposed by this article
29 shall be paid in advance at the time the stamps are pur-
30 chased. In the case of tax crowns, the tax shall be paid in
31 advance at the time the tax commissioner authorizes the
32 purchase of such tax crowns, unless the purchaser applies
33 for and obtains credit as provided in the following para-
34 graph.

35 Whenever any person applies for an authorization to
36 purchase tax crowns he may apply for an extension of
37 credit on the tax due with respect to such crowns, and if
38 he files a bond in the form prescribed by the commis-
39 sioner, with satisfactory corporate surety, in an amount
40 not less than twenty-five per cent more than the tax due
41 with respect to the tax crowns to be purchased, the com-
42 missioner shall issue the necessary authorization. Any
43 person who obtains such credit shall, on or before the
44 tenth day of each month, file with the commissioner on
45 forms prescribed by him a return stating the number of
46 tax crowns used by such person during the preceding
47 month, and he shall at the same time pay to the com-
48 missioner the tax due on the crowns so used.

49 The commissioner shall allow to each purchaser of
50 tax crowns, whether for cash or credit, a discount of
51 twelve and one-half per cent of the tax value of such
52 tax crowns. Such discount, and the discount allowed
53 on the sale of tax stamps, shall be in lieu of the allow-
54 ance of any claim for refund by reason of the breakage
55 or destruction of containers stamped or crowned as pro-
56 vided in this article, or the loss or destruction of tax
57 stamps or tax crowns.

2 *Sec. 6. Rules and Regulations.*—The commissioner is
3 hereby authorized to make and promulgate such reason-
4 able rules and regulations as may be necessary to admin-
5 ister the provisions of this article and to insure the col-
6 lection of the taxes imposed hereby. Every person sub-
7 ject to the provisions of this article shall make such
8 reports and keep such records as may be required by
9 the rules and regulations of the commissioner, and shall
10 permit him to inspect such records and the stock and
supplies on hand at any time.

2 Sec. 7. *Lien for Delinquent Taxes.*—The claims of the
3 state for any delinquent taxes due under the provisions
4 of this article shall be a preferred claim against all the
5 property, real and personal, belonging to the delinquent
6 taxpayer, with priority over all taxes except real prop-
7 erty taxes, and other recorded state tax claims docketed
8 according to law.

2 Sec. 8. *Amount Allowed for Administration.*—The com-
3 missioner, in the administration and enforcement of this
4 article, shall be allowed to expend out of the revenue
5 collected hereunder, a sum not to exceed two and one-
6 half per cent of the total revenue collected.

2 Sec. 9. *Altering, Counterfeiting or Reusing Tax Stamps*
3 *or Tax Crowns; Penalty.*—Any person who falsely or
4 fraudulently makes, forges, alters, or counterfeits any tax
5 stamp or tax crown prescribed by the commissioner
6 under the provisions of this article, or who knowingly
7 or willfully utters, passes or tenders as true any such
8 false, altered, forged or counterfeited stamp or crown,
9 or who uses more than once any stamp or crown for the
10 purpose of evading the tax imposed by this article, shall
11 be guilty of a felony and, upon conviction thereof, shall
12 be punished by imprisonment in the penitentiary for
13 not less than one year nor more than five years.

2 Sec. 10. *Penalties.*—Any person who violates any of the
3 provisions of this article or any lawful rule or regulation
4 promulgated by the commissioner under authority of
5 this article, for the violation of which no other penalty is
6 provided by law, shall be guilty of a misdemeanor and,
7 upon conviction thereof, shall be punished by a fine of not
8 less than twenty-five dollars nor more than one hundred
9 dollars.

2 Sec. 11. *Separability.*—The provisions of the several
3 sections of this article shall be deemed to be separable
4 insofar as they or their meaning is not inseparably con-
5 nected, and if any provisions of this article shall be held
6 unconstitutional, such holding shall not affect any of the
7 other provisions thereof.

CHAPTER 191

(Senate Bill No. 24—By Mr. Love)

AN ACT to amend and reenact section twenty-four, article three, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the service of notices in connection with tax deeds made by county clerks.

[Passed February 27, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 3. Sale of Land for Taxes.

Section

24. Service of notice.

Be it enacted by the Legislature of West Virginia:

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

Section 24. *Service of Notice.*—As soon as the clerk
2 has prepared the notice provided for in the preceding
3 section, he shall cause it to be served upon the following
4 persons: (1) The person in whose name the real estate
5 was returned delinquent and sold, or, in case of his death,
6 his heir or devisee and his personal representative, if such
7 there be; (2) any grantee of such person, or his heir or
8 devisee and his personal representative, if such there be,
9 if a conveyance of such real estate is recorded or filed for
10 record in the office of the clerk; (3) any person having a
11 lien upon such real estate disclosed by any paper recorded
12 in the clerk's office; and (4) any other person having such
13 an interest in the property as would entitle him to re-
14 deem, if the existence of such interest appears of record.
15 The notice shall be personally served upon all such
16 persons residing or found in the state in the manner
17 provided for serving process commencing a suit, on or
18 before the first day of April following the request for
19 such notice. If any person entitled to notice is a non-
20 resident of the state or if his residence is unknown to the

21 clerk and cannot by due diligence be discovered, the
22 notice shall be served by publication once a week for
23 three successive weeks in some newspaper published in
24 the county in which such real estate is located, or if no
25 newspaper is published in the county, then in some news-
26 paper of general circulation in the county. If service by
27 publication is necessary, publication shall be commenced
28 within two weeks after April first, and a copy of the
29 notice shall at the same time be sent by registered mail,
30 return receipt requested, to the last known address of
31 the person served. The return of service of such notice
32 and the affidavit of publication, if any, shall be in the
33 manner provided for process generally and shall be filed
34 and preserved by the clerk in his office, together with
35 any return receipts for notices sent by registered mail.

CHAPTER 192

(Senate Bill No. 177—By Mr. Martin, by request)

AN ACT to amend and reenact section eighteen, article four, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the collection and enforcement of property taxes, including the redemption of forfeited, and delinquent lands and the sale of forfeited, delinquent, escheated, and waste and unappropriated lands for the benefit of the school fund.

[Passed February 16, 1951: in effect from passage. Approved by the Governor.]

Article 4. Sale of Lands for School Funds.

Section

18. Application for permission to redeem.

Be it enacted by the Legislature of West Virginia:

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

Section 18. *Application for Permission to Redeem.*—

2 The former owner of any forfeited or delinquent land,

3 or any other person who was entitled to redeem such
4 land under the provisions of section eight, article three
5 of this chapter, may file his petition in such suit with the
6 circuit court or the judge thereof in vacation, at any time
7 before confirmation of sale thereof requesting permission
8 to redeem such land to the extent that title thereto re-
9 mains in the state. The court or the judge thereof in
10 vacation may by proper decree, permit the petitioner
11 to redeem the land upon payment to the sheriff of the
12 total amount of taxes, interest and charges properly due
13 or chargeable thereon on the date of redemption and all
14 court costs taxable in respect thereto under the provisions
15 of this article, which amount shall be fixed by the court
16 or the judge thereof in vacation, in the order.

17 Upon payment being made, the court or the judge
18 thereof in vacation, shall enter a decree declaring the
19 redemption of such land by the petitioner, so far only
20 as the title thereto remains in the state, and dismissing
21 the suit in respect thereto. If redemption was allowed
22 after sale, the decree shall also direct the sheriff to re-
23 turn the purchase money to the purchaser. Such de-
24 cree shall operate as a release of all the right, title and
25 interest of the state in and to such land, but shall in no
26 wise affect or impair any right, title or interest which
27 any other person may have therein.

28 Any redemption, which may have been heretofore had
29 by a former owner of real estate, pursuant to permission,
30 granted such former owner by a vacation order, in any
31 such suit, is hereby declared valid.

CHAPTER 193

(Senate Bill No. 72—By Mr. Love)

AN ACT to amend and reenact section five, article two, and section five, article four, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the compensation of the director of employment security and members of the board.

[Passed March 8, 1951: in effect from passage. Approved by the Governor.]

Article

2. **The Director of Employment Security.**
4. **Board of Review.**

Be it enacted by the Legislature of West Virginia:

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

Article 2. The Director of Employment Security.**Section**

5. **Compensation.**

Section 5. *Compensation.*—The director shall receive
2 an annual salary of seven thousand dollars, and the
3 necessary traveling expenses incident to the performance
4 of his duties. Requisition for traveling expenses shall
5 be accompanied by a sworn itemized statement which
6 shall be filed with the auditor and preserved as a pub-
7 lic record.

Article 4. Board of Review.**Section**

5. **Compensation.**

Section 5. *Compensation.*—Each member of the board
2 shall receive an annual salary of five thousand five
3 hundred dollars and the necessary traveling expenses
4 incurred in the performance of his duties.

5 Requisition for traveling expenses shall be accom-
6 panied by a sworn and itemized statement which shall be
7 filed with the auditor and permanently preserved as a
8 public record.

9 The salaries and the expenses of the members shall be
10 paid from the administration fund.

CHAPTER 194

(Senate Bill No. 314—By Mr. Traubert)

AN ACT to amend article ten, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one,

as amended, by adding thereto a new section to be designated section eighteen, relating to unemployment compensation.

[Passed March 10, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 10. General Provisions.

Section

18. When contributions and benefits to cease.

Be it enacted by the Legislature of West Virginia:

That article ten, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section to be designated section eighteen to read as follows:

Section 18. *When Contributions and Benefits to Cease.*

2 —Whenever legislation enacted by the Congress of the
 3 United States providing for a federal pay roll tax against
 4 which the contribution required by this chapter may be
 5 credited, is repealed, amended, interpreted, affected, or
 6 otherwise changed in such manner that no portions of the
 7 contributions required by this chapter may be thus cred-
 8 ited, then upon the date of such change the provisions of
 9 this chapter requiring contributions and providing for
 10 payments of benefits shall cease to be operative. If there-
 11 after such credit be allowed, the terms of this chapter
 12 shall as of the date of such allowance of credit, again be-
 13 come operative and collections of contributions and pay-
 14 ment of benefits shall be resumed.

CHAPTER 195

(Senate Bill No. 171—By Mr. Bean)

AN ACT to amend and reenact section five, article one, chapter nine-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to compensation

of director, deputies, assistants and employees, honorarium of council members, traveling expenses, and meetings of council of the department of veterans' affairs.

[Passed March 8, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 1. Department of Veterans' Affairs.

Section

5. Compensation of director, deputies, assistants and employees; honorarium of council members; traveling expenses; meetings of council.

Be it enacted by the Legislature of West Virginia:

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

Section 5. *Compensation of Director, Deputies, Assistants and Employees; Honorarium of Council Members; Traveling Expenses; Meetings of Council.*—The director shall receive a salary of seven thousand dollars per annum, payable in monthly installments, and, in addition, the necessary traveling expenses incident to the performance of his duties. The salaries of the deputy directors, assistants and employees shall be fixed by the veterans' council. The members of the veterans' council shall receive no salary, but each member shall receive an honorarium of ten dollars for each day actually in attendance at a meeting and his actual expenses and traveling expenses incurred in the performance of his duties under this act. The requisition for such expenses and traveling expenses shall be accompanied by a sworn and itemized statement, which shall be filed with the auditor and permanently preserved as a public record. The veterans' council shall hold its initial meeting on the call of the governor, and thereafter shall meet on the call of its chairman, except as otherwise provided. With the exception of the first three meetings of the veterans' council, none of which shall be of a duration longer than two weeks each, for organizational purposes, the veterans' council shall meet not more than once every two months at such times as may be determined by and upon the call

26 of the chairman for a period of not more than two days,
27 unless there should be an emergency requiring a special
28 meeting or for a longer period and so declared and called
29 by the governor or by the chairman with the approval
30 of the governor. A majority of its members of the vet-
31 erans' council shall constitute a quorum for the conduct
32 of official business.

CHAPTER 196

(House Bill No. 55—By Mr. Speaker, Mr. Flannery)

AN ACT authorizing the issuance and sale of ninety million dollars of bonds of the state of West Virginia to raise money for the purpose of paying a bonus to veterans under and by virtue of the "Veterans' Ninety Million Dollars Bonus Amendment" to the constitution adopted at the general election held in November, one thousand nine hundred fifty, providing for the disposition and expenditure of the proceeds of the sale thereof, and providing for the payment of such bonds and for the rights and security of the holders thereof.

[Passed February 6, 1951: in effect from passage. Approved by the Governor.]

Veterans' Bonus Bonds.

Section

1. Veterans' bonus bonds; amount thereof and authority to 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. Veterans' bonus sinking fund for payment of bonds and interest; investment thereof.
7. Covenants of state.
8. Sale by governor; minimum price.
9. Proceeds paid into veterans' bonus fund; expenditure.
10. Plates property of state.
11. Treasurer to be custodian of unsold bonds.
12. Interim certificates.
13. Payment of expenses.

Be it enacted by the Legislature of West Virginia:

Section 1. *Veterans' Bonus Bonds; Amount Thereof*

2 *and Authority to Issue.*—Bonds of the state of West Vir-
3 ginia of the par value of ninety million dollars are hereby
4 authorized to be issued and sold for the purpose of rais-
5 ing funds for the payment of a cash bonus to veterans,
6 including the costs of administration necessarily incident
7 thereto, under and by virtue of the “Veterans’ Ninety
8 Million Dollars Bonus Amendment” to the constitution
9 adopted at the general election held in November, one
10 thousand nine hundred fifty. Such bonds may be issued
11 by the governor in such amounts, in coupon or regis-
12 tered form, in such denominations, at such times and
13 bearing such date or dates as the governor may deter-
14 mine, and shall become due and payable serially begin-
15 ning one year and ending not more than twenty years
16 from the date thereof. The amount of such bonds matur-
17 ing in each year shall be so arranged by the governor
18 that the aggregate amount of principal of and interest
19 on such bonds maturing and becoming due in each year
20 shall be approximately equal. A variation of not more
21 than three per cent in such aggregate amounts of prin-
22 cipal and interest maturing and becoming due in each
23 year shall be considered a proper compliance with such
24 requirement. All of such bonds maturing more than ten
25 years after the date of issuance thereof shall be redeem-
26 able prior to maturity, at the option of the state of West
27 Virginia, at such time or times, at such premium or prem-
28 iums, and upon such other conditions as the governor
29 shall determine and prescribe in the notice of sale thereof.

*Sec. 2. Transfer, Fee; Registration, Fee; Where Pay-
2 able; Interest Rate; Tax Exempt.*—The auditor and the
3 treasurer are hereby authorized to arrange for the trans-
4 fer of registered bonds, and for each such transfer a fee
5 of fifty cents shall be charged by and paid to the state of
6 West Virginia, to the credit of the veterans’ bonus sink-
7 ing fund. Bonds taken in exchange shall be canceled by
8 the auditor and treasurer and be carefully preserved by
9 the treasurer. The treasurer shall make provisions for
10 registering “payable to bearer” bonds, and for each bond
11 registered a fee of fifty cents shall likewise be charged by
12 and paid to the state of West Virginia, to the credit of the

13 sinking fund. All of such bonds shall be payable at the
 14 office of the treasurer of the state of West Virginia, or,
 15 at the option of the holder, at some bank in the city of
 16 New York to be designated by the governor. The bonds
 17 shall bear interest payable semi-annually, on the first
 18 day of _____ and the first day of _____, of each
 19 year, to bearer, at the office of the treasurer of the state
 20 of West Virginia at the capitol of the state, or at the bank
 21 designated by the governor, upon presentation and sur-
 22 render of interest coupons then due, in the case of coupon
 23 bonds. In the case of registered bonds the treasurer of
 24 the state of West Virginia shall issue his check for the
 25 interest then due on the first day of _____ and the first
 26 day of _____, of each year, and mail it to the registered
 27 owner at his address as shown by the record of regis-
 28 tration. Both the principal and interest of the bonds shall
 29 be payable in lawful money of the United States of
 30 America and the bonds shall be exempt from taxation
 31 by the state of West Virginia, or by any county, district,
 32 or municipality thereof, which facts shall appear on the
 33 face of the bonds as part of the contract with the holder
 34 thereof.

