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

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

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

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

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

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

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

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

JOHN S. HALL,

Clerk of the House of Delegates.
ERRATA

ACTS 1937, REGULAR SESSION

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

Page 615, S. C. R. No. 13, line 5, after the resolving clause, change the word "two" to the word "three."
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## REGULAR SESSION, 1937

### SENATE

#### OFFICERS

- **President**—CHARLES E. HODGES, Morgantown.
- **Clerk**—CHARLES LIVELY, Weston
- **Sergeant-at-Arms**—C. P. DENT, Montgomery
- **Doorkeeper**—M. W. HEFNER, Burnsville.

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<td>Gassaway</td>
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- Hold-over Senators, who will serve in the 1939 session.
- † Appointed to fill vacancy caused by the resignation of Senator C. Lee Spillers.
- ‡ Appointed to fill vacancy caused by the death of Senator M. O. Rouss.

| (D) Democrats | 24 |
| (R) Republicans | 6 |

Total: 30
Standing Committees of the Senate

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

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

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

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

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

COUNTIES AND MUNICIPAL CORPORATIONS
Messrs. Greene (Chairman), Galbraith, Howard, Beacom, Barnhart, Randolph, Moler, Young (of Upshur) and Helmick.

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

BANKS AND CORPORATIONS
Messrs. Tuckwiller (Chairman), Fleming, Allen, Pelter, Galbraith, Haines, Jackson, Helmick and Young (of Upshur).
PUBLIC BUILDINGS AND HUMANE INSTITUTIONS

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

THE PENITENTIARY

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

RAILROADS

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

MILITIA

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

FEDERAL RELATIONS

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

INSURANCE

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

AGRICULTURE

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

MINES AND MINING

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

MEDICINE AND SANITATION

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

LABOR

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

CLAIMS AND GRIEVANCES

Messrs. Fleming (Chairman), Paull, Millender, Barnhart, Pelter, Hall, Allen, Young (of Tyler) and Curtis.
FORFEITED, DELINQUENT AND UNAPPROPRIATED LANDS
Messrs. Moler (Chairman), Howard, Randolph, Galbraith, Johnston (of Mercer), Jackson, Greene, Reynolds and Young (of Tyler).

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

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

TO EXAMINE THE CLERK’S OFFICE
Messrs. Jackson (Chairman), Snyder and Johnson (of Mason).

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

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

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

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

JOINT COMMITTEE ON ENROLLED BILLS ON THE PART OF THE SENATE
Messrs. Galbraith (Chairman), Belknap, Millender, Jackson and Reynolds.

JOINT COMMITTEE ON JOINT RULES ON THE PART OF THE SENATE
Messrs. Hodges (Chairman ex officio), Fleming and Helmick.
## House of Delegates
### Officers
- **Speaker:** JAMES KAY THOMAS, Charleston
- **Clerk:** JOHN S. HALL, Williamson
- **Sergeant-at-Arms:** HARRY HOLSWADE, Spencer
- **Doorkeeper:** CLARK NEAL, Fenwick

### Counties and Members

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<th>County</th>
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* Appointed to fill vacancy caused by the death of Delegate John L. Weyer.
† Appointed to fill the vacancy caused by the death of Delegate Ben H. Butcher.

(D) Democrats
(R) Republicans

Total: 94
Standing Committees of the House of Delegates

AGRICULTURE

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

ARTS, SCIENCE, AND GENERAL IMPROVEMENTS

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

BANKS AND CORPORATIONS

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

CLAIMS AND GRIEVANCES

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

COUNTIES, DISTRICTS AND MUNICIPAL CORPORATIONS

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

EDUCATION

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

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

EXECUTIVE OFFICES AND LIBRARY

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

FEDERAL RELATIONS

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

FORESTRY AND CONSERVATION

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

FORFEITED, DELINQUENT AND UNAPPROPRIATED LANDS

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

GAME AND FISH

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

HUMANE INSTITUTIONS AND PUBLIC BUILDINGS

Messrs. Hussian (Chairman), Gunnoe (Vice Chairman), Bibb, Browning, Evans, Havercamp, Hodson, James, Kingsbury, Linger, Martin, Taylor (of Fayette), Thomas (of Marion), Mrs. Walker, Messrs. Gordon, Powell and See.
Messrs. Shinn (Chairman), Keister (Vice Chairman), Bush, Doringer, Evans, Light, Marcum, Martin, Matthews, McClung, McKinley, Miley, Righter, Stephens, Kurtz, Smith and Weissenburger.

**JUDICIARY**

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

**LABOR**

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

**MEDICINE AND SANITATION**

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

**MILITARY AFFAIRS**

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

**MINES AND MINING**

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

**PENITENTIARY**

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

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

RAILROADS

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

REDISTRICTING

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

ROADS

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

RULES

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

STATE BOUNDARIES

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

TAXATION AND FINANCE

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

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

JOINT COMMITTEE ON ENROLLED BILLS ON THE PART OF THE HOUSE

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

JOINT COMMITTEE ON JOINT RULES ON THE PART OF THE HOUSE

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

HOUSE MEMBERS OF THE COMMISSION ON INTERSTATE COOPERATION

Messrs. Doringer (Chairman), Russek, Brotherton, Taylor (of Mingo) and Jones (of Tyler).
AN ACT making an appropriation of public money out of the treasury in accordance with section fifty-one, article six of the constitution.

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

Title
2. Appropriations.
3. Administration.

Be it enacted by the Legislature of West Virginia:

Title 1. General Provisions.

Section
1. General policy and purpose of act.
2. Definitions.
3. Classification of appropriations.
5. Limitations on Expenditures.

Section 1. General Policy. The purpose of this act is to appropriate money necessary for economical and efficient discharge of the duties and responsibilities of the state and its agencies during the fiscal years one thousand nine hundred
thirty-eight and one thousand nine hundred thirty-nine. To
give effect to this purpose, the board of public works shall
supervise the fiscal policy, control the assumption of obliga-
tions, and regulate the expenditures of the agencies of the
state.

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

"Board" shall mean the board of public works;
"Spending unit" shall mean the department, agency, or
institution to which an appropriation is made.
The "fiscal year one thousand nine hundred thirty-eight"
shall mean the period from July first, one thousand nine hun-
dred thirty-seven through June thirtieth, one thousand nine
hundred thirty-eight; and the "fiscal year one thousand nine
hundred thirty-nine" shall mean the period from July first,
one thousand nine hundred thirty-eight through June thir-
tieth, one thousand nine hundred thirty-nine.
"From collections" shall mean the amount of the total
appropriation which must be collected by the spending unit
to be available for expenditure. If the authorized amount of
collections is not collected, the total appropriation for the
spending unit shall be reduced automatically by the amount
of the deficiency in the collection. If the amount collected
exceeds the amount designated "from collections" the excess
shall be set aside in a special surplus fund and may be ex-
pended for the purpose of the spending unit as provided by
section seventeen of Title III of this act.

Sec. 3. Classifications of Appropriations. An appropriation
for:
"Personal services" shall be extended only for the payment
of salaries, wages, fees, and other compensation for skill, work,
or employment;
"Current expenses" shall be expended only for operating
costs other than personal services or capital outlay.
"Buildings" shall include construction and alteration of
structures and the improvement of lands and shall include
shelter, support, storage, protection, or the improvement of a
natural condition;
12 "Lands" shall be expended only for the purchase of land
13 or interests in lands;
14 "Equipment" shall be expended only for things which have
15 an appreciable and calculable period of usefulness in excess
16 of one year;
17 "Repairs and alterations" shall include all expenditures for
18 materials, supplies and labor used in repairing and altering
19 buildings, grounds and equipment.

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

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

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

Title 2. Appropriations.

Section
1. Governmental appropriations.

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<td>325</td>
<td>Concord State Teachers college</td>
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<td>322</td>
<td>Glenville State Teachers college</td>
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<td>401</td>
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<td>327</td>
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<td>324</td>
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<td>700</td>
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<td>702</td>
<td>State board of education (rehabilitation)</td>
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<td>State board of education (vocational)</td>
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<td>West Liberty State Teachers college</td>
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<td>West Virginia schools for deaf and blind</td>
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<td>328</td>
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<td>West Virginia university (experiment farm)</td>
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### EXECUTIVE

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<td>Auditor's office (land department)</td>
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<td>Board of control</td>
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<td>280</td>
<td>Central mailing office</td>
<td>18</td>
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<td>210</td>
<td>Director of the budget</td>
<td>17</td>
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<td>120</td>
<td>Governor's office</td>
<td>12</td>
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<td>122</td>
<td>Pardon attorney</td>
<td>14</td>
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<td>290</td>
<td>Purchasing department</td>
<td>18</td>
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<td>250</td>
<td>Secretary of State</td>
<td>17</td>
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<td>170</td>
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<td>15</td>
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<td>671</td>
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<td>Tax commissioner (revenue department)</td>
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### HEALTH AND WELFARE

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<td>Bureau of Negro welfare and statistics</td>
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<td>Denmar sanitarium</td>
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<td>6410</td>
<td>Department of public assistance</td>
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<td>Department of public assistance</td>
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<td>Fairmont emergency hospital</td>
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<td>400</td>
<td>Health department and public health council</td>
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<td>Hopemont sanitarium</td>
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<td>422</td>
<td>Huntington state hospital</td>
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<td>423</td>
<td>Lakin state hospital</td>
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<td>424</td>
<td>McKendree emergency hospital</td>
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<td>6406</td>
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### JUDICIAL

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<td>Criminal charges</td>
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<td>114</td>
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<td>12</td>
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<tr>
<td>110</td>
<td>Supreme court of appeals</td>
<td>11</td>
</tr>
</tbody>
</table>
SECTION 1. Governmental Appropriations. From the state fund, general revenue, except as otherwise provided, there is hereby appropriated conditionally upon the fulfillment of the provisions set forth in Title III of this act, the following amounts, as itemized, for expenditures during the fiscal years one thousand nine hundred thirty-eight and one thousand nine hundred thirty-nine.
<table>
<thead>
<tr>
<th>Item</th>
<th>1937-38</th>
<th>1938-39</th>
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<tbody>
<tr>
<td>1. Salaries of members</td>
<td>$16,000.00</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>2. Mileage of members</td>
<td>$928.10</td>
<td></td>
</tr>
<tr>
<td>3. Compensation and per diem of officers and attaches</td>
<td>$33,745.00</td>
<td></td>
</tr>
<tr>
<td>4. Contingent Fund of the Senate</td>
<td>$45,000.00</td>
<td></td>
</tr>
<tr>
<td>5. To pay Charles Lively for editing, compiling and publishing the West Virginia Blue Book under the same provisions as to distribution as were adopted in the session of one thousand nine hundred and twenty-one, including all expenses incurred in the employment of contributors, preparation of matter, clerical hire, stenographic services and proof reading, and for shipping charges in connection with the distribution of the book; which distribution shall include seventy-five copies each to members of the Legislature;</td>
<td>$10,000.00</td>
<td></td>
</tr>
<tr>
<td>6. For the fiscal year ending June thirty, one thousand nine hundred and thirty-eight</td>
<td></td>
<td>$8,000.00</td>
</tr>
<tr>
<td>7. For fiscal year ending June thirty, one thousand nine hundred and thirty-nine</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. After the distribution provided for in the acts of one thousand nine hundred and twenty-one above referred to,</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
or by further resolution of the Legislature, the remainder of the edition shall be sold by the superintendent of public printing to persons desiring to purchase the same at the price of three dollars per volume.

The Clerk of the Senate is authorized to draw his warrants upon the Auditor, payable out of the contingent fund of the Senate, for any bills for supplies and services that may have been incurred by the Senate and not included in the appropriation bill, and for bills for supplies and services incurred after adjournment, the requisition for same to be accompanied by bills to be filed with the Auditor.

### 2—House of Delegates

<table>
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<tr>
<th>Acct. No. 102</th>
<th>Salaries of Members</th>
<th>$48,000.00</th>
<th>$47,000.00</th>
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<tr>
<td>1 Salaries of Members</td>
<td>$48,000.00</td>
<td>$47,000.00</td>
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</tr>
<tr>
<td>2 Current Expenses</td>
<td>Fiscal Year 1937</td>
<td></td>
<td></td>
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<tr>
<td>3 Mileage</td>
<td>$2,931.40</td>
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<tr>
<td>4 Speaker House of Delegates as presiding officer for 60 days</td>
<td>$120.00</td>
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<tr>
<td>5 Compensation of Clerk for 60 days</td>
<td>$1,200.00</td>
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<tr>
<td>6 Compensation of Sergeant-at-arms for 60 days</td>
<td>$600.00</td>
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<tr>
<td>7 Compensation of Doorkeeper for 60 days</td>
<td>$600.00</td>
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</tr>
<tr>
<td>8 Compensation of Attaches and other employees</td>
<td>$70,500.00</td>
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<tr>
<td>No.</td>
<td>Description</td>
<td>Amount</td>
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<td>15</td>
<td>House Resolution No. 19</td>
<td>91.81</td>
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<td>House Resolution No. 13</td>
<td>93.41</td>
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<td>17</td>
<td>House Resolution No. 21</td>
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<td>18</td>
<td>House Resolution No. 30</td>
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<td>19</td>
<td>Services Preliminary to Session</td>
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<td>20</td>
<td>Chesapeake &amp; Potomac Telephone Co.</td>
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<td>21</td>
<td>Central Mailing Office</td>
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<tr>
<td>22</td>
<td>Charleston Cut Flower Co.</td>
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<td>23</td>
<td>Charleston Electric Supply Co.</td>
<td>2.94</td>
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<td>24</td>
<td>Charleston Towel Supply Co.</td>
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<tr>
<td>25</td>
<td>Diamond Ice &amp; Coal Co.</td>
<td>30.31</td>
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<tr>
<td>26</td>
<td>Elite Laundry Co.</td>
<td>6.20</td>
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<tr>
<td>27</td>
<td>Gates Paint Manufacturing Co.</td>
<td>21.25</td>
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<tr>
<td>28</td>
<td>H. R. Judy</td>
<td>55.25</td>
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<td>29</td>
<td>M. Kimberling</td>
<td>4.50</td>
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<tr>
<td>30</td>
<td>Laird Office Supply Co.</td>
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<td>31</td>
<td>S. Spencer Moore Co.</td>
<td>170.90</td>
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<tr>
<td>32</td>
<td>The Michie Company</td>
<td>45.00</td>
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<tr>
<td>33</td>
<td>Pugh Furniture Company</td>
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<td>Rose City Press</td>
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<td>Rohr's Drug Company</td>
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<td>36</td>
<td>Bert Silman &amp; Company</td>
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<td>37</td>
<td>Security Steel Equipment Company</td>
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<td>Smith &amp; Brooks</td>
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<td>State of W. Va. Department of Purchases</td>
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<td>Sutler Brothers</td>
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<td>Thomas Office Supply Company</td>
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<td>Underwood Elliott Fisher Company</td>
<td>140.00</td>
<td></td>
</tr>
<tr>
<td>44</td>
<td>C. W. Windell</td>
<td>107.70</td>
<td></td>
</tr>
<tr>
<td>45</td>
<td>W. Va. Lighting Company</td>
<td>330.00</td>
<td></td>
</tr>
<tr>
<td>46</td>
<td>Walnut Hill Lithia Water Company</td>
<td>66.68</td>
<td></td>
</tr>
<tr>
<td>47</td>
<td>Winter Floral Company</td>
<td>13.00</td>
<td></td>
</tr>
</tbody>
</table>
The Clerk of the House of Delegates with the approval of the Speaker of the House, is authorized to draw his warrants upon the Auditor, payable out of the contingent fund, for any bills for supplies and services that may have been incurred by the House of Delegates and not included in this appropriation bill, for bills for supplies and services incurred after adjournment, the requisition for same to be accompanied by a bill to be filed with the Auditor, but no payment shall be made to attaches under this paragraph.

For duties imposed by law and by the House of Delegates, including the salary allowed by law as keeper of the rolls, beginning August fifteen, one thousand nine hundred thirty-seven, the Clerk of the House of Delegates shall be paid a monthly salary at the rate of five thousand dollars per annum, payable from the contingent fund of the House of
Delegates, and the Clerk may employ a secretary at a salary of not to exceed eighteen hundred dollars per annum, payable monthly from the same fund.

During sessions of the Legislature the Clerk of the House of Delegates shall keep his office open during such hours as the House may direct. When the Legislature is not in session the office of the House of Delegates shall be kept open as other public offices in the capitol are kept open.

3—Joint Expenses

Acct. No. 103

To pay the cost of legislative printing and stationery, the appropriation to be available for the year ending June thirty, one thousand nine hundred thirty-seven. If this work is not completed prior to June thirty, one thousand nine hundred thirty-seven, then the appropriation shall continue in effect until completed.

$ 80,000.00

JUDICIAL

6—Supreme Court of Appeals

Acct. No. 110

Salaries of Judges...................................... $ 50,000.00 $ 50,000.00

Other Personal Services, including salaries of clerks, assistants and stenographers........... 39,950.00 39,950.00

Other personal services avail-
<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>able for 1936-37</td>
<td>2,500.00</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Current Expenses</td>
<td>10,000.00</td>
<td>10,000.00</td>
</tr>
<tr>
<td>8</td>
<td>Total</td>
<td>$102,450.00</td>
<td>$99,950.00</td>
</tr>
</tbody>
</table>

**7—Circuit Courts**

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Salaries of the Judges of the Circuit Courts</td>
<td>$157,000.00</td>
<td>$157,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>19,000.00</td>
<td>19,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Total</td>
<td>$176,000.00</td>
<td>$176,000.00</td>
</tr>
</tbody>
</table>

**8—Compensation of Special Judges**

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Total</td>
<td>$2,500.00</td>
<td>$2,500.00</td>
</tr>
</tbody>
</table>

**9—State Law Library**

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services, including salaries of Librarian and assistant</td>
<td>$4,800.00</td>
<td>$4,800.00</td>
</tr>
<tr>
<td>4</td>
<td>Current Expenses</td>
<td>2,000.00</td>
<td>2,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Equipment</td>
<td>5,000.00</td>
<td>5,000.00</td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
<td>$11,800.00</td>
<td>$11,800.00</td>
</tr>
</tbody>
</table>

**10—Criminal Charges**

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Total</td>
<td>$125,000.00</td>
<td>$125,000.00</td>
</tr>
</tbody>
</table>

**EXECUTIVE**

**120—Governor’s Office**

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Salary of Governor</td>
<td>$8,000.00</td>
<td>$8,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Personal Services, including salaries of secretaries, stenographers and assistants</td>
<td>15,000.00</td>
<td>15,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Civil Contingent and Current Expenses</td>
<td>20,000.00</td>
<td>20,000.00</td>
</tr>
</tbody>
</table>
To be expended upon the order
of the Governor, no part of
which, however, is to be used
for clerk hire in any of the
State offices or institutions
other than the Governor's
office. One hundred dollars
annual dues to the Governor's
Conference shall be included
in this item.

Emergency Fund ........................ 110,000.00 110,000.00
To be expended upon the order
of the Governor, of which
$25,000.00 may be expended
each year for such research
and technical service as the
Governor may require.

Any unexpended balance re-
aining in the Emergency
Fund at the close of the fiscal
year 1937-38 is hereby reap-
propriated for expenditure
during the fiscal year 1938-39.

Custodial .............................. 13,500.00 13,500.00
To be used for Current General
Expenses including official
functions, and any additional
household expenses thereby
incurred.

For general repair and refur-
nishing Executive Mansion ... 10,000.00

Any unexpended balance re-
aining at the close of the
fiscal year 1937-38 is hereby
reappropriated for expendi-
ture during the fiscal year
1938-39.

Total .................................. $ 176,500.00 $ 166,500.00
### General Appropriations

#### 122—Pardon Attorney
**Acct. No. 122**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including salaries of the Pardon Attorney and stenographer</td>
<td>$5,400.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$600.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$6,000.00</td>
</tr>
</tbody>
</table>

#### Fiscal

##### 150—Auditor’s Office
**Acct. No. 150**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of State Auditor</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$55,390.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$8,425.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$2,700.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$71,515.00</td>
</tr>
</tbody>
</table>

#### 151—Auditor’s Office—Land Department
**Acct. No. 720**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$56,600.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$1,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$60,600.00</td>
</tr>
</tbody>
</table>

In addition to the total appropriation, for the Auditor’s Office, Land Department, there is appropriated a sum sufficient to pay the costs of publication required by section eight, article three, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended.
### 16—Treasurer’s Office

**Acct. No. 160**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary of State Treasurer</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>Other Personal Services</td>
<td>$28,000.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$5,635.00</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$2,796.00</td>
</tr>
<tr>
<td>To Audit Treasurer’s Office</td>
<td>$2,500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$47,931.00</strong></td>
</tr>
</tbody>
</table>

### 17—Sinking Fund Commission

**Acct. No. 170**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$9,300.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$9,800.00</strong></td>
</tr>
</tbody>
</table>

In addition to the foregoing appropriation there is hereby appropriated $37,500.00 for each of the fiscal years, one thousand nine hundred thirty-eight and one thousand nine hundred thirty-nine, which sum shall be invested by the State Sinking Fund Commission. Any portion of these sums to be disbursed upon the order of the Governor to pay damages to state property arising from fire. No part of this fund remaining unexpended shall revert to the general fund. The said sum or sums shall remain in said insurance fund subject to the further direction of the Legislature.
### 180—Tax Commissioner—General Administration

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary of Tax Commissioner</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>Other Personal Services</td>
<td>$28,000.00</td>
<td>$28,000.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$31,000.00</td>
<td>$31,000.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$500.00</td>
<td>$500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$64,500.00</strong></td>
<td><strong>$64,500.00</strong></td>
</tr>
</tbody>
</table>

### 181—Tax Commissioner—Revenue Department

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$150,000.00</td>
<td>$150,000.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$56,000.00</td>
<td>$56,000.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$1,500.00</td>
<td>$1,500.00</td>
</tr>
<tr>
<td>For the purpose of enforcing the act regulating the sale of beer</td>
<td>$71,200.00</td>
<td>$71,200.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$278,700.00</strong></td>
<td><strong>$278,700.00</strong></td>
</tr>
</tbody>
</table>

### 182—Tax Commissioner—Accounting Department

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$29,000.00</td>
<td>$29,000.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$3,500.00</td>
<td>$3,500.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$500.00</td>
<td>$500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$33,000.00</strong></td>
<td><strong>$33,000.00</strong></td>
</tr>
</tbody>
</table>

### 183—Tax Commissioner—Gasoline Department

TO BE PAID FROM THE STATE ROAD FUND

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$9,000.00</td>
<td>$9,000.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$4,100.00</td>
<td>$4,100.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$500.00</td>
<td>$500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$13,600.00</strong></td>
<td><strong>$13,600.00</strong></td>
</tr>
</tbody>
</table>

### 19—West Virginia Board of Control

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries of the three Members of the Board of Control</td>
<td>$15,000.00</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>Other Personal Services</td>
<td>$20,500.00</td>
<td>$20,500.00</td>
</tr>
</tbody>
</table>
### Ch. 1] General Appropriations

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Current Expenses</td>
<td>7,000.00</td>
<td>7,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Equipment</td>
<td>3,000.00</td>
<td>900.00</td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
<td>45,500.00</td>
<td>43,400.00</td>
</tr>
</tbody>
</table>

### 21—Director of the Budget

<table>
<thead>
<tr>
<th>Acct. No.</th>
<th>Description</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>210</td>
<td>Personal services, including salary of Director of the Budget</td>
<td>25,020.00</td>
<td>25,020.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>2,500.00</td>
<td>4,300.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>600.00</td>
<td>600.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td>28,120.00</td>
<td>29,920.00</td>
</tr>
</tbody>
</table>

### LEGAL

<table>
<thead>
<tr>
<th>Acct. No.</th>
<th>Description</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>240</td>
<td>Salary of the Attorney General</td>
<td>5,000.00</td>
<td>5,000.00</td>
</tr>
<tr>
<td>3</td>
<td>Other Personal Services</td>
<td>14,647.00</td>
<td>14,647.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>750.00</td>
<td>750.00</td>
</tr>
<tr>
<td>5</td>
<td>Contingent</td>
<td>4,000.00</td>
<td>4,000.00</td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
<td>49,250.00</td>
<td>49,250.00</td>
</tr>
</tbody>
</table>

### RECORDING

<table>
<thead>
<tr>
<th>Acct. No.</th>
<th>Description</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>250</td>
<td>Salary of Superintendent</td>
<td>5,000.00</td>
<td>5,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Other Personal Services</td>
<td>14,647.00</td>
<td>14,647.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>3,200.00</td>
<td>3,200.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>279.00</td>
<td>279.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td>22,926.00</td>
<td>23,126.00</td>
</tr>
</tbody>
</table>

### 31—Capitol Building and Grounds

<table>
<thead>
<tr>
<th>Acct. No.</th>
<th>Description</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>270</td>
<td>Salary of Superintendant</td>
<td>2,400.00</td>
<td>2,400.00</td>
</tr>
<tr>
<td>2</td>
<td>Other Personal Services</td>
<td>65,376.00</td>
<td>65,376.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>29,350.00</td>
<td>29,350.00</td>
</tr>
<tr>
<td>4</td>
<td>Repairs and Alterations</td>
<td>24,000.00</td>
<td>5,000.00</td>
</tr>
</tbody>
</table>
5 Equipment ........................................ 570.00 500.00
6 For construction of permanent sidewalks and extension of Virginia Street through capitol grounds to be expended upon the order of the board of public works ....................... $ 50,000.00
12 Any amount not expended during the fiscal year 1937-38 shall be available for expenditures during the fiscal years, 1938-39.

Total .......................................... $ 171,696.00 $ 102,626.00

32—Central Mailing Office
Acct. No. 280

1 Personal Services ................................ $ 8,240.00 $ 8,240.00
2 Current Expenses .................................. 76,245.00 76,245.00
3 Equipment .................................. 290.00 200.00

Total ...................................... $ 84,775.00 $ 84,685.00

33—Purchasing Department
Acct. No. 290

1 Salary of Director of Purchases ........................................ $ 5,000.00 $ 5,000.00
3 Other Personal Services ................................................ 33,000.00 33,000.00
4 Current Expenses ........................................ 7,620.00 7,620.00
5 Equipment .................................................. 1,000.00 1,000.00

Total ........................................ $ 46,620.00 $ 46,620.00

The Revolving Fund appropriated by an Act of the Legislature, Regular Session, 1935, for printing, binding and stationery is hereby re-appropriated for the fiscal years 1937-38 and 1938-39.
EDUCATIONAL

360—State Board of Education
Acct. No. 700

TO BE PAID FROM THE GENERAL SCHOOL FUND:

1 Salaries of Members of the State
2 Board of Education ................ $ 4,800.00 $ 4,800.00
3 Other Personal Services ........... 5,400.00 5,400.00
4 Current Expenses .................. 3,015.00 5,115.00
5 Equipment .......................... 250.00 250.00
6 Aid to Out of State Negro Students ........ 8,000.00 8,000.00

8 Total .................................. $ 21,465.00 $ 23,565.00

361—State Board of Education—Vocational Division
Acct. No. 701

TO BE PAID FROM THE GENERAL SCHOOL FUND:

1 Personal Services ................... $ 38,389.00 $ 38,889.00
2 Current Expenses .................... 11,436.00 11,836.00
3 Equipment ........................... 175.00 100.00

4 Total ................................... $ 50,000.00 $ 50,825.00

362—State Board of Education—Rehabilitation Division
Acct. No. 702

TO BE PAID FROM THE GENERAL SCHOOL FUND:

1 Personal Services ................... $ 5,850.00 $ 5,850.00
2 Current Expenses .................... 20,885.00 20,885.00

3 Total ................................... $ 26,735.00 $ 26,735.00

370—Department of Education
Acct. No. 710

TO BE PAID FROM THE GENERAL SCHOOL FUND:

1 Salary of Superintendent of
2 Free Schools ......................... $ 5,000.00 $ 5,000.00
3 Other Personal Services .......... 55,260.00 55,260.00
4 Current Expenses ................... 44,150.00 44,150.00
5 Equipment ........................... 1,190.00 1,190.00
6 Salaries of County Superintendents ........................................ 65,000.00
6 Salaries of County Superintendents ........................................ 65,000.00

8 Total ............................................................................ $ 170,600.00 $ 170,600.00

371—Department of Education
     Acct. No. 6407

1 To supplement the General
2 School Fund, to be trans-
3 ferred on requisition of the
4 Governor ................................................................. $13,250,000.00 $13,250,000.00

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

39—West Virginia University
Acct. No. 300

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services, including salary of President</td>
<td>$788,100.00</td>
<td>$788,100.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$120,600.00</td>
<td>$120,600.00</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>$21,830.00</td>
<td>$21,830.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$71,375.00</td>
<td>$71,375.00</td>
</tr>
<tr>
<td>For full payment of all outstanding open accounts of the Athletic Department of West Virginia University, to be expended as the Board of Control may direct</td>
<td>$75,000.00</td>
<td>$55,000.00</td>
</tr>
<tr>
<td>Total</td>
<td>$1,076,905.00</td>
<td>$1,056,905.00</td>
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</tbody>
</table>

12
From Collections: $250,000.00

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$26,300.00</td>
<td>$26,300.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$8,700.00</td>
<td>$8,700.00</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>$170.00</td>
<td>$170.00</td>
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<tr>
<td>Equipment</td>
<td>$150.00</td>
<td>$150.00</td>
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<tr>
<td>Total</td>
<td>$35,320.00</td>
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</table>

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$44,525.00</td>
<td>$44,525.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$4,910.00</td>
<td>$4,910.00</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>$450.00</td>
<td>$450.00</td>
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<tr>
<td>Equipment</td>
<td>$760.00</td>
<td>$760.00</td>
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<tr>
<td>Total</td>
<td>$50,645.00</td>
<td>$50,645.00</td>
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<tr>
<td>Account</td>
<td>Description</td>
<td>Budget 1</td>
</tr>
<tr>
<td>-----------</td>
<td>------------------------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>392</td>
<td>West Virginia University—Jackson’s Mill—4-H Camp</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Acct. No. 303</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$11,575.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$7,560.00</td>
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<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>$3,950.00</td>
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<tr>
<td>4</td>
<td>Equipment</td>
<td>$2,915.00</td>
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<tr>
<td>5</td>
<td>Total</td>
<td>$26,000.00</td>
</tr>
<tr>
<td>393</td>
<td>West Virginia University—Cooperation with Oglebay Institute</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Acct. No. 304</td>
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</tr>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$2,300.00</td>
</tr>
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<td>2</td>
<td>Current Expenses</td>
<td>$430.00</td>
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<td>3</td>
<td>Total</td>
<td>$2,730.00</td>
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<td>394</td>
<td>West Virginia University Extension Division</td>
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</tr>
<tr>
<td></td>
<td>Acct. No. 305</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>To pay salaries and traveling</td>
<td>$60,000.00</td>
</tr>
<tr>
<td>2</td>
<td>expenses of County Agricultural agents</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Total</td>
<td>$60,000.00</td>
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<tr>
<td>395</td>
<td>West Virginia University Agricultural Experiment Station</td>
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<td></td>
<td>Acct. No. 310</td>
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<td>1</td>
<td>Personal Services</td>
<td>$33,300.00</td>
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<td>2</td>
<td>Current Expenses</td>
<td>$6,080.00</td>
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<td>3</td>
<td>Repairs and Alterations</td>
<td>$1,600.00</td>
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<td>4</td>
<td>Equipment</td>
<td>$1,130.00</td>
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<td>5</td>
<td>Total</td>
<td>$42,110.00</td>
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<tr>
<td>396</td>
<td>West Virginia University Experiment Farm—Kearneysville</td>
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</tr>
<tr>
<td></td>
<td>Acct. No. 311</td>
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</tr>
<tr>
<td>1</td>
<td>Current Expenses</td>
<td>$860.00</td>
</tr>
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<td>2</td>
<td>Equipment</td>
<td>$335.00</td>
</tr>
<tr>
<td>3</td>
<td>Total</td>
<td>$1,195.00</td>
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</table>
### 397—West Virginia University Reymann Memorial Farm

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>1937-38</th>
<th>1938-39</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Current Expenses</td>
<td>$860.00</td>
<td>$860.00</td>
</tr>
<tr>
<td>2</td>
<td>Equipment</td>
<td>$335.00</td>
<td>$335.00</td>
</tr>
<tr>
<td>3</td>
<td>Total</td>
<td>$1,195.00</td>
<td>$1,195.00</td>
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</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>1937-38</th>
<th>1938-39</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>For the maintenance and opera-</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>tion of Inwood Apple Packing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Total</td>
<td>$3,900.00</td>
<td>$3,900.00</td>
</tr>
</tbody>
</table>

### 399—West Virginia University—Forestry

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>1937-38</th>
<th>1938-39</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>College of Agriculture</td>
<td>1937-38</td>
<td>1938-39</td>
</tr>
<tr>
<td>2</td>
<td>Personal Services</td>
<td>$5,000.00</td>
<td>$9,200.00</td>
</tr>
<tr>
<td>3</td>
<td>Equipment</td>
<td>$7,400.00</td>
<td>$1,300.00</td>
</tr>
<tr>
<td>4</td>
<td>Extension Division</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Personal Services</td>
<td>$2,600.00</td>
<td>$4,500.00</td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
<td>$15,000.00</td>
<td>$15,000.00</td>
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</table>

### 400—Potomac State School of West Virginia University

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>1937-38</th>
<th>1938-39</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services, including salary of President</td>
<td>$47,778.00</td>
<td>$47,778.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>$10,821.00</td>
<td>$10,821.00</td>
</tr>
<tr>
<td>4</td>
<td>Repairs and Alterations</td>
<td>$2,462.00</td>
<td>$2,462.00</td>
</tr>
<tr>
<td>5</td>
<td>Equipment</td>
<td>$1,439.00</td>
<td>$1,439.00</td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
<td>$62,500.00</td>
<td>$62,500.00</td>
</tr>
<tr>
<td>7</td>
<td>From Collections</td>
<td>$10,000.00</td>
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</tr>
</tbody>
</table>

### 401—Marshall College

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>1937-38</th>
<th>1938-39</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services, including salary of President</td>
<td>$273,000.00</td>
<td>$273,000.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>$35,000.00</td>
<td>$30,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Repairs and Alterations</td>
<td>$10,000.00</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Equipment</td>
<td>$20,000.00</td>
<td>$12,000.00</td>
</tr>
<tr>
<td>6</td>
<td>Buildings (To complete Teach-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Fairmont State Teachers College</td>
<td>Glenville State Teachers College</td>
<td>West Liberty State Teachers College</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>---------------------------------</td>
<td>----------------------------------</td>
<td>------------------------------------</td>
</tr>
<tr>
<td>Personal Services, including salary of President</td>
<td>$140,000.00</td>
<td>$71,000.00</td>
<td>$58,000.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>10,000.00</td>
<td>11,000.00</td>
<td>9,000.00</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>4,000.00</td>
<td>3,000.00</td>
<td>4,950.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>4,000.00</td>
<td>3,000.00</td>
<td>3,000.00</td>
</tr>
<tr>
<td>Buildings (To complete third floor of Library building)</td>
<td></td>
<td></td>
<td>17,500.00</td>
</tr>
<tr>
<td>Total</td>
<td>$158,000.00</td>
<td>$88,000.00</td>
<td>$92,450.00</td>
</tr>
<tr>
<td>From Collections</td>
<td>$50,000.00</td>
<td>$29,000.00</td>
<td>$20,000.00</td>
</tr>
</tbody>
</table>

402—Fairmont State Teachers College
Acct. No. 321

403—Glenville State Teachers College
Acct. No. 322

404—West Liberty State Teachers College
Acct. No. 323
### General Appropriations

#### 405—Shepherd State Teachers College

<table>
<thead>
<tr>
<th>Account No. 324</th>
<th>Description</th>
<th>Amount</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Personal Services, including salary of President</td>
<td>$57,100.00</td>
<td>Current Expenses</td>
<td>$10,000.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Repairs and Alterations</td>
<td>$2,800.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Equipment</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>1</td>
<td>Total</td>
<td>$72,900.00</td>
<td>From Collections</td>
<td>$20,000.00</td>
</tr>
</tbody>
</table>

#### 406—Concord State Teachers College

<table>
<thead>
<tr>
<th>Account No. 325</th>
<th>Description</th>
<th>Amount</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Personal Services, including salary of President</td>
<td>$94,600.00</td>
<td>Current Expenses</td>
<td>$14,000.00</td>
</tr>
<tr>
<td></td>
<td>Repairs and Alterations</td>
<td>$2,000.00</td>
<td>Equipment</td>
<td>$6,000.00</td>
</tr>
<tr>
<td></td>
<td>To pay the Mercer Motor Sales—Athens, West Virginia, covering work and supplies furnished Concord State Teachers College, during the administration of Dr. Diehl</td>
<td>$543.43</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Total</td>
<td>$117,143.43</td>
<td>From Collections</td>
<td>$42,000.00</td>
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</table>

#### 407—New River State College

<table>
<thead>
<tr>
<th>Account No. 327</th>
<th>Description</th>
<th>Amount</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Personal Services, including salary of President</td>
<td>$76,000.00</td>
<td>Current Expenses</td>
<td>$11,000.00</td>
</tr>
<tr>
<td></td>
<td>Repairs and Alterations</td>
<td>$6,000.00</td>
<td>Equipment</td>
<td>$13,000.00</td>
</tr>
<tr>
<td>1</td>
<td>Total</td>
<td>$106,000.00</td>
<td>From Collections</td>
<td>$20,000.00</td>
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#### 408—West Virginia State College

<table>
<thead>
<tr>
<th>Account No. 328</th>
<th>Description</th>
<th>Amount</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Personal Services, including salary of President</td>
<td>$137,000.00</td>
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<td></td>
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</table>
### General Appropriations

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Current Expenses</td>
<td>38,000.00</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>13,000.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>10,000.00</td>
</tr>
<tr>
<td>Extension Service</td>
<td>12,000.00</td>
</tr>
<tr>
<td>Buildings (To remodel Glasscock Hall)</td>
<td>20,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>230,000.00</strong></td>
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#### From Collections

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>409—Bluefield State Teachers College</td>
<td>43,000.00</td>
</tr>
<tr>
<td>Acct. No. 329</td>
<td>43,000.00</td>
</tr>
<tr>
<td>410—Storer College</td>
<td>From Collections</td>
</tr>
<tr>
<td>Acct. No. 330</td>
<td>12,000.00</td>
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</tbody>
</table>

#### 420—West Virginia Schools for the Deaf & Blind

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services, including salary of Superintendent</td>
<td>102,065.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>55,000.00</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>7,500.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>20,000.00</td>
</tr>
<tr>
<td>To build and equip dormitory, laundry and cannery building; contingent upon the Federal Government granting 45% of the total cost</td>
<td>143,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>327,565.00</strong></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services, including salary</td>
<td></td>
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</tbody>
</table>
### GENERAL APPROPRIATIONS

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>ary of Superintendent</td>
<td>$15,100.00</td>
<td>$15,100.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$11,000.00</td>
<td>$11,000.00</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>$1,750.00</td>
<td>$1,750.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$2,000.00</td>
<td>$2,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$29,850.00</strong></td>
<td><strong>$29,850.00</strong></td>
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</table>

43—4-H Camp for Colored Boys and Girls

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Equipment, buildings and lands</td>
<td>$20,000.00</td>
<td>$20,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$20,000.00</strong></td>
<td><strong>$20,000.00</strong></td>
</tr>
</tbody>
</table>

44—Archives & History

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary of State Archivist and Historian</td>
<td>$2,700.00</td>
<td>$2,700.00</td>
</tr>
<tr>
<td>Other Personal Services</td>
<td>$7,500.00</td>
<td>$7,500.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$2,165.00</td>
<td>$2,165.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$1,500.00</td>
<td>$1,500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$13,865.00</strong></td>
<td><strong>$13,865.00</strong></td>
</tr>
</tbody>
</table>

CHARITIES AND CORRECTIONS

460—West Virginia Industrial School for Boys

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services, including salary of Superintendent</td>
<td>$45,690.00</td>
<td>$45,690.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$46,656.00</td>
<td>$46,656.00</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$4,400.00</td>
<td>$4,400.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$101,746.00</strong></td>
<td><strong>$101,746.00</strong></td>
</tr>
</tbody>
</table>

From Collections

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>From Collections</strong></td>
<td><strong>$17,500.00</strong></td>
<td><strong>$17,500.00</strong></td>
</tr>
</tbody>
</table>

Out of the appropriation for Personal Services, the following shall be paid in monthly installments:

To pay Lelia Arnett, widow of U. G. Arnett, killed by an in-
<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>14</td>
<td>mate while on duty</td>
<td>600.00</td>
</tr>
<tr>
<td>15</td>
<td>To pay George A. Barnard, employee, permanently disabled by an inmate while on duty</td>
<td>600.00</td>
</tr>
</tbody>
</table>

461—West Virginia Industrial School for Colored Boys
Acct. No. 371

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
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<tbody>
<tr>
<td>1</td>
<td>Personal Services, including salary of Superintendent</td>
<td>$9,290.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$14,310.00</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>$1,700.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>$700.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td>$26,000.00</td>
</tr>
<tr>
<td>6</td>
<td>From Collections</td>
<td>$4,500.00</td>
</tr>
</tbody>
</table>

462—West Virginia Industrial Home for Girls
Acct. No. 372

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services, including salary of Superintendent</td>
<td>$23,500.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$30,500.00</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td>$59,000.00</td>
</tr>
<tr>
<td>6</td>
<td>From Collections</td>
<td>$10,500.00</td>
</tr>
</tbody>
</table>

463—West Virginia Industrial Home for Colored Girls
Acct. No. 373

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services, including salary of Superintendent</td>
<td>$5,027.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$6,990.00</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>$400.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>$200.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td>$12,617.00</td>
</tr>
<tr>
<td>6</td>
<td>From Collections</td>
<td>$1,500.00</td>
</tr>
</tbody>
</table>

47—West Virginia Penitentiary
Acct. No. 375

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services, including salary of Warden</td>
<td>$156,760.00</td>
</tr>
</tbody>
</table>
Ch. I] GENERAL APPROPRIATIONS 29

3 Current Expenses .......................... 192,700.00 192,700.00
4 Repairs and Alterations ................. 82,500.00 6,000.00
5 Equipment ................................... 25,000.00 4,800.00
6 Build New Wall ............................ 15,480.00 14,520.00
7 To relieve the existing congested condition ................................ 250,000.00

8 Total ...................................... $ 722,440.00 $ 374,780.00

9 Any unexpended balance remaining in this fund at the close of the fiscal year 1937-38 is hereby reappropriated for expenditure during the fiscal year 1938-39.
10 Out of the appropriation for personal services to pay Ray Estep, permanently injured while employed in the Penitentiary coal mine .......................... 240.00 240.00
11 To refit Ray Estep with artificial limbs ........................................ 450.00

12 Any unexpended balance remaining in the Repairs and Alterations and Equipment accounts at the close of the fiscal year 1937-38 is hereby reappropriated for expenditure during the fiscal year 1938-39.

48—Florence Crittenden Home
Acct. No. 377

1 To be paid under the rules and regulations of the West Virginia Board of Control.
2 Personal Services, including salary of Superintendent .................. $ 10,220.00 $ 10,220.00
<table>
<thead>
<tr>
<th></th>
<th><strong>GENERAL Appropriations</strong></th>
<th>[Ch. 1]</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>$14,545.00</td>
</tr>
<tr>
<td>4</td>
<td>Repairs and Alterations</td>
<td>$1,680.00</td>
</tr>
<tr>
<td>5</td>
<td>Equipment</td>
<td>$1,555.00</td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
<td>$28,000.00</td>
</tr>
<tr>
<td>7</td>
<td>From Collections</td>
<td>$4,000.00</td>
</tr>
</tbody>
</table>

**491—West Virginia Colored Children’s Home**

Acct. No. 381

<table>
<thead>
<tr>
<th></th>
<th>Personal Services, including</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>salary of Superintendent</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
</tr>
<tr>
<td>5</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
</tr>
<tr>
<td>7</td>
<td>From Collections</td>
</tr>
</tbody>
</table>

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

Acct. No. 382

<table>
<thead>
<tr>
<th></th>
<th>Personal Services, including</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>salary of Superintendent</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
</tr>
<tr>
<td>5</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
</tr>
<tr>
<td>7</td>
<td>From Collections</td>
</tr>
</tbody>
</table>

**493—West Virginia Training School**

Acct. No. 383

<table>
<thead>
<tr>
<th></th>
<th>Personal Services, including</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>salary of Superintendent</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
</tr>
<tr>
<td>5</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
</tr>
<tr>
<td>7</td>
<td>From Collections</td>
</tr>
</tbody>
</table>
Colored Day Nursery and Child Shelter
Acct. No. 384

1 This appropriation to be expended under the rules and regulations of the West Virginia Board of Control... $ 2,000.00

Davis Child Shelter
Acct. No. 385

1 This appropriation to be expended under the rules and regulations of the West Virginia Board of Control... $ 20,000.00

West Virginia Foundation for Crippled Children
Acct. No. 386

1 This appropriation is to be used to build and equip building and pool contingent upon grant in aid of Federal Government.

2,000.00

HEALTH AND WELFARE

520—State Health Department and Public Health Council
Acct. No. 400

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

521—State Water Commission
Acct. No. 401

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

1 Personal Services, including
2   salary of Director .................... $ 12,100.00 $ 12,100.00
3   Current Expenses ..................... 11,000.00 11,000.00
4
5   Total ................................ $ 23,100.00 $ 23,100.00

530—State Department of Public Assistance
Acct. No. 6410

1 Public Assistance Grants and
2   the cost of administration
3   thereof: (Federal Program
4     for Old-age Assistance, Aid
5     to the Blind, and Aid to De-
6     pendent Children) .................. $ 3,150,000.00 $ 3,150,000.00
7 General Relief Grants and Other
8   Provisions of the Public Wel-
9     fare Law of 1936, the Cost of
10   Administration thereof and
11   the maintenance of Camp
12   Fairchance ................................ 3,600,000.00 3,600,000.00
13
14   Total ................................ $ 6,750,000.00 $ 6,750,000.00
15
16 The Board of Public Works may,
17   upon the request of the Di-
18   rector of the State Depart-
19   ment of Public Assistance,
20   concurred in by the State Ad-
21   visory Board, transfer any
22   part of either of the funds
23   hereby appropriated to the
24   other of these funds.

530-A—Department of Public Assistance
Acct. No. 6410-A

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

## 531—Bureau of Negro Welfare and Statistics

**Acct. No. 403**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of Director</td>
<td>$3,000.00</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$3,500.00</td>
<td>$3,500.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$1,701.00</td>
<td>$1,826.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$300.00</td>
<td>$100.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$8,501.00</td>
<td>$8,426.00</td>
</tr>
</tbody>
</table>

## 540—Weston State Hospital

**Acct. No. 420**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including salary of Superintendent</td>
<td>$120,500.00</td>
<td>$120,500.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$140,075.00</td>
<td>$140,075.00</td>
</tr>
<tr>
<td>4 Repairs and Alterations</td>
<td>$16,000.00</td>
<td>$12,000.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>$8,500.00</td>
<td>$4,500.00</td>
</tr>
<tr>
<td>6 Equipment (New Boiler)</td>
<td>$14,000.00</td>
<td></td>
</tr>
<tr>
<td>7 Land (To obtain coal for Hospital use)</td>
<td>$20,000.00</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$319,075.00</td>
<td>$277,075.00</td>
</tr>
</tbody>
</table>

*From Collections*: $16,000.00 $16,000.00

Out of the total amount appropriated for Repairs and Alterations, not more than Three Thousand ($3,000.00) Dollars may be expended for pollution control, and no payment shall be made on said project until it is completed.

## 541—Spencer State Hospital

**Acct. No. 421**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including salary of Superintendent</td>
<td>$60,000.00</td>
<td>$60,000.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$80,000.00</td>
<td>$80,000.00</td>
</tr>
<tr>
<td>4 Repairs and Alterations</td>
<td>$10,000.00</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>6 To build new road</td>
<td>$2,000.00</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$157,000.00</td>
<td>$155,000.00</td>
</tr>
</tbody>
</table>

*From Collections*: $22,000.00 $22,000.00
## GENERAL APPROPRIATIONS

### 542—Huntington State Hospital

Acct. No. 422

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$59,800.00</td>
<td>Personal Services, including salary of Superintendent</td>
</tr>
<tr>
<td>2</td>
<td>$93,000.00</td>
<td>Current Expenses</td>
</tr>
<tr>
<td>3</td>
<td>$8,000.00</td>
<td>Repairs and Alterations</td>
</tr>
<tr>
<td>4</td>
<td>$8,000.00</td>
<td>Equipment</td>
</tr>
<tr>
<td>5</td>
<td>$168,800.00</td>
<td>Total</td>
</tr>
<tr>
<td>6</td>
<td>$164,800.00</td>
<td>From Collections</td>
</tr>
</tbody>
</table>

### 543—Lakin State Hospital

Acct. No. 423

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$28,020.00</td>
<td>Personal Services, including salary of Superintendent</td>
</tr>
<tr>
<td>2</td>
<td>$38,892.00</td>
<td>Current Expenses</td>
</tr>
<tr>
<td>3</td>
<td>$4,000.00</td>
<td>Repairs and Alterations</td>
</tr>
<tr>
<td>4</td>
<td>$3,000.00</td>
<td>Equipment</td>
</tr>
<tr>
<td>5</td>
<td>$74,912.00</td>
<td>Total</td>
</tr>
<tr>
<td>6</td>
<td>$73,912.00</td>
<td>From Collections</td>
</tr>
</tbody>
</table>

### 544—McKendree Emergency Hospital

Acct. No. 424

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$19,190.00</td>
<td>Personal Services, including salary of Superintendent</td>
</tr>
<tr>
<td>2</td>
<td>$21,660.00</td>
<td>Current Expenses</td>
</tr>
<tr>
<td>3</td>
<td>$5,900.00</td>
<td>Repairs and Alterations</td>
</tr>
<tr>
<td>4</td>
<td>$3,250.00</td>
<td>Equipment</td>
</tr>
<tr>
<td>5</td>
<td>$50,000.00</td>
<td>Total</td>
</tr>
<tr>
<td>6</td>
<td>$50,000.00</td>
<td>From Collections</td>
</tr>
</tbody>
</table>

### 545—Fairmont Emergency Hospital

Acct. No. 425

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$17,726.00</td>
<td>Personal Services, including salary of Superintendent</td>
</tr>
<tr>
<td>2</td>
<td>$24,475.00</td>
<td>Current Expenses</td>
</tr>
<tr>
<td>3</td>
<td>$2,000.00</td>
<td>Repairs and Alterations</td>
</tr>
<tr>
<td></td>
<td>Personal Services, including salary of Superintendent</td>
<td>Current Expenses</td>
</tr>
<tr>
<td>---</td>
<td>-----------------------------------------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>546—Welch Emergency Hospital</td>
<td>$23,230.00</td>
<td>$21,095.00</td>
</tr>
<tr>
<td>548—Hopemont Sanitarium</td>
<td>$134,832.00</td>
<td>$168,000.00</td>
</tr>
<tr>
<td>549—Pinecrest Sanitarium</td>
<td>$57,180.00</td>
<td>$58,550.00</td>
</tr>
<tr>
<td></td>
<td>Description</td>
<td>Amount</td>
</tr>
<tr>
<td>---</td>
<td>-----------------------------------------------------------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>8</td>
<td>Federal government granting</td>
<td>220,000.00</td>
</tr>
<tr>
<td>9</td>
<td>45% of the total cost</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Total</td>
<td>349,830.00</td>
</tr>
<tr>
<td>11</td>
<td>From Collections</td>
<td>50,000.00</td>
</tr>
</tbody>
</table>

**550—Denmar Sanitarium**

*Acct. No. 432*

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Amount</th>
<th>Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services, including salary of Superintendent</td>
<td>19,868.00</td>
<td>19,868.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>20,811.00</td>
<td>21,286.00</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>2,000.00</td>
<td>1,300.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>3,125.00</td>
<td>2,650.00</td>
</tr>
<tr>
<td>5</td>
<td>Buildings (Barn)</td>
<td>2,000.00</td>
<td>2,000.00</td>
</tr>
<tr>
<td>6</td>
<td>To build and equip a colored tuberculosis sanitarium, contingent upon the Federal government granting 45% of the total cost</td>
<td>146,850.00</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Total</td>
<td>194,654.00</td>
<td>47,104.00</td>
</tr>
<tr>
<td>8</td>
<td>From Collections</td>
<td>16,000.00</td>
<td>16,000.00</td>
</tr>
</tbody>
</table>

**551—Tuberculosis Field Clinics**

*Acct. No. 434*

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Amount</th>
<th>Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Total</td>
<td>10,000.00</td>
<td>10,000.00</td>
</tr>
</tbody>
</table>

**552—Treatment of Tuberculosis**

*Acct. No. 435*

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Amount</th>
<th>Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>For the treatment of indigent persons in private tuberculosis sanitariums.</td>
<td>28,000.00</td>
<td>28,000.00</td>
</tr>
<tr>
<td>5</td>
<td>In the event that Williams Mountain Sanitarium is not erected and operated so as to participate in this appropriation, this appropriation is to be $23,500.00 for each year of the biennium.</td>
<td>23,500.00</td>
<td></td>
</tr>
</tbody>
</table>
### 553—Berkeley Springs Sanitarium

**Acct. No. 436**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1  Personal Services, including salary of Superintendent</td>
<td>$4,910.00</td>
<td>$4,910.00</td>
</tr>
<tr>
<td>2  Current Expenses</td>
<td>$3,000.00</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>3  Repairs and Alterations</td>
<td>$1,000.00</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>4  Equipment</td>
<td>$500.00</td>
<td>$500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$9,410.00</strong></td>
<td><strong>$9,410.00</strong></td>
</tr>
<tr>
<td>5  From Collections</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
</tr>
</tbody>
</table>

#### Morris Memorial Hospital

**Acct. No. 437**

1  This appropriation to be expended under the rules and regulations of the West Virginia Board of Control $30,000.00 $34,000.00

5  This appropriation is made contingent upon the grant of the Federal Government in aid of the project.

### BUSINESS AND INDUSTRIAL RELATIONS

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

**Acct. No. 450**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1  Salary of Commissioner</td>
<td>$3,000.00</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>2  Other Personal Services</td>
<td>$25,720.00</td>
<td>$26,080.00</td>
</tr>
<tr>
<td>3  Current Expenses</td>
<td>$14,935.00</td>
<td>$14,985.00</td>
</tr>
<tr>
<td>4  Equipment</td>
<td>$730.00</td>
<td>$550.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$44,385.00</strong></td>
<td><strong>$44,615.00</strong></td>
</tr>
</tbody>
</table>

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

**Acct. No. 6412**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1  Total</td>
<td>$45,000.00</td>
<td>$45,000.00</td>
</tr>
</tbody>
</table>

#### 59—Department of Mines

**Acct. No. 460**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1  Salary of Chief</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>2  Other Personal Services</td>
<td>$156,250.00</td>
<td>$156,250.00</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Amount</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>70,950.00</td>
</tr>
<tr>
<td>4</td>
<td>Repairs and Alterations</td>
<td>3,500.00</td>
</tr>
<tr>
<td>5</td>
<td>Equipment</td>
<td>10,000.00</td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
<td>$245,700.00</td>
</tr>
</tbody>
</table>

600—Public Service Commission
Acct. No. 470

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

Commission on Interstate Cooperation
Acct. No. 4719

1 For membership in the Interstate Commission of the Ohio Basin
3 Basin ........................................ $500.00 $500.00

601—Public Service Commission
Acct. No. 6617

1 The total amount of this appropriation shall be paid from the Special Revenue Fund out of Collections for special license fees from public service Corporations, as provided by law.
8 Personal Services ..................... $176,000.00 $176,000.00
9 Current Expenses ....................... 50,000.00 50,000.00
10 Equipment ................................ 4,000.00 4,000.00
11 Total ................................... $230,000.00 $230,000.00

12 Of the above appropriation, not more than $800.00 may be expended annually for the maintenance of the office of the General Solicitor of the National Association of Railroad and Utilities Commissioners, and for representation in mat-
Ch. 1] General Appropriations

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

61—Department of Banking

<table>
<thead>
<tr>
<th>Acct. No. 480</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of Commissioner .......... $ 5,000.00 $ 5,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services .......... 18,850.00 19,450.00</td>
</tr>
<tr>
<td>3 Current Expenses .................. 22,950.00 22,950.00</td>
</tr>
<tr>
<td>4 Equipment .......................... 1,000.00 1,000.00</td>
</tr>
<tr>
<td>5 Total ................................ $ 47,800.00 $ 48,400.00</td>
</tr>
<tr>
<td>6 From Collections .................. 3,400.00 3,400.00</td>
</tr>
</tbody>
</table>
### 62—Auditor's Office—Securities Department
**Acct. No. 156**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1  Personal Services</td>
<td>$7,280.00</td>
<td>$7,280.00</td>
</tr>
<tr>
<td>2  Current Expenses</td>
<td>$2,180.00</td>
<td>$2,180.00</td>
</tr>
<tr>
<td>3  Equipment</td>
<td>$150.00</td>
<td>$150.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$9,610.00</strong></td>
<td><strong>$9,610.00</strong></td>
</tr>
<tr>
<td>4  From Collections</td>
<td>$6,610.00</td>
<td>$6,610.00</td>
</tr>
</tbody>
</table>

### 63—Compensation Commission
**Acct. No. 900**

**TO BE PAID FROM THE COMPENSATION FUND**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1  Salary of Commissioner</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>2  Other Personal Services</td>
<td>$203,560.00</td>
<td>$217,540.00</td>
</tr>
<tr>
<td>3  Current Expenses</td>
<td>$75,950.00</td>
<td>$82,150.00</td>
</tr>
<tr>
<td>4  Repairs and Alterations</td>
<td>$1,500.00</td>
<td>$1,500.00</td>
</tr>
<tr>
<td>5  Equipment</td>
<td>$9,900.00</td>
<td>$11,400.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$295,910.00</strong></td>
<td><strong>$317,590.00</strong></td>
</tr>
</tbody>
</table>

There is hereby authorized to be paid out of the appropriation for Current Expenses for the fiscal year 1937-38, the amount of the premiums on $500,000.00 of bonds given by the State Treasurer and bond custodian for the protection of the Compensation Fund.

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

**TO BE PAID FROM THE WORKMEN'S COMPENSATION SILICOSIS FUND**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1  Total</td>
<td>$40,000.00</td>
<td>$41,820.00</td>
</tr>
<tr>
<td>2  To administer the Workmen's Compensation silicosis fund as provided in House Bill No. 331, regular session 1935, and to pay premium on bond of the state treasurer as custodian of the fund.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
64—West Virginia Liquor Control Commission
Acct. No. 6676

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

1 Salaries of three Members $ 18,000.00 $ 18,000.00
2 Other Personal Services 300,000.00 300,000.00
3 Current Expenses 60,000.00 60,000.00

4 Total $ 378,000.00 $ 378,000.00

The above appropriation does not include the salaries of store personnel, store operating expenses or equipment, or the purchase of liquor.

There is hereby appropriated from liquor revenues, in addition to the above appropriation, the necessary amounts to pay salaries of store personnel, store operating expenses, purchase, and transportation of equipment and liquors: Provided, however, That the schedule of salaries of store personnel as of January 1, 1937, shall be filed with the Board of Public Works as a basis for such appropriations as are made for salaries, and no increase in any salary above the schedule in effect January 1, 1937, shall be made without the approval of the Board of Public Works.

65—Racing Commission
Acct. No. 6082

1 Total $ 12,000.00 $ 12,000.00
2 From Collections 12,000.00 12,000.00
### HIGHWAYS

#### 670—State Road Commission—General Administration and Engineering

**Acct. No. 670**

**TO BE PAID FROM THE STATE ROAD FUND**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary of Commissioner</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>Other Personal Services</td>
<td>$419,000.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$45,000.00</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>$20,000.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$12,000.00</td>
</tr>
<tr>
<td>Materials and Supplies</td>
<td>$115,000.00</td>
</tr>
<tr>
<td>Highway Planning</td>
<td>$20,000.00</td>
</tr>
</tbody>
</table>

**Total** $637,000.00

In addition to the foregoing appropriations and any other appropriations or claims, as authorized by this act to be paid out of state road fund, the balance or residue of the annual receipts of the state road fund are hereby appropriated for the payment of interest on and principal of outstanding road bonds, for maintenance and construction and reconstruction of state primary roads, in accordance with the provisions of article three, chapter seventeen of the code of one thousand nine hundred and thirty-one, as amended.

#### 672—State Road Commission

**Acct. No. 6406**

**TO BE PAID FROM THE GENERAL REVENUE FUND**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>To supplement the State Road Fund for maintenance, construction and reconstruction</td>
<td>$615,000.00</td>
</tr>
</tbody>
</table>
of Secondary Roads, to be transferred to the Road Fund upon the requisition of the Governor.

Total $2,200,000.00 $2,200,000.00

This sum to be in addition to the revenue made available by the provisions of Senate Bill No. 241, an act of the Legislature, regular session, one thousand nine hundred thirty-seven.