Sec. 3. *Form of Bond.*—The bonds and coupons shall
 2 be engraved and the bonds shall be signed on behalf of
 3 the state of West Virginia, by the treasurer thereof, under
 4 the great seal of the state, and countersigned by the
 5 auditor of the state, and shall be substantially in the fol-
 6 lowing form or to the following effect, namely:

7 VETERANS' BONUS
 8 COUPON BOND
 9 (Or registered bond, as the case may be)
 10 OF THE
 11 STATE OF WEST VIRGINIA
 12 \$..... SERIES..... No.....

13 The state of West Virginia, under and by virtue of au-
 14 thority of an act of the Legislature passed at the regular
 15 session of one thousand nine hundred fifty-one, on the
 16 day of _____, one thousand nine hundred fifty-
 17 one, and approved by the governor on the day of
 18 _____, one thousand nine hundred fifty-one, which is

19 hereby made a part hereof as fully as if set forth at
 20 length herein, acknowledges itself to be indebted to, and
 21 hereby promises to pay to the bearer hereof (in the case
 22 of a coupon bond) or to _____ or assigns (the
 23 owner of record, in case of a registered bond) on the
 24 _____ day of _____, 19____, in lawful money of the
 25 United States of America at the office of the treasurer
 26 of the state of West Virginia at the capitol thereof, or at
 27 the option of the holder at _____ bank in the city
 28 of New York, the sum of _____ dollars, with in-
 29 terest thereon at _____ per centum per annum from
 30 date, payable semi-annually in like lawful money of the
 31 United States of America at the treasurer's office or bank
 32 aforesaid, on the first day of _____ and the first day
 33 of _____ of each year, (and in the case of a
 34 coupon bond) according to the tenor of the annexed
 35 coupons, bearing the engraved facsimile signature of the
 36 treasurer of the state of West Virginia, upon surrender
 37 of such coupons. This bond (in the case of a coupon bond)
 38 may be exchanged for a registered bond of like tenor
 39 upon application to the treasurer of the state of West
 40 Virginia.

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

44 In testimony whereof, witness the signature of the
 45 treasurer of the state of West Virginia, and the counter-
 46 signature of the auditor of the state, hereto, affixed ac-
 47 cording to law, dated the _____ day of _____, one thou-
 48 sand nine hundred _____, and the seal of the state
 49 of West Virginia.

50 (Seal)

51 _____
 52 Treasurer of the State of West Virginia

53 Countersigned:

54 _____
 55 Auditor of the State of West Virginia

2 Sec. 4. *Form of Coupon.*—The form of coupon 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
7 United States of America, at the office of the treasurer of
8 the state, or at the option of the holder at _____
9 bank in the city of New York, the sum of _____
10 dollars, the same being semi-annual interest on Veterans'
11 Bonus Bond No. _____, series _____ .

12

13 Treasurer of the State of West Virginia

14 The signature of the treasurer to such coupon shall be
15 by his engraved facsimile signature and the coupons
16 shall be numbered in the order of their maturity, from
17 number one consecutively. The bonds and coupons may
18 be signed by the present treasurer and auditor, or by
19 any of their respective successors in office, and bonds
20 signed by the persons now in office may be sold by the
21 governor or his successor in office without being signed
22 by the successor in office of the present treasurer or au-
23 ditor.

Sec. 5. *Listing by Auditor.*—All coupon and registered
2 bonds issued under this act shall be separately listed by
3 the auditor of the state in books provided for the purpose,
4 in each case giving the date, number, character and
5 amount of obligations issued, and in case of registered
6 bonds, the name and post office address of the person,
7 firm or corporation registered as the owner thereof.

Sec. 6. *Veterans' Bonus Sinking Fund for Payment of*
2 *Bonds and Interest; Investment Thereof.*—There is here-
3 by created a veterans' bonus sinking fund. Into such fund
4 there shall be paid all moneys received from all taxes or
5 charges made applicable by law to the payment of such
6 bonds or the interest thereon, from transfer fees as here-
7 in provided, and from any other source which is made
8 liable by law for the payment of the principal of such
9 bonds or the interest thereon.

10 All such funds shall be kept by the treasurer in a sep-
11 arate account, under the designation aforesaid, and all

12 money belonging to the fund shall be deposited in the
13 state treasury to the credit thereof.

14 Such fund shall be applied by the treasurer of the state,
15 first to the payment of the principal and semi-annual in-
16 terest on such bonds as they shall become due as herein
17 provided. The remainder of the fund shall be turned over
18 by the state treasurer to the state sinking fund commis-
19 sion, whose duty it shall be to invest the same in bonds
20 of the government of the United States, bonds of the state
21 of West Virginia, or any political subdivision thereof:
22 *Provided, however,* That bonds so purchased by the state
23 sinking fund commission shall mature so as to provide
24 sufficient money to pay off all bonds herein provided to
25 be issued as they may become due. The money so paid
26 into the veterans' bonus sinking fund under the provis-
27 ions of this act shall be expended for the purpose of pay-
28 ing the interest and principal of the bonds hereby pro-
29 vided for as they severally become due and payable and
30 for no other purpose except that the fund may be invested
31 until needed, as herein provided.

Sec. 7. *Covenants of State.*—The state of West Virginia
2 hereby covenants and agrees with the holders of bonds
3 issued pursuant hereto that all the provisions of this act
4 shall be and constitute an irrevocable contract with the
5 holders of such bonds from time to time; that the rates
6 of additional taxes on cigarettes and nonintoxicating beer
7 and the additional charge on the sale of each bottle of
8 alcoholic liquor, otherwise provided by law exclusively
9 for payment of such bonds, shall not be reduced so long
10 as any of the bonds, or any interest thereon, are out-
11 standing and unpaid, unless the payment thereof has
12 been adequately provided for; and that to the full extent
13 permitted by the constitution of West Virginia any of
14 the covenants, agreements and provisions of this act may
15 be enforced in any court of competent jurisdiction by any
16 holder of such bonds or of any interest coupon appertain-
17 ing thereto.

18 The state of West Virginia further covenants and agrees
19 that if in any fiscal year thereafter the aggregate amount
20 of moneys derived from such additional taxes on ciga-

21 rettes and beer and such additional charges on alcoholic
22 liquor are insufficient to meet all principal and interest
23 payments due on such bonds during that year, it will
24 levy and collect such additional taxes on cigarettes and
25 beer and such additional charges on alcoholic liquor, as
26 may be necessary to produce sufficient revenue to meet
27 such payments as the same shall become due, or that in
28 lieu of such increased taxes or charges on cigarettes, beer
29 and alcoholic liquor, it may levy and collect an additional
30 general consumers sales tax or a graduated income tax
31 in the amount necessary for such purpose.

2 Sec. 8. *Sale by Governor; Minimum Price.*—The gov-
3 ernor shall sell the bonds herein mentioned at such time
4 or times as he may determine necessary to provide funds
5 for payment of the bonus as herein provided. All sales
6 shall be at not less than par and accrued interest. All
7 interest coupons becoming payable prior to the sale date
8 shall be canceled by the treasurer and rendered ineffec-
9 tive, before the delivery of the bonds so sold.

2 Sec. 9. *Proceeds Paid into Veterans' Bonus Fund; Ex-*
3 *penditure.*—The proceeds of all sales of bonds herein au-
4 thorized shall be paid into the veterans' bonus fund, which
5 is hereby created, and shall be expended solely for the
6 payment of the veterans' bonus and the costs of adminis-
7 tration necessarily incident thereto.

8 If deemed advisable, the governor may direct the state
9 treasurer to invest a part of the moneys in the veterans'
10 bonus fund, in direct obligations of the United States of
11 America, having a maturity of not exceeding one hundred
12 eighty-five days from date of purchase. Any interest or
13 profit accruing from such purchases shall be credited to
the veterans' bonus fund.

2 Sec. 10. *Plates Property of State.*—The plates from
3 which the bonds authorized by this act are engraved shall
4 be the property of the state of West Virginia.

2 Sec. 11. *Treasurer to Be Custodian of Unsold Bonds.*—
3 The state treasurer shall be the custodian of all unsold
4 bonds issued pursuant to the provisions of this act.

2 Sec. 12. *Interim Certificates.*—The governor may au-

2 authorize the issuance of interim certificates to be issued to
 3 the purchasers of such bonds to be held by them in lieu
 4 of engraved bonds. When interim certificates are so is-
 5 sued, they shall become full and legal obligations of the
 6 state of West Virginia under all of the provisions of this
 7 act just as fully and completely as the engraved and per-
 8 manent bonds.

Sec. 13. *Payment of Expenses.*—All necessary expenses
 2 incurred in the execution of this act shall be paid out of
 3 the veterans' bonus fund on warrants of the auditor of the
 4 state drawn on the state treasury.

CHAPTER 197

(House Bill No. 54—By Mr. Speaker, Mr. Flannery)

AN ACT providing for the payment of the veterans' bonus and
 for the administration thereof, prohibiting certain acts
 with respect thereto, and prescribing penalties for the vio-
 lation of such provisions.

[Passed February 5, 1951; in effect from passage. Approved by the Governor.]

Payment of Veterans' Bonus.

Section

1. Department of veterans' affairs to administer act; veterans' ad-
 visory committee.
2. Veterans entitled to bonus.
3. Payment of bonus to relatives of deceased veterans.
4. Amount of bonus.
5. Limitation on time for filing application.
6. Determination by director of the validity of claims.
7. Review board hearing.
8. Court review of final orders of review board.
9. Payments from veterans' bonus fund; balance to veterans' bonus
 sinking fund.
10. Penalty for making false statements.
11. Penalty for filing more than one application.
12. Bonus payment not subject to taxation or legal process; claim
 therefor not assignable.
13. Collection of fees or charges; penalty.

Be it enacted by the Legislature of West Virginia:

Section 1. *Department of Veterans' Affairs to Admin-
 2 ister Act; Veterans' Advisory Committee.*—The West Vir-

3 ginia department of veterans' affairs is hereby designated
4 as the state agency to administer the provisions of this
5 act. The director of the department of veterans' affairs
6 shall do all things necessary for the proper administration
7 thereof. The director, with the advice and consent of the
8 veterans' council, may adopt and promulgate such reason-
9 able rules and regulations, not inconsistent herewith, as
10 may be necessary to effect the purposes of this act, includ-
11 ing regulations concerning the evidence or other data
12 required to establish eligibility and qualification for the
13 bonus as herein provided. The director shall prepare and
14 furnish all necessary forms, which shall be distributed
15 by him through such veterans' and other organizations
16 as he may deem most practicable.

17 The department of veterans' affairs shall, insofar as
18 possible, utilize the full personnel, supplies and equip-
19 ment of the department in the administration of this act.
20 The department may employ such additional deputies
21 and other assistants as may be necessary for the proper
22 administration of this act, subject, however, to the ap-
23 proval of the veterans' council and the director of the
24 budget, who must also approve the salaries and other
25 compensation of such deputies and assistants.

26 The governor may appoint a veterans' advisory com-
27 mittee, consisting of representatives of veterans' organi-
28 zations chartered under acts of Congress and operating
29 in this state, to advise and counsel with the director in
30 the administration of this act. Such committee shall meet
31 on the call of the director at such times and places as he
32 may specify.

Sec. 2. *Veterans Entitled to Bonus.*—In grateful recog-
2 nition of their sacrifices in times of war, a cash bonus as
3 herein provided shall be paid to veterans of World War
4 I and World War II. Such bonus shall be paid to all per-
5 sons who rendered active service in the armed forces of
6 the United States in World War I between the sixth day
7 of April, one thousand nine hundred seventeen, and the
8 eleventh day of November, one thousand nine hundred
9 eighteen, both dates inclusive, or in World War II be-
10 tween the seventh day of December, one thousand nine

12 hundred forty-one, and the second day of September,
13 one thousand nine hundred forty-five, both dates in-
14 clusive, or in both such wars, who were bona fide resi-
15 dents of the state of West Virginia at the time of their
16 entry into such service and for a period of at least six
17 months prior thereto, who were not dishonorably dis-
18 charged from such forces, and who within the periods
19 specified actively served in such armed forces for a period
20 of at least ninety days. A cash bonus shall also be paid
21 to any disabled veteran, otherwise qualified, who was
22 discharged within ninety days after entering the services
23 because of a service connected disability.

24 As used in this act, "armed forces" shall include the
25 following: The United States Army, Army of the United
26 States, Women's Army Corps, Women's Auxiliary Army
27 Corps, Army Nurses' Corps, United States Navy, United
28 States Naval Reserve, United States Navy Women's Re-
29 serve, Navy Nurses' Corps, United States Marine Corps,
30 United States Marine Corps Reserve, United States Ma-
31 rine Corps Women's Reserve, United States Coast Guard,
32 United States Coast Guard Reserve, and the United States
32 Coast Guard Women's Reserve.

Sec. 3. *Payment of Bonus to Relatives of Deceased Vet-*
2 *erans.*—The bonus to which any deceased veteran would
3 have been entitled, had he lived, shall be paid only to
4 the following surviving relatives of such veteran, if such
5 relatives are residents of this state when application for
6 payment is made: Any unremarried widow, or if none,
7 any child or children under the age of sixteen, or if none,
8 any dependent parent or parents.

Sec. 4. *Amount of Bonus.*—The amount of such cash
2 bonus shall be calculated on the basis of ten dollars for
3 each month, or major fraction thereof, served within the
4 territorial limits of the forty-eight states and the District
5 of Columbia, and fifteen dollars for each month, or major
6 portion thereof, served outside such limits, but such
7 amount shall in no case exceed three hundred dollars for
8 those who served only within the territorial limits speci-
9 fied above, and four hundred dollars for those who served
10 outside such limits.

2 Sec. 5. *Limitation on Time for Filing Application.*—No
3 bonus shall be paid to any person otherwise entitled
4 thereto unless application therefor shall be filed with
5 the department on or before the thirty-first day of Decem-
6 ber, one thousand nine hundred fifty-two.

2 Sec. 6 *Determination by Director of the Validity of*
3 *Claims.*—Upon receipt of an application for benefits here-
4 under, the director shall, as soon as may be practicable,
5 determine the validity of the claim. As soon as such
6 determination has been made, the director shall mail to
7 the applicant a notice stating the amount of the bonus
8 payment, if any, which he finds to be due.

9 Any applicant who is aggrieved by any such determina-
10 tion of the director may demand that his claim be re-
11 viewed as hereinafter provided. Such demand for review
12 shall be filed with the director in writing within sixty
13 days after the date on which the notice by the director
14 was mailed to the applicant. Upon receipt of such demand
15 for review the director shall certify the demand, together
16 with all files and records relating to the application, to a
17 board of review. Unless such demand for review is duly
18 filed with the director, all findings and orders of the di-
19 rector with reference to such claim shall be final and con-
20 clusive upon the applicant.

2 Sec. 7. *Review Board Hearing.*—For the purpose of this
3 act, the veterans' council of the state department of vet-
4 erans' affairs is hereby designated as the "Veterans'
5 Bonus Review Board". Under rules and regulations
6 adopted by the veterans' council, any one or more mem-
7 bers of a board of review may conduct hearings on a
8 demand by an applicant for review of the determination
9 of the director, and may report his or their findings there-
10 on, together with the entire record of the case, to the
11 review board for its final determination and decision.

12 If the number of demands for review hereunder shall
13 become too numerous to be handled expeditiously by the
14 veterans' council, the governor, upon the recommenda-
15 tion of the council, may appoint one or more additional
16 boards of review. Additional boards shall consist of not
17 more than three members, one of whom shall be a law-

17 yer, who shall have the same qualifications as the mem-
18 bers of the veterans' council, and who shall serve at the
19 will and pleasure of the governor for such time as may be
20 necessary for the purposes of this act. Each such addi-
21 tional review board shall have the same authority and its
22 final decision shall have the same force and effect as that
23 of the veterans' council under the provisions of this act.