**AGRICULTURE**

70—Department of Agriculture

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Salary of Commissioner</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Other Personal Services</td>
<td>71,580.00</td>
<td>71,580.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>53,400.00</td>
<td>53,400.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>2,800.00</td>
<td>2,800.00</td>
</tr>
<tr>
<td>5</td>
<td>For the Eradication and prevention of live stock diseases to be expended in cooperation with the Federal government</td>
<td>32,400.00</td>
<td>32,400.00</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>$165,180.00</td>
<td>$165,180.00</td>
</tr>
<tr>
<td></td>
<td>From Collections</td>
<td>45,000.00</td>
<td>45,000.00</td>
</tr>
</tbody>
</table>

71—Agricultural Fairs and Association Awards

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Incorporated County and District Fairs</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Regional 4-H Fairs</td>
<td>1,800.00</td>
<td>1,800.00</td>
</tr>
<tr>
<td>3</td>
<td>State Fair</td>
<td>2,500.00</td>
<td>2,500.00</td>
</tr>
<tr>
<td>4</td>
<td>Agricultural and Industrial Exh.</td>
<td>3,000.00</td>
<td>3,000.00</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>$12,300.00</td>
<td>$12,300.00</td>
</tr>
</tbody>
</table>
**CONSERVATION AND DEVELOPMENT**

*730—West Virginia Geological Survey*

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Budget 1</th>
<th>Budget 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Salary of State Geologist</td>
<td>$4,000.00</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Other Personal Services</td>
<td>$23,520.00</td>
<td>$23,520.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>$12,600.00</td>
<td>$12,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>$3,212.00</td>
<td>$1,350.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td><strong>$43,332.00</strong></td>
<td><strong>$40,870.00</strong></td>
</tr>
<tr>
<td>6</td>
<td>From Collections</td>
<td><strong>$1,000.00</strong></td>
<td><strong>$1,000.00</strong></td>
</tr>
</tbody>
</table>

*731—Conservation Commission—General Administration*

**DIVISION OF GAME, FISH, AND FORESTRY**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Budget 1</th>
<th>Budget 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Salary of Commissioner</td>
<td>$4,000.00</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Other Personal Services</td>
<td>$27,900.00</td>
<td>$27,900.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>$22,600.00</td>
<td>$22,600.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>$750.00</td>
<td>$750.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td><strong>$55,250.00</strong></td>
<td><strong>$55,250.00</strong></td>
</tr>
</tbody>
</table>

*732—Conservation Commission—Division of State Parks*

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Budget 1</th>
<th>Budget 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$25,800.00</td>
<td>$29,400.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$22,500.00</td>
<td>$26,550.00</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>$7,500.00</td>
<td>$2,500.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>$29,200.00</td>
<td>$11,550.00</td>
</tr>
<tr>
<td></td>
<td>Buildings</td>
<td>22,500.00</td>
<td>15,000.00</td>
</tr>
<tr>
<td>----</td>
<td>-----------</td>
<td>-----------</td>
<td>-----------</td>
</tr>
<tr>
<td>6</td>
<td>Lands</td>
<td>12,500.00</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td><strong>Total</strong></td>
<td><strong>$120,000.00</strong></td>
<td><strong>$85,000.00</strong></td>
</tr>
</tbody>
</table>

Rents and fees collected by the Conservation Commission, for the use of cabins and other facilities on State Parks shall be deposited, by said Department, with the State Treasurer in the General Revenue Fund, to the credit of the Division of Parks of the Conservation Commission and may be expended upon the order of the Board of Public Works. The Conservation Commission may, upon the order of the Board of Public Works, allocate a part of the above appropriation for expenditure by the Division of Game, Fish and Forestry.

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

Acct. No. 521

<table>
<thead>
<tr>
<th>1</th>
<th>For Superintendence, Maintenance and operating of State Forests</th>
<th>$25,000.00</th>
<th>$25,000.00</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>733—Clarke-McNary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acct. No. 522</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>1</th>
<th>Total</th>
<th>$50,000.00</th>
<th>$50,000.00</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>740—Droop Mountain Battlefield Monument</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acct. No. 5609</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>1</th>
<th>Total</th>
<th>$100.00</th>
<th>$100.00</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>741—Point Pleasant Battle Monument Commission</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acct. No. 5619</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>1</th>
<th>Total</th>
<th>$1,000.00</th>
<th>$1,000.00</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>742—Rumseyan Society</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acct. No. 5629</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>1</th>
<th>Total</th>
<th>$300.00</th>
<th>$100.00</th>
</tr>
</thead>
</table>
743—Morgan Morgan Memorial
Acct. No. 5639

1 Total ........................................ $ 25.00 $ 25.00

744—Grafton G. A. R. Post
Acct. No. 5649

1 Total ........................................ $ 500.00 $ 500.00

*Commission on Markers on Monument—Carrick’s Ford Battlefield*

Acct. No. 5658

1 To defray necessary expenses incurred in carrying out the provisions of Senate Concurrent Resolution No. 3, adopted January 30, 1935, there is hereby appropriated for the fiscal year 1937-38 $ 3,500.00

The above appropriation to be used and expended in the manner provided by said resolution.

*Sons of Confederate Veterans*

Acct. No. 5657

1 To aid in the erection and completion of a Confederate Memorial to be located in Jefferson County, West Virginia $ 750.00

*Pierpont Monument*

Acct. No. 5669

1 To erect a monument and to mark graves of Francis H. Pierpont and wife, at Fairmont, West Virginia, in accordance with Senate Bill No. 25, for the fiscal year 1937-38 $ 1,500.00

*Septimius Hall Monument*

Acct. No. 5659

1 To provide for a suitable monument to be erected at New
3  Martinsville at the grave and
4  in honor of Septimius Hall....$  500.00

PROTECTION

770—Department of Public Safety
Acct. No. 570

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1  Salary of Superintendent</td>
<td>$ 4,000.00</td>
</tr>
<tr>
<td>2  Other Personal Services</td>
<td>286,000.00</td>
</tr>
<tr>
<td>3  Current Expenses</td>
<td>248,000.00</td>
</tr>
<tr>
<td>4  Repairs and Alterations</td>
<td>7,000.00</td>
</tr>
<tr>
<td>5  Equipment</td>
<td>5,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$ 550,000.00</strong></td>
</tr>
</tbody>
</table>

770-A—Department of Public Safety
Acct. No. 570-A

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1  To establish, operate and maintain a radio unit for the Department of Public Safety</td>
<td>$ 125,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$ 125,000.00</strong></td>
</tr>
</tbody>
</table>

Out of this appropriation, not more than $10,000 may be expended for a survey to locate the positions of the radio units. If deemed necessary, and only with the approval of the Governor, land may be purchased and buildings erected for the housing of equipment and men.

771—Department of Public Safety
Acct. No. 6720

TO BE PAID FROM THE STATE ROAD FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1  Enforcement of Traffic Violations.</td>
<td></td>
</tr>
<tr>
<td>3  Total</td>
<td>$ 30,000.00</td>
</tr>
</tbody>
</table>

772—Adjutant General: State Militia
Acct. No. 580

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1  Salary of Adjutant General</td>
<td>$ 3,200.00</td>
</tr>
<tr>
<td>2  Other Personal Services</td>
<td>43,098.00</td>
</tr>
<tr>
<td>3  Of which <strong>appropriation</strong></td>
<td></td>
</tr>
</tbody>
</table>
$2,000.00 each year shall be used for organizing and maintaining a colored unit in the state militia, when, and if a Negro unit is authorized by the War Department.

Current Expenses .................... $58,501.00
Of which appropriation $7,000.00 each year shall be used for maintaining a colored unit of the state militia as authorized by law, when, and if a Negro unit is authorized by the War Department.

Repairs and Alterations .............. 2,000.00
Equipment ................................ 4,000.00
Contingent ............................ 7,020.00

Total.................................... $117,819.00

If the Federal government discontinues grants for the payment of Supply Allowances and caretaker wages, the contingent appropriated shall be available. It shall be available for no other purpose.

773—Auditor's Office—Fire Marshal
Acct. No. 6605

The total amount of this appropriation shall be paid from the Special Revenue collections of special tax of ½ of one per cent of Fire insurance companies premiums as provided by the Code of West Virginia 1931.

Personal Services .................... $18,620.00
Current Expenses ..................... 7,100.00
<table>
<thead>
<tr>
<th>Ch. 1</th>
<th>General Appropriations</th>
<th>49</th>
</tr>
</thead>
<tbody>
<tr>
<td>11</td>
<td>Equipment</td>
<td>1,000.00</td>
</tr>
<tr>
<td>12</td>
<td>Total</td>
<td>26,720.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>780—State Board of Law Examiners</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Acct. No. 6005</td>
</tr>
<tr>
<td>1</td>
<td>Total</td>
<td>1,200.00</td>
</tr>
<tr>
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<td>787—State Board of Optometry</td>
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### 788—State Board of Embalmers and Funeral Directors
**Acct. No. 6049**

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### 789—State Board of Registration for Professional Engineers
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### 790—State Board of Examiners for Architects
**Acct. No. 6069**

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

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### Bureau of Aeronautics
**Acct. No. 6086**

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<tr>
<td>2</td>
<td>For the purchase of material and equipment, betterment and maintenance of existing landing fields and air-way facilities in the state, to be expended as provided by law.</td>
<td>$15,000.00</td>
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</table>

### MISCELLANEOUS

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

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<tr>
<td>1</td>
<td>For the purpose of enforcing the act regulating the sale of beer, this appropriation to be available for expenditure during the remainder of the fiscal year 1936-37</td>
<td>$18,052.50</td>
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</tbody>
</table>
540—Weston State Hospital
Acct. No. 420

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

Department of Education
Acct. No. 6407

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

Marshall College
Acct. No. 320

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

Point Pleasant Battle Monument Commission
Acct. No. 5619

1 To supplement the appropriation  
2 for the fiscal year 1936-37, to
repair the roof and flood damages to the Mansion, Grounds and Equipment $1,500.00

Any unexpended balance remaining in the account at the close of the fiscal year 1936-37 shall be available for expenditure during the fiscal year 1937-38.

**Department of Mines**
Acct. No. 460

1 To supplement appropriations for the fiscal year 1936-37.
2 Personal Services $5,970.00
3 Current Expenses $19,300.00

5 Total $25,270.00

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

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

**Compensation for Special Judges**
Acct. No. 113

1 To supplement the appropriation for the fiscal year 1936-37 for services rendered during the fiscal year 1935-36 $2,500.00

**Archives and History**
Acct. No. 340

1 To supplement the Personal Services appropriation for the fiscal year 1936-37 $555.00

**Berkeley Springs Sanitarium**
Acct. No. 436

1 To supplement the 1936-37 appropriation to purchase a new boiler and repairing plant $2,300.00
**Commission for Uniform State Laws**  
Acct. No. 245

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

**State Participation in the Meeting of the National Editorial Association**  
Acct. No. 471

1 Total ................................ : ... $ 10,000.00  
2 To be expended upon the requisition of the Commissioner of Agriculture with and by the approval of the Governor, unless the Legislature create a Commission for this purpose.

**Participation in the New York World Fair**  
Acct. No. 472

1 This appropriation to be available for the fiscal year ending June 30, 1938 and to be continued until the closing of the Fair.  
2 Total ..................................... $ 35,000.00  
3 To be expended upon the requisition of the Commissioner of Agriculture with the approval of the Governor, unless the Legislature create a Commission for this purpose.

**West Virginia Colored Children's Home**  
Acct. No. 3816

1 To supplement the Current Expense Appropriation for the fiscal year 1936-37 to pay bills incurred during the fiscal year 1934-35 as follows:
Sec. 2. Claims Against the State. Appropriation for claims against the State are for the remainder of the fiscal year ending June 30, 1937 and to remain in effect until claims are paid.

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

| 1 | J.C. Morrison, Jr., Administrator of Estate of John C. Morrison | $ 199.46 |
| 2 | George E. Isaac, Executor Estate of W. D. Isaac | 49.59 |
| 3 | Grace G. Wells, Executrix, Estate of W. E. Wells Jr. | 1,120.48 |
| 4 | Wheeling Bank & Trust Company, Executor, Estate of Sarah Simpson | 417.75 |
| 5 | Union National Bank of Clarksburg, Executor Estate of James M. White | 332.52 |
| 6 | Paul M. Pack, Administrator, Estate of John C. Pack | 1,324.54 |
| 7 | Charleston National Bank, Executor, Estate of Dave Baer | 1,154.03 |
| 8 | Donald L. Cork and Kanawha Banking & Trust Company, Administrators, Estate of Jacob F. Cork | 3,740.65 |
| 9 | Total | $ 8,339.02 |

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

<p>| 1 | G. D. Skinner | $ 9.63 |
| 2 | Wm. M. Ogden | 61.47 |</p>
<table>
<thead>
<tr>
<th></th>
<th>Company Name</th>
<th>Appropriation</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Spring Creek Lumber Company</td>
<td>4,363.00</td>
</tr>
<tr>
<td>4</td>
<td>Boone County Coal Sales Corporation</td>
<td>96.76</td>
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<tr>
<td>5</td>
<td>Summit Lumber Company</td>
<td>79.71</td>
</tr>
<tr>
<td>6</td>
<td>Luten Bridge Company</td>
<td>7.50</td>
</tr>
<tr>
<td>7</td>
<td>G. H. Foy</td>
<td>75.42</td>
</tr>
<tr>
<td>8</td>
<td>L. O. Shoe Departments, Inc.</td>
<td>136.68</td>
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<tr>
<td>9</td>
<td>Carl Massey</td>
<td>34.72</td>
</tr>
<tr>
<td>10</td>
<td>J. A. Rose</td>
<td>31.86</td>
</tr>
<tr>
<td>11</td>
<td>Charleston Dental Laboratory</td>
<td>39.14</td>
</tr>
<tr>
<td>12</td>
<td>James G. Matheny</td>
<td>12.38</td>
</tr>
<tr>
<td>13</td>
<td>Municipal Mutual Insurance Co.</td>
<td>74.90</td>
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<tr>
<td>14</td>
<td>J. I. Flanagan</td>
<td>27.41</td>
</tr>
<tr>
<td>15</td>
<td>New Martinsville Sand &amp; Gravel Co.</td>
<td>266.03</td>
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<tr>
<td>16</td>
<td>Victor Holt</td>
<td>29.60</td>
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<tr>
<td>17</td>
<td>Empire Insurance Agency</td>
<td>65.21</td>
</tr>
<tr>
<td>18</td>
<td>Kanawha Crude Oil Company</td>
<td>14.67</td>
</tr>
<tr>
<td>19</td>
<td>Kanawha Crude Oil Company (continued)</td>
<td>32.94</td>
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<tr>
<td>20</td>
<td>State-Planters Bank &amp; Trust Co.</td>
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<tr>
<td>21</td>
<td>Fairfax Investment Co.</td>
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<tr>
<td>22</td>
<td>Madison Investment Company</td>
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<tr>
<td>23</td>
<td>B. L. Holland</td>
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<tr>
<td>24</td>
<td>Press Reed</td>
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<tr>
<td>25</td>
<td>Wheeling Metal &amp; Manufacturing Co.</td>
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<tr>
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<td>Pure Oil Company</td>
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<td>27</td>
<td>West Virginia Pulpstone Corp.</td>
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<td>R. C. Wallman</td>
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<td>T. H. Pollock</td>
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<td>31</td>
<td>W.S.A.Z., Inc.</td>
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<td>Zarnits Brothers Grocery Company</td>
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<tr>
<td>38</td>
<td><strong>Total</strong></td>
<td><strong>$ 11,732.32</strong></td>
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To pay claims against the State Road Commission resulting from personal injury or property damages, this amount appropriated for remainder of fiscal year ending June 30,
General Appropriations

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

**TO BE PAID FROM THE STATE ROAD FUND**

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<td>William Billby</td>
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<td>Opie Winebrenner</td>
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<td>Charley Wygal</td>
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<tr>
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<td>62</td>
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<td>Carl Dudley</td>
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<td>W. B. Grimm</td>
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**Total** ........................................... $ 59,056.84
Sec. 3. Appropriation for Bonded Obligations. There is hereby appropriated out of the general fund an amount sufficient to meet the principal and interest requirements of the bonded obligations of the state other than road bonds.

Sec. 4. Special Revenue Appropriations. There is hereby appropriated for expenditure during the fiscal years one thousand nine hundred thirty-eight and one thousand nine hundred thirty-nine: Appropriations made by general law from special revenue which is not paid into the state fund as general revenue under the provisions of section two, article two, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one.

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

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

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

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

When the officer authorized by law to collect money for the state finds that a sum has been erroneously paid he shall issue his requisition upon the auditor for the refunding of the proper amount. The auditor shall issue his warrant to the treasurer and the treasurer shall pay the warrant out of the fund into which the amount was originally paid.
Sec. 9. Contingent Fund. A contingent fund may be expended as appropriated, with the approval of the board of public works, when the expenditure will improve the governmental service and care for unexpended contingencies. A part of a contingent fund that remains unexpended at the end of the fiscal year shall automatically become available for expenditure during the second fiscal year.

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

Sec. 10. Sinking Fund Deficiencies. There is hereby appropriated to the board of public works a sufficient amount to meet a deficiency that may arise in the fund of the state sinking fund commission because of the failure of a local taxing district to remit funds necessary for the payment of interest and sinking fund requirements. The board of public works is authorized to transfer from time to time such amounts to the state sinking fund commission as may be necessary for this purpose.

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

Sec. 11. Appropriations from Forfeitures and License Fees. There is hereby appropriated from all forfeitures and license fees collected by the state tax commissioner, all necessary salaries, expenses, commissions, and attorneys' fees authorized by law for the collection of such forfeitures and license fees. All such salaries, expenses, commissions, and attorneys' fees authorized by law shall be paid by the tax commissioner through the state treasury out of gross collections. Any part of such forfeitures that may be due the state or any county, district, or municipality shall be distributed through the state treasury by the tax commissioner in the manner provided by law.

Sec. 12. Appropriations for Local Government. There is hereby appropriated for payment to counties, districts, and
3 municipal corporations such amounts as will be necessary to
4 pay taxes due county, district, and municipal corporations
5 and have been paid into the treasury:
6 1. For the redemption of lands;
7 2. By public service corporations.

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

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

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

Title 3. Administration.

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

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

Sec. 3. Constitutional Reports. The board shall establish a unit or division of statistics. It shall be the duty of this division to prepare the annual statement of assets of the state as required by the Budget Amendment to the constitution, a statement of the income of the state, the portionallocable to revenue under the existing tax statutes, and the general economic effect of the tax structure upon the social and industrial development of the state. From time to time the division shall make reports setting forth the results of its researches and its recommendations for the orderly development of the revenue and expenditure policy of the state. The reports shall be made to the board of public works.

Sec. 4. Determination of Expenditure. The board shall examine and survey the progress of the collection of the revenue of the state and determine each quarter of the fiscal year the proportion which the amount actually collected bears to the collections estimated for that period. For this purpose the board shall have the authority to require all necessary estimates and reports from any office, department, or other agency of state government.
Sec. 5. *Reduction of Appropriations.* The board may reduce appropriations according to any of the plans which are set forth in sections six, seven and eight, of this act.

Sec. 6. *Equal and Pro Rata Reductions.* If the board determines that the amounts, or parts thereof, appropriated from the general revenue cannot be expended without creating an overdraft or a deficit in the general fund, it may reduce equally and pro rata all appropriations out of general revenue in such a degree as may be necessary to prevent an overdraft or a deficit in the general fund.

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

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

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

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

1. The board shall first classify appropriations as follows:
   Class One: For agencies collecting revenue and administering the fiscal operations of government, including the offices and departments of the tax commissioner, auditor, treasurer, and sinking fund commission.
   Class Two: For agencies vested with the supervision, control, and direction of executive policy and law enforcement, including the governor’s office, the attorney general’s office, and the department of public safety.
   Class Three: For state institutions, educational, charitable, and corrective.
   Class Four: For other departments and services of the state government.
   Class Five: For transfers from the general fund.
21 2. The board shall first reduce the appropriations from
class five and then if necessary reduce the appropriations for
the other classes in descending numerical order as follows:
Class Four, Class Three, Class Two, Class One. All reductions
shall be in multiples of five per cent, but a fixed relationship
shall be maintained between the classes which shall be meas-
ured by a difference of five per cent in the rate of reduction.
The maximum reduction shall not exceed twenty-five per cent
in Class Five and in the other classes it shall be proportional
according to the following table:

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<th>Classes</th>
<th>Five</th>
<th>Four</th>
<th>Three</th>
<th>Two</th>
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<td>Per cent of reductions from total appropriations</td>
<td>5%</td>
<td>10%</td>
<td>15%</td>
<td>20%</td>
<td>25%</td>
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Sec. 9. Director of Budget. The governor, as chairman of
the board of public works, shall appoint a director of the
budget who shall administer the budget under the direction
of the board of public works. The director of the budget
shall hold office at the will and pleasure of the chairman of
the board and shall receive a salary to be fixed by the chair-
man of the board, but not to exceed six thousand dollars a
year.

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

Sec. 11. Personnel Classification. With the exception of
those institutions under the control of the state board of edu-
cation, the board of governors of West Virginia University,
and the board of control, the director of the budget shall
classify the offices and employments in the state government
and its agencies, into a personnel classification which reflects
the differences in training, experience, ability, and responsi-
bility required for different types or kinds of service or em-
employment, and shall establish uniform salary and wage scales within each class.

The board shall require the state board of education, the board of governors of West Virginia University, and the board of control to prepare and apply personnel classifications to the institutions under their control.

Sec. 12. **Accrual Accounting.** The board of public works shall install a system of accrual accounting for the purpose of recording for each spending unit the collection of all income, the amounts available for expenditure and obligations, encumbrances and disbursements. The board shall prescribe uniform records, accounts, and forms to be used by spending units so far as may be necessary for the efficient administration of the budget.

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

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

The plan shall show:

1. A proposed monthly rate of expenditure for amounts appropriated for personal services.
2. A proposed quarterly rate of expenditure of amounts appropriated for current expense.
3. A proposed yearly plan for expenditure of amounts appropriated for capital outlay.

Sec. 14. **Approval of Plans.** The board shall examine the plan of expenditure for each spending unit, and if it finds that the plan conforms to the requirements of this act and is in accordance with sound fiscal methods it shall approve the plan. A plan approved by the board shall control and govern the expenditures of the spending unit, unless the board finds it necessary to reduce expenditures from a fund in order to avoid a deficit in that fund, or the board consents to an alteration of the plan, at the request of the
executive officer of the spending unit, to increase the efficiency
of the service.

Sec. 15. Quarterly Plan. At least thirty days prior to the
beginning of each quarter of the fiscal year the executive
officer of a spending unit shall submit to the board of public
works a request for an allotment of public funds sufficient
to operate his unit during the ensuing quarter in accordance
with the approved plan of expenditure.
The board shall examine the request and if the board
approves the request and finds that the collection of revenue
warrants the expenditure it shall order the allotment to be
credited to the account of the spending unit.

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

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

Sec. 18. Specific Appropriation. Money appropriated for a
specific purpose shall not be used for any other purpose. The
director shall not forward to the auditor any requisition until
he is satisfied that:
1. It is to be expended for a purpose authorized by the
statute and for which an appropriation exists in the budget
bill;
2. There is an amount available to the credit of the spend-
ing unit to meet the requisition for the particular item of
expenditure;
3. The money will be used for the purposes for which the appropriation was made.

Sec. 19. Lump-sum Appropriations. When a lump sum is appropriated for the use of a particular spending unit, no appropriation shall be available and no requisition shall be honored (except for temporary services and expenses) until:
1. A schedule of positions and salaries has been submitted and approved;
2. A general plan of expenditure has been approved by the director, according to the provisions of this title.

Sec. 20. Transfer of Property. Except where a transfer of personal property from one spending unit to another is otherwise specifically provided for by statute, the board of public works may authorize the transfer of any personal property from a spending unit where it is not needed to another spending unit where there is a need. The determination of the lack of need and the existence of need shall be the sole responsibility of the board of public works.

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

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

Sec. 22. Surplus in Collections. If the amount actually collected by a spending unit exceeds the amount which it is authorized to expend from collections, the excess of collections shall be set aside in a special surplus fund for the spending
unit. Expenditures from this fund shall be made only in accordance with the following procedure:
The executive officer of the spending unit shall submit to the board of public works:
1. A plan of expenditure showing the purposes for which the surplus fund is to be expended, and
2. A justification statement showing the reasons why the expenditure is necessary and desirable.
If the board is satisfied that the expenditure is required to defray the additional costs of the service or activity of the spending unit, the demand for which is reflected by the surplus of collections and that the expenditure is in accordance with sound fiscal methods, the board may authorize the use of the surplus fund during the current or next fiscal year.

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

Sec. 23. Transfer Between Items. The board of public works may, at the request of the executive officer of a spending unit, transfer amounts between items of the total appropriation for the spending unit in order to protect or increase the efficiency of the service: Provided, however, That no transfer shall be made from other items to the item "personal service."

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

Sec. 24. Duties of Spending Units. A spending unit shall:
1. Keep and maintain records and accounts in the manner and on forms prescribed by the board.
2. Transmit reports and estimates at such times as the board shall direct.
3. Maintain such personnel classifications and uniform salary scales as the board shall approve.
4. Keep its records and accounts open during business hours for inspection by the budget officer or his representatives.

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

Sec. 26. 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. 27. Constitutionality. If any part of this act is declared unconstitutional by a court of competent jurisdiction its decision shall not affect any portion of this act which remains, but the remaining portions shall be in full force and effect as if the portion declared unconstitutional had never been a part of the act.

CHAPTER 2
(Senate Bill No. 25—By Mr. Smith)

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

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

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

WHEREAS, During the stirring days in the formative period of the state of West Virginia, Francis H. Pierpont was the governor
of the restored government of Virginia, and by his untiring and patriotic services greatly assisted in the formation of the state of West Virginia and its admittance to the union; and

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

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

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

Be it enacted by the Legislature of West Virginia:

Section 1. Appropriation for Marking and Restoring Graves of Francis H. Pierpont and Julia A. Pierpont. It appearing from a statement of revenues and appropriations for the fiscal year one thousand nine hundred thirty-six-one thousand nine hundred thirty-seven, that there remains in the treasury, state fund general revenue, unexpended and unappropriated moneys in excess of the amount hereby appropriated, there is hereby appropriated from the state fund general revenue the sum of fifteen hundred dollars for the purpose of restoring the graves of Francis H. Pierpont, governor of the restored government of Virginia, and his wife, Julia A. Pierpont, at Fairmont, West Virginia.

Sec. 2. How Appropriation to be Expended. The above appropriation shall be expended by and under the direction of the board of control, in conjunction with William Haymond Chapter, Daughters of the American Revolution, Fairmont, West Virginia.
CHAPTER 3
(Senate Bill No. 169—By Mr. Moler)

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

[Passed March 13, 1987; In effect ninety days from passage. Approved by the Governor.]

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

Be it enacted by the Legislature of West Virginia:

Section 1. Appropriation for Confederate Memorial at Shepherdstown; How Expended. The board of control is hereby authorized and shall expend from the state fund general revenue the sum of seven hundred fifty dollars for the purpose of aiding the Henry Kyd Douglas Camp of Sons of the Confederate Veterans to erect a memorial to the Confederate veterans of Shepherdstown and vicinity. Said sum, or any part thereof, shall be expended with the advice and counsel of the said Henry Kyd Douglas Camp Sons of Confederate Veterans.
CHAPTER 4

(Senate Bill No. 56—By Mr. Galbraith)

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

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

Section 1. Loans on property eligible for federal housing insurance.

Section 2. Investment in, and use as collateral of notes and bonds secured by federal housing administrator.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Loans on Property Eligible for Federal Housing Insurance. Banks, savings banks, trust companies, building and loan associations, industrial loan companies and insurance companies are authorized:

(a) To make such loans and advances of credit and purchases of obligations representing loans and advances of credit as are eligible for insurance by the federal housing administrator for the purpose of financing alterations, repairs and improvements upon real property made subsequent to June twenty-seven, one thousand nine hundred thirty-four, and to obtain such insurance.

(b) To make such loans secured by real property or leasehold as the federal housing administrator insures or makes a commitment to insure for the purpose of financing the construction or purchase of dwellings and similar resi-
dential property and the refinancing of mortgages, and to obtain such insurance.

Sec. 2. Investments in, and Use as Collateral of Notes and Bonds Secured by Federal Housing Administrator. (a) It shall be lawful for executors, administrators, guardians, trustees, banks, savings banks, trust companies, building and loan associations, industrial loan companies, insurance companies, fraternal benefit societies, the state of West Virginia and any city, county, political subdivision, agency or instrumentality thereof, to invest their funds and the moneys in their custody or possession eligible for investment in notes or bonds secured by mortgages insured by the federal housing administrator, and in debentures issued by the federal housing administrator, and in securities of national mortgage associations.

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

CHAPTER 5

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

AN ACT to amend and reenact section eighteen, article eight, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter six, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, and as last amended and reenacted by chapter fourteen, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, relating to limitations on loans
Section 18. Limitation on Loans; Authorization of Loans to Officers and Employees of Banks and Banking Department; Valuation of Securities.

Be it enacted by the Legislature of West Virginia:

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

[Passed March 4, 1937; in effect from passage. Approved by the Governor.]
same shall not be considered as money borrowed within
the limitation of this section; and the obligations of
any person, firm or corporation, in the form of notes or
drafts secured by shipping documents, warehouse receipts
or other such documents transferring or securing titles cover-
ing readily marketable, nonperishable staples when such
property is fully covered by insurance, if it is customary
to insure such staples, shall be considered money borrowed
within the meaning of this section, but shall be subject to
the exception that with respect thereto the limitation of ten
per cent of the unimpaired capital stock, including deben-
tures and surplus fund, to which reference has hereinbe-
fore been made, may be increased to twenty-five per cent
when the market value of such staples securing such obli-
gations is not at any time less than one hundred fifteen
per cent of the face amount of such obligations, and may
be increased up to fifty per cent of such unimpaired
capital stock, including debentures and surplus fund, with
a corresponding increase in market value of such staples
securing such obligation up to not less than one hundred
forty per cent of the face amount of such additional obli-
gation, but this exception shall not apply to obligations of
any one person, firm or corporation arising from the same
transaction or secured upon the identical staples for more
than ten months. This section shall not apply to the obli-
gations of the United States or general obligations of any
state or of political subdivisions thereof, bonds or obligations
issued under the authority of the West Virginia bridge com-
mission or the state road commission, commonly known as
bridge revenue bonds, or obligations issued under authority
of the federal farm loan act, as amended, or issued by the
Federal Home Loan Bank, or the Home Owners' Loan Cor-
poration. Neither shall this section apply to the obligations
of a corporation owning the building in which the banking
institution is located, when such banking institution has an
unimpaired capital and surplus of not less than one million
dollars, or when approved in writing by the commissioner of
banking. Nothing herein shall be construed to forbid the
sale upon credit of a bank building owned by a banking in-
stitution at the time this act takes effect.
Indebtedness to a banking institution in excess of the maximum prescribed in this section, outstanding at the date this act takes effect, shall not be renewed, refunded or otherwise extended for a period longer than the limitation provided by this section. If such indebtedness has not been collected on or before May first, one thousand nine hundred thirty-nine, and if said institution is not then diligently and to the satisfaction of the commissioner of banking of the state of West Virginia proceeding to collect the same, the said commissioner of banking may require the said banking institution to charge said indebtedness to profit and loss, or he may make such other requirements of such institution with respect to such indebtedness as he shall deem just under the circumstances, and any officer of the bank who shall refuse to comply with such order or direction of said commissioner of banking shall be guilty of a misdemeanor and shall be punishable under the provisions of section thirty-nine of this article.

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

Securities purchased by a banking institution shall be entered upon the books of the bank at actual cost, but may be carried thereafter at market value. For the purpose of calculating the undivided profits applicable to the payment of dividends, securities shall not be estimated at a valuation exceeding their present cost as determined by amortization; that is, by deducting from the cost of a security purchased at a premium, and charging to profit and loss a sum sufficient to bring it to par at maturity.
CHAPTER 6
(House Bill No. 58—By Mr. Speaker, Mr. Thomas)

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

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

Article 6. County Depositories.