24 Upon receipt from the director of the files and records
25 relating to any claim, the board, or a member or mem-
26 bers thereof, as the case may be, shall fix a time and place
27 for a hearing thereon. The applicant shall be notified of
28 the time and place fixed and shall be informed of his
29 right to demand a public hearing if he so desires. At the
30 hearing the claim shall be reexamined *de novo* and the
31 submission of additional evidence may be required or
32 permitted. Upon the conclusion of such hearing the board
33 of review, on the basis of the record and the recommenda-
34 tions, if any, made by the member or members who con-
35 ducted the hearing, shall enter its order reversing, affirm-
36 ing or modifying the determination made by the director.

37 Any order so entered by the board shall be final and
38 conclusive upon the applicant and the director unless an
39 application is made for review to the supreme court of
40 appeals as hereinafter provided. The board shall mail to
41 the applicant and to the director a copy of the order
42 entered by it in each case.

43 All notices and correspondence shall be directed to the
44 applicant at the address listed in his application and all
45 notices and correspondence to the director shall be ad-
46 dressed to him at his office in the city of Charleston.

47 The director shall provide for each review board such
48 clerical and stenographic assistants and such supplies as
49 may be necessary for the performance of its duties.

50 Each member of a review board shall receive as com-
51 pensation fifteen dollars per day for each day actually
52 spent in the performance of his duties under the provis-
53 ions of this act, and shall be reimbursed for all traveling
54 and other expenses necessarily incurred by him in the
55 performance of such duties.

Sec. 8. *Court Review of Final Orders of Review*

2 *Board.*—Within thirty days after the entry of any final
3 order of a board of review, the director or any applicant
4 may petition for review of such order by the supreme
5 court of appeals in the same manner as is provided by sec-
6 tion four, article five, chapter twenty-three of the code,
7 for judicial review of final decisions by the workmen's
8 compensation appeal board.

2 *Sec. 9. Payments from Veterans' Bonus Fund; Balance*
3 *to Veterans' Bonus Sinking Fund.*—All bonus payments
4 and other expenses and costs of administering this act
5 shall be paid from the veterans' bonus fund, otherwise
6 established by law. Any balance remaining in such fund
7 after all such payments have been made shall be trans-
8 ferred to the veterans' bonus sinking fund and used
9 solely for the payment of the bonus bonds.

2 *Sec. 10. Penalty for Making False Statements.*—Any
3 person who shall knowingly make any false or misleading
4 statement or representation, oral or written, in support
5 of any claim for a bonus under the provisions of this act,
6 shall be guilty of a felony, and upon conviction thereof,
7 shall be punished by imprisonment in the penitentiary for
8 not less than one year nor more than five years.

2 *Sec. 11. Penalty for Filing More Than One Applica-*
3 *tion.*—Only one application shall be filed by any veteran
4 or by any person who claims that he is entitled to a share
5 of the bonus payable in the case of any deceased veteran.
6 Any person who, with intent to defraud, violates the pro-
7 visions of this section shall be guilty of a felony, and upon
8 conviction thereof shall be punished by a fine of not less
9 than five hundred dollars nor more than one thousand
10 dollars, or by imprisonment in the penitentiary for not
11 less than one nor more than two years, or by both such
12 fine and imprisonment.

2 *Sec. 12. Bonus Payment not Subject to Taxation or*
3 *Legal Process; Claim Therefor not Assignable.*—The
4 bonus provided by this act is hereby declared to be a gift
5 or gratuity made as a token of appreciation for the ser-
6 vice rendered by the veteran to the people of West Vir-
7 ginia in time of grave national emergency and is in no

7 sense compensation for such services. The money re-
8 ceived as such bonus shall be exempt from taxation and
9 such money, or any claim therefor, shall not be subject
10 to garnishment, attachment or levy of execution. A claim
11 for payment of a bonus under the provisions of this act
12 shall not be assignable for any purpose whatsoever.

Sec. 13. *Collection of Fees or Charges; Penalty.*—No fee
2 or charge shall be made by any person, attorney, agent or
3 representative for any service in connection with the
4 filing of an application for payment of a bonus hereunder,
5 except such fees as are provided by law for the perfor-
6 mance of official duties by a duly elected or appointed
7 officer of this state or a political subdivision thereof. No
8 person shall, for a consideration, discount or attempt to
9 discount or advance money upon any warrant issued for
10 payment of any bonus provided for in this act.

11 If an applicant shall employ an attorney to represent
12 him in connection with the prosecution of his claim before
13 a board of review, or before the supreme court of appeals,
14 the attorney shall file with the director an executed copy
15 of his contract of employment, and the total amount of
16 the fee therein provided shall not exceed twenty-five per
17 cent of the total amount awarded. It shall be the duty of
18 the director to protect such attorney in the collection of
19 the fee provided in such contract from the award made
20 in favor of the applicant under the provisions of this act.

21 Any person who violates any provision of this section
22 shall be guilty of a misdemeanor, and upon conviction
23 thereof shall be punished by a fine of not less than
24 twenty-five dollars nor more than five hundred dollars,
25 or by imprisonment for not less than ten days nor more
26 than twelve months, or by both such fine and imprison-
27 ment.

CHAPTER 198

(Senate Bill No. 268—By Mr. Johnston, Mr. President)

AN ACT authorizing the state treasurer to deposit the proceeds
from the sales of veterans' bonus bonds in banks in this

state and prescribing the conditions upon which banks may qualify as depositories of such funds.

[Passed March 6, 1951; in effect from passage. Approved by the Governor.]

Deposit of Proceeds from Sales of Veterans' Bonus Bonds.

Section

1. Deposit of proceeds of sales of veterans' bonus bonds.
2. Bond to be executed by depository banks; penalty thereof; approval; action thereon; recordation.
3. Collateral security; amount; where deposited; sale thereof in case of default.

Be it enacted by the Legislature of West Virginia:

Section 1. *Deposit of Proceeds of Sales of Veterans' Bonus Bonds.*—Notwithstanding any other provision of law, the treasurer is authorized, as provided in this act to establish an account, to be known as the veterans' bonus account, in state or national banks within the State of West Virginia. To the credit of such accounts he shall deposit all proceeds from the sale of veterans' bonus bonds, authorized by the provisions of Engrossed House Bill number fifty-five, an Act of the Legislature, regular session, one thousand nine hundred fifty-one.

Sec. 2. *Bond to be Executed by Depository Banks; Penalty Thereof; Approval; Action Thereon; Recordation.*
—Before the treasurer shall deposit any money in the veterans' bonus accounts authorized to be established by section one of this act, the bank or banks designated by him shall execute a bond, to be accepted and approved by the board of public works, payable to the state of West Virginia, in a penalty in excess of the maximum amount of money that shall be deposited in the account at any one time, as hereinafter provided, and conditioned for the prompt payment, whenever lawfully required, of any state money, or part thereof, that may be deposited with such depository, such bond to continue in full force and effect until the veterans' bonus account has been closed with such bank by the treasurer.

An action shall lie on such bond at the instance of the

17 board of public works or the treasurer for the recovery
18 of any money deposited in the depository, upon failure
19 or default of the depository to fully and faithfully ac-
20 count for and pay over any and all state moneys deposited
21 by the treasurer therein. The bond shall not be accepted
22 by the board of public works until it shall have been
23 submitted to the attorney general, and certified by him
24 to be in due and legal form, and conformable to the
25 provisions of this act, which certificate shall be endorsed
26 thereon. After acceptance and approval by the board
27 of public works, the bond shall be recorded by the secre-
28 tary of state in the book kept in his office for the purpose
29 of recording bonds to secure other state accounts.

Sec. 3. *Collateral Security; Amount; Where Deposited;*
2 *Sale Thereof in Case of Default.*—The board of public
3 works shall accept, for the faithful performance of the
4 conditions of such bonds, collateral negotiable securities
5 consisting of direct obligations of the United States,
6 bonds of federal land banks, bonds of the state of West
7 Virginia or of any county or municipality thereof, or any
8 other bonds or securities approved by the board of public
9 works. All collateral deposited by a bank in the manner
10 required by the following provisions of this section and
11 hereunder accepted, is hereby designated to secure the
12 bond executed by the depository bank under the pro-
13 visions of section two of this act, and in the event of an
14 action on the bond by the board of public works or the
15 treasurer, if sufficient money is not realized therefrom
16 to fully reimburse the state for losses caused by the in-
17 ability of the depository bank to pay over promptly all
18 state moneys as required, the board of public works shall
19 have the authority to place on the market and sell any
20 or all securities deposited by the defaulting bank to se-
21 cure its bond. The proceeds from such sale, or so much
22 thereof as is necessary, shall be retained by the board
23 of public works and applied to reimburse the state for
24 the losses resulting from such default. Any funds re-
25 maining after such sale, and all securities belonging to
26 the bank not sold, shall then be promptly turned over
27 or released to the owner thereof.
28 The amount of state funds on deposit in any bank shall

29 at no time be permitted to exceed ninety per cent of the
30 value of the collateral pledged to secure any bond, and
31 the value thereof shall be determined by the board of
32 public works.

33 All collateral securities may be delivered to the treas-
34 urer of the state of West Virginia, who shall receipt
35 therefor to the owner thereof, and the treasurer and his
36 bondsmen shall be liable to any person for any loss by
37 reason of embezzlement or misapplication of such secur-
38 ities by the treasurer or any of his official employees, and
39 for the loss thereof due to his negligence or the negligence
40 of any of his official employees; or, with the permission
41 of the treasurer, the depository bank may deposit for
42 safekeeping the collateral in a bank or banks within or
43 without the state of West Virginia: *Provided*, That the
44 bank holding such securities shall set aside the collateral
45 so pledged and hold it for the account of the treasurer of
46 the state of West Virginia, and in addition thereto issue
47 to the treasurer an escrow receipt or contract evidencing
48 that such has been done: *And provided further*, That the
49 bank or banks holding the collateral shall comply with
50 such rules and regulations for handling and protecting
51 the securities as the treasurer may make, with the ap-
52 proval of the board of public works.

CHAPTER 199

(Senate Bill No. 52—By Mr. Johnston, Mr. President)

AN ACT to authorize and empower the commissioner of agriculture to apply for the return of the assets of the West Virginia Rural Rehabilitation Corporation, and to enter into agreements with the secretary of agriculture of the United States for the future administration of such assets.

[Passed February 5, 1951: in effect from passage. Approved by the Governor.]

West Virginia Rural Rehabilitation Corporation.

Section

1. Commissioner authorized to apply for return of assets.

2. Commissioner authorized to enter into administration agreements with the United States.
3. Deposit of funds and use of assets.
4. Separability.

Be it enacted by the Legislature of West Virginia:

Section 1. *Commissioner Authorized to Apply for Return of Assets.*—The commissioner of agriculture is hereby designated as the official of the state of West Virginia to make application to and receive from the secretary of agriculture of the United States, or any other proper federal official, pursuant and subject to the provisions of Public Law 499, 81st Congress, approved May 3, 1950, the trust assets, either funds or property, held by the United States as trustee in behalf of the West Virginia Rural Rehabilitation Corporation.

Sec. 2. *Commissioner Authorized to Enter into Administration Agreements with the United States.*—The commissioner of agriculture is authorized to enter into agreements with the secretary of agriculture of the United States pursuant to section 2(f) of the aforesaid Act of the Congress of the United States, upon such terms and conditions and for such periods of time as may be mutually agreeable, authorizing the secretary of agriculture of the United States to accept, administer, expend and use in the state of West Virginia all or any part of such trust assets, or any other funds of the state of West Virginia which may be appropriated for such uses, for carrying out the purposes of Titles I and II of the Bankhead-Jones Farm Tenant Act, in accordance with the applicable provisions of Title IV thereof, as now or hereafter amended.

Sec. 3. *Deposit of Funds and Use of Assets.*—Funds and the proceeds of the trust assets returned to the commissioner of agriculture pursuant to section one of this act which are not retransferred to the secretary of agriculture of the United States pursuant to section two of this act, shall be paid into the state treasury and carried in a separate account for use for such of the rural rehabilitation purposes permissible under the charter of the now dissolved West Virginia Rural Rehabilitation Corporation

10 as may from time to time be agreed upon by the com-
 11 missioner of agriculture and the secretary of agriculture
 12 of the United States.

Sec. 4. *Separability*.—If any provision of this act, or the
 2 application thereof to any person or circumstances, is held
 3 invalid, the remainder of this act, and the application of
 4 such provision to other persons or circumstances, shall
 5 not be affected thereby.

CHAPTER 200

(Senate Bill No. 252—By Mr. Love)

AN ACT to amend article five, chapter forty-one, of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be designated section twenty, relating to rights of devisees and bona fide purchasers of real estate devised by wills.

[Passed March 10, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 5. Production, Probate and Record of Wills.

Section

20. Title to real estate devised by wills; rights of devisees and bona fide purchasers.

Be it enacted by the Legislature of West Virginia:

That article five, chapter forty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section to be designated section twenty to read as follows:

Section 20. *Title to Real Estate Devised by Wills; Rights of Devisees and Bona Fide Purchasers*.—The title of a
 2 of devisees and bona fide purchasers.—The title of a
 3 bona fide purchaser of real estate, without notice and for
 4 valuable consideration, from the devisee or devisees of a
 5 testator, a will of whom has been duly admitted to pro-
 6 bate devising such real estate, shall not be affected or
 7 impaired by any devise or other disposition of any such

8 real estate by the testator by or in any other will or wills
9 executed by him subsequent to the instrument already
10 admitted to probate as his last will and testament, unless
11 any such subsequently executed will (or if any such
12 will has been probated without the state, an authenticated
13 copy thereof) shall be filed for probate in the court
14 having jurisdiction for that purpose, or with the clerk
15 thereof, within one year next after the testator's death
16 and shall afterwards be admitted to probate as the will
17 of such real estate and entered of record in the proper
18 clerk's office: *Provided, however,* That if any devisee
19 under any such subsequently executed will is at the
20 time of the testator's death an infant, or insane, or a con-
21 vict, the limitation created by this section shall not affect
22 the rights of any such infant, insane person or convict
23 until after the expiration of one year from the removal
24 of such disability.

CHAPTER 201

(Senate Bill No. 71—By Mr. Love)

AN ACT to amend and reenact section one, article one, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the workmen's compensation commissioner, appointment, compensation and legal services by attorney general.

[Passed March 8, 1951; in effect from passage. Approved by the Governor.]

Article 1. General Administrative Provisions.

Section .

1. Compensation commissioner; appointment; legal services by attorney general.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Compensation Commissioner; Appointment; Legal Services by Attorney General.*—There shall be a state compensation commissioner who shall be a citizen of this state entitled to vote and shall be appointed by the governor by and with the advice and consent of the senate. The compensation commissioner in office on the date this code takes effect shall, unless sooner removed, continue to serve until his term expires and his successor has been appointed and has qualified. On or before the first day of June, one thousand nine hundred thirty-five, and on or before the first day of June of each sixth year thereafter, the governor shall appoint a compensation commissioner to serve for a term of six years commencing on the first day of June. An appointment may be made to fill a vacancy or otherwise when the senate is not in session, but shall be acted upon at the next session thereof. The person so appointed shall take the oath or affirmation prescribed by section five of article four of the constitution, and such oath shall be certified by the person who administers the same and shall be filed in the office of the secretary of state. He shall give bond in the penalty of twenty-five thousand dollars conditioned for the faithful performance of duties of his office, which bond shall be approved by the attorney general as to form, and by the governor as to sufficiency. The surety of such bond may be a bonding or surety company, in which case the premiums shall be paid out of the appropriation made for the administration of this chapter. The commissioner shall hold no position of trust or profit, or engage in any occupation or business, interfering or inconsistent with his duties as such commissioner. The commissioner shall receive an annual salary of seven thousand dollars, payable in the same manner as the salaries of other state officers are paid and charged to the appropriations which shall be made from time to time hereafter by the state for the administration of this chapter. The commissioner shall have an official seal for the authentication of his orders and proceedings, upon which seal shall be engraved the words, "West Virginia Compensation Commissioner," and such other design as the commissioner may prescribe.

42 The courts in this state shall take judicial notice of the
43 seal of the commissioner, and in all cases copies of orders,
44 proceedings or records in the office of the West Virginia
45 compensation commissioner, certified by the secretary of
46 the commissioner under his seal, shall be equal to the
47 original in evidence.