Be it enacted by the Legislature of West Virginia:

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

Article 6. County Depositories.

Section 5. Interest on deposits.

Section 5. Interest on Deposits. A county court may require that such depositories shall pay interest on public money deposited therein at a rate or rates determined upon by the county court which shall be uniform as to active and as to inactive accounts, and not to exceed three per cent per annum. But a county court may determine, and arrange accordingly by agreement with all such depositories in the county, that no interest shall be charged on such money deposited.
If interest is to be charged, it shall be computed on daily net balances and shall be placed to the credit of the county treasurer on the first business day of every calendar month and at any time, when the account may be closed. When interest is credited to the treasurer, the depository shall, in writing, report to the clerk of the county court and the treasurer, each separately, the amount thereof, before noon of the next business day. All of such interest shall be credited to the general county fund by the clerk of the county court and the treasurer.

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


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

If interest is to be charged, the board shall adjust the rate semi-annually, and in fixing the rate shall give consideration to the prevailing rates paid on bank balances in the reserve and central reserve cities. Interest, if charged, shall be paid every three months on the first day of July, October, January, and April, and shall be computed upon the average daily net balances. In the ascertainment of such balances, due allowance shall be made to the depository for any time during which any part of the deposits was not actually available to the depository, and there shall be deducted from the gross daily balances so much thereof as is required by law to be carried as reserve by such depository.
CHAPTER 7
(House Bill No. 59—By Mr. Speaker, Mr. Thomas)

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

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

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

Be it enacted by the Legislature of West Virginia:

Section 1. Submitting an Amendment to Section Six, Article Eleven of the Constitution. That the question of the ratification or rejection of an amendment to the constitution of West Virginia, proposed in accordance with the provisions of section two, article fourteen of said constitution, amending section six, article eleven of said constitution, by substituting a new section six of said article eleven in lieu of section six of said article as it now exists, shall be submitted to the voters of the state at the next general election, to be held in the year one thousand nine hundred thirty-eight, which proposed amendment is as follows:

Proposed Amendment


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

Sec. 2. Amendment to be Known as "Banking Institutions Amendment." For convenience in referring to said proposed
amendment and in the preparation of the form of the ballot hereinafter provided for, said proposed amendment is hereby designated as follows: To be known as the "banking institutions amendment."

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

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

☐ For ratification of "banking institutions amendment."

☐ Against ratification of "banking institutions amendment."

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

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

"We, the undersigned who acted as commissioners (or canvassers, as the case may be), of the election held at precinct number .................., in the district of .................., in the county of .................., on the ............... day of
November, one thousand nine hundred thirty-eight, upon the
question of the ratification or rejection of the proposed con-
stitutional amendment to section six, article eleven, do hereby
certify that the result of said election is as follows:

Amending section six of article eleven:

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

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

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

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

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

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

For ratification of "banking institutions amendment"
............. votes.
51 Against ratification of "banking institutions amendment"
52 .................................. votes.
53 Given under our hands this .......... day of .........................,
54 one thousand nine hundred thirty-eight.''
55 One of the certificates shall be filed in the office of the clerk
56 of the county court, and the other forwarded by mail to the
57 secretary of state, who shall file and preserve the same until
58 the day on which the result of said election in the state is to
59 be ascertained, as hereinafter stated.

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

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

CHAPTER 8
(House Bill No. 72—By Mr. White)

AN ACT to amend article eight, chapter thirty-one of the code of
West Virginia, one thousand nine hundred thirty-one, as
amended by chapters five and seven, acts of the Legislature,
first extraordinary session, one thousand nine hundred thirtythree, by adding a new section to said article to be designated as section forty-five, relating to banking institutions incorporated under the laws of the state of West Virginia whose business is solely conducted outside the limits of this state.

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


Section

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

Be it enacted by the Legislature of West Virginia:

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

Section 45. Banking Institutions Incorporated in, But Doing Business Entirely Without State. Any banking institutions, incorporated under the laws of this state, all of whose business is conducted entirely outside of the state of West Virginia, shall not be subject to supervision by the department of banking or the commissioner of banking, and shall not be required to make any reports to it or him, or to publish such reports, and no consent or authority of the commissioner shall be necessary or required as to any of the acts and practices of said non-resident banks in and about the conduct of their business outside of the state of West Virginia, and the commissioner of banking shall not be responsible for any acts or practices of said non-resident banks. The officers and directors of such non-resident banking institutions may all be non-residents of the state of West Virginia, and such non-resident banking institutions may conduct the banking business at such place or places outside of the state of West Virginia as they may be
permitted under the laws of the jurisdiction in which such place or places are situated. The restrictions in the banking laws of this state contained as to establishment and maintenance of branch banks shall not be applicable to said non-resident banks, but no non-resident bank shall operate or maintain any branch bank in this state. The provisions, requirements, restrictions and limitations in the banking laws contained relative to the capital stock, either authorized or issued, and to the increase thereof, to the acquisition and holding of real estate, to the oath and qualifications of directors, to loans and the property, real or personal, upon the security of which loans may be made, to the borrowing of money by banking institutions and the hypothecation of securities or other property for the same, to reserves, and to dividends and all other restrictions and limitations of the banking laws of this state, shall not apply to said non-resident banks: Provided, however, That nothing in this act shall be construed as relieving said non-resident banks from compliance with the laws of the jurisdiction in which they may conduct business: Provided, further, That this section shall not apply to any banking institution, any part of whose actual business is conducted within the state of West Virginia. And provided further, That nothing in this section contained shall be interpreted as rendering any laws now in force or hereafter enacted inapplicable to banking institutions doing any actual business in the state of West Virginia, and such future legislation, unless it specifically or by necessary implication appear to the contrary, shall be construed as applicable only to banking institutions having a place of business in the state of West Virginia.
CHAPTER 9

(House Bill No. 239—By Mr. White)

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

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


Section 11. Reports of banking institutions; publication.

Be it enacted by the Legislature of West Virginia:

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

Section 11. Reports of Banking Institutions; Publication.

Every banking institution organized and authorized to transact business under this chapter shall make at least four reports each year to the commissioner of banking. Such reports shall be called for as nearly as conveniently may be on the dates on which the comptroller of the currency shall call for reports by national banking associations, and be of such form and contain such details as shall be prescribed by the commissioner of banking; which reports shall be verified by the oath of the president or active vice president and cashier, and attested by the signature of at least three directors of the banking institution. Each report shall show in detail, under appropriate heads, the resources and liabilities of the banking institution at the close of the business on the date specified by the banking commissioner, and shall be transmitted to the office of the depart-
ment of banking and supervision within five days from the receipt of the request for the same.

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

In lieu of such report and publication, the commissioner of banking shall have discretion to accept from a banking institution which is a member of the federal reserve system a report, and the publication thereof required of such banking institution by the federal reserve board, or by its agency:

Provided, That such report shall show in detail, under appropriate heads, the resources and liabilities of the banking institution at the close of business on the day specified by the federal reserve board, or by its agency, and shall contain such further details as may be deemed necessary or desirable by the commissioner of banking.

Any report and the publication thereof shall be at the expense of the banking institution, and it shall furnish to the commissioner of banking such proof of the publication as may be required by him.

CHAPTER 10

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

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

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

Be it enacted by the Legislature of West Virginia:

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

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

CHAPTER 11

(House Bill No. 439—By Mr. White)

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

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


Section 1. Repeal of tax on business of banking.

Be it enacted by the Legislature of West Virginia:

Section 1. Repeal of Tax on Business of Banking. That
2 section two-f, article thirteen, chapter eleven of the code of
3 West Virginia, one thousand nine hundred thirty-one, as
4 enacted by chapter eighty-six, acts of the Legislature, regular
5 session, one thousand nine hundred thirty-five, be and the
6 same is hereby repealed.

CHAPTER 12
(Senate Bill No. 153—By Mr. Howard)

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

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

Article 15. Nonintoxicating Beer.

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

Be it enacted by the Legislature of West Virginia:

That chapter eleven of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, be amended by repealing
sections ninety-one to one hundred three, inclusive, of article twelve, and by adding article fifteen to read as follows:

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

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

"Nonintoxicating beer" shall mean all cereal malt beverages or products of the brewing industry commonly referred to as beer, lager beer, ale, and all other mixtures and preparations produced by the brewing industry, and containing not more than five per centum of alcohol by weight, which are hereby declared to be nonintoxicating, and the word "liquor" as used in chapter sixty of the code of West Virginia shall not be construed to include or embrace any cereal malt beverage or product of the brewing industry, or any mixture or preparation of like nature containing not more than five per centum of alcohol by weight.

"Person" shall mean and include an individual, firm, partnership, association or corporation.

"Retailer" shall mean any person selling, serving, delivering or otherwise dispensing nonintoxicating beer at his established and licensed place of business.

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

"Brewer" shall mean any person, firm, association, partnership or corporation manufacturing, bottling or otherwise producing nonintoxicating beer for sale at wholesale.

"Original container" shall mean the container used by the brewer at the place of manufacturing, bottling, or otherwise producing nonintoxicating beer for sale at wholesale.

Sec. 3. State License Required. No person shall manufacture, sell, possess for sale, transport or distribute nonintoxicating beer except in accordance with the provisions of this act, and after first obtaining a state license therefor, as hereinafter provided.

Sec. 4. Amount of License Tax. There is hereby levied and imposed an annual license tax upon all dealers in and of nonintoxicating beer as defined by this act, which license
period shall begin on the first day of July of each year and
end on the thirtieth day of June of the following year, and
if granted for a less period the same shall be computed
quarterly in proportion to the remainder of the fiscal year, as
follows:
(a) In the case of a retail dealer the license fee shall
be one hundred dollars for each place of business; except
such license fee for social, fraternal or public clubs, not oper-
ating for profit, and having been in continuous operation
for two years or more immediately preceding the date of
application, shall be fifty dollars; and except that railroads
operating in this state may dispense nonintoxicating beer
upon payment of an annual license tax of ten dollars for
each dining, club or buffet car in which the same is dis-

dispensed.
(b) In the case of a distributor the license fee shall be
two hundred fifty dollars for each place of business.
(c) In the case of a brewer, with its principal place of
business located in this state, the license fee shall be five
hundred dollars for each place of manufacture.

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

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

Sec. 6. **Barrel Tax.** There is hereby levied and imposed, in
addition to the license taxes hereinabove provided for, a tax
of one dollar and thirty-seven and one-half cents on each bar-
rel 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 im-
posed upon all nonintoxicating beer manufactured outside of
this state and brought into this state for sale within this state;
but no nonintoxicating beer manufactured, sold or distributed
in this state shall be subject to more than one barrel tax. The
brewer manufacturing or producing nonintoxicating beer
within this state for sale within this state shall pay the
barrel tax on such nonintoxicating beer, and the distributor
who is the original consignee of nonintoxicating beer manu-
factured or produced outside of this state, or who brings
such nonintoxicating beer into this state, shall pay the
barrel tax on such nonintoxicating beer manufactured or
produced outside of this state.

On or before the tenth day of each calendar month during
the license period, every brewer or distributor shall make
a report in writing, under oath, to the tax commissioner,
in such form as may be required by the tax commissioner,
showing the number of barrels of nonintoxicating beer manu-
factured or distributed by such person for the preceding
calendar month, or part thereof, during which such person
was engaged in business, and at the same time shall pay the tax thereon levied by this act. Within thirty days after the end of any license tax year each brewer or distributor shall make a report in writing, under oath, to the tax commissioner, in such form as may be required by the tax commissioner, showing the number of barrels of nonintoxicating beer manufactured or distributed for the preceding tax year or part thereof by such person.

Sec. 7. Collection of Unpaid License Tax. If any person, whose report to the tax commissioner as provided for in the next preceding section shows him to be liable for any unpaid license taxes, shall fail to pay the same to the tax commissioner as provided herein, the tax commissioner shall be authorized to distraint immediately therefor, or collect the amount thereof in any appropriate legal proceeding instituted in the circuit court of Kanawha county, West Virginia, and in addition the state shall have a lien on all the property of such person for the full amount of the unpaid tax as ascertained by the tax commissioner; and in addition the tax commissioner may revoke the license of any such person failing to pay any such tax.

Sec. 8. Records of Brewer or Distributor; Collection of Unpaid Tax and Penalty. Every brewer or distributor shall maintain, keep and preserve for a period of two years such record or records of nonintoxicating beer manufactured, sold or distributed in this state, together with such invoices, records, receipts, bills of lading and other pertinent papers as may be required by the tax commissioner, and the tax commissioner shall have authority to inspect, by himself or through his duly designated agent, the books, accounts, records and memoranda of any person licensed under the provisions of this act, and to examine, under oath, any officer, agent or employee of any brewer or distributor. The tax commissioner may require the production, within this state at such time and place as he may designate, of any books, accounts, papers or records kept within or without the state, or verified copies in lieu thereof, in order that an examination thereof may be made by the tax commissioner or his duly designated agents. If, as the result of such examination, it
shall be found that any nonintoxicating beer subject to the
payment of a license tax, has been manufactured, brewed,
sold or distributed by any person, upon which the tax has
not been paid, the tax commissioner shall make an assess-
ment of the amount of the tax so found to be due, and in
addition thereto and as a part thereof shall assess a penalty
of fifty per cent of the amount of such tax and shall notify
such person of the additional amount due. If the same re-
 mains unpaid for a period of thirty days the tax commis-
sioner shall have authority to revoke any license held at
the time by the licensee and in addition thereto to collect
the amount found to be due by an appropriate legal pro-
ceeding in the circuit court of Kanawha county, West Vir-
ingia, unless an appeal is taken from the action of the tax
commissioner as hereinafter provided.

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

Sec. 9. Restrictions on Nonresident Brewers and Distribu-
tors. No brewer whose chief place of business is outside the
state of West Virginia shall offer for sale or sell nonintoxi-
cating beer in the state of West Virginia, or offer such beer
for shipment into this state, except to a distributor who is
duly licensed under this act, and no such brewer shall con-
sign, ship or deliver any nonintoxicating beer to any person
within the state of West Virginia, or sell and deliver such
beer outside the state of West Virginia to be transported into
the state of West Virginia, except to a duly licensed dis-
tributor for delivery at the place of business of such dis-
tributor as set forth in his license. No such brewer shall have
any interest in the business of any distributor or retailer, nor
be connected directly or indirectly with any distributor or
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15 retailer. Every such brewer shall mail to the tax commis-
16 sioner at Charleston, West Virginia, on or before the tenth
17 day of each calendar month, a sworn statement showing all
18 such sales and shipments of nonintoxicating beer made by
19 such brewer during the preceding calendar month. If any
20 such brewer shall violate any of the provisions of this act, he
21 shall not be permitted to sell, ship or deliver any nonintoxi-
22 cating beer to any distributor, or otherwise engage in the
23 nonintoxicating beer business, for a period of one year from
24 the date the notice shall be mailed to such brewer by the
25 tax commissioner of the fact that such brewer has violated
26 the provisions of this act. During such period of one year
27 it shall be unlawful for any distributor, or for any other
28 person within the jurisdiction of the state of West Virginia,
29 to buy or receive from such brewer any nonintoxicating beer
30 or have any dealings with such brewer with respect thereto.
31 A distributor, who has not qualified with residence require-
32 ments of this act or whose chief place of business is outside
33 the state of West Virginia shall not sell, ship, transport
34 convey or deliver, or cause to be sold, shipped, transported,
35 conveyed or delivered, directly or indirectly, any nonintoxi-
36 cating beer to any distributor within the state of West Vir-
37 ginia. If any such distributor shall violate any of the pro-
38 visions of this act, he shall be punished in like manner as
39 provided for any non-resident brewer who shall violate any
40 provisions of this section.

Sec. 10. License in One Capacity Only; No Connection
Between Different Licensees; When Brewer May Act as Dis-
tribut01·. No person shall be licensed in more than one
capacity under the terms of this act, and there shall be no
connection whatsoever between any retailer or distributor
or brewer, and no person shall be interested directly or
indirectly through the ownership of corporate stock, member-
ship in a partnership, or in any other way in the business
of a retailer, if such person is at the same time interested
in the business of a brewer or distributor; but a brewer
whose place of business is located within the state of West
Virginia may act as distributor of his own product from
the place of manufacture, or bottling but must have dis-
tributor's license for distribution from a place other than
the place of manufacture, and a brewer or distributor may
sell to a consumer, for personal use and not for resale,
draught beer in quantities of one-eighth, one-fourth and one-
half barrels in the original container: Provided, however,
That nothing herein contained shall prevent a brewer who
bottles beer manufactured by another from obtaining a
license as, and engaging in the business of, a distributor,
but on all beer bottled by a brewer other than the manu-
facturer of the beer the label on each bottle shall plainly
indicate the name of the brewer by whom the said beer was
manufactured.

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

Sec. 12. Form of Application for License; Fee and Bond;
Refusal of License. A license may be issued by the tax com-
missioner to any person who submits an application therefor,
accompanied by license fee and 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 applica-
tion, that he is twenty-one years of age, and, if a firm, associa-
tion, 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, partner-
ship, association or corporation applies for a license as a dis-
tributor, such person, or in the case of a firm, partnership,
association or corporation, the members or officers thereof,
shall state under oath that he or they have been bona fide
residents of the state for four years next preceding the date
of such application.
(b) The place of birth of applicant 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
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address of each officer; and, if a firm or partnership, the
place of birth or place when and where naturalized of each
member of the firm or partnership, each of whom must
qualify and sign the application;

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

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

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

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

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

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

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

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

(a) That the applicant is not a suitable person to be
Sec. 13. Unlawful Acts of Licensees. It shall be unlawful:

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

(b) For any licensee to sell, furnish or give any nonintoxicating beer to any person visibly or noticeably intoxicated, or to any insane person, or to any habitual drunkard, or to any person under the age of eighteen years.

(c) For any distributor to sell or offer to sell, or any retailer to purchase or receive, any nonintoxicating beer except for cash; and no right of action shall exist to collect any claims for credit extended contrary to the provisions of this clause. Nothing herein contained shall prohibit the licensee from crediting to a purchaser the actual price charged for packages or containers returned by the original purchaser as a credit on any sale, or from refunding to any purchaser the amount paid or deposited for such containers when title is retained by the vendor.

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

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

(f) For any licensee to transport, sell, deliver or purchase any nonintoxicating beer or product of the brewing industry upon which there shall appear a label or other informative data which in any manner refers to the alcoholic
content of such beer or product of the brewing industry, or upon the label of which there appears the word or words "strong," "full strength," "extra strength," "pre-war strength," "high test" or other similar expressions bearing upon the alcoholic content of such product of the brewing industry, or which refers in any manner to the original alcoholic strength, extract or balling proof from which such beverage was produced.

(g) For any licensee to permit in his premises any lewd, immoral or improper entertainment, conduct or practices.

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

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

(j) For any licensee to manufacture, import, sell, trade, barter, possess, or acquiesce in the sale, possession or consumption of any alcoholic liquors on the premises covered by such license or on premises directly or indirectly used in connection therewith.

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

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

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

(n) For any person whose license has been revoked, as in this act provided, to obtain employment with any retailer
within the period of one year from the date of such revocation, or for any retailer to employ knowingly any such person within such time.

(o) For any distributor to sell, possess for sale, transport or distribute nonintoxicating beer except in the original container.

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

Sec. 14. Powers of Tax Commissioner. To effectively carry out the provisions of this article the tax commissioner shall have the power and authority to adopt, promulgate, repeal, rescind and amend, in any manner required, rules, regulations, standards, requirements and orders, including the following:

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

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

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

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

(e) Referring to licenses and the issuance and revocation of the same;
Sec. 15. Revocation of License; Hearing; Appeal. The tax commissioner may revoke the license of any licensee:

(a) For any of the reasons and upon any grounds declared to be unlawful by section thirteen of this act.

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

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

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

If, at the request of the licensee or on his motion, the hearing shall be continued and shall not take place on the day fixed for the tax commissioner in the notice above provided for, then such licensee's license shall be suspended until the hearing and decision of the tax commissioner, and in the event of revocation of such license, upon hearing before the tax commissioner, the licensee shall not be permitted to sell beer unless and until an appeal has been perfected as provided by this act. Any person continuing to sell beer after his license has been suspended or revoked, as hereinbefore provided, shall be guilty of a misdemeanor and shall be punished as provided in section thirteen of this act.

The action of the tax commissioner in revoking a license
shall be subject to review, upon certiorari by the circuit court of Kanawha county, West Virginia, when such licensee may be aggrieved by such revocation. The granting of such review, upon certiorari, shall be in the sound discretion of the judge of the circuit court of Kanawha county, and petition for such review must be filed with said circuit court within a period of thirty days from and after the date of revocation by the tax commissioner; and any licensee obtaining an order of review shall be required to pay the costs and fees incident to transcribing, certifying and transmitting the records pertaining to such matter to the circuit court. An application to the supreme court of appeals of West Virginia for a writ of error from and supersedeas to any final order of the circuit court in any such matter shall be made within thirty days from and after the entry of such final order.

All such hearings, upon notice to show cause why license should not be revoked, before the tax commissioner, shall be held in the offices of the tax commissioner in the capitol building, Charleston, Kanawha county, West Virginia, unless otherwise provided in such notice, or agreed upon between the licensee and the tax commissioner; and when such hearing is held elsewhere than in the tax commissioner’s office the licensee may be required to make deposit of the estimated costs of such hearing.

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

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

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

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

Sec. 19. Revenue Collected Paid to State Treasurer; Ad-
ministration Expense. Taxes imposed and collected under the
provisions of this article shall be paid to the state treasurer in the manner provided by law, and credited to the state fund, general revenue. The expenses of administration and enforcement shall be paid out of the taxes collected under this article, but shall not exceed fifteen per cent of the amount so collected.

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

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

Sec. 22. Provisions of Article Severable. The provisions of this article shall be construed to be severable, and if any are held unconstitutional or otherwise invalid such invalidity shall not affect the operation of the remaining portions.
AN ACT to amend and reenact sections four and six, article four, and section four, article six, all of chapter four, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, as amended by chapter five, acts of the Legislature, regular session, one thousand nine hundred thirty-five, relating to the sale and transportation of alcoholic liquors.

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

Article 4. Licenses.

Be it enacted by the Legislature of West Virginia:

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

Article 4. Licenses.

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

Section 4. Purchase and Resale of Alcoholic Liquors and Ethyl Alcohol by Wholesale Druggists. The commission may grant to wholesale druggists license to purchase alcoholic liquors at wholesale from or through the commission for the purpose of resale within the state. Such wholesale druggists shall have the right to purchase ethyl alcohol, for non-beverage purposes, at wholesale, and for resale to pharmacists, or druggists or drug stores employing a duly licensed pharmacist,
having a regular place of business, or to other persons licensed to purchase ethyl alcohol from the commission, from distillers, manufacturers, jobbers or other wholesale druggists, whether within or without the state, and whether the seller has a permit or license from the commission to sell same, and ship and transport or cause same to be shipped and transported to their places of business, upon filing with the commission at the time of or prior to such purchase a copy of the purchase order for same, together with a statement in writing showing approximately when, and in what manner the ethyl alcohol so purchased will be shipped or transported to their places of business.

Sec. 6. Purchase and Resale of Alcoholic Liquors and Ethyl Alcohol by Retail Druggists. The commission may issue licenses to retail druggists to sell, upon prescription, and for the purposes provided for in this chapter, alcoholic liquors purchased from the commission. Any pharmacist, or retail druggist or drug store employing a duly licensed pharmacist, having a regular place of business, may, upon filing with the commission, at the time of or prior to any purchase, a copy of the purchase order together with a written statement showing approximately when and in what manner any ethyl alcohol purchased will be shipped or transported, purchase from distillers, manufacturers, jobbers or wholesalers, whether within or without the state, and whether the seller has a permit or license to sell the same, ethyl alcohol for use in compounding or manufacturing any of the medical or other preparations mentioned in section four of article six of this act, and ship and transport or cause same to be shipped and transported to his place of business.


Section
4. Permitted use by druggists.

Section 4. Permitted Use by Druggists. The provisions of this chapter shall not prevent a person from manufacturing, selling, delivering or shipping:
4 Any medicine containing sufficient medication to prevent its use as a beverage;
6 Any medicinal preparation manufactured in accordance
CHAPTER 14  
(House Bill No. 247—By Mr. Van Sickler)

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

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

Article

Be it enacted by the Legislature of West Virginia:

That section twelve, article three, and sections nine, twelve, thirteen, twenty and twenty-one, article six, chapter sixty of the
code of West Virginia, one thousand nine hundred thirty-one, as
enacted by chapters four and five, acts of the Legislature, regular
session, one thousand nine hundred thirty-five, be amended and
reenacted, and section fourteen of said article and chapter be re­
pealed, to read as follows:

Article 3. Sales by Commission.

Section

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

Section 12. Days and Hours State Stores and Agencies

May Open. The commission shall fix the days on which state
stores shall be open and the hours of opening and closing,
and the hours during which agencies may sell alcoholic
liquors. Stores shall not be open nor shall agencies sell alco­
holic liquors on:

1. Sundays.

2. Any general election day.


Section

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

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

(1) Appear in a public place in an intoxicated con­
dition;

(2) Drink alcoholic liquor in a public place;

(3) Drink alcoholic liquor in a motor vehicle on any high­
way, street, alley or in a public garage;

(4) Tender a drink of alcoholic liquor to another per­
son in a public place;

(5) Possess alcoholic liquor in the amount in excess of
one gallon, in containers not bearing stamps or seals of the
commission, without having first obtained written authority
from the said commission therefor;

(6) Possess any alcoholic liquor which was manufactured
or acquired in violation of the provisions of this chapter.
Any person who violates subsections one, two, three or four of this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than five nor more than one hundred dollars, or confined in jail not more than sixty days, or both such fine and imprisonment. Any person who violates subsection five or six of this section shall be guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars nor more than five hundred dollars, or confined in jail not less than sixty days nor more than twelve months, or both such fine and imprisonment, and upon conviction of a second or subsequent offense he shall be guilty of a felony and shall be confined in the penitentiary of this state for a period of not less than one year nor more than three years.

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

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

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

(1) Consigned to the commission;

(2) Transported or shipped upon the direction of the com-
mission directly to persons licensed to receive alcoholic liquors at wholesale;
(3) Transported or shipped into or through the state to persons outside the state upon transportation permits issued by the commission.

Sec. 14. Section Repealed. Section fourteen is hereby repealed.

Sec. 20. Contraband Vehicles; Forfeiture and Disposition.
A conveyance of any kind, either on land, water, or in the air, used for transportation of alcoholic liquors in violation of section twelve of this article, shall be deemed contraband and shall be forfeited to the state and proceeded against in the manner provided for confiscation by section twenty-one of this article.
Any such conveyance forfeited to the state under the provisions of this section shall be turned over to the commission, which may retain the same for public use in the administration and enforcement of this chapter. If it has no need for the conveyance, it may order its destruction or sale unless the department of public safety requests it, in which case the commission shall turn it over to the said department.
The net proceeds of sales made under this section shall be paid into the state treasury in the manner prescribed for receipts from state stores and agencies.

Sec. 21. Court Procedure as to Contraband and Forfeited Articles. Proceedings for confiscation of articles, conveyances or vehicles declared contraband and forfeited to the state under section twenty shall be had in the circuit or inferior court having criminal jurisdiction, either in vacation or term time, in the county where such articles, conveyances or vehicles were seized, and the procedure shall be as follows:
(1) When such articles, conveyances or vehicles have been seized under or without a warrant provided for in section eighteen of this act, by an officer charged with the enforcement of this chapter, the officer shall take possession of such article, conveyance or vehicle and deliver the same and the alcoholic liquors so seized to the sheriff of the county in which
such seizure was made, taking his receipt therefor in duplicate.

(2) The officer making such seizure shall forthwith report in writing of such seizure to the prosecuting attorney of the county in which such seizure was made and to the commission.

(3) Within not less than ten days nor more than sixty days after receiving notice of any such seizure, the prosecuting attorney for the county shall file, in the name of the state, a petition against the seized property, in the clerk's office of the circuit court of the county, returnable to the circuit court or inferior court having criminal jurisdiction, which petition shall be filed by the clerk without fee and may be heard by said court or judge thereof in vacation.

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

(5) The owner of and all persons in any manner then indebted or liable for the purchase price of said property, and any person having a lien thereon, if they be known to the prosecuting attorney, shall be made parties defendant thereto, and shall be served with the notice issued by the clerk of such court, hereinafter provided for, in the manner provided by law for serving a notice, at least ten days before the day therein specified for the hearing on said petition, if they be residents of this state, and, if they be unknown or nonresidents, or cannot with reasonable diligence be found in this state, they shall be deemed sufficiently served by publication of said notice once a week for two successive weeks in some newspaper published in said county, or, if none be published therein, then in some newspaper having a general circulation therein.

(6) Any person claiming to be the owner of such seized property, or to hold a lien thereon or have an interest therein, may appear at any time before final judgment of the trial court, and be made a party defendant to the petition so filed, which appearance shall be by answer, under oath, in which
shall be clearly set forth the nature of such defendant's claim or interest.

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

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

(a) If it shall appear to the satisfaction of the court that such claimant is the bona fide owner and was such owner at the time of such seizure and that he was ignorant of such illegal use thereof and the illegal use was without his connivance or consent, expressed or implied, the court shall relieve said conveyance or vehicle from forfeiture and restore it to such claimant, and no cost shall be taxed against such claimant,

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

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

(2) If the lien is less than the value of the conveyance or vehicle, the lienor may have said conveyance or vehicle delivered to him upon payment of the difference in amount as determined in such proceedings; but should the lienor not demand delivery as aforesaid, an order shall be made for the sale of said property by the sheriff of the county, in the manner prescribed by law for sale of personal property under
AN ACT to amend and reenact section two, chapter forty-two, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, fixing the times of holding the circuit courts in the eleventh judicial circuit.

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

Section 2. Terms of court in eleventh judicial circuit.

Be it enacted by the Legislature of West Virginia:

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

Section 2. Terms of Court in Eleventh Judicial Circuit.
2. The times for holding court within said eleventh judicial circuit shall be as follows:
4. For the county of Pocahontas: Second Tuesday in March, first Tuesday in June, and the first Tuesday in October of each year.
7 For the county of Greenbrier: Third Tuesday in April, fourth Tuesday in July, and the fourth Tuesday in November of each year.
8 For the county of Monroe: First Tuesday in April, second Tuesday in July, and the second Tuesday in November of each year.
9 For the county of Summers: Second Tuesday in January, second Tuesday in May, and the second Tuesday in September of each year.