48 The attorney general shall perform all legal services
49 required by the commissioner under the provisions of
50 this chapter: *Provided, however,* That in any case in
51 which an application for review is prosecuted from any
52 final decision of the workmen's compensation appeal
53 board to the supreme court of appeals, as provided by sec-
54 tion four, article five of this chapter, or in any court pro-
55 ceeding, including a proceeding before the workmen's
56 compensation appeal board, in which such representa-
57 tion shall appear to the commissioner to be desirable, he
58 may designate a regular employee of his office, qualified
59 to practice before such court, to represent him upon such
60 appeal or proceeding, and in no case shall the person so
61 appearing for the commissioner before the court receive
62 remuneration therefor other than his regular salary.

— o —

CHAPTER 202

(Senate Bill No. 249—By Mr. Stemple)

AN ACT to authorize the county court of Barbour county to use unexpended funds and surpluses in the general fund of said county for the purpose of creating a special building fund for building an addition to, alteration or repair of, the courthouse and jail, and to expend for such purposes the fund so created.

[Passed March 2, 1951; in effect from passage. Approved by the Governor.]

Section

1. Barbour county court authorized to create a special building fund.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Barbour County Court Authorized to Create*
2 *a Special Building Fund.*—The county court of Barbour

3 county is hereby authorized and empowered from year
4 to year to use any unexpended funds of said county and
5 any surpluses in the general county fund for the purpose
6 of creating a special building fund for building an addi-
7 tion to, alteration or repair of, the courthouse and jail of
8 said county, and said county court is authorized to expend
9 for such purposes the fund so created.

—o—

CHAPTER 203

(House Bill No. 425—By Mr. White, of Boone)

AN ACT to authorize the county courts of Boone and Clay counties to transfer the unexpended balance in the dog tax fund to the general county fund of said counties.

[Passed March 6, 1951; in effect from passage. Approved by the Governor.]

Section

1. Boone and Clay county courts authorized to transfer dog tax fund.

Be it enacted by the Legislature of West Virginia:

Section 1. *Boone and Clay County Courts Authorized to Transfer Dog Tax Fund.*—The county courts of Boone and Clay counties are hereby authorized and empowered to transfer the unexpended balances in excess of two hundred fifty dollars now in the dog tax fund of each of said counties remaining, and not needed for the payment and satisfaction of claims and expenses against said dog tax fund, to the general county fund.

The county courts of Boone and Clay counties are hereby authorized and empowered to transfer and expend, from time to time and as it may appear advisable, any part of the dog tax fund of the respective counties to the general county fund, the same to be used and expended as a part of the general county fund of said counties, providing that at least two hundred fifty dollars shall remain in the dog tax fund for the payment and satisfaction of all claims and expenses against said dog tax fund.

19 All acts or parts of acts inconsistent herewith are here-
20 by repealed, insofar as they may apply to Boone and Clay
21 counties.

CHAPTER 204

(House Bill No. 46—By Mr. Caplan)

AN ACT to amend and reenact section three, chapter twenty-seven, acts of the Legislature, regular session, one thousand nine hundred nine, relating to the election, time of electing, length of term of office and qualifications of the judge of the criminal court of Harrison county.

[Passed February 5, 1951; in effect ninety days from passage. Approved by the Governor.]

Section

3. Election, qualifications and term of judge.

Be it enacted by the Legislature of West Virginia:

That section three, chapter twenty-seven, acts of the Legislature, regular session, one thousand nine hundred nine, be amended and reenacted to read as follows:

Section 3. Election, Qualifications and Term of Judge.—

2 There shall, at the general election to be held in this state
3 on the Tuesday next after the first Monday in November,
4 in the year one thousand nine hundred and fifty-two, and
5 every eight years thereafter, be elected by the legal voters
6 of Harrison county, West Virginia, a judge of the crim-
7 inal court of said county, who shall be a resident mem-
8 ber of the bar of said county, and shall be disqualified
9 from practicing law in all of the courts of this state dur-
10 ing his continuance in office; who shall preside over said
11 court for the term of eight years from the first day of
12 January succeeding his election, and shall be, except as
13 to jurisdiction, subject to the laws in force governing
14 circuit court judges. The judge of said court elected at the
15 general election held in this state on the Tuesday next
16 after the first Monday in November, in the year one thou-

17 sand nine hundred and forty-eight to preside over said
18 court for the term of four years from the first day of
19 January succeeding his election, shall hold office until the
20 first day of January, one thousand nine hundred fifty-
21 three, and until his successor is elected and qualified.

CHAPTER 205

(House Bill No. 47—By Mr. Caplan)

AN ACT to amend and reenact section four, chapter twenty-seven, acts of the Legislature, regular session, one thousand nine hundred nine; as amended and reenacted by section four, chapter twelve, acts of the Legislature, regular session, one thousand nine hundred nineteen; as amended and reenacted by section four, chapter one hundred forty-six, acts of the Legislature, regular session, one thousand nine hundred twenty-nine; as amended and reenacted by section four, chapter twenty-seven, acts of the Legislature, extraordinary session, one thousand nine hundred thirty-two, as amended by section twenty-one, chapter eighty-two, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, and as last amended by section four, chapter one hundred sixty-three, acts of the Legislature, regular session, one thousand nine hundred forty-five, all relating to the salary of the judge of the criminal court of Harrison county.

[Passed February 2, 1951; in effect ninety days from passage. Approved by the Governor.]

Section

4. Salary of judge.

Be it enacted by the Legislature of West Virginia:

That section four, chapter twenty-seven, acts of the Legislature, regular session, one thousand nine hundred nine, as amended and reenacted by section four, chapter twelve, acts of the Legislature, regular session, one thousand nine hundred nineteen. as amended and reenacted by section four, chapter

one hundred forty-six, acts of the Legislature, regular session, one thousand nine hundred twenty-nine, as amended and reenacted by section four, chapter twenty-seven, acts of the Legislature, extraordinary session, one thousand nine hundred thirty-two, as amended by section twenty-one, chapter eighty-two, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, and as last amended by section four, chapter one hundred sixty-three, acts of the Legislature, regular session, one thousand nine hundred forty-five, be amended and reenacted to read as follows:

Section 4. *Salary of Judge.*—The judge of the criminal
2 court of Harrison county, West Virginia, shall from and
3 after the first day of January, one thousand nine hundred
4 fifty-three, receive for his services a salary of six thou-
5 sand five hundred dollars per year; said amount to be
6 paid in twelve equal monthly installments from year to
7 year by the county court of said county, out of funds of
8 said county, in the manner provided by statute. The
9 salary of said judge shall continue as provided in section
10 four, chapter one hundred sixty-three of the acts of the
11 Legislature, regular session, one thousand nine hundred
12 forty-five, until the first day of January, one thousand
13 nine hundred fifty-three.

CHAPTER 206

(House Bill No. 423—By Mr. Bowles)

AN ACT to amend and reenact section two, chapter one hundred seventy-two, acts of the Legislature, regular session, one thousand nine hundred forty-seven, relating to the domestic relations court of Kanawha county.

[Passed March 9, 1951: in effect from passage. Approved by the Governor.]

Section

2. Jurisdiction.

Be it enacted by the Legislature of West Virginia:

That section two, chapter one hundred seventy-two, acts of

the Legislature, regular session, one thousand nine hundred forty-seven, be amended and reenacted to read as follows:

Section 2. *Jurisdiction.*—The court shall have jurisdiction within Kanawha county, concurrent with the circuit court of said county, of actions, suits, causes and proceedings relating to annulment of marriages, affirmation of marriages, separate maintenance, divorces, alimony, the adoption of adults and children, the care and disposition of delinquent, defective, neglected and dependent children, juvenile offenders, desertion and nonsupport of wives and children, child labor, truancy under the school laws of the state, and any and all other matters arising under the laws of the state of West Virginia, common or statutory, incidental to the foregoing, including, but not limited to, the disposition of property and property interests involved in any such causes and matters and, as well, the adjudication of any and all rights, titles and interests necessary or incidental to a full determination of all such causes and matters pending in said court.

The court shall have general equity jurisdiction in any causes or proceedings before it, with full power to grant injunctions in matters involving the care, preservation and protection of persons or property in such causes or proceedings.

The court shall also have concurrent jurisdiction with the circuit court of said county over all habeas corpus proceedings involving children under the ages of twenty-one years.

The manner and modes of procedure, power and jurisdiction conferred by law upon the circuit court of Kanawha county in any and all of the foregoing matters and causes are hereby conferred upon and shall be exercised by the domestic relations court of Kanawha county.

It shall not be necessary in any such cause or proceedings to set forth upon the record the facts authorizing the court to take jurisdiction thereof, but jurisdiction shall be presumed unless the contrary plainly appears from the record.

CHAPTER 207

(House Bill No. 422—By Mr. Bowles)

AN ACT to amend and reenact section eight, chapter one hundred forty-eight, acts of the Legislature, regular session, one thousand nine hundred forty-nine, relating to the domestic relations court of Kanawha county.

[Passed March 9, 1951; in effect ninety days from passage. Approved by the Governor.]

Section

8. Terms of court; maturity of causes; procedure; appointment of probation staff, medical, clerical and secretarial assistants and fixing salaries.

Be it enacted by the Legislature of West Virginia:

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

Section 8. *Terms of Court; Maturity of Causes; Procedure; Appointment of Probation Staff, Medical, Clerical, and Secretarial Assistants and Fixing Salaries.*—For the purpose of maturing, docketing, hearing and determining all matters, suits, petitions and other proceedings properly determinable in the domestic relations court of Kanawha county there shall be regularly continued and held four terms of court each year, beginning on the second Monday in February, May, August and November. Special terms of said court may be called and held whenever, in the discretion of the judge of the court, public interest requires such special terms. The judge of the court shall have like jurisdiction and authority, in vacation of the court, to make and enter such proper orders in any matter, suit, action, petition or proceeding pending in the court as the judges of the circuit courts have under the laws of the state. All matters arising under the jurisdiction of the court, other than suits for divorce, separation, annulment of marriages and affirmation of marriages, may be heard and determined either in term time or in vacation: *Provided, however,* That proper notice of any such

22 proceedings be given as provided by law for the particular
23 case.

24 The mode of procedure in cases instituted in this court
25 shall be the same as that prescribed for the circuit court
26 in similar causes. The court is authorized and empowered
27 to appoint such additional officers, divorce commissioners,
28 commissioners in chancery, special commissioners, jury
29 commissioners, and probation officers, and such medical,
30 clerical and secretarial assistance as shall enable the court
31 to discharge all the duties required of it under the pro-
32 vision of this act, and the general laws of the state. The
33 judge may appoint a chief probation officer, assistant pro-
34 bation officers, and necessary medical, clerical, secretarial
35 and other necessary assistants to be paid by the county
36 court: *Provided*, That the appointing judge shall first ob-
37 tain the approval of the county court of Kanawha county
38 of the expenses to be incurred and the salary or salaries
39 to be paid the probation officers and clerical assistants,
40 which approval shall be discretionary with said county
41 court and shall be required before any appointment made
42 hereunder becomes effective or any expense is incurred
43 in connection therewith. Such appointments shall be made
44 by the judge and the appointees shall serve during the
45 pleasure of the judge.

46 The chief probation officer shall receive as compensa-
47 tion for his or her services an annual salary of not less
48 than thirty-six hundred dollars nor more than fifty-four
49 hundred dollars to be determined by the judge. Assistant
50 probation officers and medical assistants shall receive as
51 compensation an annual salary of not less than twenty-
52 four hundred dollars nor more than forty-two hundred
53 dollars to be determined by the judge. Clerical and sec-
54 retarial assistants shall receive as compensation for his
55 or her services an annual salary of not less than twenty-
56 one hundred dollars nor more than three thousand dollars
57 to be determined by the judge. In addition to the annual
58 salary herein provided for the chief probation officer and
59 each assistant probation officer and medical assistants,
60 they shall be reimbursed by the county court by reason
61 of his or her necessary expenses actually incurred in the
62 performance of official duties including an allowance of

63 seven cents a mile for his or her automobile driven in the
64 performance of official duties. The appointment of the
65 chief probation officer, assistant probation officers, medi-
66 cal and secretarial assistants, when made by the judge,
67 shall be entered on the law order book of the court. A
68 copy of the order of appointment shall be transmitted
69 to the clerk of the county court. Thereupon, the county
70 court shall make provision for payment and shall pay
71 the salaries of the chief probation officer, assistant proba-
72 tion officers, medical, clerical and secretarial assistants as
73 shown by the order of appointment. The annual salaries
74 provided for in said order of appointment shall be paid
75 in equal monthly installments. Expenses and mileage
76 accounts of the chief probation officer, assistant probation
77 officers, and medical assistants shall be itemized and veri-
78 fied and presented to and paid by the county court, if such
79 accounts are approved by the judge. The county court
80 shall provide such office space, equipment and supplies
81 for the probation staff, clerical, secretarial and medical
82 assistants as the judge shall deem necessary and adequate.

83 The judge shall maintain a political balance between
84 the two major political parties of Kanawha county in
85 his appointments of divorce commissioners, commission-
86 ers in chancery and special commissioners, so that at no
87 time will the number of either divorce commissioners or
88 commissioners in chancery or of special commissioners of
89 one political affiliation exceed by more than one the num-
90 ber of such commissioners affiliated with the other major
91 political party of the county. The court shall make pro-
92 vision for reference of such divorce and other matters
93 as may be proper from time to time to said commissioners
94 in rotation so as to effect insofar as practicable, an equit-
95 able distribution of work between and among them. The
96 judge of the court shall have power to make and promul-
97 gate such rules for the transaction of the business of the
98 court as may be necessary: *Provided*, That all such rules
99 shall be in conformity with the laws of the state of West
100 Virginia and with any rules promulgated by the supreme
101 court of appeals of this state.

CHAPTER 208

(Senate Bill No. 187—By Mr. Love)

AN ACT to amend chapter twenty-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred seven, as amended, by adding thereto a new section to be designated section thirty-seven, relating to the criminal court of Kanawha county.

[Passed February 20, 1951; in effect ninety days from passage. Approved by the Governor.]

Section

37. Probation staff; chief probation officer; assistant probation officers; clerical and secretarial assistants.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred seven, as amended, be amended by adding thereto a new section to be designated section thirty-seven to read as follows:

Section 37. *Probation Staff; Chief Probation Officer; Assistant Probation Officers; Clerical and Secretarial Assistants.*—The court is authorized and empowered to appoint such probation officers, assistant probation officers, clerical and secretarial assistants as shall enable the court to discharge all the duties required of it under the provision of this act and the general laws of the state. The judge may appoint a chief probation officer, assistant probation officers, and necessary clerical and secretarial assistants, and other necessary assistants to be paid by the county court. Such appointments shall be made by the judge and the appointees shall serve during the pleasure of the judge.

The chief probation officer shall receive as compensation for his or her services an annual salary of not less than three thousand dollars nor more than forty-eight hundred dollars, to be determined by the judge. Assistant probation officers shall receive as compensation an annual salary of not less than twenty-four hundred dollars nor more than four thousand dollars, to be de-

21 terminated by the judge. Clerical and secretarial as-
22 sistants shall receive as compensation for his or her
23 services an annual salary of not less than eighteen hun-
24 dred nor more than twenty-seven hundred dollars, to be
25 determined by the judge. In addition to the annual
26 salary herein provided for the chief probation officer
27 and each assistant probation officer, they shall be re-
28 imburged by the county court by reason of his or her
29 necessary expenses actually incurred in the performance
30 of official duties, including an allowance of seven cents
31 a mile for his or her automobile driven in the perform-
32 ance of official duties. The appointment of the chief pro-
33 bation officer, assistant probation officers, clerical and
34 secretarial assistants when made by the judge shall be
35 entered by the order of the court. A copy of the order
36 of appointment shall be transmitted to the clerk of the
37 county court. Thereupon the county court shall make
38 provision for payment and shall pay the salaries of the
39 chief probation officer, the assistant probation officers,
40 clerical and secretarial assistants, as shown by the order
41 of appointment. The annual salaries provided for in said
42 order of appointment shall be paid in equal monthly
43 installments. Expense and mileage accounts of the chief
44 of probation officers and assistant probation officers shall
45 be itemized and verified and presented to and paid by
46 the county court, if such accounts are approved by the
47 judge. The county court shall provide such office space,
48 equipment and supplies for the probation staff, clerical
49 and secretarial assistants as the judge shall deem neces-
50 sary and adequate: *Provided*, That the appointing judge
51 shall first obtain the approval of the county court of the
52 expenses to be incurred and the salaries to be paid the
53 chief probation officer, assistant probation officers, clerical
54 and secretarial assistants, which approval shall be dis-
55 cretionary with the county court and shall be required
56 before any appointment made hereunder becomes ef-
57 fective.