CHAPTER 16

(House Bill No. 349—By Mr. Stephens)

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

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

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

Be it enacted by the Legislature of West Virginia:

Section 1. Law Clerk for Thirteenth Judicial Circuit; Qualification; Salary. On or before July one, one thousand nine hundred thirty-seven, the judge of the circuit court of Kanawha County, West Virginia, may appoint a law clerk who shall be a person duly licensed to practice law in this state, and who shall discharge such secretarial duties as may be assigned him by the judge; said clerk, while acting as such, shall not engage in the practice of law but shall devote his entire time to the duties of his office and may be removed and his successor appointed, at any time by the judge. Said clerk shall receive a salary of not in excess of three thousand
six hundred dollars per year, payable monthly, and the county court of Kanawha County shall annually, at its levy session, provide for the payment out of general county funds, of such sum in supplement of the amount provided by law and made available for such service from the state funds, as will provide from both sources the amount of the salary so fixed.

CHAPTER 17

(House Bill No. 124—By Mr. Morton)

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

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

Section 1-n. Terms of court in fourteenth circuit.

Be it enacted by the Legislature of West Virginia:

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

Section 1-n. Terms of Court in Fourteenth Circuit. For the county of Braxton, on the second Monday in March, July and November.
4 For the county of Clay, on the first Monday in February, June and October.
6 For the county of Gilmer, on the third Monday in February, June and October.
8 For the county of Webster, on the second Monday in January, May and September.
CHAPTER 18
(Senate Bill No. 100—By Mr. Barnhart, by request)

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

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

Section 1. Charter rights and franchises restored by payment of delinquent license tax.

2. Certificate of reinstatement.

Be it enacted by the Legislature of West Virginia:

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

Sec. 2. Certificate of Reinstatement. The auditor shall receive payment of all delinquent license (charter) taxes on corporations, and shall account for and deposit the same in the state treasury. Upon payment of such taxes as aforesaid the auditor shall execute and deliver to the corporation paying the same a certificate of reinstatement, which certificate shall have the effect of reinstating and restoring such corporation to all of its charter rights, franchises and privileges.
CHAPTER 19
(Senate Com. Sub. for Senate Bill No. 116—Originating in the Committee on Banks and Corporations)

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

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


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

Be it enacted by the Legislature of West Virginia:

That section sixty-three, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted, and that said article one of said chapter thirty-one be amended by the addition of two new sections to be known as section sixty-three-a, and section sixty-three-b, all to read as follows:

Section 63. Consolidation or Merger; Proceedings for. Any two or more corporations organized under the provisions of this chapter, or existing under the laws of this state, for the purpose of carrying on any kind of business, may consolidate or merge into a single corporation which may be any one of such constituent corporations or a new corporation to be formed by means of such consolidation or merger as shall be specified in the agreement hereinafter required. The directors, or a majority of them, of such corporations as desire to consolidate or merge, may enter into an agreement signed by them and under the corporate seals of the respective corporations, prescribing the terms and conditions of consolidation or mer-
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ger, the mode of carrying the same into effect, and stating such
other facts required or permitted by the provisions of this ar-
ticle to be set out in an agreement of incorporation, as can be
stated in the case of a consolidation or merger, stated in such
altered form as the circumstances of the case require, as well
as the manner of converting the shares of each of the con-
stituent corporations into shares of the consolidated or merged
corporation, with such other details and provisions as are
deemed necessary.

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

At any such stockholders' meeting of any corporation said
agreement shall be considered and a vote by ballot, in person
or by proxy, taken for the adoption or rejection of the same,
each share entitling the holder thereof to one vote; and if the
votes of stockholders of each such corporation representing
two-thirds of the total number of shares of its capital stock
then issued and outstanding shall be for the adoption of such
agreement, then that fact shall be certified on such agreement
by the secretary of each such corporation, under the seal
thereof; and the agreement so adopted and certified shall be
signed by the president and secretary of each of such corpora-
tions under the corporate seals thereof and acknowledged by
the president of each of such corporations before any officer
authorized by the laws of this state to take acknowledgments
of deeds to be the respective act, deed and agreement of each
of such corporations, and the agreement so certified and ac-
knownledged shall be filed in the office of the secretary of state,
and shall thence be taken and deemed to be the agreement and
act of consolidation or merger of the said corporations; and a
copy of such agreement and act of consolidation or merger,
duly certified by the secretary of state under the seal of his
office, shall also be recorded in the offices of the clerks of the
county courts of the counties of this state in which the respec-
tive corporations so consolidating or merging shall have their
original certificates of incorporation recorded, if any, or if
any of the corporations shall have been specially created by a
public act of the legislature, then such agreement shall be
recorded in the county where such corporation shall have had
its principal place of business, if any, and such record, or a
certified copy thereof, shall be evidence of the agreement and
act of consolidation or merger of such corporations, and of the
observance and performance of all acts and conditions neces-
sary to have been observed and performed precedent to such
consolidation or merger.

When an agreement shall have been signed, acknowledged,
filed and recorded as herein required, for all purposes of
the laws of this state, the separate existence of all the con-
stituent corporations, parties to said agreement, or of all
such constituent corporations except the one into which the
other or others of such constituent corporations have been
merged, or consolidated, as the case may be, shall cease
and the constituent corporations shall become a new corpora-
tion, or be merged into one of such corporations, as the case
may be, in accordance with the provisions of said agreement,
possessing all the rights, privileges, powers, franchises and
trust and fiduciary duties, powers and obligations, as well of
a public as of a private nature, and being subject to all the
restrictions, disabilities and duties of each of such corpora-
tions so consolidated or merged, and all and singular the
rights, privileges, powers, franchises, and trust and fiduciary
rights, powers, duties and obligations, of each of said corpora-
tions; and all property, real, personal and mixed, and all
debts due to any of said constituent corporations on whatever
account, as well for stock subscriptions as all other things in
CONSOLIDATION OR MERGER OF CORPORATIONS

action or belonging to each of such corporations shall be vested in the corporation resulting from or surviving such consolidation or merger; and all property, rights, privileges, powers, and franchises, and all and every other interest shall be thereafter as effectually the property of the resulting or surviving corporation as they were of the several and respective constituent corporations; and the title to any real estate, whether vested by deed or otherwise, under the laws of this state, vested in any of such constituent corporations, shall not revert or be in any way impaired by reason of this chapter:

Provided, however. That all rights of creditors and all liens upon any property of any of said constituent corporations shall be preserved unimpaired, and all debts, liabilities and duties of the respective constituent corporations shall thenceforth attach to said resulting or surviving corporation, and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it.

Sec. 63-a. Consolidation or Merger With Foreign Corporation. Any corporation authorized by section sixty-three of this article to merge or consolidate with another corporation may merge or consolidate in the manner therein provided with a corporation or corporations organized and existing under the laws of this state, of another state or states, or of the United States, and authorized to merge or consolidate with such corporation so authorized by said section to merge or consolidate. In the agreement of merger or consolidation the laws of any state under which one of the constituent corporations was organized may be selected as the laws which shall govern the merged or consolidated corporation.

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

Sec. 63-b. Title to Real Estate in State in Merger or Consolidation. In any merger or consolidation of corporations
3 under the laws of the state of West Virginia, any constituent
4 corporation thereof owning or holding real estate in West
5 Virginia shall further evidence the title thereto in the sur-
6 viving corporation by executing and acknowledging for record
7 a confirmatory deed or deeds to the respective parcels of
8 real estate, which deed or deeds shall be recorded in the office
9 of the clerks of the county courts of the respective counties
10 in which such real estate is situate; and such deed or deeds
11 shall recite as the consideration therefor the said merger or
12 consolidation and shall be deemed confirmatory of the title of
13 such real estate in the surviving merged or consolidated cor-
14 poration.

CHAPTER 20

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

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

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

Article 6. Assessment of Public Service Corporation.

Section
12. Appeal from valuation by board.

Be it enacted by the Legislature of West Virginia:

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

Section 12. Appeal From Valuation by Board. Any owner
2 or operator claiming to be aggrieved by any such decision may,
within the time aforesaid, apply by petition in writing, duly verified, to the circuit court of the county in which the property so assessed is situated, or if such property be situated in more than one county then in the county in which the largest assessment of such owner or operator was made in the next preceding year, for an appeal from the assessment and valuation so made of all such property and jurisdiction is hereby conferred upon and declared to exist in the court to which such application is made, to grant, docket and hear such appeal; and such appeal, as to all of the property so assessed, as well as that situated in the county of the court so applied to, as that situated in the several other counties, shall forthwith be allowed by such court so applied to, and be heard by such court as to all of such property as soon as possible after the appeal is docketed; but notice in writing of such petition shall be given to the prosecuting attorney of each of the counties in which such property so assessed is situated, to the secretary of the board of public works and to the state tax commissioner, by mailing a copy of the petition for an appeal filed with the circuit court, which said petition shall recite the fact that copies of such petition have been sent by registered mail; and notice in writing of the hearing upon such petition shall be given to the prosecuting attorney of each of the counties in which such property so assessed is situated, and to the state tax commissioner, at least fifteen days beforehand. Likewise, the state tax commissioner may, by giving notice in writing at least fifteen days beforehand to the petitioner, bring on such appeal for hearing. Upon such hearing the court shall hear all such legal evidence as shall be offered on behalf of the state or any county, district or municipal corporation interested, or on behalf of the appealing owner or operator. If the court be satisfied that the value so fixed by the board of public works is correct, it shall confirm the same, but if be satisfied that the value so fixed by said board is either too high or too low, the court shall correct the valuation so made and shall ascertain and fix the true and actual value of such property according to the facts proved, and shall certify such value to the auditor and to the secretary
of the board of public works. The state or the owner or
operator may appeal to the supreme court of appeals if
the assessed value of the property be fifty thousand dollars,
or more.

CHAPTER 21
(Senate Bill No. 244—By Mr. Paull, by request)

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

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

Article 6. Assessment of Public Service Corporation.

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

Be it enacted by the Legislature of West Virginia:

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

Section 23. Lien of Taxes; Notice of; Collection by Suit.
2 The amount of taxes and levies assessed under this article
shall constitute a debt due the state or county, district or mu-
nicipal corporation entitled thereto, and shall be a lien on all
5 of the property and assets of the taxpayer within the state.
6 The lien shall attach as of the date fixed by law for the com-
7 mencement of the assessment year, and shall be prior to all
8 other liens and charges. The auditor shall, between the first
9 and fifteenth day of July of each year, prepare a list of the
taxpayers delinquent in the payment of such taxes and levies,
11 setting forth their respective addresses and the amount of
12 state, county, district and municipal taxes due from each,
13 which said list shall be certified by the auditor to the board of
public works and filed in the office of the secretary of state.

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

The attorney general may also enforce the lien created
by this section on the real estate of such delinquent taxpayer
by instituting a suit, or suits, in equity in the circuit court
of Kanawha county, in the name of the state, in which such
delinquent taxpayers shall be made defendants. In the bill
filed in any such suit it shall be sufficient to allege that the
defendant or defendants have failed to pay the taxes here-
der and that each of them justly owes the amount of
property taxes, levies and penalties stated therein, which
amount shall be computed up to the first day of the month
in which the bill was filed. No such defendant shall plead
that the secretary of state failed to give notice as prescribed
by this section. If, upon the hearing of such suit, it shall
appear to the court that any defendant has failed to pay such
taxes and accrued penalties, the court shall enter a decree
against such defendant for the amount due, and if the decree
be not paid within ten days after made, the court shall enter
a decree directing a sale of the real estate subject to said lien,
or so much thereof as may be necessary to satisfy said taxes,
including interest, penalties and costs. When two or more
taxpayers are included in one suit, the court shall apportion
the cost thereof among them as it may deem just.
AN ACT to amend and reenact section sixty-nine, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to the voting of a director of a corporation upon a matter in which he is interested otherwise than as a stockholder.

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


Section
69. Procedure when director interested otherwise than as stockholder.

Be it enacted by the Legislature of West Virginia:

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

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

CHAPTER 23

( House Bill No. 94—By Mr. Eye)

AN ACT to amend and reenact section five, article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as the same was last amended and reenacted
by chapter forty-three, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, relating to duties of county courts for services other than services in court.

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


Section 5. Duties and salaries of county commissioners.

Be it enacted by the Legislature of West Virginia:

That section five, article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as the same was last amended and reenacted by chapter forty-three, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 5. Duties and Salaries of County Commissioners.

2 It shall be the duty of the county commissioners of each county to visit each quarter and inspect institutions within their county for housing and caring for the poor, to inspect the jails, and to investigate the conditions of the poor within their county not housed within such institutions; to visit detention homes for children within their counties, if any, and to visit and inspect bridges and bridge approaches under their control, and for reviewing and equalizing the assessments made by the assessor, and for duties of the county commissioners in cooperating with the county public assistance council, and for supervising and general management of the fiscal affairs and business of each county.

There shall be allowed and paid out of the county treasury, as other salaries are paid, to each county commissioner of each county, (except as otherwise provided by law for the county of Ohio), for services performed for such county concerning the visiting of the poor, and inspection of places of housing and caring for the poor, inspection of jails, bridges and bridge approaches, and for visiting detention homes for children, and for reviewing and equalizing the assessments made by the assessor, and for duties of the county commissioners in cooperating with the county public assistance coun-
cil, and for supervising and general management of the fiscal affairs and business of each county, within their counties, and other county business by such commissioners in addition to compensation for services in court, the following sums of money, to-wit: The county of Barbour fifteen dollars per month, the county of Berkeley thirty dollars per month, the county of Boone thirty-five dollars per month, the county of Braxton forty dollars per month, the county of Brooke thirty-five dollars per month, the county of Cabell two hundred dollars per month, the county of Calhoun twenty-five dollars per month, the county of Clay thirty-five dollars per month, the county of Doddridge twenty-five dollars per month, the county of Fayette one hundred fifty dollars per month, the county of Gilmer twenty-five dollars per month, the county of Grant twenty dollars per month, the county of Greenbrier fifty dollars per month, the county of Hampshire twenty-five dollars per month, the county of Hancock thirty-five dollars per month, the county of Hardy twenty-five dollars per month, the county of Harrison two hundred dollars per month, the county of Jackson twenty-five dollars per month, the county of Jefferson thirty-five dollars per month, the county of Kanawha two hundred fifty dollars per month, the county of Lewis fifty dollars per month, the county of Lincoln fifty dollars per month, the county of Logan one hundred fifty dollars per month, the county of Marion two hundred dollars per month, the county of Marshall seventy-five dollars per month, the county of Mason twenty-five dollars per month, the county of McDowell two hundred dollars per month, the county of Mercer one hundred twenty-five dollars per month, the county of Mineral fifty dollars per month, the county of Mingo one hundred dollars per month, the county of Morgan twenty-five dollars per month, the county of Monroe twenty-five dollars per month, the county of Monongalia one hundred fifty dollars per month, the county of Nicholas twenty-five dollars per month, the county of Pendleton twenty-five dollars per month, the county of Pleasants twenty-five dollars per month, the county of Pocahontas twenty-five dollars per month, the county of Preston, the president of the county court forty dollars, and other members of the court twenty-five dollars per month, the county of Putnam forty-five dollars per month, the county of Raleigh one hundred twenty-
five dollars per month, the county of Randolph forty dollars per month, the county of Ritchie twenty-five dollars per month, the county of Roane twenty-five dollars per month, the county of Summers thirty-five dollars per month, the county of Taylor thirty-five dollars per month, the county of Tucker fifteen dollars per month, the county of Tyler forty dollars per month, the county of Upshur fifteen dollars per month, the county of Wayne seventy-five dollars per month, the county of Webster fifteen dollars per month, the county of Wetzel fifty dollars per month, the county of Wirt twenty-five dollars per month, the county of Wood one hundred fifty dollars per month, and the county of Wyoming thirty-five dollars per month.

CHAPTER 24

(House Bill No. 97—By Mr. Stephens)

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

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

Article 3. County Property.

Section 4. Leasing of county lands for oil, gas or minerals.

Be it enacted by the Legislature of West Virginia:

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

Section 4. Leasing of County Lands for Oil, Gas or Minerals. The county court of any county may lease for oil or gas or other minerals, any lands owned in fee by it, the rentals, royalties or proceeds of any such lease to be placed to the credit of the general county fund of the county.
CHAPTER 25

(House Bill No. 115—By Mr. Hussion)

AN ACT to amend and reenact chapter forty-four, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, to authorize the county court of any county to acquire and hold lands and buildings, and to convey real estate, and to enter into a contract, or a lease, or both, with the United States government, or any federal agency authorized to make or enter into such contract, or lease, or any bank or financial institution authorized by law to make loans, or any individual or persons, for the erection, construction, equipment, leasing and renting of any courthouse, hospital, other public building or jail, with an option to purchase same and to provide for the payment of a yearly rental for such by said court, or to authorize any such court to construct, equip, maintain and operate a courthouse, hospital, other public building or jail in and for said county, and to borrow funds from the public works administration, or other federal governmental agency authorized to make loans, or any bank or financial institution authorized by law to make loans, or any individual or persons, for the purpose of constructing and equipping said building, or buildings, together with the right to purchase additional real estate and to issue bonds in payment of the same, and to pledge a sufficient amount of revenue, within the constitutional limitation and within the limitations as provided by general law and this act, to pay the principal amount of said bonds and interest thereon, within a period not to exceed thirty years, and to pledge such real estate and property as security for the payment of such bonds and interest.

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

Section

1. County courts authorized to acquire real estate and contract for construction, etc., and rental of courthouse, jail or other public building.

2. Annual levy for rentals.

4. Enforcement of lien of bond holders.
5. Form and payment of bonds; use of proceeds of bonds.
6. Limitation on character of debt incurred.
7. Powers conferred are additional.
8. Act to be liberally construed.
9. Limitation on amount of debt; increase of levies.

Be it enacted by the Legislature of West Virginia:

Section 1. County Courts Authorized to Acquire Real
Estate and Contract for Construction, Etc., and Rental of
Courthouse, Jail or Other Public Building. The county court
of any county is hereby authorized and empowered to acquire
real estate and to convey real estate and to enter into a con-
tract, or lease, or both, with the United States government, or
any federal agency authorized to make or enter into such con-
tract, or lease, or with any bank or financial institution, or
with any individual or persons for the erection, construction,
equipment, leasing and renting of a courthouse, hospital, other
public buildings, or jail, with an option to purchase same
and to provide for the payment of a yearly rental for such
by said court; and to contract with the United States govern-
ment, or any federal agency authorized to make or enter into
such contract, or any bank or financial institution, or any in-
dividual or persons, to the end that said government, or any
of its agencies, or agents thereunto duly authorized, or bank
or financial institution or individual or persons, may for and
on behalf of any county court, build, erect, construct, equip
or furnish upon said property any such building, or build-
ings, including a hospital; and to contract with said govern-
ment, or any federal agency, or bank, or financial institution.
or individual, or persons, for the lease, or rental, of said
building, or buildings, with the privilege and authority of
renewing said lease from year to year, for any period of
years, not exceeding thirty, with the right to purchase said
building, or buildings, and real estate on which the same is,
or are, situated, and to apply toward the purchase price
thereof any and all rentals paid to said government, or
agency, or bank, or financial institution, or individual, or per-
sons, under the provisions of this act; and the said county
court shall pay to the United States government, or any fed-
eral agency, or bank, or financial institution, or individual, or
persons, said yearly rental, or rentals, for the use and occu-
pany of said building, or buildings, if and when the same are constructed, which said yearly rental, or rentals, in the aggregate, shall not exceed the total amount, and the interest thereon expended by said government, or agency or bank or financial institution, or individual, or persons, on said project, or projects, and the said yearly rentals shall be paid out of levies laid within the constitutional debt limitations; and to do any and all other things lawfully required by said United States government, or any federal agency, or bank, or financial institution, or individual, or persons, which are necessary and proper to effectuate the purpose of this act.

Sec. 2. Annual Levy for Rentals. The said court shall levy and collect annually an amount sufficient to pay said rental, or rentals, for that particular year for the purposes aforesaid in the manner and form as provided by law.

Sec. 3. Bonds for Cost of Real Estate and Public Buildings. Any county court is likewise authorized and empowered to acquire real estate for, construct, equip, furnish and maintain a courthouse, hospital or other public buildings or jail and to borrow funds from the United States government, the public works administration, or other governmental agency authorized to make loans, or any bank, or financial institution authorized by law to make loans, or any individual, or persons for the purpose of building, constructing, furnishing and equipping said courthouse, hospital, other buildings or jail, and for the purpose of acquiring real estate therefor, and shall have the right to acquire by purchase, condemnation, gift or otherwise, real estate on which to build the same, within the discretion of the court. Such county court is authorized and empowered to issue bonds for the purpose of paying the cost of such real estate, building, furnishing and equipment and to pledge a sufficient amount of revenue within the constitutional limitations and within the limitations as provided by general law, to pay the principal of said bonds and the interest thereon, within a period not to exceed thirty years. Such court is further authorized and empowered to do and perform any and all acts and make all contracts necessary to effectuate the general purpose of this act, including the acquisition, by original grant, gift, condemnation, or other
lawful means of real estate, and of all necessary permits, easements and other rights in real estate, and title to and possession thereof, or to make such purchase and acquisition with the money borrowed, as provided in this act.

Such county court shall have authority, and is empowered, to make such contracts, agreements and covenants between it and the United States government, or the public works administration, or other governmental agency, or bank, or financial institution, or individual, or persons for the loan of such funds to said county court, and securing payment thereof as they may be able to effectuate, subject only to this limitation, that the bonds issued, or given as security thereof, shall be payable out of the levies now provided for by general law and by this act; to be levied by said county court in and for said county; to acquire needed real estate, to construct, equip, furnish and maintain such courthouse, hospital, other public buildings or jail, and to make and enter into such contracts, and to do and perform such acts as may be necessary for the construction, equipment, operation and maintenance of the same, subject to such burdens, restrictions and encumbrances as it may be necessary to incur and bear, in securing such bonds and such real estate construction, equipment and maintenance.

Bonds issued hereunder shall be exempt from taxation by the state of West Virginia, or any county therein, or any district or municipality thereof.

Sec. 4. Enforcement of Lien of Bond Holders. There shall be and there is hereby created a statutory mortgage lien upon the said real estate, buildings and property so acquired, constructed or built from the proceeds of bonds authorized to be issued under this act, which shall exist in favor of the holder of said bonds, and each of them, and to and in favor of the holder of the interest coupons attached to said bonds, and such courthouse, hospital, other public buildings, or jail, and the real estate so acquired and used for and in connection therewith, shall remain subject to such statutory mortgage lien until payment in full of the principal and interest of said bonds. Any holder of bonds issued under the provisions of this act, or the holder of any coupons representing interest accrued thereon, may,
either at law or in equity, enforce the statutory mortgage
lien hereby created and conferred, and may, by proper suit,
compel the performance of the duties of the officials of the
said court set forth in this act. If there be default in the
payment of the principal of or interest upon any of said
bonds, any court having jurisdiction in any proper action
may appoint a receiver to administer said property on behalf
of the said court with power to charge and collect rents or
income sufficient to provide for the payment of said bonds
and interest thereon, and for the payment of the operating
expenses, and to apply the income, rents or other revenue in
conformity with this act and the order providing for the is-
suance of said bonds.

Sec. 5. Form and Payment of Bonds; Use of Proceeds
of Bonds. Any county court issuing bonds under the
provisions of this act shall thereafter, so long as any such
bonds remain outstanding, operate and maintain said
courthouse, hospital, other public buildings, or jail, to pro-
vide revenues sufficient to pay all operating costs, pro-
vide a sinking fund for, and to retire the bonds and
pay the interest thereon as the same may become due.
The amounts, as and when so set apart by said county
court, shall be remitted to the state sinking fund commission
at least thirty days previous to the time interest or principal
payments become due, to be retained and paid out by said
commission consistent with the provisions of this act and with
the order pursuant to which such bonds have been issued. The
state sinking fund commission is hereby authorized to act as
fiscal agent for the administration of such sinking fund un-
der any order passed pursuant to the provisions of this act,
and shall invest all sinking funds, as provided by general law.
Bonds issued under the provisions of this act are hereby de-
clared to be and to have all the qualities of negotiable instru-
ments. Such bonds shall bear interest at not more than six
per cent per annum, payable semi-annually, and shall ma-
ture at any time fixed by the county court, in not more than
thirty years from their date, and may be made redeemable
at the option of the county court at such price and under
such terms and conditions as said court may fix, by its order,
prior to the issuance of such bonds. Bonds issued hereunder
shall be payable at the office of the state treasurer, or some bank in the city of New York.

In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes the same as if they had remained in office until such delivery. The county court shall by order entered prior to the issuance of said bonds, fix the denominations, times and places of payment of such bonds, the principal and interest of which shall be payable in lawful money of the United States of America. The proceeds of such bonds shall be used solely for the payment of the cost of land, buildings, furniture and equipment thereon, and shall be checked out by the county court under such restrictions as are contained in the order providing for the issuance of said bonds. If the proceeds of bonds issued for any courthouse, hospital, other public buildings, or jail, shall exceed the cost thereof, the surplus shall be paid into the fund herein provided for the payment of principal and interest upon such bonds. Such fund may be used for the purchase or redemption of any of the outstanding bonds payable from such fund at the market price, but at not exceeding the price at which any of such bonds shall in the same year be redeemable, as fixed by the court in its said order, and all bonds redeemed or purchased shall forthwith be cancelled, and shall not again be issued.

Prior to the preparation of definitive bonds, the county court may, under like restrictions, issue temporary bonds, or interim certificates, with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. Such bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions and things which are specified and required by this act.

Sec. 6 Limitation on Character of Debt Incurred. Nothing in this act contained shall be so construed or interpreted as to authorize or permit any county court to incur a debt for and on behalf of said court of any kind or nature contrary to the provisions of the constitution of the state in relation to debt.
Sec. 7. Powers Conferred are Additional. This act shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby, and shall be regarded as supplementary and additional to powers conferred by other laws.

Sec. 8. Act to be Liberally Construed. This act, being necessary for the health, welfare and public requirements of the public of the several counties, it shall be liberally construed to effectuate the purpose thereof.

Sec. 9. Limitation on Amount of Debt; Increase of Levies; Notwithstanding the provisions of general law, any county court authorized by this act to issue bonds, may become indebted for the purposes in this act authorized, to an amount, including all other indebtedness, up to but not exceeding five per cent of the value of the taxable property in such county as shown by the last assessment thereof for state and county purposes next prior to the authorization of such bonds, subject to the levy limitations as provided in the constitution. For the purpose of effectuating the provisions and purposes of this act and for the purpose of obtaining revenue to pay said bonds and their interest, or for the purpose of redeeming said bonds in whole or in part, such court may and is authorized to increase the levies on each class of property not to exceed fifty per cent of the rates authorized by section ten, article eight, chapter sixty-seven, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, not to exceed three years, and may submit to the voters of the county the question of authorizing such increase, not to exceed three years, at the same time and as a part of the scheme to issue said bonds and provide for the payment thereof. Such increase of levies shall not continue for more than three years without submission to the voters, but the question of future levy increases for such purposes may be again submitted to the voters. Upon the question of issuance of such bonds, providing for the payment thereof, the increase of said levies, at least sixty per cent of the votes cast shall be in favor thereof, as provided by general law.

Sec. 10. Provisions of Act Severable. The provisions of this act are separable and not matters of mutual essential in-
An Act to amend article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to tax levies, by adding thereto a new section, to be designated section ten-a, providing that when all or any part of the levy rates apportioned to and authorized to be laid by county courts for debt purposes are not required for such purposes, the same may be used for general county current expense purposes.

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

Article 8. Levies.

Section 10-a. County debt levies used for current expenses.

Be it enacted by the Legislature of West Virginia:

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

Section 10-a. County Debt Levies Used for Current Expenses. When all or any part of the levy rates apportioned to county courts by section six of this article for debt purposes, and authorized to be laid for such purposes by section ten of this article, are not required therefor in a county, the county court of such county, with the consent in writing of
the tax commissioner, may then utilize, to such extent as may be necessary, the whole or balance, as the case may be, of such debt levy rates for general county current expense purposes.

CHAPTER 27
(Senate Bill No. 59—By Mr. Allen)

AN ACT to regulate the sale of agricultural lime.

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

Section

1. Definition of agricultural lime.
2. Statement on bag, etc., of agricultural lime offered for sale.
3. Certificate of registration.
4. Refusal to accept statement or to register; cancellation of registration.
5. Only one registration required.
6. Cards to purchasers showing registration statement.
7. Analysis of sample.
9. Reports of violations to prosecuting attorneys.
11. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. Definition of Agricultural Lime. The term "agricultural lime" as used in this act, or in any rule or regulation authorized hereunder, unless the context otherwise requires or a different meaning is specifically prescribed, shall mean any neutralizing substance containing calcium and magnesium in form, condition and quantity suitable for neutralizing soil acidity, excepting only the products of kilns, crushers and marl beds when sold at the bed, crusher or kiln without brand name or trade mark and delivered in bulk to users in the community in which said kiln, crusher or marl bed is located, who are presumed to know the quality of the product, and air-slacked lime waste, gas-house lime and tanners lime when sold as such.

Sec. 2. Statement of Bag, Etc., of Agricultural Lime Offered for Sale. Every bag, barrel, package or bulk shipment
of agricultural lime sold, offered or exposed for sale in this
state shall have branded thereon or conspicuously attached
thereto a statement showing: The name, brand or trade mark
of the agricultural lime; the net weight of the package; the
name and address of the manufacturer, producer or person re-
 sponsible for placing the goods on the market; the guaranteed
analysis of the agricultural lime. The analysis shall set forth
the minimum total neutralizing power, expressed as per cent
calcium carbonate equivalent, and the minimum percentages
of calcium oxide and magnesiu m oxide. In the case of all
ground forms of agricultural lime the analysis shall certify
the minimum percentages that will pass the twenty, sixty, and
one hundred mesh sieves.

Sec. 3. Certificate of Registration. Every manufacturer,
company or person who shall sell, offer or expose for sale, or
distribute, in this state, any agricultural lime, shall, before the
same is sold, offered or exposed for sale, obtain from the com-
mis sioner of agriculture a certificate of registration for each
brand of agricultural lime to be sold, offered or exposed for
sale. The commissioner of agriculture shall have full power,
and is hereby authorized and required, to cancel and withdraw
any certificate upon satisfactory evidence that any rules and
regulations covering the sale of agricultural lime have been
violated by the holder of the same. The commissioner shall not
issue any certificate of registration except upon the filing with
the commissioner of agriculture of a certified copy of the
statement specified in section two of this article for each
brand of agricultural lime, accompanied by a written state-
ment of the tonnage of all brands sold during the past
calendar year, and accompanied by a fee of fifteen dollars
for each brand registered by manufacturers, companies or
persons, which moneys shall become a part of the general
revenue of the state, and shall be appropriated to carry
out the provisions of this act. All certificates so issued
shall become null and void on December thirty-first, next
succeeding date of issuance thereof.

Sec. 4. Refusal to Accept Statement or to Register; Can-
cellation of Registration. The commissioner of agriculture
shall have the power to refuse to accept any certified state-
ment for any agricultural lime under a brand or trade name, or any information or statement accompanying same, which is misleading or deceptive or tends to mislead or deceive as to its quality or the constituents or materials of which it is composed. Any registration of any agricultural lime may be cancelled by the commissioner whenever it is shown that any statement upon which said registration was made or upon which the agricultural lime is sold is false or misleading. He shall also have the power to refuse to register more than one agricultural lime under the same name or brand when offered by the same manufacturer, jobber, importer, firm, association, corporation or person. Should any agricultural lime be registered in this state and it is afterward discovered that such registration is in violation of any of the provisions of this article, the commissioner shall have the power to cancel such registration. The commissioner shall have the power to refuse to allow any manufacturer, importer, jobber, firm, association, corporation or person to lower the guaranteed analysis of any brand of his or their agricultural lime during the term for which registered, unless satisfactory reasons are presented for making such change.