CHAPTER 209

(Senate Bill No. 38—By Mr. Love)

AN ACT to amend and reenact section eleven, chapter twenty-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred seven, as last amended by section eleven, chapter one hundred sixty-six, acts of the

- Legislature, regular session, one thousand nine hundred forty-five, relating to the terms of the intermediate court of Kanawha county.

[Passed February 23, 1951; in effect from passage. Approved by the Governor.]

Section

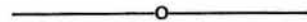
11. Terms of intermediate court of Kanawha county.

Be it enacted by the Legislature of West Virginia:

That section eleven, chapter twenty-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred seven, as last amended by section eleven, chapter one hundred sixty-six, acts of the Legislature, regular session, one thousand nine hundred forty-five, be amended and reenacted to read as follows:

Section 11. *Terms of Intermediate Court of Kanawha*

2 *County.*—There shall be four terms of said court held in
 3 each year, commencing on the second Monday in January,
 4 the second Monday in April, the third Monday in June
 5 and the fourth Monday in September. Adjourned and
 6 special terms of said court may be called and held as pro-
 7 vided for special and adjourned terms of the circuit court.



CHAPTER 210

(Senate Bill No. 110—By Mr. Jones)

AN ACT to authorize and empower the county court of Mason county to set up a courthouse and jail building fund from surpluses thus far accumulated by the said county court and now retained in the general county fund, and also

from surpluses hereinafter accumulated in the general county fund, and to transfer from the general county fund any money therein thus far accumulated, or that may hereafter from year to year so accumulate over and above the money needed for the normal operation of said county, which said money so set up in said special fund may be used for enlarging, remodeling and improving the present courthouse and jail or for the construction of a new courthouse and jail on the present or another site and as well to purchase additional land from individuals, associations, or corporations, incident to the improvement of said courthouse and jail facilities.

[Passed February 23, 1951; in effect ninety days from passage. Approved by the Governor.]

Section

1. Authorizing Mason county to transfer from its general county fund all of the presently accumulated or hereafter accumulated surpluses into a courthouse and jail building fund and authorizing the county court of Mason county to spend the same for enlarging, remodeling and improving the present courthouse and jail, or for the construction of a new one, or for the purchase of additional real estate therefor.

Be it enacted by the Legislature of West Virginia:

Section 1. *Authorizing Mason County to Transfer from Its General County Fund All of the Presently Accumulated or Hereafter Accumulated Surpluses Into a Courthouse and Jail Building Fund and Authorizing the County Court of Mason County to Spend the Same for Enlarging, Remodeling and Improving the Present Courthouse and Jail, or for the Construction of a New One, or for the Purchase of Additional Real Estate Therefor.*—The county court of Mason county is hereby authorized and empowered to transfer from its general county fund all money or moneys therein and heretofore accumulated and held in said fund for building purposes, into a special courthouse and jail building account, and is further authorized and empowered from year to year to transfer from its general county fund into said special fund all surpluses that may accumulate in said general fund, and that said money or moneys so accumulated in said special fund may be expended for the enlarging, remodeling and im-

19 proving of the present courthouse and jail, or for the
20 construction of a new one on the present courthouse site
21 or on other presently owned county sites and that a por-
22 tion of said fund may be used for the purpose of acquiring
23 additional real estate, either by purchase or through
24 eminent domain, incident to presently owned county lots
25 that may be needed for the purpose of enlarging the same
26 sufficient to accommodate the construction of new court-
27 house and jail facilities.

CHAPTER 211

(House Bill No. 392—By Mr. Warden)

AN ACT to amend and reenact section eleven, chapter five, acts of the Legislature, regular session, one thousand nine hundred nineteen, as last amended, relating to the criminal court of McDowell county.

[Passed March 9, 1951; in effect ninety days from passage. Approved by the Governor.]

Section

11. Terms of McDowell county criminal court.

Be it enacted by the Legislature of West Virginia:

That section eleven, chapter five, acts of the Legislature, regular session, one thousand nine hundred nineteen, as last amended, be amended and reenacted to read as follows:

Section 11. *Terms of McDowell County Criminal Court.*

2 —There shall be four terms of said court held in each
3 year, commencing on the second Tuesday in February,
4 the second Tuesday in May, the second Tuesday in August,
5 and the second Tuesday in November. Adjourned and
6 special terms of said court may be called and held as pro-
7 vided for special terms of the circuit court.

CHAPTER 212

(House Bill No. 69—By Mr. Carroll)

AN ACT to authorize and empower the county court of Nicholas county to use unexpended funds and surpluses in any fund of said county for the purpose of creating a special county building fund, and to use such fund for the purchase of land for the location of buildings, for the construction of new buildings and for enlarging, remodeling and improving county buildings.

[Passed February 16, 1951; in effect from passage. Approved by the Governor.]

Section

1. Authorizing the county court of Nicholas county to create a special building fund.

Be it enacted by the Legislature of West Virginia:

Section 1. *Authorizing the County Court of Nicholas County to Create a Special Building Fund.*—The county court of Nicholas county is hereby authorized and empowered from year to year to use any unexpended funds of said county and any surplus in the general county fund or any other fund of said county for the purpose of creating a special county building fund for the purpose of purchasing land for the location of county buildings, for construction of new county buildings and for enlarging, remodeling and improving county buildings. The said county court is also authorized to expend for such purposes the fund so created.

CHAPTER 213

(House Bill No. 148—By Mr. Honecker and Mr. Hubbard)

AN ACT to authorize the board of commissioners of Ohio county to contract with the city of Wheeling in order to provide by purchase, construction, lease or otherwise, facilities for impounding dogs and providing for the maintenance and operation thereof, and authorizing said board

to use therefor any funds received by it under the provisions of section two, article twenty, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter fifty-eight, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three.

[Passed March 3, 1951; in effect from passage. Approved by the Governor.]

Section

1. Facilities for impounding dogs.
2. Use of funds.

Be it enacted by the Legislature of West Virginia:

Section 1. *Facilities for Impounding Dogs.*—The board
2 of commissioners of Ohio county is authorized to contract
3 with the city of Wheeling for the joint acquisition, main-
4 tenance and operation of facilities for impounding dogs
5 under the provisions of sections one and seven, chapter
6 eighty-three, acts of the Legislature, one thousand nine
7 hundred twenty-five, and for that purpose to purchase,
8 construct, lease or otherwise acquire facilities for im-
9 pounding dogs.

Sec. 2. *Use of Funds.*—Said board may from time to
2 time use such part of the funds as it may receive under
3 the provisions of said chapter as it may determine are
4 not necessary to provide compensation for loss or damage
5 on account of the destruction, loss or injury by dogs of
6 any sheep, lamb, goat or kid, for the purpose of carrying
7 out the provisions of section one hereof.

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

CHAPTER 214

(House Bill No. 426—By Mr. Beneke, by request)

AN ACT to amend and reenact section seven of an act entitled
“An act to establish a county court and a board of com-
missioners of Ohio county, under the thirty-fourth sec-

tion of the eighth article of the constitution of the State of West Virginia," approved December thirty-first, one thousand eight hundred seventy-two, as amended by acts of the Legislature, one thousand nine hundred nine, and as further amended, by chapter one hundred thirty-two, acts of the Legislature, one thousand nine hundred twenty-three; and last amended by chapter one hundred fifty-seven, acts of the Legislature, regular session, one thousand nine hundred forty-nine.

[Passed March 6, 1951; in effect ninety days from passage. Approved by the Governor.]

Section

7. Board of commissioners of Ohio county; meetings; compensation; powers.
-

Be it enacted by the Legislature of West Virginia:

That section seven of an act entitled "An act to establish a county court and a board of commissioners of Ohio county, under the thirty-fourth section of the eighth article of the constitution of the state of West Virginia", approved December thirty-first, one thousand eight hundred seventy-two, as amended by the acts of the Legislature, one thousand nine hundred nine, and as further amended by chapter one hundred thirty-two, acts of the Legislature, one thousand nine hundred twenty-three, last amended by chapter one hundred fifty-seven, acts of the Legislature, regular session, one thousand nine hundred forty-nine, be amended and reenacted to read as follows:

- Section 7. *Board of Commissioners of Ohio County; Meetings; Compensation; Powers.*—The commissioners
 2 elected as provided in section five shall constitute a
 3 board, to be known as "the Board of Commissioners of
 4 the County of Ohio", by which name they may sue and
 5 be sued, and make and use a common seal, and enact
 6 ordinances and by-laws not inconsistent with the laws
 7 of this state. They will meet steadily on the first Monday
 8 in every month, at the court house of their county, and
 9 in every month, at the court house of their county, and
 10 may hold special and adjourned meetings at any time

11 after their first meeting after election. They shall elect
12 one of their number president of the board, and appoint
13 a clerk, who shall hold his office at their pleasure, and
14 shall keep a journal of their proceedings, including a
15 record of their ordinances in a volume separate from the
16 journal of their proceedings, and shall perform such other
17 services pertaining to his office as may be by them or by
18 law required; and whose compensation shall be forty-
19 two hundred dollars annually, which salary shall be paid
20 from the county treasury and no fees or additional salary
21 shall be received by said clerk. The said board shall have
22 the same powers now vested in the board of commission-
23 ers of Ohio county as to the superintendence and adminis-
24 tration of the internal police and fiscal affairs of the
25 county, including the establishment and regulation of
26 roads, ways, bridges, public landings, ferries and mills,
27 the granting of ordinary and other licenses, with author-
28 ity to lay and disburse the county levies. The board shall,
29 in all contested cases, judge of the election, qualification
30 and returns of its own members, and of all county and
31 district officers; and it shall exercise such other jurisdic-
32 tion and perform such other duties as may be prescribed
33 by law. The said commissioners shall each receive a com-
34 pensation of forty-five hundred dollars annually, which
35 salary shall be paid from the county treasury and no fees,
36 commissions or additional salary shall be received by
37 any of said commissioners. Any commissioner may be
38 indicted for malfeasance, misfeasance or neglect of of-
39 ficial duty, and, upon conviction thereof, his office shall
40 become vacant. A vacancy in the board of commissioners,
41 whether from resignation, removal from the subdivision
42 from which he was elected, removal from office, death or
43 other cause, shall be filled by the remaining members of
44 the board.

45 All acts or parts of acts inconsistent herewith are here-
46 by repealed.

CHAPTER 215

(House Bill No. 23—By Mr. Gompers, by request)

AN ACT to amend and reenact section two, chapter one hundred twenty, acts of the Legislature, regular session, one thousand nine hundred twenty-five, relating to the jurisdiction of the intermediate court of Ohio county.

[Passed February 23, 1951; in effect from passage. Approved by the Governor.]

Section

2. Jurisdiction of the court.

Be it enacted by the Legislature of West Virginia:

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

Section 2. *Jurisdiction of the Court.*—The said court
2 shall have jurisdiction within the county of Ohio concur-
3 rent with the circuit court of said county, of all felonies,
4 misdemeanors and offenses committed within the said
5 county; and also original jurisdiction of all civil actions
6 at law, including motions for judgment under the pro-
7 visions of section six, article two, chapter fifty-six of the
8 code of West Virginia, one thousand nine hundred thirty-
9 one, where the amount or value in controversy, exclusive
10 of interest and costs, exceeds fifty dollars, and does not
11 exceed one thousand dollars, and of bastardy proceedings
12 under article seven, chapter forty-eight of the code of
13 West Virginia, one thousand nine hundred thirty-one; and
14 of all unlawful detainer cases, and also jurisdiction of
15 appeals from the judgment of the justices of said county
16 when such appeals shall lie to said court in the same man-
17 ner and under the same regulations as provided in the
18 general law for appeals from justices; and the court shall
19 also have jurisdiction concurrent with the circuit court
20 of said county as to the supervision and control of all
21 proceedings before justices of said county, or the mayor
22 or police judge or police court of any incorporated city,
23 town or village of said county by mandamus, prohibition

24 and certiorari; said intermediate court shall also have
25 jurisdiction, concurrent with the said circuit court, of
26 appeals from the police judge or the police court of the
27 city of Wheeling in said county.

CHAPTER 216

(House Bill No. 360—By Mr. Harmon)

AN ACT to authorize and empower the county court of Raleigh county to transfer funds, realized from the assessment and collection of head taxes on dogs, to the general county fund, for the use of said county court.

[Passed March 6, 1951; in effect from passage. Approved by the Governor.]

Section

1. County court of Raleigh county authorized to transfer dog tax fund.

Be it enacted by the Legislature of West Virginia:

Section 1. *County Court of Raleigh County Authorized to Transfer Dog Tax Fund.*—The county court of Raleigh county is hereby authorized and empowered to transfer the unexpended balances now in the dog tax fund of said county remaining, and not needed for the payment and satisfaction of all claims and expenses against said dog tax fund, to the general county fund.

The county court of Raleigh county is hereby authorized and empowered to transfer and expend, from time to time and as it may appear necessary and advisable, any part of the dog tax fund to the general county fund, and to be used and expended as part of the general county fund, providing that at least five hundred dollars shall remain in the dog tax fund for the payment and satisfaction of all claims and expenses against said dog tax fund.

All acts or parts of acts inconsistent herewith are hereby repealed, insofar as they may apply to Raleigh county.

CHAPTER 217

(House Bill No. 25—By Mr. Wyszong)

AN ACT to authorize and empower the county court of Webster county to transfer fourteen thousand dollars from the contractual debt fund to the Webster county memorial hospital fund of said county.

[Passed February 16, 1951; in effect from passage. Approved by the Governor.]

Section

1. Authorizing the Webster county court to transfer funds.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Authorizing the Webster County Court to Transfer Funds.*—The county court of Webster county is hereby authorized and empowered to transfer from the contractual debt fund to the Webster county memorial hospital fund, the sum of fourteen thousand dollars, and to expend the said sum for the uses and needs of the said Webster County Memorial Hospital.
- 2 All acts or parts of acts inconsistent herewith are hereby repealed in so far as they may apply to the county of Webster.

CHAPTER 218

(House Bill No. 149—By Mr. Pomroy)

AN ACT to authorize and empower the county court of Wirt county to transfer the unexpended balances in excess of seven hundred dollars, in the dog tax fund to the general county fund of said county.

[Passed March 3, 1951; in effect from passage. Approved by the Governor.]

Section

1. Wirt county court authorized to transfer dog tax fund.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Wirt County Court Authorized to Transfer Dog Tax Fund.*—The county court of Wirt county is
- 2

3 hereby authorized and empowered to transfer the un-
4 expended balances in excess of seven hundred dollars
5 now in the dog tax fund of said county remaining, and
6 not needed for the payment and satisfaction of all claims
7 and expenses against said dog tax fund, to the general
8 county fund.

9 The county court of Wirt county is hereby authorized
10 and empowered to transfer and expend, from time to
11 time and as it may appear advisable, any part of the
12 dog tax fund to the general county fund, and to be used
13 and expended as a part of the general county fund, pro-
14 viding that at least seven hundred dollars shall remain
15 in the dog tax fund for the payment and satisfaction of
16 all claims and expenses against said dog tax fund.

17 All acts or parts of acts inconsistent herewith are here-
18 by repealed, insofar as they may apply to Wirt county.

CHAPTER 219

(Senate Bill No. 11—By Mr. Wylie)

AN ACT to repeal chapter one hundred sixty-three, acts of the Legislature of West Virginia, regular session, one thousand nine hundred forty-nine, relating to the establishment of a court of limited jurisdiction in the county of Wyoming, to be known and designated as the "Criminal Court of Wyoming County," and prescribing the limitations thereof.

[Passed March 9, 1951; in effect ninety days from passage. Approved by the Governor.]

Section

1. Repeal of act.

Be it enacted by the Legislature of West Virginia:

Section 1. *Repeal of Act.*—Chapter one hundred sixty-
2 three, acts of the Legislature of West Virginia, regular
3 session, one thousand nine hundred forty-nine, be, and the
4 same is hereby, repealed, effective January one, one thou-
5 sand nine hundred fifty-three.

RESOLUTIONS

HOUSE CONCURRENT RESOLUTION NO. 1

(By Mr. Whitt)

[Adopted January 10, 1951.]

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 1:30 o'clock P. M., 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 Treasurer and Attorney General (unexpired terms) elected at the general election held throughout the State on the 7th day of November, one thousand nine hundred fifty, as provided by section three, article seven of the Constitution of this State.

HOUSE CONCURRENT RESOLUTION NO. 2

(By Mr. Doringe)

[Adopted January 10, 1951.]

Providing for a joint assembly to hear the biennial message of the Governor.

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 12 o'clock noon, on Tuesday, January 16, 1951, to hear the biennial message of His Excellency, Governor Okey L. Patteson.

HOUSE CONCURRENT RESOLUTION NO. 3

(By Mr. Doringe)

[Adopted January 18, 1951.]

Concerning the great and unfortunate sorrow visited upon the Honorable Ernest L. Bailey and family.

WHEREAS, The Honorable Ernest L. Bailey and family have recently borne a tremendous burden of sorrow through the illness and death of Mrs. Bailey; and

WHEREAS, Mrs. Bailey was a devoted and faithful wife and mother; took an active interest in religious, civic, public welfare and charitable work and activities, and was a loyal and valuable member of numerous organizations engaging in such work; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the members of the West Virginia Legislature hereby extend its sincere and heartfelt sympathy and understanding to Mr. Bailey and his family in their extreme misfortune and sorrow.

HOUSE CONCURRENT RESOLUTION NO. 4

(By Mr. Kidd, of Gilmer)

[Adopted January 18, 1951.]

Providing for a parking space on the capitol grounds for automobiles of 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 necessary to keep and maintain their automobiles in Charleston during the sessions of the Legislature; and

WHEREAS, The lack of parking facilities near the state capitol creates a severe hardship and inconvenience to the members of the Legislature; 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 on the capitol grounds situate on the

north side of the capitol building, between the two units, be and the same is hereby reserved for the parking of cars of members of the Legislature, and the Superintendent of Capitol Buildings and Grounds is hereby directed to have proper signs erected in this space, reserving the same 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, including a request to the Department of Public Safety for assistance in carrying out the purposes of this resolution; and, be it

Further Resolved, That the President of the Senate and the Speaker of the House of Delegates are hereby authorized to provide proper stickers or other identification for automobiles of the members of the Legislature in order to aid the officers in carrying out and enforcing this resolution.

HOUSE CONCURRENT RESOLUTION NO. 8

(By Mrs. Walker)

[Adopted February 13, 1951.]

Providing for a joint meeting of the House and Senate.

Resolved by the House of Delegates, the Senate concurring therein:

That the Senate and House of Delegates meet in joint session in the chamber of the House of Delegates at 2:20 P. M. today; and, be it

Further Resolved, That the President of the Senate, on the part of the Senate, and the Speaker of the House, on the part of the House of Delegates, appoint a committee of three from each House to invite His Excellency, the Governor, to be present for this joint assembly.

HOUSE CONCURRENT RESOLUTION NO. 14

(By Mr. Rairden)

[Adopted March 10, 1951.]

Authorizing the State Road Commission to erect historic

markers locating the trail traveled by General Andrew Lewis from the Great Meadows, now Lewisburg, to Point Pleasant.

WHEREAS, The military campaign commanded by General Andrew Lewis, which ended with victory over the Indians at the site of Point Pleasant, West Virginia, on October 10, 1774, was an important factor in the success of the American Revolution; and

WHEREAS, Evidence indicates that Lewis' army when enroute to Point Pleasant encamped at campsites in or near Asbury, Elton, Backus, Crickmer, Winona, Mountain Cove, Rich Creek, Rock Camp, Cedar Grove and Charleston among other places; and

WHEREAS, Lewis' army campsites are in most cases unmarked; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the State Road Commission of West Virginia be authorized to erect historic markers to locate the trail on which General Andrew Lewis' army traveled from the Great Meadows, (now Lewisburg) to Point Pleasant and along said trail where feasible to establish roadside parks at Lewis' army campsites.

HOUSE CONCURRENT RESOLUTION NO. 15

(By Mr. Rairden)

[Adopted March 10, 1951.]

Designating the anniversary of the Battle of Point Pleasant a Memorial day.

WHEREAS, On October 10, 1774, General Andrew Lewis with approximately eleven hundred men engaged in battle and defeated Chief Cornstalk with one thousand Indian braves at Point Pleasant; and

WHEREAS, The Battle of Point Pleasant resulted in peace for three years between the Americans and the Indians and left the Continental soldiers free to throw their full force against

the British in the American Revolution during that critical period; and

WHEREAS, The Battle of Point Pleasant thus contributed to the success of the armed forces of the American colonies in winning independence; therefore, be it

Resolved by the House of Delegates, the Senate Concurring therein:

That the tenth day of October each year, the anniversary of the Battle of Point Pleasant, be designated as a memorial day.

HOUSE CONCURRENT RESOLUTION NO. 18

(By Mr. Parker and Mr. Earley)

[Adopted March 5, 1951.]

Granting permission to introduce a bill.

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 article seventeen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting sections twenty-two and twenty-three thereof, relating to toll bridges so as to provide for the collection and disposition of tolls for the use of the existing Parkersburg-Belpre bridge and the new Parkersburg-Belpre bridge to be constructed near the existing bridge.”

HOUSE CONCURRENT RESOLUTION NO. 20

(By Mr. Underwood)

[Adopted March 10, 1951.]

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 House of Delegates, the Senate concurring therein:

That the Legislature commend 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.

HOUSE RESOLUTION NO. 1

(By Mrs. Walker)

[Adopted January 10, 1951.]

Election of Clerk, Sergeant-at-Arms and Doorkeeper of the House of Delegates.

Resolved by the House of Delegates:

That J. R. Aliff, from the County of Fayette, be, and he is hereby, elected Clerk of the House of Delegates.

That D. Earl Brawley, from the County of Kanawha, be, and he is hereby, elected Sergeant-at-Arms of the House of Delegates.

That Herbert Schupbach, from the County of Wetzell, be, and he is hereby, elected Doorkeeper of the House of Delegates.

HOUSE RESOLUTION NO. 2

(By Mr. Kidd, of Gilmer)

[Adopted January 10, 1951.]

Adopting rules for the House of Delegates.

Resolved by the House of Delegates:

That the Rules of the House of Delegates for the regular session, one thousand nine hundred forty-nine, are hereby adopted and shall govern the proceedings of this House.

HOUSE RESOLUTION NO. 3

(By Mr. Caplan)

[Adopted January 10, 1951.]

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 is organized by the election of W. E. Flannery, of the County of Logan, as Speaker, and J. R. Aliff, of the County of Fayette, as Clerk, and is ready to proceed with the business of the session.

HOUSE RESOLUTION NO. 4

(By Mr. Davis)

[Adopted January 10, 1951.]

Raising a committee to wait upon the Governor.

Resolved by the House of Delegates:

That a committee of three members be appointed by the Speaker, on the part of the House of Delegates, to join with a similar committee on the part of the Senate, to notify His Excellency, the Governor, that a quorum of each House of the Legislature has assembled and has organized by the election of officers as required by the Constitution, and that the Legislature is ready to receive any communication that he may be pleased to make.

HOUSE RESOLUTIONS

HOUSE RESOLUTION NO. 5

(By Mr. McCoy)

[Adopted January 10, 1951.]

Authorizing the publication of 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 House of Delegates, the joint rules of the Senate and House of Delegates and such matter and material as he may deem to be useful and convenient to the members of the Legislature. The Clerk of the House of Delegates shall cooperate with the Clerk of the Senate in compiling said manual and include therein such material with reference to the Senate as the said Clerk of the Senate may prepare so as to obviate the necessity of the Senate publishing a manual.

HOUSE RESOLUTION NO. 6

(By Mr. Blankenship)

[Adopted January 10, 1951.]

Authorizing payment of mileage to members of the House of Delegates.

Resolved by the House of Delegates:

That in accordance with section thirty-three, article six of the Constitution of the State, the Clerk of the House of Delegates is hereby authorized to draw his requisitions upon the Auditor for mileage of members of the House of Delegates at the rate of ten cents per mile for such number of miles as has heretofore or will be certified to him by the various members as having been traveled in coming to the seat of government and returning to their homes on account of this session of the Legislature.

HOUSE RESOLUTION NO. 7

(By Mr. Davis)

[Adopted January 10, 1951.]

Authorizing the appointment of attaches and other employees

for the House of Delegates for the one thousand nine hundred fifty-one regular 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 attaches and other employees to receive the per diem as herein provided, during this session of the Legislature:

(1) For the Clerk's office the following:

Two record clerks at ten dollars per day each;

Two roll-call clerks at ten dollars per day each;

Three proofreaders and three copyholders at eleven dollars per day each;

One payroll and supply clerk at fifteen dollars per day;

One bill editor at sixteen dollars per day;

One clerk to the Committee on Enrolled Bills at eleven dollars per day;

Two file clerks at ten dollars per day each;

One receptionist at ten dollars per day;

One Journal clerk at eighteen dollars per day;

One Journal stenographer at fifteen dollars per day;

One messenger for the Clerk's office at nine dollars per day;

(2) For other offices and positions the following:

One clerk, one assistant clerk and one stenographer to the Committee on Finance at sixteen, thirteen and twelve dollars per day each, respectively;

One clerk, one assistant clerk and one stenographer to the Committee on the Judiciary at sixteen, thirteen and twelve dollars per day each, respectively;

One clerk to the Committee on Education at thirteen dollars per day;

Twelve committee clerks, to be assigned by the Speaker at eleven dollars per day each;

One secretary to the minority and one clerk to the minority at fifteen dollars per day each;

Fourteen stenographers and clerks from the minority, to be assigned by the Speaker, at eleven dollars per day each;

One supervisor of stenographers at fifteen dollars per day;

Twelve stenographers for the stenographic room at eleven dollars per day each;

Four typists at ten dollars per day each;

One supervisor of the document room at twelve dollars per day;

One supervisor of the mailing room at twelve dollars per day;

Nine document room clerks at ten dollars per day each;

Nine mailing room clerks at ten dollars per day each;

Three pages at eight dollars per day each;

One messenger to the Speaker at ten dollars per day;

One assistant to the Sergeant-at-Arms at thirteen dollars per day, and two assistants to the Sergeant-at-Arms at eleven dollars per day each;

One clerk to the Sergeant-at-Arms at thirteen dollars per day;

Six assistant doorkeepers at nine dollars per day each;

One mimeograph supervisor at eleven dollars per day;

One assistant mimeograph supervisor at eleven dollars per day;

Three mimeograph operators at ten dollars per day each;

One supervisor of offices and property at thirteen dollars per day;

One men's cloak room attendant at eight dollars per day;

Eight janitors at nine dollars per day each; and, be it

Further Resolved, That all of the appointments made under authority of the foregoing provisions of this resolution shall be certified to the Auditor and Treasurer by the Clerk of the House, and the Clerk is hereby authorized to draw his requisitions upon the Auditor in favor of the persons so appointed and the Auditor shall honor and pay such requisitions when presented and charge same to the "per diem of officers and attaches" fund of the House of Delegates. The Clerk shall draw his requisitions in favor of attaches and other employees for consecutive days from the date of their employment, at the per diem herein set out, until such time as their services shall cease. The Speaker may remove any attache and appoint another in his or her place, and he shall require each of said attaches 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 into 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 to such positions and duties as he may deem proper to secure the most efficient and expeditious work during the session of the Legislature; and, be it

Further Resolved, That no person appointed under authority of this resolution and receiving pay hereunder, shall concurrently receive compensation from any other department of state, or agency thereof; and, be it

Further Resolved, That, upon proper certification, the Clerk of the House of Delegates be, and he is hereby authorized, to honor for payment the following per diem of officers and appointees authorized by the Rules of the House as herein set out for this session of the Legislature:

(1) The Clerk of the House shall receive twenty-five dollars per day, but shall not receive the compensation provided in Account No. 102, Chapter 9, Acts of the Legislature, regular session, one thousand nine hundred forty-nine; the Sergeant-at-Arms and Doorkeeper shall receive fourteen dollars per day each; and of the three assistant clerks provided for by section nine, article one, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, one shall receive eighteen dollars per day and two shall receive fifteen dollars per day each; and,

(2) The secretary and stenographer to the Speaker, as provided for by the rules of the House, shall receive eighteen and fifteen dollars per day, respectively; and that the secretary and stenographer to the Clerk, as provided for by the rules, shall receive eighteen and fifteen dollars per day, respectively; and,

(3) The Chaplain appointed by the Speaker under the rules shall receive seven dollars per day.

The per diem of officers and appointments made under authority of the House Rules shall be certified to the Auditor and Treasurer by the Clerk, and the Clerk is hereby authorized to draw his requisitions upon the Auditor in favor of the persons named and the Auditor shall honor and pay such requisitions when presented and charge same to the "per diem of officers

and attaches" fund of the House of Delegates. The Clerk shall draw his requisitions in favor of officers and appointees for consecutive days from the date of their employment, at the per diem herein set out, until such time as their services shall cease.

HOUSE RESOLUTION NO. 8

(By Mr. Hunt)

[Adopted January 10, 1951.]

Authorizing payment for services rendered prior to the session and for supplies purchased prior to the opening of the session.

Resolved by the House of Delegates:

That the Clerk of the House of Delegates, with the approval of the Speaker, is hereby authorized to draw his requisitions in payment of bills for supplies purchased prior to the opening of the session and for services rendered the House of Delegates preparatory to the opening of the session, said requisitions to be drawn upon the contingent fund of the House of Delegates.

HOUSE RESOLUTION NO. 9

(By Mr. Stidham)

[Adopted January 10, 1951.]

Providing for a mailing list for House Journals.

Resolved by the House of Delegates:

That the Clerk of the House of Delegates is hereby authorized to have mailed from the House document room, copies of the daily Journal of the House to lists of persons to be furnished to the Clerk by the members of the House of Delegates, such lists not to exceed ten names from each Delegate; and the expenses 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 requisitions of the Clerk. All such mail shall bear the stamp of the Clerk of the House of Delegates, and the Clerk shall

designate such persons as are to deliver such mail to the Central Mailing Office and notify the postmaster of such designation, and said office shall not accept such mail from any person or persons other than those so designated by the Clerk; and, be it

Further Resolved, That the Clerk is hereby authorized to mail copies of journals, bills and other documents printed by the House to persons requesting the same.

HOUSE RESOLUTION NO. 10

(Originating in the Committee on Rules)

[Adopted January 24, 1951.]

Amending Rule No. 138 of the House Rules relating to news correspondents.

Resolved by the House of Delegates:

That Rule No. 138 of the standing rules of the House of Delegates be amended to read as follows:

138. (a) Any person accorded the privilege of a news correspondent must be the telegraphic correspondent of a daily newspaper, or of a recognized press association, who is not engaged in any department of the state government, or in any other business or must be the official reporter of a Charleston daily newspaper; and no more than one representative of each newspaper shall be admitted to the press tables within the chamber or press gallery at one time: *Provided, however*, That the Rules Committee may accord the privilege of a news correspondent to a radio news correspondent, or a correspondent of any paper, whether published weekly or otherwise which the committee deems a proper news source.

(b) All applications for admission to the press gallery or press table must be made to the Speaker. Applications for a newspaper correspondent shall state the name of the newspaper, its location, times of publication, and be signed by the applicant. Applications for a radio correspondent shall state the name of the station, its location, and be signed by the applicant. Applications for any other news correspondent shall

state the name of his employer, the location of employer's business, to whom and at what times the news to be obtained by him is to be published and be signed by the applicant.