Sec. 5. Only One Registration Required. Whenever a manufacturer, importer, jobber, firm, association, corporation or person manufacturing or selling a brand of agricultural lime shall have filed the statement required by section three and the same has been registered by the commissioner, no other agent, importer, jobber, firm, association, corporation or person shall be required to file for registry such statement for such brand.

Sec. 6. Cards to Purchasers Showing Registration Statement. Whenever any agricultural lime as defined in section one is offered or exposed for sale in bulk or otherwise stored, the manufacturer, importer, jobber, firm, association, corporation or person keeping the same for sale shall keep on hand cards upon which shall be printed the statement required by the provisions of section two, and when such agricultural lime is sold at retail in bulk or in packages belonging to the purchaser, the manufacturer, jobber, firm, association, corporation or person shall furnish the purchaser, upon request, with a
Sec. 7. Analysis of Sample. The commissioner of agriculture in person or by deputy, shall take samples of any agricultural lime on sale in this state, and shall cause such samples to be analyzed according to the methods of the association of official agricultural chemists, official at the time, and publish the results of analysis from time to time. Any purchaser of agricultural lime within the state may take a sample of the same, in accordance with such rules and regulations as the commissioner of agriculture may establish, and forward the same for analysis, and if the commissioner has reason to believe that the agricultural lime from which the sample is taken is not as guaranteed in the statement attached to such agricultural lime, he shall cause the sample to be analyzed free of charge and certify the result of the analysis to the person forwarding such sample.

Sec. 8. Powers of Commissioner of Agriculture. The enforcement of the provisions of this article shall be vested in the state department of agriculture, and the commissioner of agriculture is authorized to make and enforce such rules and regulations as may be necessary to carry out the intent and purpose of this article. The commissioner is authorized in person or by deputy, to enter, during business hours, any store room or other place where agricultural lime is sold, offered or exposed for sale, for the purpose of taking samples therefrom for analysis.

Sec. 9. Reports of Violations to Prosecuting Attorneys. The commissioner of agriculture shall promptly report to the prosecuting attorney of the county in which the offense was committed any violations of this article and all failures to comply therewith.

Sec. 10. Penalties for Violation of Act. Any person who shall sell, offer or expose for sale any agricultural lime without first having secured certificate of registration as provided by section three of this act, or without having branded on or attached to the bag, barrel, package, or bulk shipment of such agricultural lime the statement required by section two of this article, or who shall receive or remove any agricultural lime
Sale of Cream and Butter

8 without its having been registered or branded as provided by
9 this article, shall be guilty of a misdemeanor, and upon convic-
10 tion thereof, shall be fined not less than twenty nor more
11 than one hundred dollars for the first offense, and not less
12 than fifty nor more than five hundred dollars for each sub-
13 sequent offense.

Sec. 11. Inconsistent Acts Repealed. All acts or parts of
2 acts inconsistent with this act are hereby repealed.

CHAPTER 28

(Sub. for Senate Bill No. 78—By Mr. Snyder, by request)

AN ACT to amend and reenact sections three and four, article
11 eleven, chapter nineteen of the code of West Virginia, one
12 thousand nine hundred thirty-one, relating to cream and
13 butter.

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

Article 11. Milk and Milk Products.

Section
3. Standards.
4. Enforcement of article; penalties for violations.

Be it enacted by the Legislature of West Virginia:

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

Section 3. Standards. It shall be unlawful for any person
2 to manufacture, offer or expose for sale or exchange, or have in
3 his possession with intent to sell, offer or expose for sale or
4 exchange, any milk or milk products that do not conform to
5 rules and regulations promulgated by the public health
6 council and to the following standards or definitions;
7 (a) Milk is the whole, fresh, clean, lacteal secretion ob-
8 tained by the complete milking of one or more healthy cows,
9 properly fed and kept, excluding that obtained within fifteen
SALE OF CREAM AND BUTTER

10 days before and five days after calving, or such longer period
11 as may be necessary to render the milk practically colostrum-
12 free, and shall contain not less than three per cent of milk
13 fat and not less than eight and one-half per cent of solids
14 not fat, and eleven and one-half per cent total solids;
15 (b) Pasteurized milk is milk that has been subjected to
16 a temperature not lower than one hundred and forty-five
17 degrees fahrenheit for not less than thirty minutes. Unless
18 it is bottled hot, it is promptly cooled to fifty degrees fahren-
19 heit, or lower;
20 (c) Skimmed milk is milk from which a part or all of
21 the cream has been removed, and contains not less than
22 nine per cent of milk solids;
23 (d) Buttermilk is the product that remains when fat is
24 removed from milk or cream, sweet or sour, in the process
25 of churning. It contains not less than eight per cent of milk
26 solids not fat;
27 (e) Condensed milk, evaporated milk, concentrated milk,
28 is the product resulting from the evaporation of a consider-
29 able portion of the water from the whole, fresh, clean, lacteal
30 secretion obtained by the complete milking of one or more
31 healthy cows, properly fed and kept, excluding that obtained
32 within fifteen days before and five days after calving, and
33 contains, all tolerances being allowed for, not less than
34 twenty-five and five-tenths per cent of total solids and not
35 less than seven and eight-tenths per cent of milk fat;
36 (f) Sweetened condensed milk, sweetened evaporated milk,
37 sweetened concentrated milk, is the product resulting from
38 the evaporation of a considerable portion of the water from
39 the whole, fresh, clean, lacteal secretion obtained by the com-
40 plete milking of one or more healthy cows, properly fed and
41 kept, excluding that obtained within fifteen days before and
42 five days after calving, to which sugar (sucrose) has been
43 added. It contains, all tolerances being allowed for, not less
44 than twenty-eight per cent of total milk solids and not less than
45 seven and eight-tenths per cent of milk fat;
46 (g) Condensed skimmed milk, evaporated skimmed milk,
47 concentrated skimmed milk, is the product resulting from the
48 evaporation of a considerable portion of the water from
skimmed milk, and contains, all tolerances being allowed for, not less than twenty per cent of milk solids;

(h) Sweetened condensed skimmed milk, sweetened evaporated skimmed milk, sweetened concentrated skimmed milk, is the product resulting from the evaporation of a considerable portion of the water from skimmed milk to which sugar (sucrose) has been added. It contains, all tolerances being allowed for, not less than twenty-eight per cent of milk solids;

(i) Dried milk is the product resulting from the removal of water from milk, and contains, all tolerances being allowed for, not less than twenty-six per cent of milk fat, and not more than five per cent of moisture;

(j) Dried skimmed milk is the product resulting from the removal of water from skimmed milk, and contains, all tolerances being allowed for, not more than five per cent of moisture;

(k) Sweet cream is that portion of milk, rich in milk fat, which rises to the surface of milk on standing or is separated from it by centrifugal force. It is fresh, clean. It shall contain not less than eighteen per cent of milk fat. Whipping cream is cream which shall contain not less than thirty per cent of milk fat. Cream for butter making shall be clean and contain no foreign matter and shall be free from filth, putrefaction, mold and/or decomposition.

(l) Butter is the clean, non-rancid product made by gathering in any manner the fat of fresh or ripened milk or cream into a mass, which also contains a small portion of the other milk constituents, with or without salt, and contains not less than eighty per cent of milk fat. The addition of vegetable butter coloring is permitted;

(m) Cheese is the sound solid, and ripened product made from milk or cream by coagulating the casein thereof with rennet or lactic acid, with or without the addition of ripening ferments and seasoning and contains, in the water-free substance, not less than fifty per cent of milk fat. The addition of harmless coloring matter is permitted;

(n) Ice cream is a frozen substance made from pure, wholesome milk products sweetened with sugar and may contain not to exceed one-half of one per cent of gelatin, vege-
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Table gum or other wholesome stabilizer. When wholesome and harmless flavoring extracts are used, ice cream shall contain not less than eight per cent of milk fats and ten per cent of milk solids not fats. When eggs, fruits, nuts, chocolate or cake are used, such reduction in the percentage of milk fat and milk solids not fat shall be allowed as may be caused by the addition of such ingredients.

Sec. 4. Enforcement of Article; Penalties for Violation. The enforcement of this article shall be vested in the state department of agriculture. The commissioner of agriculture shall have authority to make and enforce such rules and regulations as are necessary to carry out the provisions of this act and may accept on behalf of the state of West Virginia the laws, rules, regulations, and standards of the United States department of agriculture. Any person who shall violate any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than twenty-five nor more than fifty dollars for the first offense, and not less than fifty nor more than two hundred dollars for each subsequent offense.

CHAPTER 29
(Senate Bill No. 231—By Mr. Allen)

AN ACT to amend and reenact sections four, five and six, article seven, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to state aid for fairs.

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

Article 7. State Aid for Fairs.

Section

4. When fairs entitled to state aid.
5. Fair premium list.
6. Annual fair report.

Be it enacted by the Legislature of West Virginia:

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

Section 4. When Fairs Entitled to State Aid. Agricultural associations shall have the benefit of this article only after they shall have held annual exhibitions of the character designated by this article for three consecutive years next prior to the year such association applies for such benefits, but incorporated agricultural associations purchasing or leasing the grounds and buildings of an association entitled to the benefits of this article shall also be entitled to such benefits.

Other agricultural and industrial associations not entitled to aid under the provisions of this article may receive aid from the state of West Virginia, if funds are available, when in the judgment of the commissioner of agriculture such exhibitions are in the interest of the agricultural and industrial development of the state.

The commissioner of agriculture is hereby empowered and authorized to assist in the promotion and operation of an annual state fair and Four-H regional fairs, and, when funds are available, to expend the same for their support.

Sec. 5. Fair Premium List. Any agricultural association claiming the benefits of this article shall, each year, file with the state department of agriculture a copy of its annual premium list, not later than one month before the opening of its exhibition, and the commissioner of agriculture shall have the right to inspect and supervise all exhibits of such exhibition. The commissioner of agriculture is hereby empowered to make and enforce rules and regulations for the purpose of carrying out the provisions of this act.

Sec. 6. Annual Fair Report. On or before the fifteenth day of November in each year an association applying for the benefits of this article shall file with the commissioner of agriculture a statement, sworn to by its president and attested by its secretary, with its corporate seal attached, setting forth the name of the corporation, the time and place of the exhibition, and the amount of premiums actually paid, giving the names and addresses of the persons to whom such premiums were paid, and in what class, kind, and department.
CHAPTER 30
(Senate Bill No. 326—By Mr. Haines)

AN ACT to amend and reenact sections one, four and seven, chapter one, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, and section one, chapter three of said acts, relating to deeds of trust for agricultural loans.

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

CHAPTER
1. Deeds of Trust for Agricultural Loans.
3. Deeds of Trust by Cooperative Associations.

Be it enacted by the Legislature of West Virginia:

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

Chapter 1. DEEDS OF TRUST FOR AGRICULTURAL LOANS.

Section
1. Lien of deed of trust to secure agricultural loans.
4. May include replacements or increases; provisions not invalidating.
7. Fees for docketing and releasing.

Section 1. Lien of Deed of Trust to Secure Agricultural Loans. Any person may enter into an agreement with and borrow funds from, a production credit association organized under the farm credit act of one thousand nine hundred thirty-three, a regional agricultural credit corporation, the reconstruction finance corporation, or the government of the United States or any department, agency, instrumentality or officer thereof, a federal intermediate credit bank, or any institution which has made arrangements to discount there-with, or to procure funds therefrom on the security of, the obligations of the borrower, and any cooperative association or corporation composed of agricultural producers and/or
13 purchasers may enter into an agreement with, and borrow
14 from, any bank for cooperatives organized under said farm
15 credit act of one thousand nine hundred thirty-three and/or
16 from any federal intermediate credit bank, and/or from the
17 government of the United States or any department, agency,
18 instrumentality or officer thereof, and the repayment of any
19 funds so borrowed, and/or of any then existing indebtedness
to any such institution may be secured by chattel deed of
20 trust upon personal property of any kind, character or de-
21 scription owned at the time of the execution of the chattel
22 deed of trust, or property of the same class as is covered by
23 the chattel deed of trust or mortgage if acquired by the
24 grantor subsequent to the execution of the chattel deed of
25 trust, and prior to its extinguishment, or upon any crop or
26 crops, annual or perennial including fruit crops, grown or
27 growing, either already planted or to be planted and/or
28 maturing within one year from the execution of such chattel
29 deed of trust. Such chattel deed of trust shall be a lien upon
30 the property therein described from the time of the docketing
31 of such chattel deed of trust as provided for herein, which
32 lien shall be good and valid against, and superior to all rights
33 of subsequent creditors, purchasers, mortgagees, and other
34 lienors and encumbrancers, and any of them. For the pur-
35 pose of this article, all such property shall be deemed to be
36 personal property and encumberable and mortgageable as
37 such.

Sec. 4. May Include Replacements or Increases; Provisions
2 Not Invalidating. Such chattel deed of trust may include
3 replacements or exchanges of any of the encumbered property
4 therein described and all increase of animals and livestock
5 of all kinds. No chattel deed of trust of livestock and/or
6 hay, grain or other foodstuffs shall be invalid in any par-
7 ticular because provision is contained therein, or the bene-
8 ficiary consents, (a) that the grantor may use and consume
9 food, forage and fodder crops in preserving and preparing
10 for market the livestock covered thereby; or (b) that the
11 grantor may sell a portion of the property to meet farming
12 or harvesting expenses; or (c) that the grantor may use or
13 sell a portion of the property to meet subsistence or emer-
14 gency needs of himself and his family; or (d) that the grantor
15 may use or sell a portion of the property to preserve the
16 remainder from deterioration or spoilage.

Sec. 7. Fees for Docketing and Releasing. The county
2 court clerks are entitled to receive a fee of fifty cents for the
3 docketing and entering of chattel deed of trust filed and
4 docketed under and pursuant to this chapter, and a fee of
5 twenty-five cents for each assignment and each release filed
6 and indexed pursuant to this article: Provided, That the fee
7 of twenty-five cents for release shall be paid by the grantor
8 of the chattel deed of trust released.

Chapter 3. DEEDS OF TRUST BY COOPERATIVE
ASSOCIATIONS.

Section 1. To whom deeds of trust may be given; property covered by.

Section 1. To Whom Deeds of Trust May be Given; Prop-
2 erty Covered by. Any cooperative association or corporation,
3 organized under the laws of this state, or under the laws
4 of the United States, or qualified to do business in this state,
5 and qualified as a cooperative association under the laws
6 of this state and/or under the laws of the United States,
7 may give as security for any loan or loans obtained from
8 any bank for cooperatives, organized under the act of con-
9 gress known as the "Farm Credit Act" of one thousand
10 nine hundred thirty-three, or for any loan or loans obtained
11 from any federal intermediate credit bank, organized under
12 an act of congress known as the "Agricultural Credits Act"
13 of one thousand nine hundred twenty-three, or for any loan
14 or loans obtained from the government of the United States
15 or any department, agency, instrumentality or officer thereof,
16 a chattel mortgage or deed of trust covering stocks of goods
17 or inventories, or other things in bulk, but changing in
18 specifics, in which case the lien of such mortgage or deed
19 of trust shall be lost as to all articles disposed of by the
20 mortgagor prior to the extinguishment of such mortgage, but
21 shall attach to any articles purchased to supply their places.
AN ACT to amend article seven, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto the following sections, prohibiting the selling, shipping, consigning, offering for sale, or having in possession with intent to sell, as fresh, any meat, poultry, game, fish, or shell fish, which contains any substance or article possessing a preservative or coloring character or action; making the same a misdemeanor; and prescribing the penalties and punishment for violations, and the means and methods of procedure for the enforcement thereof.

(Passed March 2, 1937; in effect ninety days from passage. Became a law without the approval of the Governor.)

Article 7. Pure Food and Drugs.

Section
7. Selling, etc., of meats containing preservatives; penalties.
8. Artificial coloring of meats and meat products.
10. Adulterated articles to be forfeited and destroyed.
11. Conflicting acts repealed; pending actions.

Be it enacted by the Legislature of West Virginia:

That article seven, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto the following sections:

Section 7. Selling, etc., of Meats Containing Preservatives; Penalties. If any person shall sell, ship, consign, offer for sale, expose for sale, or have in possession with intent to sell, as fresh, any meat, poultry, game, or shell fish which contains any substance, article or ingredient possessing a preservative character or action, or which contains any coal-tar dye, or any other substance or ingredient possessing a coloring character or action, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than one hundred dollars and all costs, or shall be imprisoned
in the county jail not less than sixty days nor more than ninety days, or both, at the discretion of the court. Upon a second conviction he shall be fined not less than two hundred dollars nor more than four hundred dollars, or be imprisoned not less than sixty days nor more than four months, or both, at the discretion of the court: Provided, That nothing in this section shall be construed to prohibit the use of ice as a preservative, or the use of refrigeration.

Sec 8. Artificial Coloring of Meat and Meat Products. All meats, meat products and meat food products, when manufactured, sold or exposed for sale, for human consumption in this state, shall not be artificially colored with any dye, chemical or other substance, except natural wood smoke, sugar, salt, pepper, saltpeter and borax.

Sec. 9. Enforcement of Act. The state department of health shall be charged with the enforcement of all the provisions of this act and all penalties which may be recovered shall be paid to the treasurer of the state of West Virginia general fund.

Sec. 10. Adulterated Articles to be Forfeited and Destroyed. All articles adulterated in violation of the provisions of this act shall be forfeited by the owner and destroyed by the state department of health.

Sec. 11. Conflicting Acts Repealed; Pending Actions. All acts or parts of acts inconsistent with this act, or any part thereof, are hereby repealed, but the repeal of said inconsistent acts shall in no way interfere with or prevent the prosecution to final termination of any action or prosecution now pending, or which may hereafter be commenced for any violation of said act which has already been committed.
CHAPTER 32

(House Bill No. 13—By Mr. Brotherton)

AN ACT to regulate the sale of fresh eggs; prohibit the sale of inedible eggs; require that cold storage, preserved and incubated eggs be marked; making and filing invoices required by wholesaler and retailer, and prescribing penalties for violation of this act.

[Passed March 8, 1937; in effect ninety days from passage. Became a law without the approval of the Governor.]

Section
1. Standards for sale of eggs.
2. Standards of interior quality of eggs.
3. Tolerance in grading.
4. Quality to be determined by candling.
5. When eggs unfit for human food.
6. Sale of preserved or cold storage eggs.
7. Invoice of sale to show grade.
8. Enforcement of act.
9. Examinations in enforcement.
10. Offenses and penalties.
12. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. Standards for Sale of Eggs. No person shall sell, offer for sale, or advertise for sale shell eggs as fresh eggs, or under any words or description of similar import such as "new laid eggs," "hennery eggs," "day-old eggs," "good eggs," "select eggs," "strictly fresh eggs", et cetera, or any eggs which are not fresh eggs as determined by the standards of quality for fresh eggs hereinafter set forth and by the regulations of the West Virginia department of agriculture pertaining thereto for fancy grade eggs and grade "A" eggs, with such tolerances as are hereinafter allowed for these grades. Eggs sold, offered, exposed or advertised for sale as West Virginia fancy grade eggs or as West Virginia grade "A" eggs shall in fact be such eggs as have been produced within the state of West Virginia, and shall meet the same standards of quality as required for fancy grade eggs and grade "A" eggs, respectively.
All eggs not meeting the above requirements but still fit for human food shall be declared and sold simply as eggs.

Sec. 2. Standards of Interior Quality of Eggs. These standards of interior quality in the case of fancy grade eggs require that the air cell must not exceed one-eighth inch in depth, localized regular; the yolk may be not more than dimly visible; free from any visible germ development and/or other defects; the white must be firm and clear. In the case of grade "A" eggs the air cell must not exceed two-eighths of an inch in depth, localized regular; the yolk may be visible; the white must be firm and clear; the germ must show no visible development.

Sec. 3. Tolerance in Grading. A tolerance of ten per cent net is allowed in each of these grades which must be in the grade next lower, which, in respect to fancy grade is grade "A" and in the grade "A" is as prescribed in the United States Department of Agriculture, grade for "U. S. Standard." In retail lots, at least ten eggs in each dozen shall conform to the requirements set forth for the respective grade, as indicated on the package, and not more than two eggs in any dozen may be in the quality next lower than the grade indicated on the package, in accordance with the grades for eggs promulgated by the West Virginia Department of Agriculture, the same being based on the standards for inferior quality as prescribed by the United States Department of Agriculture.

Sec. 4. Quality to be Determined by Candling. In all cases the final determination as to the meeting of these grade requirements shall be made by candling, inasmuch as this is the only known method of determining quality at the present time.

Sec. 5. When Eggs Unfit for Food. For the purpose of this act an egg shall be deemed unfit for human food if it be addled or moldy; if it contains a black rot, a white rot, or a blood ring; if it has an adherent yolk, or a bloody or green white, or if it be incubated beyond the blood-ring stage, or if it consists in whole or in part of a filthy, decomposed or putrid substance, and it shall be unlawful for any person to
Sec. 6. Sale of Preserved or Cold Storage Eggs. No person shall sell or offer for sale any shell eggs which have been preserved by any artificial process, or which have been kept in storage for more than fifteen days in any place where the temperature is reduced by means of artificial refrigeration, or which have been incubated for twenty-four hours or more, without affixing on two sides of the crate or receptacle containing such eggs, in black Roman letters on a light-colored ground, not less than one inch high and one-half inch wide, the words "cold storage eggs," "preserved eggs," or "incubated eggs," as the case may be. The package or receptacle in which such eggs are displayed for sale, shall bear a sign having on it the words "cold storage eggs," "preserved eggs," or "incubated eggs," as the case may be. Such sign shall be printed in Roman letters not less than one-half inch high and one-fourth inch wide and in a color that contrasts with a light-colored ground. The containers used for delivering such eggs shall have printed thereon, on two sides, the words "cold storage eggs," "preserved eggs," or "incubated eggs," as the case may be. Containers known as "three by four eggs" cartons shall have the designating words printed in color contrasting with the light ground of the container, in Roman letters not less than one-half inch high and three-eighths of an inch wide. The containers known as "two by six eggs" cartons or bags shall have the designating words printed in color contrasting with the light ground of the container, in Roman letters not less than one-half inch high and one-fourth inch wide. Wholesalers shall declare on their invoices whether the eggs sold are "cold storage eggs," "preserved eggs," or "incubated eggs." No eggs shall be brought into this state that have been held in cold storage or preserved by any process or incubated, unless the package containing such eggs shall be marked or labeled in accordance with the provisions of this section. All markings required by this section shall be done in a manner approved by the commissioner of agriculture.

Sec. 7. Invoice of Sale to Show Grade of Eggs. Every person, other than the producer, in selling eggs to a retailer,
shall furnish to such retailer an invoice showing the grade, quality, or classification of such eggs according to the standards prescribed in this act. A copy of such invoice shall be kept on file by the person selling and the retailer at their respective places of business for a period of thirty days, and shall be available and open for inspection at all reasonable times by accredited inspectors or representatives of the commissioner of agriculture.

Sec. 8. Enforcement of Act. The commissioner of agriculture is charged with the enforcement of the provisions of this act and of the regulations thereunder, and for this purpose is authorized to designate standards relative to exterior quality and egg size or weight and to make and promulgate such rules and regulations as may be deemed necessary by him in carrying out the provisions of this act.

Sec. 9. Examinations in Enforcement. In carrying out the provisions of this act, the commissioner of agriculture, his employees or agents, are authorized to enter, on any business day, during the usual business hours, any store, market, or other building or place where eggs are sold or offered for sale, and to make such examination as is necessary to determine the classification and quality of eggs sold, offered for sale or advertised as defined in this act.

Sec. 10. Offenses and Penalties. Any person who violates any provision of this act, or the regulations made under this act for carrying out its provisions, or who fails or refuses to comply with, or who answers or reports falsely in response to any requirements of this act, or who wilfully interferes with the commissioner of agriculture, his employees or agents, in the carrying out of his duties prescribed in this act, shall be guilty of a misdemeanor, and upon conviction thereof, shall for the first offense be fined ten dollars, and in the discretion of the court, confined in the county jail not more than ten days, and for the second or any subsequent offense shall be fined not less than twenty-five dollars nor more than fifty dollars, and in the discretion of the court confined in the county jail not less than ten days nor more than thirty. Each day on which this act is violated shall constitute a separate violation.
Sec. 11. **Provisions Severable.** If any clause, sentence, paragraph or part of this act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid such judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its operation to the clause, sentence, paragraph or any part thereof directly involved in the controversy in which said judgment has been rendered.

Sec. 12. **Inconsistent Acts Repealed.** All previous acts and parts of acts inconsistent with this act are hereby repealed.

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**CHAPTER 33**

(Senate Bill No. 168—By Mr. Smith, by request)

AN ACT to amend article nine, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto section three-a, relating to financial statements by county boards of education.

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

**Article 9. School Finances.**

Section 3-a. Publication of financial statement by county board of education.

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

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

Section 3-a. **Publication of Financial Statement by County Board of Education.** The county board of education of every county, within four weeks after the beginning of each fiscal year, shall prepare and cause to be published, one time, on a form to be prescribed by the state tax commissioner and the state superintendent of free schools, in two newspapers of opposite politics, if there be such within the county, or if none...
be published therein, (or if no such paper will publish the
same for the price fixed by law therefor), the same shall be
posted at each place of voting in the county, a statement of
the receipts and expenditures of said board during the pre-
vious fiscal year, showing the total receipts and the general
sources from which received, the name of each person receiv-
ing money from any fund, together with the total amount re-
ceived during the fiscal year and the purpose for which paid,
arranging same under appropriate heads, the cost of publish-
ing such statement to be paid by the board from the mainten-
ance fund of said board. Such statement shall also show a
specific statement of all debts of the board, the purpose for
which each debt was contracted, its due date, and to what
date the interest thereon has been paid.

Before the levy term of every such board, a copy of the
published statement herein required shall be filed by the board
with the state tax commissioner and with the state superin-
tendent of free schools.

CHAPTER 34

(House Bill No. 66—By Mr. Oldham)

AN ACT to amend and reenact sections one, two, three and ten,
article four, chapter eighteen of the code of West Virginia,
one thousand nine hundred thirty-one, as amended by chap-
ter eight, acts of the Legislature, first extraordinary session,
one thousand nine hundred thirty-three, relating to election,
qualifications, removal and duties of county superintendents.

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

Article 4. County Superintendent of Schools.

Section
  1. Election; term.
  2. Qualifications; health certificate.
  3. Removal.
  10. Duties.

Be it enacted by the Legislature of West Virginia:

That sections one, two, three and ten, article four, chapter
eighteen of the code of West Virginia, one thousand nine hundred
thirty-one, as amended by chapter eight, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 1. Election; Term. The county superintendent shall be elected by the county board of education for a term of not more than four years. The superintendent shall be elected on the first Monday in July and take office immediately thereafter. The president of the board of education, immediately upon the election of the superintendent, shall certify the election to the state superintendent. The superintendent in office at the time of the passage of this act shall continue in office until the expiration of his present term.

Sec. 2. Qualifications and Health Certificate. The superintendent, at the time of his election, shall have a bachelor’s degree, including at least twelve hours’ credit in school administration and supervision, and at least five years’ experience in public school teaching and/or supervision, within the state of West Virginia.

The superintendent shall file with the president of the board, before entering upon the discharge of his duties, a health certificate from a reputable physician, on a form prescribed by the state superintendent of schools, certifying that he is physically fit for the duties of his office and that he has no infectious or contagious diseases.

Sec. 3. Removal. The board may remove the superintendent from office for immorality, incompetency, insubordination, intemperance or wilful neglect of duty; but the charges shall be stated in writing and the superintendent shall be given an opportunity to be heard by the board upon not less than ten days’ notice: Provided, however, That a superintendent so suspended, shall not forfeit his salary for the period of suspension.

Sec. 10. Duties. The county superintendent shall:
(1) Act as the chief executive officer of the board, and execute under the direction of the state board all its educational policies.
(2) Receive applications of teachers and submit them to the board of education together with his recommendations.
(3) Assign, transfer, suspend, promote or dismiss teachers and all other school employees of the district, subject only to the approval of the board.

(4) Organize and attend district institutes; organize and direct reading circles and boys' and girls' clubs.

(5) Close temporarily a school when conditions are detrimental to the health, safety or welfare of the pupils.

(6) Certify all expenditures and monthly payrolls of teachers and employees.

(7) Be the secretary of the board and attend all meetings of the board or its committees, except when his tenure, salary or administration is under consideration.

(8) Administer oaths and examine under oath witnesses in any proceedings pertaining to the schools of the district, and have the testimony reduced to writing.

(9) Exercise all other authority granted by this chapter or required by the board or state board.

(10) Act in case of emergency as the best interests of the schools demand.

CHAPTER 35

(House Bill No. 12—By Messrs. Matthews and Taylor, of Fayette)

AN ACT to amend article four, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section designated section six-a, imposing filing fees on candidates in primary elections and providing for the disposition of moneys collected from such fees.

[Passed March 1, 1937; in effect ninety days from passage. Became a law without the approval of the Governor.]


Section 6-a. Filing fees; disposition of.

Be it enacted by the Legislature of West Virginia:

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

Section 6-a. **Filing Fees; Disposition of.** Every person, who becomes a candidate for nomination for office in any primary election, shall, at the time of filing the certificate of announcement as required in section six of this article, pay a filing fee as follows:

(a) A candidate for United States senator, for member of the United States house of representatives, for Governor and for all other state elective offices shall pay a fee equivalent to one per cent of the annual salary of the office for which the candidate announces.

(b) A candidate for member of the house of delegates shall pay a fee of ten dollars, and a candidate for state senator shall pay a fee of twenty dollars.

(c) A candidate for sheriff, prosecuting attorney, circuit clerk, county clerk, assessor, member of the county court and member of the county board of education shall pay a fee equivalent to one per cent of the annual salary of the office for which the candidate announces.

Provided, however, That the fee in no case shall be less than five dollars. A candidate for any other county office shall pay a fee of five dollars.

(d) A candidate for justice of the peace in districts having a population of five thousand or less, shall pay a fee of ten dollars; in districts having a population of more than five thousand and not more than twenty-five thousand, fifteen dollars, and in districts having more than twenty-five thousand population, each candidate shall pay a fee of twenty-five dollars.

(e) A candidate for constable in districts having a population of five thousand or less, shall pay a fee of five dollars; in districts having a population of more than five thousand and not more than twenty-five thousand, ten dollars, and in all other districts fifteen dollars.

(f) Delegates and alternate delegates to the national convention of any political party shall pay the following filing fees:
A candidate for delegate-at-large shall pay a fee of twenty dollars; a candidate for alternate delegate-at-large shall pay a fee of ten dollars; a candidate for delegate from a congressional district shall pay a fee of ten dollars; and a candidate for alternate delegate from a congressional district shall pay a fee of five dollars.

(g) Candidates for members of political executive committees and other political committees shall pay the following filing fees:

A candidate for member of a state executive committee of any political party shall pay a fee of ten dollars; a candidate for member of a county executive committee of any political party shall pay a fee of one dollar; and a candidate for member of a congressional, senatorial or judicial committee of any political party shall pay a fee of one dollar.

Candidates filing for an office to be filled by the voters of one county shall pay the filing fee to the clerk of the circuit court, and candidates filing for an office to be filled by the voters of more than one county shall pay the filing fee to the secretary of state at the time of filing their certificates of announcement, and no certificate of announcement shall be received until the filing fee is paid.

All moneys received by the circuit clerk from such fees shall be credited to the general county fund. Moneys received by the secretary of state from fees paid by candidates for offices to be filled by all the voters of the state shall be deposited in a special fund for that purpose and shall be apportioned and paid by him to the several counties on the basis of population, and that received from candidates from a district or judicial circuit of more than one county shall be apportioned to the counties comprising the district or judicial circuit in like manner. When such moneys are received by sheriffs, it shall be credited to the general county fund.

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

All acts or parts of acts inconsistent or in conflict with the provisions of this act are hereby repealed.
CHAPTER 36
(House Bill No. 49—By Mr. Long)

AN ACT to amend article seven, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section to be designated section twenty-a, relating to offenses by corporations at elections, and prescribing penalties therefor.

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

Article 7. Offenses and Penalties.

Section
20-a. Employer unlawfully influencing political action of employee.

Be it enacted by the Legislature of West Virginia:

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

Section 20-a. Employer Unlawfully Influencing Political Action of Employee. Any employer or agent of any employer or corporation, who prints or authorizes to be printed upon any pay envelope or who distributes directly or indirectly, or gives directly to any employee any statement intended or calculated to influence the political action of his employees for any candidate for public office, or posts or exhibits in the establishment, any posters, placards, or handbills, or delivers verbally any message to any such employees, containing any threat, notice or information that if any such candidate is elected or defeated, work in the establishment will cease, in whole or in part, or other threats expressed or implied, intended to influence the political opinions or votes of his employees, shall be guilty of corrupt practices, and upon conviction shall be fined not less than one thousand dollars nor more than twenty thousand dollars or be imprisoned in jail not more than one year, or both.
AN ACT to amend and reenact section five, article six, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended by section five, article six, chapter five, acts of the Legislature, regular session, one thousand nine hundred thirty-three, relating to unlawful devices and methods of fishing.

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

Article 6. Fish and Frogs.

Section 5. Unlawful devices and methods of fishing.

Be it enacted by the Legislature of West Virginia:

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

Section 5. Unlawful Devices and Methods of Fishing. It shall be unlawful for any person to kill, catch or attempt to kill or catch, any fish in this state, at any time, by means of seines, nets, or traps, or devices of like nature, unless written consent shall have been given by the commission for the use of such seines as hereinafter provided; or by draining water out of any pool, pond or stream, with the intent to take or injure the fish therein, or by the use of dynamite, or any like explosive or other explosive mixture, or any poisonous drug or substance; or by the use of electricity or lime; or by the use of a gun, rifle, pistol or any other like weapon; or by any other means whatsoever, except by rod, line and hook or hooks with natural or artificial lures: Provided, That any person may employ a seine not more than six feet in length for the purpose of securing minnows other than salmon, bass,
HUNTING AND FISHING LICENSES

shad, pike, perch and trout for use in angling. It shall be unlawful for any person, firm or corporation to sell any seine more than six feet in length without immediately reporting same to the commission, giving the name and address of the purchaser: Provided further, That any person may catch or attempt to catch other than game fish by means or use of a dip net or may engage in the practice of dipping for other than game fish in all of the streams in Jefferson and Berkeley counties directly tributary to the Potomac river, with a dip net having a mesh of not less than one and one-quarter inches by one and one-quarter inches: Provided further, That the commission may at any time catch fish with nets, seines, or otherwise for the purpose of propagation and protection of the fish of this state. It shall be unlawful for any person at any time to kill or catch any game fish by gigging, snaring, spearing, gaffing or grappling, but the commission may, upon application by petition signed by two hundred citizens of any county showing the reason or necessity therefor, permit gigging of non-game fish in any stream or part of such stream in said county, provided said petitioners are holders of fishing license, except that no person shall gig during April, May and June.

CHAPTER 38

AN ACT to amend and reenact section three, article three; to repeal sections two, three and four, article seven, and to enact sections two to two-g, inclusive, three to three-c, inclusive, and four to four-b, inclusive, article seven, all of chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to hunting and fishing licenses.

[Passed March 11, 1937; in effect January 1, 1938. Became a law without the approval of the Governor.]

Article


Be it enacted by the Legislature of West Virginia:

That sections two, three and four, article seven, chapter twenty
of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed and that section three, article three of said chapter be amended and reenacted, and sections two to two-g, inclusive, three to three-c, inclusive, and four to four-b, inclusive, be added to article seven, all of chapter twenty of the code, to read as follows:

**Article 3. General Provisions Respecting Game, Birds, Fish and Frogs.**

Section 3. When unlawful for alien to hunt or fish or possess firearms.

Section 3. *When Unlawful for Alien to Hunt or Fish or Possess Firearms.* No person, not a citizen of the United States of America, shall at any time hunt, pursue, kill, or catch any wild animals or wild birds or wild fowl in this state, or have in his possession firearms of any kind, or fish for, capture, catch or kill any fish, frogs or turtles in this state, except when licensed as provided by section two-f, article seven, of this chapter.

**Article 7. Hunting and Fishing Licenses.**

Section 2. Licenses conditioned on payment of fees; age exemption.

2-a. Class A; resident state-wide hunting and fishing license.
2-b. Class B; nonresident state-wide hunting and fishing license.
2-c. Class C; nonresident state-wide fishing license.
2-d. Class D; tourist one-day fishing license.
2-e. Class E; Ohio River hunting and fishing license.
2-f. Class F; alien state-wide hunting and fishing license.
2-g. Class G; courtesy state-wide hunting and fishing license.
3. Application for; to whom made.
3-a. Application for in person or by mail; swearing to.
3-b. Form of application.
3-c. Issuance of license and badge.
4. Supplies furnished county clerks.
4-a. Carrying and display of license and badge.
4-b. Use of license fees.

Section 2. *Licenses Conditioned on Payment of Fees; Age Exemption.* Licenses to hunt and fish shall be of the kinds and classes and shall be conditioned upon the payment of the fees, set forth in sections two-a through two-g of this article. A resident of the state sixty years of age or over shall not be required to obtain a license to fish with hook and line in the waters of the state.
Sec. 2-a. Class A; Resident State-wide Hunting and Fishing License. A class A license shall be a state-wide hunting and fishing license and shall entitle the licensee to hunt and fish in all counties of the state. It shall be issued only to a citizen of the United States who is a resident of this state. The fee shall be two dollars.

Sec. 2-b. Class B; Non-resident State-wide Hunting and Fishing License. A class B license shall be a non-resident hunting and fishing license and shall entitle the licensee to hunt and fish in all counties of this state. It shall be issued only to a citizen of the United States who is a non-resident of this state. The fee shall be fifteen dollars.

Sec. 2-c. Class C; Non-resident State-wide Fishing License. A class C license shall be a non-resident fishing license and shall entitle the licensee to fish in all counties of this state. It shall be issued only to a citizen of the United States who is a non-resident of this state. The fee shall be five dollars.

Sec. 2-d. Class D; Tourist One Day Fishing License. A class D license shall be a tourist fishing license, and shall entitle the licensee to fish in all counties of this state for a period not to exceed one day. The license shall state in hours the exact time at which the license expires, and shall be returned by the licensee to the office of issue within forty-eight hours after expiration. It shall be issued only to a citizen of the United States who is a non-resident of this state. The fee shall be one dollar.

Sec. 2-e. Class E; Ohio River Hunting and Fishing License. A class E license shall be an Ohio River hunting and fishing license and shall entitle the licensee to hunt and fish in the Ohio River only. It shall be issued only to a citizen of the United States who is a resident of Ohio. The fee shall be one dollar.

Sec. 2-f. Class F; Alien State-wide Hunting and Fishing License. A class F license shall be an alien hunting and fishing license and shall entitle the licensee to hunt and fish in all counties of this state. It shall be issued only to an alien who is not a resident of the United States, and to whom a
permit has been issued in accordance with section three of this article. The fee shall be fifteen dollars.

Sec. 2-g. Class G; Courtesy State-wide Hunting and Fishing License. A class G license shall be a courtesy hunting and fishing license and shall entitle the licensee to hunt and fish in all counties of this state. It shall be issued by the director upon application made to him and without fee to:

1. Members and agents of the United States biological survey and bureau of fisheries.
2. Members of state commissions of other states extending similar courtesies.
3. Diplomatic and consular representatives of foreign countries.
4. Persons engaged in scientific research.

Not more than fifty courtesy licenses shall be issued in one year.

Sec. 3. Application For; To Whom Made. A person eligible for a license under section two-a to two-f, inclusive, of this article shall make application as follows:

1. A resident of this state shall make application to the clerk of the county court in which he resides.
2. A non-resident of this state may make application to the clerk of the county court of any county in this state.
3. A citizen of Ohio applying for a class E license shall make application to the clerk of the county court of a county bordering upon the state of Ohio.
4. An alien, making application for a class F license, shall first apply to the director for the issuance of a permit to obtain a class F license. The director shall issue the permit if he is satisfied that the applicant is legally entitled to a class F license and has bona fide intentions to exercise the license in accordance with the provisions of this chapter. After issuance of the permit an alien may apply to the clerk of the county court of any county in the state for the issuance of a class F license in the same manner as a non-resident of this state. A permit shall remain in force until revoked.

Sec. 3-a. Application for in Person or by Mail; Swearing to. Application may be made in person or by mail. The
The applicant shall make out and sign the application under oath. The application shall be sworn to in the presence of a person authorized to take affidavits. In the case of a non-resident, the application may be sworn to before a person authorized to take affidavits in the state of the applicant's residence, and such person shall affix his seal to the application.

Sec. 3-b. *Form of Application.* Applications shall be in the form and shall contain the information prescribed by the director. The application shall state at least the following:

1. The class of license for which application is made.
2. The name, age, occupation or profession of the applicant.
3. The residence and citizenship of the applicant.
4. The weight, height, color of hair, and eyes, and the complexion of the applicant.

Sec. 3-c. *Issuance of License and Badge.* The clerk of the county court to whom application is made shall issue the license if, to the best of his knowledge and information,

1. The applicant is legally entitled to obtain the license.
2. The proper license is applied for.
3. The application form contains the required information and the information is accurate.
4. The fee has been paid.

A license shall be signed by the clerk of the county court, shall bear the seal of the county court of the county where issued, and shall bear a serial number. With the license the clerk shall deliver the badge provided for by section four of this article.

The clerk shall keep an accurate record, in the form prescribed by the director, of all licenses issued and of all moneys collected as license fees.

Sec. 4. *Supplies Furnished County Clerks.* The director shall prepare and furnish to the clerks of the county courts of the state:
1. Application form for each class of license authorized by this article.

2. Licenses to be issued to applicants.

3. Badges to be issued with licenses, without additional fee. The badge shall show the class of license.

Sec. 4-a. Carrying and Displaying of License and Badge.

A licensee shall, while exercising the privilege of the license, have his license and the badge upon his person at all times. The licensee shall display the badge upon his outer garment so as to be plainly visible.

Sec. 4-b. Use of License Fees. At least forty per cent of the moneys derived from the sale of hunting and fishing licenses shall be used for the protection and propagation of game and fish.

CHAPTER 39

(Senate Bill No. 101—By Mr. Randolph)

AN ACT to amend and reenact chapter fifteen, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-six, relating to the West Virginia commission on interstate cooperation.

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

Section

1. Senate committee on interstate cooperation.

2. House committee on interstate cooperation.

3. Governor’s committee on interstate cooperation.

4. West Virginia commission on interstate cooperation.

5. Terms of senate and house committees.

6. Function of commission.

7. Commission may establish delegations and committees.

8. Names of committees and commission.


Be it enacted by the Legislature of West Virginia:

That chapter fifteen, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-six, be amended and reenacted to read as follows:
Section 1. *Senate Committee on Interstate Cooperation.* There is hereby established a standing committee of the senate of this state, to be officially known as the "senate committee on interstate cooperation," and to consist of five senators. The members and the chairman of this committee shall be designated in the same manner as is customary in the case of the members and chairman of other standing committees of the senate. In addition to the regular members, the president of the senate shall be ex officio an honorary non-voting member of this committee.

Sec. 2. *House Committee on Interstate Cooperation.* There is hereby established a similar standing committee of the house of delegates of this state, to be officially known as the "house committee on interstate cooperation," to consist of five members of the house of delegates. The members and the chairman of this committee shall be designated in the same manner as is customary in the case of the members and chairman of other standing committees of the house of delegates. In addition to the regular members, the speaker of the house of delegates shall be ex officio an honorary non-voting member of this committee.

Sec. 3. *Governor's Committee on Interstate Cooperation.* There is hereby established a committee of administrative officials and employees of this state to be officially known as the "governor's committee on interstate cooperation," and to consist of five members. Its members shall be: the budget director or the corresponding official of this state, ex officio; the attorney general, ex officio; and three other administrative officials or employees to be designated by the governor. If there is uncertainty as to the identity of any of the ex officio members of this committee, the governor shall determine the question and his determination and designation shall be conclusive. The governor shall appoint one of the five of this committee as its chairman, in addition to the regular members, the governor shall be ex officio an honorary non-voting member of this committee.

Sec. 4. *West Virginia Commission on Interstate Cooperation.* There is hereby established the West Virginia com-
mission on interstate cooperation. This commission shall be composed of fifteen regular members, namely:

The five members of the senate committee on interstate cooperation;

The five members of the house committee on interstate cooperation; and

The five members of the governor’s committee on interstate cooperation.

The governor, the president of the senate and the speaker of the house of delegates shall be ex officio honorary non-voting members of this commission. The chairman of the governor’s committee on interstate cooperation shall be ex officio chairman of this commission.

Sec. 5. Terms of Senate and House Committees. The said standing committee of the senate and the said standing committee of the house of delegates shall function during the regular sessions of the legislature and also during the interim periods between such sessions; their members shall serve until their successors are designated; and they shall respectively constitute for this state the senate council and house council of the American legislators’ association. The incumbency of each administrative member of this commission shall extend until the first day of February next following his appointment, and thereafter until his successor is appointed.

Sec. 6. Function of Commission. It shall be the function of this commission:

(1) To carry forward the participation of this state as a member of the council of state governments.

(2) To encourage and assist the legislative, executive, administrative and judicial officials and employees of this state to develop and maintain friendly contact by correspondence, by conference, and otherwise, with officials and employees of the other states of the federal government, and of local units of government.

(3) To endeavor to advance cooperation between this state and other units of government whenever it seems advisable to do so by formulating proposals for, and by facilitating:

(a) The adoption of compacts,

(b) The enactment of uniform or reciprocal statutes,

(c) The adoption of uniform or reciprocal administrative
rules and regulations,
(d) The informal cooperation of governmental offices with one another,
(e) The personal cooperation of governmental officials and employees with one another, individually,
(f) The institution and consummation of a federal long-range program of flood control, meeting the requirements of the federal flood control acts of one thousand nine hundred thirty-six or other acts of congress relative thereto,
(g) The interchange and clearance of research and information, and
(h) Any other suitable process.
(4) In short, to do all such acts as will, in the opinion of this commission, enable this state to do its part, or more than its part, in forming a more perfect union among the various governments in the United States and in developing the council of state governments for that purpose.

Sec. 7. Commission May Establish Delegations and Committees. The commission shall establish such delegations and committees as it deems advisable, in order that they may confer and formulate proposals concerning effective means to secure intergovernmental harmony, and may perform other functions for the commission in obedience to its decisions. Subject to the approval of the commission, the member or members of each such delegation or committee shall be appointed by the chairman of the commission. State officials or employees who are not members of the commission on interstate cooperation may be appointed as members of any such delegation or committee, but private citizens holding no governmental position in this state shall not be eligible. The commission may provide such other rules as it considers appropriate concerning the membership and the functioning of any such delegation or committee. The commission may provide for advisory boards for itself and for its various delegations and committees, and may authorize private citizens to serve on such boards.

Sec. 8. Names of Committees and Commission. The committees and the commission established by this act shall be informally known, respectively, as the ‘‘senate cooperation
4 committee,'" the "house cooperation committee,'" the "gov-
5 ernor's cooperation committee'" and the "West Virginia co-
6 operation commission.'"

Sec. 9. Provisions of Act Severable. If any clause or other
2 portion of this act is held to be invalid, that decision shall
3 not affect the validity of the remaining portions of this act.
4 The legislature hereby declares that all such remaining por-
5 tions of this act are severable, and that it would have enacted
6 such remaining portions if the invalid portions had not been
7 included in this act.

CHAPTER 40
(Senate Bill No. 102—By Mr. Randolph)

AN ACT to make uniform the law on fresh pursuit and authoriz-
ing this state to cooperate with other states therein.

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

Section
1. Arrest within state by nonresident peace officer.
2. Procedure upon arrest.
3. Construction of section one.
5. "Fresh pursuit" defined.
6. Secretary of state to certify act.

Be it enacted by the Legislature of West Virginia:

Section 1. Arrests Within State by Nonresident Peace Of-
2 ficer. Any member of a duly organized state, county or mu-
3 nicipal peace unit of another state of the United States who
4 enters this state in fresh pursuit, and continues within this
5 state in such fresh pursuit, of a person in order to arrest him
6 on the ground that he is believed to have committed a felony
7 in such other state, shall have the same authority to arrest and
8 hold such person in custody, as has any member of any duly
9 organized state, county or municipal peace unit of this state
to arrest and hold in custody a person on the ground that he
is believed to have committed a felony in this state.

Sec. 2. Procedure Upon Arrest. If an arrest is made in
this state by an officer of another state in accordance with the
provisions of section one of this act he shall without unneces-
sary delay take the person arrested before a magistrate of the
county in which the arrest was made, who shall conduct a
hearing for the purpose of determining the lawfulness of the
arrest. If the magistrate determines that the arrest was lawful
he shall commit the person arrested to await for a reasonable
time the issuance of an extradition warrant by the governor of
this state. If the magistrate determines that the arrest was
unlawful he shall discharge the person arrested.

Sec. 3. Construction of Section One. Section one of this
act shall not be construed so as to make unlawful any arrest
in this state which would otherwise be lawful.

Sec. 4. "State" Includes District of Columbia. For the
purpose of this act the word "state" shall include the District
of Columbia.

Sec. 5. "Fresh Pursuit" Defined. The term "fresh pur-
suit" as used in this act shall include fresh pursuit as defined
by the common law, and also the pursuit of a person who has
committed a felony or who is reasonably suspected of having
committed a felony. It shall also include the pursuit of a person
suspected of having committed a supposed felony, though no
felony has actually been committed, if there is reasonable
ground for believing that a felony has been committed.
Fresh pursuit as used herein shall not necessarily imply
instant pursuit, but pursuit without unreasonable delay.

Sec. 6. Secretary of State to Certify Act. It shall be the
duty of the secretary of state (or other officer) to certify a
copy of this act to the executive department of each of the
states of the United States.

Sec. 7. Provisions Severable. If any part of this act is for
any reason declared void, it is declared to be the intent of
this act that such invalidity shall not affect the validity of
the remaining portions of this act.

Sec. 8. How Act Cited. This act may be cited as the "uni-
form act on fresh pursuit."
CHAPTER 41

(Senate Bill No. 103—By Mr. Randolph)

AN ACT to amend and reenact chapter thirty-six, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, relating to securing the attendance of witnesses from this or other states in criminal proceedings.

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

Section 1. Definitions.
2. Summoning witness in this state to testify in another state.
3. Summoning witness in another state to testify in this state.
4. Exemption from arrest or service of process.
5. Construction of act.
7. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Definitions. "Witness" as used in this act shall include a person whose testimony is desired in any proceeding or investigation by a grand jury or in a criminal action, prosecution or proceeding.
2. The word "state" shall include any territory of the United States, and the District of Columbia.
3. The word "summons" shall include a subpoena, order or other notice requiring the appearance of a witness.

Sec. 2. Summoning Witness in This State to Testify in Another State. If a judge of a court of record in any state which by its laws has made provision for commanding persons within that state to attend and testify in this state certifies under the seal of such court that there is a criminal prosecution pending in such court, or that a grand jury investigation has commenced or is about to commence, that a person being within this state is a material witness in such prose-
cution, or grand jury investigation, and that his presence will be required for a specified number of days, upon presentation of such certificate to any judge of a court of record in the county in which such person is, such judge shall fix a time and place for a hearing, and shall make an order directing the witness to appear at a time and place certain for the hearing.

If at a hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or a grand jury investigation in the other state, and that the laws of the state in which the prosecution is pending, or grand jury investigation has commenced or is about to commence [and of any other state through which the witness may be required to pass by ordinary course of travel], will give to him protection from arrest and the service of civil and criminal process, he shall issue a summons, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending, or where a grand jury investigation has commenced or is about to commence at a time and place specified in the summons. In any such hearing the certificate shall be prima facie evidence of all the facts stated therein.

If said certificate recommends that the witness be taken into immediate custody and delivered to any officer of the requesting state to assure his attendance in the requesting state, such judge may, in lieu of notification of the hearing, direct that such witness be forthwith brought before him for said hearing; and the judge at the hearing being satisfied of the desirability of such custody and delivery, for which determination the certificate shall be prima facie proof of such desirability may, in lieu of issuing subpoena or summons, order that said witness be forthwith taken into custody and delivered to an officer of the requesting state.

If the witness, who is summoned as above provided, after being paid or tendered by some properly authorized person the sum of ten cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and five dollars for each day, that he is required
to travel and attend as a witness, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this state.

Sec. 3. Summoning Witness in Another State to Testify in This State. If a person in any state, which by its laws has made provisions for commanding persons within its borders to attend and testify in criminal prosecutions, or grand jury investigations commenced or about to commence, in this state, is a material witness in a prosecution pending in a court of record in this state, or in a grand jury investigation which has commenced or is about to commence, a judge of such court may issue a certificate under the seal of the court stating the facts and specifying the number of days the witness will be required. Said certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of this state to assure his attendance in this state. This certificate shall be presented to a judge of a court of record in the county in which the witness is found. If the witness is summoned to attend and testify in this state he shall be tendered the sum of ten cents a mile for each mile by the ordinary travel route to and from the court where the prosecution is pending, and five dollars for each day that he is required to travel and attend as a witness. A witness who has appeared in accordance with the provisions of the summons shall not be required to remain within this state a longer period of time than the period mentioned in the certificate, unless otherwise ordered by the court. If such witness, after coming into this state, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for in the punishment of any witness who disobeys a summons issued from a court of record in this state.

Sec. 4. Exemption from Arrest or Service of Process. If a person comes into this state in obedience to a summons directing him to attend and testify in this state he shall not while in this state pursuant to such summons be subject to arrest or the service of process, civil or criminal, in conne-
tion with matters which arose before his entrance into this
state under the summons.
If a person passes through this state while going to another
state in obedience to a summons to attend and testify in that
state or while returning therefrom, he shall not while so
passing through this state be subject to arrest or the service
of process, civil or criminal, in connection with matters which
arose before his entrance into this state under the summons.

Sec. 5. Construction of Act. This act shall be so inter-
preted and construed as to effectuate its general purpose to
make uniform the law of the states which enact it.

Sec. 6. How Act Cited. This act may be cited as "Uniform
Act to Secure the Attendance of Witnesses from without a
State in Criminal Proceedings."

Sec. 7. Inconsistent Acts Repealed. All acts or parts of
acts inconsistent with this act are hereby repealed.

Sec. 8. Provisions Severable. If any provision of this act
or the application thereof to any person or circumstances is
held invalid, such invalidity shall not affect other provisions
or applications of the act which can be given effect without
the invalid provision or application, and to this end the
provisions of this act are declared to be severable.

CHAPTER 42

(Senate Com. Sub. for Senate Bill No. 104—Originating in the
Senate Committee on the Judiciary)

AN ACT to amend and reenact sections seven, eight, nine, ten,
eleven, twelve and thirteen, article one, chapter five of the
code of West Virginia, one thousand nine hundred thirty-one,
relating to uniform procedure on interstate extradition.

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

Article 1. The Governor.

Section
7. Extradition of person charged with crime in another state.
8. Warrant of governor.
9. Hearing after arrest; arrest of fugitive from another state.
10. Return of fugitive from this state.
11. Precedence of criminal proceedings; waiver of extradition.
12. How costs paid; complainant responsible for.
13. Construction of section; how cited.

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

That sections seven, eight, nine, ten, eleven, twelve and thirteen, article one, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 7. **Extradition of Person Charged With Crime in Another State.** (a) Where appearing in this article, the term "governor" includes any person performing the functions of governor by authority of the law of this state. The term "executive authority" includes the governor, and any person performing the functions of governor in a state other than this state. The term "state," referring to a state other than this state, includes any other state or territory, organized or unorganized, of the United States of America.

(b) Subject to the provisions of this article, the provisions of the constitution of the United States controlling, and any and all acts of congress enacted in pursuance thereof, it is the duty of the governor of this state to have arrested and delivered up to the executive authority of any other state of the United States any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this state: **Provided,** That the demand or application of the executive authority of such other state is accompanied by an affidavit or sworn evidence that the demand or application is made in good faith for the punishment of crime, and not for the purpose of collecting a debt or pecuniary mulct, or of removing the alleged fugitive to a foreign jurisdiction with a view to serve him there with civil process.

(c) No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing alleging, except in cases arising under subdivision (g) of this section, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment
found, or by information supported by affidavit, in the
state having jurisdiction of the crime, or by a copy of an
affidavit made before a magistrate or justice there, together
with a copy of any warrant which was issued thereupon;
or by a copy of a judgment of conviction or a sentence
imposed in execution thereof, together with a statement by
the executive authority of the demanding state that the per-
son claimed has escaped from confinement or has broken
the terms of his bail, probation or parole. The indictment,
information, or affidavit made before the magistrate or justice
must substantially charge the person demanded with having
committed a crime under the law of that state; and the
copy of indictment, information, affidavit, judgment of con-
viction or sentence must be authenticated by the executive
authority making the demand.

(d) When a demand shall be made upon the governor
of this state by the executive authority of another state
for the surrender of a person so charged with crime, the
governor may call upon the attorney general, any prosecut-
ing officer, or the department of public safety, in this state
to investigate or assist in investigating the demand, and to
report to him the situation and circumstances of the person
so demanded, and whether he ought to be surrendered.

(e) When it is desired to have returned to this state a
person charged in this state with crime, and such person
is imprisoned or is held under criminal proceedings then
pending against him in another state, the governor of this
state may agree with the executive authority of such other
state for the extradition of such person before the con-
clusion of such proceedings or his term of sentence in such
other state, upon condition that such person be returned
to such other state at the expense of this state as soon as
the prosecution in this state is terminated.

(f) The governor of this state may also surrender on
demand of the executive authority of any other state any
person in this state who is charged in the manner provided
in subdivision (b) of section ten of this article, with having
violated the laws of the state whose executive authority is
making the demand, even though such person left the di-
manding state voluntarily.
The governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state charged in such other state in the manner provided in subdivision (c) of this section, with committing an act in this state, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand, and the provisions of this article not otherwise inconsistent, shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.

Sec. 8. Warrant of Governor. (a) If the governor decides that the demand should be complied with, he shall sign a warrant of arrest which shall be sealed by the secretary of state with the great seal of this state, and be directed by the governor to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

(b) Such warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where he may be found within the state and to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provision of this article to the duly authorized agent of the demanding state.

(c) The governor may recall the warrant of arrest or may issue another warrant whenever he deems proper.

(d) Every such peace officer or other person empowered to make the arrest, shall have the same authority, in arresting the accused, to command assistance therein, as peace officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

Sec. 9. Hearing After Arrest; Arrest of Fugitive From Another State. (a) No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he shall first be taken forthwith before a judge of a court of record in this state, who shall inform him of the demand made for his surrender and of the crime with which he is charged, and
that he has the right to demand and procure legal counsel and
if the prisoner or his counsel shall state that he or they desire
to test the legality of his arrest, the judge of such court of rec-
ord shall fix a reasonable time to be allowed him within which
to apply for a writ of habeas corpus. When such writ is applied
for, notice thereof, and of the time and place of hearing there-
on, shall be given to the prosecuting attorney of the county in
which the arrest is made and in which the accused is in cus-
tody, and to the said agent of the demanding state.

(b) Any officer who shall deliver to the agent for extra-
dition of the demanding state a person in his custody under
the governor’s warrant, in wilful disobedience to subdivision
(a) of this section, shall be guilty of a misdemeanor, and
on conviction shall be fined not more than one thousand
dollars or be imprisoned not more than six months, or both.

(c) The officer or persons executing the governor’s war-
rant of arrest, or the agent of the demanding state to whom
the prisoner may have been delivered, may, when necessary,
confine the prisoner in the jail of any county or city through
which he may pass; and the keeper of such jail shall receive
and safely keep the prisoner until the officer or person
having charge of him is ready to proceed on his route,
such officer or person being chargeable with the expense of
keeping.

The officer or agent of a demanding state to whom a
prisoner may have been delivered following extradition pro-
ceedings in another state, or to whom a prisoner may have
been delivered after waiving extradition in such other state,
and who is passing through this state with such a prisoner
for the purpose of immediately returning such prisoner to
the demanding state may, when necessary, confine the
prisoner in the jail of any county or city through which he
may pass; and the keeper of such jail shall receive and
safely keep the prisoner until the officer or agent having
charge of him is ready to proceed on his route, such officer
or agent, however, being chargeable with the expense of
keeping: Provided, That such officer or agent shall pro-
duce and show to the keeper of such jail satisfactory written
evidence of the fact that he is actually transporting such
prisoner to the demanding state after a requisition by the
executive authority of such demanding state. Such prisoner shall not be entitled to demand a new requisition while in this state.

(d) Whenever any person within this state shall be charged on the oath of any credible person before any judge or justice of this state with the commission of any crime in any other state and, except in cases arising under subdivision (g), section seven of this article, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, or whenever complaint shall have been made before any judge or justice in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under subdivision (g), section seven of this article, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, and is believed to be in this state, the judge or justice shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein, wherever he may be found in this state, and to bring him before the same or any other judge, justice, or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

(e) The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant, upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or by imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or justice with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section; and thereafter his answer shall be heard as if he had been arrested on a warrant.
(f) If from the examination before the judge or justice it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under subdivision (g), section seven of this article, that he has fled from justice, the judge or justice must, by a warrant reciting the accusation, commit him to the county jail for such a time not exceeding thirty days, and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused give bail as provided in subdivision (g) of this section, or until he shall be legally discharged.

(g) Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or justice in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the governor of this state.

(h) If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant or bond, a judge or justice may discharge him or may recommit him for a further period not to exceed sixty days, or a judge or justice may again take bail for his appearance and surrender as provided in subdivision (g) of this section, but within a period not to exceed sixty days after the date of such new bond.