(c) The Speaker shall verify statements made in such application, and if the application is recommended by him and approved by the Rules Committee, the Speaker shall issue a correspondent's card signed by him.

(d) The correspondents shall not visit the members in their seats during the session of the House, and shall abide by such rules and regulations as may be adopted by the Rules Committee of the House.

(e) The card issued by the Speaker must be presented when required by any Sergeant-at-Arms. It shall not be transferable. The transfer or loan of such card to any one shall be followed by its cancellation and the withdrawal of all its privileges from the correspondent so offending.

(f) The gallery or press tables allotted to news correspondents shall be for their exclusive use, and persons not holding correspondents' cards shall not be entitled to admission thereto.

The press gallery shall be located behind and above the Speaker's dais. The Rules Committee shall provide a proper entrance to the gallery from the room directly behind the gallery alcove, which room will be reserved for the exclusive use of the news correspondents. Suitable equipment also shall be provided by the Rules Committee for the convenience of the news correspondents.

HOUSE RESOLUTION NO. 11

(By Mr. Doringe)

[Adopted January 25, 1951.]

Authorizing payment of expenses of members of standing committees, and subcommittees thereof, incurred in visiting state institutions.

WHEREAS, Various members of standing committees and subcommittees thereof have visited state institutions as directed by the various committees, and incurred certain expenses for

hotel, transportation, meals, stenographic service and other miscellaneous expenses in connection with these visits; therefore, be it

Resolved by the House of Delegates:

That the Clerk of the House of Delegates is hereby authorized to draw his requisition upon the Auditor, payable from the contingent fund of the House of Delegates, in advance of the appropriation for the purpose, in favor of the members of such subcommittees, to reimburse them for money expended in the visiting and inspecting of said state institutions.

HOUSE RESOLUTION NO. 12

(By Mr. Whetsell)

[Adopted January 25, 1951.]

Expressing the appreciation of the House of Delegates to the United States Senate Crime Investigation Committee.

WHEREAS, We recognize the tremendous economic loss running into billions annually of organized crime in the United States; and

WHEREAS, We recognize the great moral impact on our entire population, and especially our youth, by these criminal practices; and

WHEREAS, We feel that the Committee to Investigate Crime created by the United States Senate has done a magnificent job in exposing these criminal elements; and

WHEREAS, We have been deeply shocked at the recent disclosure where criminals have paid public officials in West Virginia; and

WHEREAS, We appreciate the assistance of this agency in exposing the ramifications of these criminal groups; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates of the State of West Virginia hereby extends to the said Committee, through its Chairman,

Senator Estes Kefauver, our appreciation for the magnificent service they are rendering our country; and, be it

Further Resolved, That we extend to them every cooperation possible and ask that all public officials in West Virginia do likewise; and, be it

Further Resolved, That a copy of this resolution be forwarded by the Clerk of the House to the Committee.

HOUSE RESOLUTION NO. 13

(By Mr. Stidham and Mr. Mills)

[Adopted February 6, 1951.]

Relating to an investigation of the State Department of Mines and certain personnel thereof.

WHEREAS, It has come to the attention of certain members of the House of Delegates by evidence that appears credible, that certain provisions of the state mine law are not being complied with by the Chief of the Department of Mines and his subordinates; therefore, be it

Resolved by the House of Delegates:

That the Speaker of the House forthwith appoint a committee of five members of the House to conduct an investigation of the State Department of Mines, the Chief of the Department of Mines, and any subordinate official or employee of said department, for the purpose of ascertaining whether said chief or his subordinates or employees, are directly or indirectly interested in a financial way in any coal mines in this State.

HOUSE RESOLUTION NO. 16

(By Mr. McElwee)

[Adopted February 19, 1951.]

Providing for the appointment of a committee to investigate charges of attempted bribery of a member of the House of Delegates.

WHEREAS, On Friday, February 16, 1951, the statement was made on the floor of the House that a bribe of one thousand dollars had been offered a member of the House of Delegates if such member would cast a vote favorable to a motion which was to come before the House at its session on said date; and

WHEREAS, This charge is of such consequence to the House of Delegates that it cannot be ignored; therefore, be it

Resolved by the House of Delegates:

That a select committee of five members with minority representation be appointed by the Speaker with authority and direction to investigate thoroughly every phase of the alleged attempt of bribery by whomsoever may have committed this unlawful act.

The committee shall have power and authority to administer oaths, subpoena witnesses and demand attention to its commands. It shall be given stenographic and other help by the attaches of the House of Delegates, and if necessary, may employ such persons as it may deem necessary to assist in the conduct of its investigation. Any expense incurred by the committee shall be paid out of the contingent fund of the House of Delegates.

The committee shall make its report and recommendations to the House of Delegates before the adjournment of this session of the Legislature. It shall furnish the Governor of the State of West Virginia and the Prosecuting Attorney of the County of Kanawha a copy of its report and recommendations.

The Sergeant-at-Arms of the House of Delegates shall cause to be served such summonses as the committee may issue, execute such orders as the committee may direct and render any other assistance the committee may from time to time order.

HOUSE RESOLUTION NO. 17

(Originating in the Committee on Rules)

[Adopted February 20, 1951.]

Authorizing the Committee on Rules to arrange a Special Calendar.

Resolved by the House of Delegates:

That beginning February 23, 1951, and for the remainder of this regular session, the Committee on Rules is authorized to arrange a Special Calendar effective on that date, as provided for by House Rule No. 70. After the ninth order of business shall have been passed the Special Calendar shall be called, and until this calendar is disposed of each day no item of business on the Regular Calendar shall be considered or take precedence over any item of business on the Special Calendar, except by a two-thirds vote of the members present and voting: *Provided*, That the Special Calendar shall not interfere with the consideration of the Local Calendar on Friday of each week.

No bill or resolution shall be placed upon the Special Calendar except by the Committee on Rules. In making up this calendar, the Committee on Rules may hear any member in behalf of any resolution or bill which he may desire placed upon such calendar, and the committee shall give due consideration to the merits of bills and resolutions pending in the House of Delegates and take cognizance of measures which affects the interests of the people as a whole.

HOUSE RESOLUTION NO. 19

(By Mr. Phillips and Mr. Hubbard)

[Adopted March 6, 1951.]

Creating a special interim subcommittee of the House of Delegates Committee on Humane Institutions, and defining its powers and duties.

WHEREAS, The House of Delegates Committee on Humane Institutions is the inspection agency of the House for many state institutions; and

WHEREAS, Said committee is now confined to biennial inspections, during the regular sessions of the Legislature, which inspections are sufficient to give only the barest report of the progress of the institutions; and

WHEREAS, Inasmuch as the Legislature determines the basic programs for all of the state humane institutions, a more inti-

mate knowledge of the institutions is desirable; therefore, be it

Resolved by the House of Delegates:

That the Speaker shall appoint three members of the Committee on Humane Institutions as a special interim subcommittee thereof, and authorize said subcommittee to inspect any or all of the state institutions in the months of July, August and September of the years one thousand nine hundred fifty-one and one thousand nine hundred fifty-two, and to make report of its findings to the House of Delegates not later than February one, one thousand nine hundred fifty-three; and be it

Further Resolved, That the members of the aforesaid interim subcommittee be paid not more than fifteen dollars per day to defray their expenses in making such inspections and in the necessary travel therefor. The cost of such interim committee shall not exceed the sum of one thousand dollars.

HOUSE RESOLUTION NO. 20

(By Mr. Loop)

[Adopted March 7, 1951.]

Relating to heating and ventilation of the House chamber.

WHEREAS, It is generally recognized that air is good when it is not too warm, neither too dry nor too moist, and constantly in motion, and that temperature, humidity, and movement must be kept correct if one is to be mentally and physically alert and energetic; and

WHEREAS, The Chamber of the House of Delegates does not have proper facilities for changing the air when the aisles and galleries are packed, as they have been upon several occasions this session; and

WHEREAS, The Chamber has often been so laden with smoke and other noxious odors as to be so offensive to the olfactory nerves that no amount of air-wick would counteract the "stuffy" atmosphere; and

WHEREAS, Bad air often is conducive to drowsiness, headaches,

and nausea, all of which might retard good legislation, therefore, be it

Resolved by the House of Delegates:

That the Board of Control be requested to take such action as is necessary to properly heat and ventilate the Chamber of the House of Delegates before the convening of the 1953 session; and, be it

Further Resolved, That the Board of Control be authorized to draw upon the contingent fund of the House of Delegates for the expenses of such heating and ventilation, not to exceed \$10,000.00.

HOUSE RESOLUTION NO. 21

(By Mr. Davis)

[Adopted March 10, 1951.]

Relating to offices, furniture and equipment for the House of Delegates.

WHEREAS, It has become apparent that in the construction of the capitol building little consideration was given to providing suitable offices and committee rooms for the legislative branch of the state government from the standpoints of convenience and utility; and

WHEREAS, Additional filing space and equipment is badly needed for the House Document Room, for the clerk's office and for other offices and committee rooms; and

WHEREAS, Consideration should be given to location of permanent legislative offices and to the rearrangement and alteration of available office space to provide the greatest degree of convenience and service to members; therefore, be it

Resolved by the House of Delegates:

That the House Committee on Rules be and it is hereby authorized to make a study of the entire office and equipment and furniture needs of the House of Delegates; and, be it

Further Resolved, That said committee is hereby empowered

to contract for the alteration of present office space, and to purchase such furniture and equipment as it may deem necessary, within the limitation of funds herein provided; and, be it

Further Resolved, That if the committee finds it advisable in carrying out the intention of this resolution, said committee is hereby authorized to expend for services in making alterations and for the purchase of supplies, furniture and equipment for such House offices and committee rooms a sum of not to exceed twenty thousand dollars to be paid from the contingent fund of the House of Delegates upon the presentation of proper bills therefor approved by the chairman of the committee.

HOUSE RESOLUTION NO. 22

(Originating in the Committee on Rules)

[Adopted March 10, 1951.]

Relating to preservation and use of the recordings of this session of the Legislature.

Resolved by the House of Delegates:

That following the close of the session, all magnetic recording tapes used in recording the proceedings of this session of the Legislature shall be deposited in the vault in the Speaker's Office and no transcriptions or recordings of proceedings or remarks of members shall be made therefrom unless upon the request of the members whose remarks are involved and with the approval of the Committee on Rules: *Provided*, That such recording tape may be used in transcribing remarks of members which have been ordered printed in the Journal during the session.

HOUSE RESOLUTION NO. 23

(By Mr. Rairden)

[Adopted March 10, 1951.]

Requesting the director of the Department of Public Assistance

to rescind a regulation relating to amount of real estate recipients of public assistance may hold.

WHEREAS, The Department of Public Assistance has issued a regulation declaring the possession of five acres of land is all that a recipient of public assistance can have in West Virginia; and

WHEREAS, We feel that this definitely violates the intent of the law; therefore, be it

Resolved by the House of Delegates:

That we express to the Director of the Department of Public Assistance our desire that he rescind his regulation known as "Change in Policy Governing Need, Resources, Boarding Care and Physical Incapacity" issued April 18, 1950, which regulation limits the assistance recipients to five acres of land because we feel that such regulation works an unjust hardship on many needy persons, and, be it

Further Resolved, That the Clerk of the House of Delegates be instructed to send a copy of this resolution to the State Director of the Department of Public Assistance.

HOUSE RESOLUTION NO. 24

(Originating in the Committee on Rules)

[Adopted March 10, 1951.]

Authorizing the printing and distribution of the Acts of this session of the Legislature, providing for the printing of corrected Journals, and for the completion of the other 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 in paper binding four thousand advance copies of the Acts of this session of the Legislature, head-noted 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.

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 copies of said Acts 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 available. 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. When the bound volumes of the Acts are completed, ten copies of same shall be mailed to each member of the Legislature.

The Clerk of the House is also authorized and directed to have printed in signature form for advance sheets, any general law which he may deem to be of sufficient importance to be issued and distributed in this form.

For the work required in printing and distributing advance copies of the Acts; and for the proofreading, indexing and printing the bound volumes of the Acts of this session of the Legislature; and for the purpose of completing the other 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 House Journals, and to include therein a simple index of all bills introduced in the 1951 session of the Legislature, and printing thereof, the per diem of the Clerk, one Assistant Clerk, and the Secretary to the Clerk is extended for one hundred fifty days, and the time of one assistant Clerk is extended for thirty days, all at the same per diem as paid during the regular session of the Legislature.

For the above cited purposes, the Speaker of the House of Delegates is hereby authorized to name the following employees for the number of days herein set forth at the per diems paid for such work during this regular session of the Legislature.

A journal clerk for one hundred fifty days; two proofreaders for one hundred twenty days each; a supervisor of the docu-

ment room for five days; a secretary to the minority for six days; one clerk to the Committee on Enrolled Bills for five days; one supervisor of offices and property for seven days; and four janitors for six days each; and, be it

Further Resolved, That for the purpose of certification, correspondence, filing and other duties incident to the Speaker's office, the time of the Secretary to the Speaker is extended for ninety days at the same per diem paid during this regular session of the Legislature.

The Clerk shall draw his requisitions upon the Auditor in favor of the persons receiving per diems under this resolution, for consecutive days until such time as their services cease, and the Auditor shall honor and pay such requisitions when presented and charge same to the Contingent Fund of the House of Delegates.

The Speaker shall have authority to remove any person appointed 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.

The Clerk is authorized to have printed not more than six hundred copies of the corrected House Journals. Of this number, one copy each shall be mailed to each member of the Legislature, and after retaining a sufficient number of copies to supply the officers in the House of Delegates, the remainder shall be turned over to the supervisor of public printing.

To pay postage or expressage on Acts and Journals, and other matter to be mailed by the House of Delegates, the Clerk is hereby authorized to draw his requisitions upon the Auditor, payable from the Contingent Fund of the House of Delegates, for such purposes.

HOUSE RESOLUTION NO. 25

(By Mr. Knight)

[Adopted March 10, 1951.]

Establishing the Third House.

WHEREAS, It has been the custom for many years past to

have members of the press and radio preside at a Third House; and

WHEREAS, This 50th session of the Legislature is about to adjourn *sine die*; and

WHEREAS, It would be a shame not to again have same; therefore, be it

Resolved by the House of Delegates:

That this body hereby goes on record establishing the session of the Third House for the evening of March 10th, 1951, at about 8 P. M., the exact time to be fixed as that before a night meeting begins; and, be it

Further Resolved, That Charles R. Armentrout of The Charleston Gazette, who has served in the same capacity before, again be named speaker of the Third House; and, be it

Further Resolved, That Rush D. Holt, correspondent for the Ogden newspapers, be named minority leader since that is a group with which he is more than somewhat familiar; and, be it

Further Resolved, That Lee Garrett of the Associated Press be majority leader.

HOUSE RESOLUTION NO. 26

(By Mr. Knight)

[Adopted March 10, 1951.]

Relating to the departure of a member of the legislative press corps from the State of West Virginia.

WHEREAS, H. Lee Garrett, state editor and longtime member of the Associated Press of West Virginia, has been transferred and elevated to a position of more trust and prominence by the world wide AP; and

WHEREAS, The same H. Lee Garrett will depart immediately at the conclusion of the 50th Legislature to assume his new duties with the Associated Press in Washington, D. C.; therefore, be it

Resolved by the House of Delegates:

That the same H. Lee Garrett stand commended for his fair, accurate and unbiased news reporting of the sessions of the West Virginia Legislature in the years of 1947, 1949 and 1951, and that this body extend to him good wishes for his continued success as a legislative news reporter in the nation's capital; and, be it

Further Resolved, That Mr. Garrett be and he is hereby made an honorary member of the legislative press corps of the West Virginia House of Delegates, and that he stand and be recognized before this House.

HOUSE RESOLUTION NO. 27

(By Mr. McCoy)

[Adopted March 10, 1951.]

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*.

HOUSE RESOLUTION NO. 28

(By Mr. Kidd, of Gilmer)

[Adopted March 10, 1951.]

Raising a committee to notify His Excellency, the Governor, that the Legislature is ready to adjourn *sine die*.

Resolved by the House of Delegates:

That a committee of three be appointed by the Speaker to join with a similar committee of the Senate 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.

SENATE CONCURRENT RESOLUTION NO. 1

(By Mr. Hardesty)

[Adopted January 10, 1951.]

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 forty-nine, are hereby adopted and shall govern the proceedings of this session.

SENATE CONCURRENT RESOLUTION NO. 2

(By Mr. Jackson, of Logan)

[Adopted January 10, 1951.]

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 requisition 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 bills for the legislative printing of this session, as the account may become due.

SENATE CONCURRENT RESOLUTION NO. 3

(By Mr. Bowling)

[Adopted January 10, 1951.]

Providing for a recess of the Legislature.

Resolved by the Senate, the House of Delegates concurring therein:

That when adjournment is taken by the two Houses of the Legislature at the close of this day's session, such adjournment shall be until Tuesday, January 16, 1951, at 11 A. M.

SENATE CONCURRENT RESOLUTION NO. 6

(Originating in the Committee on Forestry and Conservation)

[Adopted February 9, 1951.]

Creating an interim committee of the Legislature for the purpose of making a thorough study, survey and investigation of matters affecting conservation in the State of West Virginia.

WHEREAS, Certain problems affecting conservation in the State of West Virginia require more extensive research and more detailed study than the demands of a regular legislative session will permit; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That an interim committee be created, which shall be designated as "Interim Committee on Conservation", consisting of five members of the Senate, not more than three of whom shall be members of the same political party, to be appointed by the President thereof, and five members of the House of Delegates, not more than three of whom shall be members of the same political party, to be appointed by the Speaker thereof, for the purpose of making a thorough study, survey and investigation of the following:

1. The operation, administration, management, expenditures, finances, policies and practices of the conservation commission of West Virginia.

2. Conservation services rendered by any other department of state with respect to game, fish, forests, land and streams with a view toward elimination of duplication of services and expenditures by such departments.

3. The status of the Conservation Commission of West Virginia and other departments of the State under agreements with the government of the United States, its agencies and subdivisions, pertaining to conservation.

4. Such other matters as the committee may deem it advisable to study and which will, in the opinion of the committee, aid and improve conservation, hunting, fishing and recreation in the State of West Virginia.

That prior to the convening of the next regular session of the Legislature the committee hereby raised shall make and issue reports to the governor and to the Legislature, together with such recommendation and proposed legislation as may in the opinion of the committee aid in the solution of the problems considered.

That in connection with any particular problem under consideration the governor be and he is hereby authorized to appoint an advisory committee of twelve representatives citizens of the State, two of whom shall come from each of its six congressional districts and whose duty it shall be to consult and advise with the interim committee concerning the best solution of such problems.

The committee shall elect a chairman and a vice chairman from its membership and is authorized to employ such assistants as may be needed, and to fix compensation within the amounts made available by the appropriation therefor, and to pay other expenses necessary or incident to the study and investigation hereby directed. Such committee may meet anywhere within the State, may take testimony, subpoena witnesses and require the production of such books, records and papers as may be necessary to carry out the spirit of this resolution.

Vacancies occurring for any cause in the membership of the interim committee on conservation or its advisory committee shall be filled by the officer authorized to make the original appointment.

The committee is authorized to fix the amount to be paid the members of the interim and advisory committees as an allowance for their expenses not to exceed fifteen dollars a day per member, and for their mileage.

The sum of fifteen thousand dollars, or so much thereof as may be needed, is hereby appropriated for the expenses of the committee, one-half thereof to be paid from the contingent

fund of the Senate and one-half thereof to be paid from the contingent fund of the House of Delegates, upon proper requisition of the clerk of the two Houses.

The Clerk of the House of Delegates, and the Clerk of the Senate, upon the approval of the chairman of said committee, shall draw their requisitions upon the Auditor, payable equally out of the contingent fund of the Senate and the contingent fund of the House of Delegates for such expenditures and expenses of said committee as are authorized by this resolution. Requisitions to the Auditor for payment of expenses of said committee shall be accompanied by the signed approval of said expenses, signed by the chairman of said committee, or by some person authorized so to sign by the committee.

SENATE CONCURRENT RESOLUTION NO. 8

(By Mr. Stemple)

[Adopted February 21, 1951.]

Requesting the Postmaster General of the United States to issue a commemorative stamp for the one hundredth anniversary of the covered bridge at Philippi, West Virginia.

WHEREAS, The Barbour County Historical Society, with headquarters at Philippi, West Virginia, is planning a celebration in the year one thousand nine hundred fifty-two in commemoration of the one hundredth anniversary of the covered bridge at Philippi, West Virginia; and

WHEREAS, Such bridge is one of the few remaining two-lane covered bridges in the United States and is of great historical value to the State of West Virginia; and

WHEREAS, Such celebration is a matter of state-wide interest to the citizens of West Virginia; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Postmaster General of the United States be, and he is hereby, respectfully requested to issue a proper commemorative stamp for such one hundredth anniversary of the covered bridge at Philippi, West Virginia, in the year one thousand nine hundred fifty-two.

SENATE RESOLUTION NO. 1

(By Mr. Allen)

[Adopted January 10, 1951.]

Adopting rules of the Senate.

Resolved by the Senate:

That the rules of the Senate, regular session, one thousand nine hundred forty-nine, be adopted as the rules of the Senate for this session.

SENATE RESOLUTION NO. 2

(By Mr. Eddy)

[Adopted January 10, 1951.]

Raising a committee to notify the House of Delegates that the Senate is organized.

Resolved by the Senate:

That the President of the Senate 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 W. Broughton Johnston as President, and Mr. J. Howard Myers as Clerk, and is ready to proceed with the business of the session.

SENATE RESOLUTION NO. 3

(By Mr. Bean)

[Adopted January 10, 1951.]

Providing for the appointment of a committee to inform the Governor that the Legislature is organized.

Resolved by the Senate:

That the President of the Senate is hereby authorized to appoint a committee of three, to join with a similar committee from the House of Delegates, to wait upon 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 to receive any communication or message he may desire to present.

SENATE RESOLUTION NO. 4

(By Mr. Reed, of Preston)

[Adopted January 10, 1951.]

Relating to the mailing of Journals and Bills.

Resolved by the Senate:

That the Clerk of the Senate is hereby 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, the expense of such mailing, including postage, to be paid out of the contingent fund of the Senate by the Auditor, in advance of the appropriation therefor, under requisition drawn by the Clerk of the Senate.

SENATE RESOLUTION NO. 5

(By Mr. Johnston, Mr. President)

[Adopted January 17, 1951.]

Authorizing the appointment of attaches and other employees for the Senate for the one thousand nine hundred fifty-one regular session of the Legislature.

Resolved by the Senate:

That the Clerk of the Senate be and he is hereby authorized to appoint attaches and other employees to receive the per diem, as herein provided during this 50th session of the West Virginia Legislature, viz:

- One journal clerk, at eighteen dollars per diem;
- One supervisor of stenographers, at eighteen dollars per diem;
- One bill editor, at eighteen dollars per diem;
- One clerk to the minority, at eighteen dollars per diem;

- One supervisor of printing, at eighteen dollars per diem;
- One secretary to the clerk, at eighteen dollars per diem;
- One secretary to the President, at eighteen dollars per diem;
- One chaplain, at seven dollars per diem;
- One journal room supervisor, at twelve dollars per diem;
- One assistant journal room supervisor, at eleven dollars per diem;
- Two assistants to the sergeant-at-arms, at eleven dollars per diem;
- One Clerk on enrolled bills, at eleven dollars per diem;
- One receptionist, at ten dollars per diem;
- One clerk to the Judiciary Committee, at sixteen dollars per diem;
- One assistant clerk to Judiciary Committee, at fourteen dollars per diem;
- One stenographer to the Judiciary Committee, at thirteen dollars per diem;
- One clerk to Finance Committee, at sixteen dollars per diem;
- One assistant clerk to Finance Committee, at fourteen dollars per diem;
- One stenographer to Finance Committee, at thirteen dollars per diem;
- Two committee clerks at large, at fourteen dollars per diem;
- One secretary to Education Committee, at fourteen dollars per diem;
- Ten journal and mailing room clerks, at ten dollars per diem;
- Ten document room clerks, at ten dollars per diem;
- One first assistant doorkeeper, at thirteen dollars per diem;
- Seven assistant doorkeepers, at ten dollars per diem;
- Eight typists, at ten dollars per diem;
- Six floor stenographers, at twelve dollars per diem;
- Five committee-clerk stenographers, at thirteen dollars per diem;
- Five clerk-stenographers, at thirteen dollars per diem;
- Five proofreaders, at eleven dollars per diem;
- One supervisor of mimeograph, at eleven dollars per diem;
- Four mimeograph operators, at ten dollars per diem;
- One messenger to the President, at nine dollars per diem;
- One messenger to the Clerk's office, at ten dollars per diem;
- Eight janitors, at nine dollars per diem;

Two pages, at nine dollars per diem;
One sergeant-at-arms, at fourteen dollars per diem;
One doorkeeper, at fourteen dollars per diem;
One Clerk, at thirty dollars per diem.

The Clerk shall draw his requisitions 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 requisitions 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 Clerk shall assign duties to the said employees and require them to perform the duties assigned to them, and he is 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. Allen)

[Adopted January 23, 1951.]

Concerning the death of the Honorable B. Cleo Casto.

WHEREAS, The Senate has learned of the death of the Honorable B. Cleo Casto, a former member of this body; and

WHEREAS, In his passing, the State, his county and city have lost a valued statesman and esteemed public-spirited citizen, and many of the members of this body a much prized friend; therefore, be it

Resolved by the Senate:

That the Senate deploras the untimely death of Senator Casto, and expresses its sincere sympathy to his loved ones; and, be it

Further Resolved, That the Clerk of this body is directed to send a suitable floral emblem, on behalf of the Senate, to the family of our deceased friend and former member, together with a copy of this resolution.

SENATE RESOLUTION NO. 7

(By Mr. Taylor, of Fayette)

[Adopted February 6, 1951.]

Concerning the death of the Honorable A. B. Abbot.

WHEREAS, The Senate has learned of the death of the Honorable A. B. Abbot, a former member of this body; and

WHEREAS, In his passing, the State, his county and city have lost a valued statesman and esteemed public-spirited citizen, and many of the members of this body a much prized friend; therefore, be it

Resolved by the Senate:

That the Senate deplores the untimely death of Senator Abbot, and expresses its sincere sympathy to his loved ones; and, be it

Further Resolved, That the Clerk of this body is directed to send a suitable floral emblem, on behalf of the Senate, to the family of our deceased friend and former member, together with a copy of this resolution.

SENATE RESOLUTION NO. 8

(By Mr. Traubert)

[Adopted February 13, 1951.]

Concerning the death of the Honorable George L. Bambrick.

WHEREAS, The Senate has learned of the death of the Honorable George L. Bambrick, a former member of this body; and

WHEREAS, In his passing, the State, his county and city have lost a valued statesman and esteemed public-spirited citizen, and many of the members of this body a much prized friend; therefore, be it

Resolved by the Senate:

That the Senate deplores the untimely death of Senator Bambrick, and expresses its sincere sympathy to his loved ones; and, be it

Further Resolved, That the Clerk of this body is directed to send a suitable floral emblem, on behalf of the Senate, to the family of our deceased friend and former member, together with a copy of this resolution.

SENATE RESOLUTION NO. 9

(By Mr. Bean)

[Adopted February 14, 1951.]

Authorizing the Committee on Rules to arrange a Special Calendar.

Resolved by the Senate:

Beginning, February 19, 1951, and for the remainder of the session, the Committee on Rules is authorized to arrange a Special Calendar and, until the business on the Special Calendar is disposed of each day no item of business on the Regular Calendar shall be considered or take precedence over any item of business on the Special Calendar, except by a vote of two-thirds of the members present and voting.

SENATE RESOLUTION NO. 10

(By Mr. Stemple)

[Adopted February 14, 1951.]

Concerning the death of the Honorable Charles E. Carrigan.

WHEREAS, The Senate has learned of the death of the Honorable Charles E. Carrigan, a former member who served in the sessions of 1903 and 1905, and the father of the Honorable John E. Carrigan, presently a member of this body; and

WHEREAS, In his passing, the State, his county and city have lost a valued statesman and esteemed public-spirited citizen, and many of the members of this body, a much prized friend; therefore, be it

Resolved by the Senate:

That the Senate deploras the death of the Honorable Charles E. Carrigan, and expresses its sincere sympathy to his widow

and to our fellow member and colleague, Senator John E. Carrigan; and, be it

Further Resolved, That the Clerk of this body is directed to send a suitable floral emblem, on behalf of the Senate, to the family of our deceased friend, together with a copy of this resolution.

SENATE RESOLUTION NO. 11

(By Mr. Johnston, Mr. President)

[Adopted March 10, 1951.]

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 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 thirty dollars is hereby extended for one hundred and eighty days.

The Clerk of the Senate is hereby authorized to employ the following assistance for the number of days and at the per diems hereinafter set forth:

One Clerk to Finance Committee for seven days, at sixteen dollars per diem;

One Clerk to Judiciary Committee for seven days, at sixteen dollars per diem;

One Stenographer to Finance Committee for five days, at thirteen dollars per diem;

One Stenographer to Judiciary for five days, at thirteen dollars per diem;

One Stenographer to Judiciary for five days, at fourteen dollars per diem;

One Clerk on Enrolled Bills for ten days, at eleven dollars per diem;

One Journal Room Supervisor for fifteen days, at twelve dollars per diem;

One Journal Room Clerk for thirty days, at ten dollars per diem;

One Stenographer for sixty days, at twelve dollars per diem;

Two Journal Stenographers for thirty days, at thirteen dollars per diem;

One Secretary to the Clerk for one hundred and eighty days at eighteen dollars per diem;

One Journal Clerk for one hundred and eighty days at eighteen dollars per diem;

One Journal Editor for one hundred and eighty days at eighteen dollars per diem;

One Supervisor of Journals and Bills for one hundred and eighty days, at eighteen dollars per diem;

One Stenographer for fifteen days, at twelve dollars per diem;

One Printing Clerk for one hundred and eighty days, at eighteen dollars per diem;

Two Proofreaders for one hundred and fifty days, at eleven dollars per diem;

Two copyholders for ninety days at ten dollars per diem;

One Clerk to Minority for ninety days at eighteen dollars per diem;

One Supervisor of Supplies for thirty days, at fourteen dollars per diem;

One Secretary to the President for thirty days, at eighteen dollars per diem;

One Supervisor of Janitors for sixty days, at ten dollars per diem;

Three Assistant Janitors for thirty days, at nine dollars per diem, each.

SENATE RESOLUTION NO. 12

(By Mr. Bean)

[Adopted March 10, 1951.]

Raising a committee to notify the House of Delegates that the Senate is ready to adjourn *sine die*.

Resolved by the Senate:

That the President be authorized to appoint a committee of three to notify the House of Delegates that the Senate has completed its labors and is ready to adjourn *sine die*.

SENATE RESOLUTION NO. 13

(By Mr. Bean)

[Adopted March 10, 1951.]

Raising a committee to notify the Governor that the Senate is ready to adjourn *sine die*.

Resolved by the Senate:

That the President is authorized to appoint a committee of three to meet with a like committee on the part of the House of Delegates to inform the Governor that the Legislature has completed its labors and is ready to adjourn *sine die*, and to inquire if he has any further communications he desires to make.

DISPOSITION OF BILLS ENACTED

The following table shows the disposition of House and Senate Bills passed at the regular session of the 1951 Legislature. The first column gives the number of the bill and the second column the chapter assigned to it. House Bills appear first, followed by Senate Bills.

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25	217	154	64	274	142
30	166	155	36	293	174
43	88	156	61	298	136
45	128	157	12	304	124
46	204	158	122	305	162
47	205	159	123	311	54
50	178	160	125	331	80
51	31	162	35	337	22
54	197	174	120	346	17
55	196	183	156	357	50
56	6	187	69	358	48
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compensation _____	6	149
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Prosecuting attorney		
assistant _____	6	149
compensation _____	6	150
salary of _____	5-(49)	148
stenographer for _____	6	151
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Prosecuting attorney		
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compensation	6	150
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