(i) If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond, the judge, or justice, by proper order, shall declare the bond forfeited and order his immediate arrest without warrant if he be within this state. Recovery may be had on such bond in the name of the state as in the case of other bonds given by the accused in criminal proceedings within this state.

(j) If a criminal prosecution has been instituted against such person under the laws of this state and is still pend-
ing, the governor, in his discretion, either may surrender
him on demand of the executive authority of another state
or hold him until he has been tried and discharged or con-
victed and punished in this state: Provided, That any
person under recognizance to appear as a witness in any
criminal proceeding pending in this state may in the discre-
tion of the governor be surrendered on demand of the
executive authority of another state or be held until such
criminal proceeding pending in this state has been de-
termined: Provided further, That any person who was in
custody upon any execution, or upon process in any suit,
at the time of being apprehended for a crime charged to
have been committed without the jurisdiction of this state,
shall not be delivered up without the consent of the plain-
tiff in such execution or suit, until the amount of such
execution shall have been paid, or until such person shall
be otherwise discharged from such execution or process.

(k) The guilt or innocence of the accused as to the crime
of which he is charged may not be inquired into by the
governor or in any proceeding after the demand for extra-
dition accompanied by a charge of crime in legal form as
provided in this article shall have been presented to the
governor, except as it may be involved in identifying the
person held as the person charged with the crime.

Sec. 10. Return of Fugitive From This State. (a) Whenever
the governor of this state shall demand a person charged with
crime or with escaping from confinement, or breaking the
terms of his bail, probation, or parole in this state, from the
executive authority of any other state, or from the chief jus-
tice or an associate justice of the supreme court of the Dis-
trict of Columbia authorized to receive such demand under
the laws of the United States, he shall issue a warrant under
the great seal of this state affixed thereon by the secretary of
state, to some agent, commanding him to receive the person so
charged if delivered to him and to convey him to the proper
officer of the county in this state in which the offense was
committed.

(b) When the return to this state of a person charged with
crime in this state is required, the prosecuting attorney shall
present to the governor his written application for a requisi-
tion for the return of the person charged, in which application
shall be stated the name of the person so charged, the crime
charged against him, the approximate time, place and circum-
stances of its commission, the state in which he is believed to
be, including the location of the accused therein, at the time
the application is made, and certifying that, in the opinion of
the said prosecuting attorney, the ends of justice require the
arrest and return of the accused to this state for trial and that
the proceeding is not instituted to enforce a private claim.

When the return to this state is required of a person who
has been convicted of a crime in this state and has escaped
from confinement or broken the terms of his bail, probation
or parole, the prosecuting attorney of the county in which
the offense was committed, the parole board, or the warden
of the institution or sheriff of the county, from which escape
was made, shall present to the governor a written applica-
tion for a requisition for the return of such person, in which
application shall be stated the name of the person, the
crime of which he was convicted, the circumstances of his
escape from confinement or of the breach of the terms of
his bail, probation or parole, the state in which he is be-
lieved to be, including the location of the person therein at
the time application is made.

The application shall be verified by affidavit, shall be
executed in duplicate and shall be accompanied by two
certified copies of the indictment returned, or information
and affidavit filed, or of the complaint made to the judge
or justice, stating the offense with which the accused is
charged, or of the judgment of conviction or of the sent-
ence. The prosecuting attorney, parole board, warden or
sheriff may also attach such further affidavits and other
documents in duplicate as he shall deem proper to be submit-
ted with such application. One copy of the application,
with the action of the governor indicated by endorsement
thereon, and one of the certified copies of the indictment,
complaint, information, and affidavits, or of the judgment
of conviction or of the sentence shall be filed in the office
of the secretary of state, to remain of record in that office.
The other copies of all papers shall be forwarded with the
governor’s requisition.
Sec. 11. Precedence of Criminal Proceedings; Waiver of Extradition. (a) A person brought into this state by, or after waiver of, extradition based on a criminal charge, shall not be subject to service of personal process in civil actions until he has been convicted in the criminal proceedings, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

(b) Any person arrested in this state charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of his bail, probation or parole may waive the issuance and service of the warrant provided for in subsections (a) and (d), section eight, of this article, and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record, within this state a writing which states that he consents to return to the demanding state: Provided, That before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights with respect to the issuance and service of a warrant of extradition and with respect to obtaining a writ of habeas corpus as provided for in subsection (a), section nine, of this article.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor of this state and be filed by him in the office of the secretary of state. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent: Provided, That nothing in this subdivision shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights, or duties of the officers of the demanding state or of this state.

(c) Nothing in this article contained shall be deemed to constitute a waiver by this state of its right, power or
privilege to try such demanded person for crime committed within this state, or of its right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within this state, nor shall any proceedings had under this article which result in, or fail to result in, extradition, be deemed a waiver by this state of any of its rights, privileges or jurisdiction in any way whatsoever.

(d) After a person has been brought back to this state by, or after waiver of, extradition proceedings, he may be tried in this state for other crimes which he may be charged with having committed here as well as that specified in the requisition for his extradition.

Sec. 12. How Costs Paid; Complainant Responsible For. When the punishment of the crime shall be the confinement of the criminal in the penitentiary, the governor may pay out of the civil contingent fund any reasonable expenses incurred. In all other cases such expenses shall be paid out of the county treasury of the county wherein the crime is alleged to have been committed.

The complainant in each case shall be answerable for all the actual costs and charges, and for the support in prison of any person so committed; and, if the charge for his support in prison shall not be paid when demanded, the jailer may discharge such person from prison.

Sec. 13. Construction of Section; How Cited. The provisions of sections seven to thirteen of this article shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those states which enact such provisions, and if any provision thereof, or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications thereof which can be given effect without the invalid provision or application, and to this end the provisions thereof are declared to be severable.

Sections seven to thirteen of this article may be cited as the "Uniform Criminal Extradition Act."

All acts and parts of acts inconsistent with the provisions of this act and not expressly repealed herein are hereby repealed.
CHAPTER 43
(Senate Bill No. 105—By Mr. Randolph)

AN ACT providing that the state of West Virginia may enter into a compact with any state or states of the United States for mutual helpfulness in relation to persons convicted of crime or offenses who may be on probation or parole.

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

Section
1. Compacts between states concerning probationers or parolees.

Be it enacted by the Legislature of West Virginia:

Section 1. Compacts Between States Concerning Probationers or Parolees. The governor of this state is hereby authorized and directed to execute a compact on behalf of the state of West Virginia with any state or states of the United States legally joining therein, in form substantially as follows:

A compact entered into by and among the contracting states, signatories hereto, with the consent of the congress of the United States of America, granted by an act entitled 'An act granting the consent of congress to any two or more states to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and for other purposes.'

The contracting states solemnly agree:
(1) That it shall be competent for the duly constituted judicial and administrative authorities of a state party to this compact, (herein called 'sending state'), to permit any person convicted of an offense within such state and placed on probation or released on parole to reside in any other state party to this compact, (herein called 'receiving state'), while on probation or parole, if
(a) Such person is in fact a resident of or has his family
residing within the receiving state and can obtain employment there;

(b) Though not a resident of the receiving state and not having his family residing there, the receiving state consents to such person being sent there.

Before granting such permission, opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person.

A resident of the receiving state, within the meaning of this section, is one who has been an actual inhabitant of such state continuously for more than one year prior to his coming to the sending state and has not resided within the sending state more than six continuous months immediately preceding the commission of the offense for which he has been convicted.

(2) That each receiving state will assume the duties of visitation of and supervision over probationers or parolees of any sending state and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees.

(3) That duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any person on probation or parole. For that purpose no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice are hereby expressly waived on the part of states party hereto, as to such persons. The decision of the sending state to retake a person on probation or parole shall be conclusive upon and not reviewable within the receiving state: Provided, however, that if at the time when a state seeks to retake a probationer or parolee there should be pending against him within the receiving state any criminal charge, or he should be suspected of having committed within such state a criminal offense, he shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense.
(4) That the duly accredited officers of the sending state will be permitted to transport prisoners being retaken through any and all states parties to this compact, without interference.

(5) That the governor of each state may designate an officer who, acting jointly with like officers of other contracting states, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this compact.

(6) That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

(7) That this compact shall continue in force and remain binding upon each executing state until renounced by it. The duties and obligations hereunder of a renouncing state shall continue as to parolees or probationers residing therein at the time of withdrawal until retaken or finally discharged by the sending state. Renunciation of this compact shall be by the same authority which executed it, by sending six months’ notice in writing of its intention to withdraw from the compact to the other states party hereto.

Sec. 2. Provisions of Act Severable. If any section, sentence, subdivision or clause of this act is for any reason held invalid or to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

Sec. 3. How Act Cited. This act may be cited as the “uniform act for out-of-state parolee supervision.”

CHAPTER 44

(House Bill No. 99—By Mr. Erhard)

AN ACT to amend and reenact sections sixty-four and sixty-five, article two, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, relating to explosives,
preparation of explosives for shots, hauling explosives into the mine, and firing shots.

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

Article 2. Coal Mines.

Section 64. Explosives; preparations for shots; hauling explosives into mine.
Section 65. Firing shots.

Be it enacted by the Legislature of West Virginia:

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

Section 64. Explosives; Preparation for Shots; Hauling Explosives Into Mine. In no case shall more than one kind of explosive be used in the same drill hole, and every blasting hole shall be tamped, except as is necessary to accomplish cushion blasting, full from the explosive to the mouth, and no coal dust or inflammable material shall be used for tamping. Cushion blasting shall not be allowed in any case unless written permission is granted by the department of mines. Dynamite shall not be used in blasting coal. No fuses or squibs shall be used unless permission is granted by the department of mines, and in no case shall fuses be used of less length than the drill hole.

Where permissible explosives are used the detonators and explosives shall be kept separate; and no black powder, high explosives or detonators shall be hauled on any trip operated by electric haulage motors, unless inclosed in non-conducting boxes approved by the department of mines.

Trips hauling explosives shall not carry workmen other than those operating the trip, and explosives shall not be hauled into or out of the mine within five minutes preceding or following any trips in which men are handled; and when traveling with air current, the explosive trip shall precede; if against the air current, the main trip shall precede.

Sec. 65. Firing Shots. No shots shall be fired in any place known to liberate explosive gas until such place has been
properly examined by a competent person who is designated for that purpose, and no shots shall be fired in any place where gas is detected until such gas has been removed by means of ventilation. No person shall fire more than one shot at a time unless permitted by the department of mines, and after firing such shot or shots he shall not return to the working place until the smoke has been cleared away; and before starting to work he shall make a careful examination as to the condition of the roof, and do what is necessary to make the place safe before beginning to load coal.

CHAPTER 45
(House Bill No. 100—By Mr. Erhard)

AN ACT to amend and reenact section seventy-five, article two, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, relating to the weighing of coal.

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

Article 2. Coal Mines.

Section 75. Weighing coal before screening; payment for mining coal.

Be it enacted by the Legislature of West Virginia:

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

Section 75. Weighing Coal Before Screening; Payment for Coal. All coal so mined and paid for by weight shall be weighed before it is screened, and shall be paid for according to the weight so ascertained, at such price per ton as may be agreed on by such owner or operators and the miners who mined the same. And coal mined and paid for by measure shall be paid for according to the number of bushels marked
upon each car in which it is removed from the mine, and before it is screened, and the price paid for each bushel so ascertained shall be such as may be agreed upon as afore-
said.

CHAPTER 46
(Senate Bill No. 134—By Mr. Snyder)

AN ACT to amend and reenact section eleven, article eight, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, relating to traffic regulations and laws of the road.

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

Article 8. Traffic Regulations and Laws of the Road.

Section

11. Passing street cars and school buses; penalty.

Be it enacted by the Legislature of West Virginia:

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

Section 11. Passing Street Cars and School Buses; Penalty.

2 An operator of a vehicle shall bring the same to a full stop not less than five feet from any street car or school bus which has stopped to receive or discharge passengers, and shall remain standing until such car or school bus has taken on or dis-charged such passenger: Provided, however, That the operator may pass such street car or school bus where a safety zone is established by the proper authorities: Provided further, That the operator, if he slows down and proceeds cautiously, may pass such street car or school bus at a distance of at least eight feet therefrom when outside the limits of an incorporated town or city. Any person driving or oper-ating a motor vehicle in violation 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, or imprisoned in the county jail not less than one week nor more than six months, or both, in the discretion of the court or justice trying the case.
CHAPTER 47

(HOUSE BILL NO. 189—BY MESSRS. SLAVEN AND SKINNER)

AN ACT to amend article three, chapter fifty-six of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto section thirty-one, to provide for the service of process on non-resident operators of motor vehicles in legal actions involving accidents or collisions on the streets or highways of West Virginia by appointing the auditor as attorney for the service of process upon such non-resident operators.

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

Article 3. Writs, Process and Order of Publication.

Section 31. Actions by or against non-resident operators of motor vehicles involved in highway accidents.

Be it enacted by the Legislature of West Virginia:

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

Section 31. Actions by or Against Nonresident Operators of Motor Vehicles Involved in Highway Accidents. The operation by a non-resident, or by his duly authorized agent, of a motor vehicle upon a public street, road or highway of this state, shall be deemed equivalent to an appointment by such non-resident of the state auditor, or his successor in office, to be his true and lawful attorney upon whom may be served all lawful process in any action or proceeding against him, in any court of record in this state, including action or proceeding brought by non-resident plaintiff or plaintiffs, growing out of any accident or collision in which such non-resident may be involved while so operating or so permitting to be operated a motor vehicle on any such street, road or highway, and such operation shall be a signification of his agreement
that any such process against him, which is served in the
manner hereinafter provided, shall be of the same legal
force and validity as process duly served upon him in this
state.

(a) At the time of filing praecipe and before process
is issued thereon, the plaintiff, or some one for him, shall
execute a bond in the sum of one hundred dollars before
the clerk of the court, with surety to be approved by said
clerk, conditioned that on failure of the plaintiff to prevail
in the action that he will reimburse the defendant, or cause
him to be reimbursed, the necessary expense incurred by
him in and about the defense of the action in this state, and
upon the issue of process the clerk will certify thereon
that said bond has been given and approved. Service of
such process shall be made by leaving the original and a
copy thereof with the certificate aforesaid of the clerk
thereon, and a fee of two dollars with said auditor, or in
his office, and said service shall be sufficient upon said non-
resident: Provided, That notice of such service and a copy
of the process shall forthwith be sent by registered mail,
return receipt requested, by said auditor to the defendant,
and the defendant’s return receipt signed by himself or
his duly authorized agent or the registered mail so sent
by said auditor is refused by the addressee and the reg-
istered mail is returned to said auditor, or to his office,
showing thereon the stamp of the post office department
that delivery has been refused, is appended to the orig-
inal process and filed therewith in the clerk’s office of the
court from which process issued. The court may order such
continuances as may be reasonable to afford the defendant
opportunity to defend the action.

(b) The fee of two dollars, remitted to the said auditor
at the time of service, shall be taxed in the costs of the pro-
ceeding and said auditor shall pay into the state treasury all
funds so coming into his hands from such service. The aud-
itor shall keep a record in his office of all such process and
the day and hour of service thereof.

(c) The following words and phrases, when used in this
article, shall, for the purpose of this article and unless a dif-
ferent intent on the part of the Legislature be apparent from
the context, have the following meanings:

(1) "Duly authorized agent" shall mean and include
among others a person who operates a motor vehicle in this
state for a non-resident as defined in this section and act, in
pursuit of business, pleasure, or otherwise, or who comes into
this state and operates a motor vehicle therein for, or with
the knowledge or acquiescence of, such non-resident; and shall
include among others a member of the family of such non-
resident or a person who, at the residence, place of business
or post office of such non-resident, usually receives and re-
cceipts for mail addressed to such non-resident.

(2) "Motor vehicle" shall mean and include any self-
propelled vehicle, including motorcycle, tractor, and trailer,
not operated exclusively upon stationary tracks.

(3) "Non-resident" shall mean any person who is not a
resident of this state, and among others includes a non-resi-
dent firm, partnership, corporation or voluntary association.

(4) "Non-resident plaintiff or plaintiffs" shall mean a
non-resident of this state who institutes an action in a court
in this state having jurisdiction against a non-resident of this
state in pursuance of the provisions of this article.

(5) "Street," "road" or "highway" shall mean the en-
tire width between property lines of every way or place of
whatever nature when any part thereof is open to the use of
the public, as a matter of right, for purposes of vehicular
traffic.

(d) The provision for service of process herein is cumu-
lative and nothing herein contained shall be construed as a
bar to the plaintiff in any action from having process in such
action served in any other mode and manner provided by law.

(e) This act shall not be retroactive and the provisions
thereof shall not be available to a plaintiff in a cause of action
arising or an accident occurring prior to the date this act
takes effect.
AN ACT to amend article nineteen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section to be designated section thirteen-a, relating to the driver or operator of a motor vehicle transporting explosives and providing penalties for violations.

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


Section 13-a. Stops at railroad crossings by motor vehicles carrying explosives.

Be it enacted by the Legislature of West Virginia:
That article nineteen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new section to be designated section thirteen-a, to read as follows:

Section 13-a. Stops at Railroad Crossings by Motor Vehicle Carrying Explosives. No driver or operator of a motor vehicle upon the "public roads" as defined in section thirteen, article nineteen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, transporting gasoline, gunpowder, dynamite, nitro-glycerine and/or other explosives, shall approach any railroad crossing without first coming to a full stop at a distance of not less than ten feet from said crossing, and after restarting said motor vehicle he shall proceed at a restricted rate of speed until he shall have crossed said railroad tracks.

Anyone violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars nor more than fifty dollars, and shall be subject to revocation of his operator's license as provided in section twenty-eight, article six of this chapter.
AN ACT to amend and reenact section one, article seven, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter sixty-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, relating to certificate of title for motor vehicles, and imposing a tax upon the certification of such titles.

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

Article 7. Certificate of Title.

Section 1. Certificate of title; application; tax and fee.

Be it enacted by the Legislature of West Virginia:

That section one, article seven, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter sixty-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, be amended to read as follows:

Section 1. Certificate of Title; Application; Tax and Fee. Certificates of registration of any vehicle or registration plates therefor, whether original issues or duplicates, shall not be issued or furnished by the state road commission or any other officer charged with such duty, unless the applicant therefor already has received, or shall at the same time make application for and be granted, an official certificate of title of such motor vehicle. Such application shall be upon a blank form to be furnished by the state road commission, and shall contain a full description of the motor vehicle, which description shall contain the manufacturer’s number, the motor number and any distinguishing marks, together with a statement of the applicant’s title and of any liens or encumbrances upon such mo-
tor vehicles, the names and addresses of the holders of such liens, and such other information as the state road commission may require. The application shall be signed and sworn to by the applicant. A tax is hereby imposed upon the privilege of effecting the certification of title of each motor vehicle in the amount equal to two per cent of the value of said motor vehicle at the time of such certification. If the motor vehicle is new, the actual purchase price or consideration to the purchaser thereof shall be the value of said vehicle; if the motor vehicle is a used or second-hand vehicle, the actual price or consideration paid therefor by the purchaser shall be deemed the value thereof for the purposes of this act:

Provided, That so much of the purchase price or consideration as is represented by the exchange of other motor vehicles shall be deducted from the total actual price or consideration paid for said vehicle, whether the same be new or second-hand. No certificate of title for any motor vehicle shall be issued to any applicant unless such applicant shall have paid to the state road commissioner the tax imposed by this act; but the tax imposed by this act shall not apply to motor vehicles to be registered under sections seventeen and eighteen, article six of this chapter, which are used or to be used exclusively in interstate commerce. The total amount of revenue collected by reason of this tax shall be paid into the state road fund and expended by the state road commissioner in the maintenance and construction of the state's secondary roads. In addition to said tax there shall be a charge of one dollar for each original certificate of title so issued.

The state road commission, or other officer charged with such duty by the commission, if satisfied that the applicant is the owner of such vehicle, or otherwise entitled to have the same registered in his name, shall thereupon issue to the applicant an appropriate certificate of title over the signature of the official designated by the commission, authenticated by a seal to be procured and used for such purpose. Such certificates shall be numbered consecutively, beginning with number one, and shall contain such description and other evidence of identification of such motor vehicle as the state road commission may deem proper.

Such certificate shall be good for the life of the car, so long as the same is owned or held by the original holder of such
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56 certificate, and need not be renewed annually, or at any other
57 time, except as herein provided.
58 If, by will or direct inheritance, a person becomes the owner
59 of a vehicle upon which the tax herein imposed has been paid,
60 he shall not be required to pay such tax.
61 A person who has paid the tax imposed by this section
62 shall not be required to pay the tax a second time for the
63 same vehicle, but he shall be required to pay a charge of one
64 dollar for the certificate of re-title of that vehicle.

CHAPTER 50

(Com. Sub. for House Bill No. 424—Originating in the
House Committee on the Judiciary)

AN ACT providing for the regulation of the transportation of
passengers and property for hire and of private carriers of
property by motor vehicles over the public highways in the
state of West Virginia; defining the duties, and providing for
compensation of the members of the public service commission
of West Virginia in relation thereto, providing for the pay­
ment of fees by motor vehicles, and repealing acts and parts
of acts inconsistent herewith; to be known as chapter twenty­
four-a of the code of West Virginia, one thousand nine hun­
dred thirty-one.

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

Chapter 24-A. PUBLIC SERVICE COMMISSION—REGULA­
TION OF MOTOR CARRIERS OF PASSENGERS AND
PROPERTY FOR HIRE.

Article

1. Purposes, Definitions and Exemptions.
4. Private Carriers of Property by Motor Vehicles.
5. Powers and Duties of Commission.
6. Duties and Privileges of Motor Carriers Subject to Regulation of the Commission.
7. Complaints, Damages and Violations.

Be it enacted by the Legislature of West Virginia:


Section 1. Purposes. It is hereby declared to be the purpose and policy of the Legislature in enacting this law to confer upon the public service commission of West Virginia, in addition to all other powers conferred and duties imposed upon it by law, the power, authority, and duty to supervise and regulate the transportation of persons and property for hire and private carriers of property by motor vehicles upon or over the public highways of this state so as to: (a) protect the safety and welfare of the traveling and shipping public in their use of transportation agencies by motor vehicle; (b) preserve, foster, and regulate transportation and permit the coordination of transportation facilities; (c) provide the traveling and shipping public transportation agencies rendering stabilized service at just and reasonable rates. This act shall apply to persons and motor vehicles engaged in interstate commerce to the extent permitted by the constitution and laws of the United States.

Sec. 2. Definitions. When used in this act: (a) the term "motor vehicle" means, and includes, any automobile, truck, trailer, semi-trailer, tractor, motor bus, or any self-propelling motor-driven motor vehicle used upon any public highway in this state for the purpose of transporting persons or property; (b) the term "public highway" means any public street, alley, road, or highway or thoroughfare of any kind in this state used by the public; (c) the term "commission" means the public service commission of West Virginia; (d) the term "person" means and includes any individual, firm, copartnership, corporation, company, association, or joint stock association, and includes any trustee, receiver, assignee or personal representative thereof; (e) the term "common
carrier by motor vehicle" means any person who under-
takes, whether directly or by lease or any other arrange-
ment, to transport passengers or property, or any class or
classes of property, for the general public over the highways
of this state by motor vehicles for hire, whether over regular
or irregular routes, including such motor vehicle operations of
carriers by rail, water or air and of express or forwarding
agencies; (f) the term "contract carrier by motor vehicle"
means any person not included under paragraph (e) of this
section, who under special and individual contracts or agree-
ments, and whether directly or by a lease or any other ar-
range ment, transports passengers or property over the high-
ways in this state by motor vehicles for hire; (g) the term
"motor carrier" includes both a common carrier by motor
vehicle and a contract carrier by motor vehicle; (h) the
term "private carrier of property by motor vehicle" means
any person not included in the terms "common carrier by
motor vehicle" and "contract carrier by motor vehicle"
who transports over the highways in this state by motor
vehicle property of which such person is the owner, lessee, or
bailee, when such transport is for the purpose of sale, lease,
rent, or bailment, or the furtherance of any commercial en-
terprise; (i) the term "exempt carrier" means any person
operating a motor vehicle exempt from the provisions of this
act under section three hereof.

Sec. 3. Exemptions. The provisions of this act, except
where specifically otherwise provided, shall not apply to:
(a) taxicabs, or other motor vehicles performing a bona fide
taxicab service, within the corporate limits of any munici-
pality, having a capacity of not more than six passengers
and not operated on a regular route or between fixed termini;
(b) motor vehicles operated exclusively in the transportation
of the United States mail or in the transportation of news-
papers; (c) motor vehicles owned and operated by the United
States of America, the state of West Virginia, or any county,
municipality, or county board of education, or by any de-
partment thereof; (d) motor vehicles owned and operated
by farmers in the transportation of their own farm, orchard,
or dairy products from point of production to market, or in
Ch. 50] Motor Carriers of Passengers and Property 207

15 the infrequent or seasonal transportation by one farmer for
16 another in his immediate neighborhood of products of the
17 farm, orchard, or dairy, or of supplies or commodities to be
18 used on the farm, orchard, or dairy; (e) vehicles especially
19 constructed for towing or wrecking and not otherwise used
20 in transporting property or passengers for compensation.
21 (f) This act shall not apply to any truck of two tons or less
22 capacity, or where there are not more than three trucks
23 owned by a person, company, or corporation.


Section 1. Subject to Public Utility and Common Carrier Laws.

All common carriers by motor vehicle are hereby declared to be affected with a public interest and subject to the laws of this state now in force or that hereafter may be enacted pertaining to public utilities and common carriers as far as applicable, and not in conflict herewith.

Sec. 2. Provisions of Act to Govern. No common carrier by motor vehicle shall operate any motor facility for transportation of either persons or property for hire on any public highway in this state except in accordance with the provisions of this act and the transportation for more than one consignor, or to more than three consignees by any motor carrier shall be prima facie evidence that such motor carrier is operating as a common carrier.

Sec. 3. Regulatory Powers of Commission. The commission is vested with power and authority to supervise and regulate all common carriers by motor vehicle and to fix, alter, regulate, and determine just, fair, reasonable, and sufficient rates, joint rates, charges and classifications; to regulate the facilities, accounts, service and safety of operations of each such carrier, to regulate operating and time schedules so as to meet the reasonable needs of any community, so as to provide adequate transportation service to the territory traversed by such carriers, and so as to prevent unnecessary multiplication of
service among common carriers by motor vehicle and between
them and steam and electric railroads, to require the co-ordin-
ation of the service facilities and schedules of competing com-
mon carriers by motor vehicle or electric and steam railroads;
to require the filing of annual and other reports, tariff,
schedules, and other data by such common carriers, in all
matters affecting the relation between such carriers and
the public and between such carriers and other common car-
rriers. The commission shall have power and authority, by
general order or otherwise, to prescribe rules and regulations
in conformity with this act applicable to any and all such
common carriers by motor vehicle and to do all things neces-
sary to carry out and enforce the provisions of this act.

Sec. 4. Rates, Fares and Charges. All rates, fares and
charges made by any common carrier by motor vehicle shall be
just and reasonable, and shall not be unlawfully discrimin-
atory, prejudicial nor preferential. No such carrier shall
charge, demand, collect, or receive a greater or less or differ-
ent remuneration for the transportation of passengers or prop-
erty, or for any service in connection therewith, than the
rates, fares, and charges which have been legally established
and filed with the commission; nor shall any such carrier re-
fund, remit, discount or rebate in any manner or by any de-
vice any portion of the rates, fares, and charges required to be
collected by the tariffs on file with or ordered by the commis-

Sec. 5. Certificate of Convenience and Necessity; Hearing
on Application; Transfer; Revocation. (a) It shall be unlaw-
ful for any common carrier by motor vehicle to operate with-
in this state without first having obtained from the commission
a certificate of convenience and necessity. Upon the filing of
an application for such certificate and after hearing thereon,
if the commission finds from the evidence that the public con-
venience and necessity require the proposed service or any
part thereof it may issue the certificate as prayed for, or issue
it for the partial exercise only of the privilege sought, and
may attach to the exercise of the right granted by such certifi-
cate such terms and conditions as in its judgment the public
convenience and necessity may require. Before granting a
14 certificate to a common carrier by motor vehicle the commis-
15 sion shall take into consideration existing transportation fa-
16 cilities in the territory for which a certificate is sought, and in
17 ease it finds from the evidence that the service furnished by
18 existing transportation facilities is reasonably efficient and
19 adequate, the commission shall not grant such certificate.
20 (b) The commission shall prescribe such rules and regula-
21 tions as it may deem proper for the enforcement of the pro-
22 visions of this section, and in establishing that public con-
23 venience and necessity do exist the burden of proof shall be
24 upon the applicant. The commission may designate any of its
25 employees to take evidence at the hearing of any application
26 for a certificate and submit findings of fact as a part of a
27 report or reports to be made to the commission.
28 (c) No certificate issued in accordance with the terms of
29 this act shall be construed to be either a franchise or irre-
30 vocable, or to confer any property right upon the holder
31 thereof. No certificate issued under this act shall be assigned
32 or otherwise transferred without the approval of the com-
33 mission.
34 (d) The commission may at any time, for good cause, sus-
35 pend and, upon not less than fifteen days' notice to the
36 grantee of any certificate and an opportunity to be heard,
37 revoke or amend any certificate.


Section
1. Regulation required.
3. Permit; hearing on application; transfer; revocation.
4. Regulatory powers of commission.
5. Undue preference prohibited.
6. Rules and regulations; minimum rates.

Section 1. Regulation Required. It is hereby declared that
2 the business of contract carriers by motor vehicle is affected
3 with a public interest and that the safety and welfare of the
4 public, the preservation and maintenance of the public high-
5 ways, and the integrity of the regulation of common carriers
6 require the regulation of contract carriers by motor vehicle to
7 the extent herein provided.

Sec. 2. Provisions of Act to Govern. No contract carrier
2 by motor vehicle shall operate any motor vehicle for the
transportation of either persons or property for hire on any public highway in this state except in accordance with the provisions of this act.

Sec. 3. Permit; Hearing on Application; Transfer; Re-vocation. (a) It shall be unlawful for any contract carrier by motor vehicle to operate within this state without first having obtained from the commission a permit. Upon the filing of an application for such permit, the commission shall fix a time and place for hearing thereon and after hearing may grant or deny the permit prayed for or grant it for the partial exercise only of the privilege sought, and may attach to the exercise of the privilege granted by such permit such terms and conditions as in its judgment are proper and will carry out the purposes of this act. No permit shall be granted unless the applicant has established to the satisfaction of the commission that the privilege sought will not endanger the safety of the public or unduly interfere with the use of the highways or impair unduly the condition or unduly increase the maintenance cost of such highways, directly, or indirectly, or impair the efficient public service of any authorized common carrier or common carriers adequately serving the same territory.

(b) The commission shall prescribe such rules and regulations as it may deem proper for the enforcement of the provisions of this section and may designate any of its employees to take evidence at the hearing on any application for a permit and submit findings of fact as a part of a report or reports to be made to the commission.

(c) No permit issued in accordance with the terms of this act shall be construed to be either a franchise or irrevocable or to confer any property right upon the holder thereof. No permit issued under this act shall be assigned or otherwise transferred without the approval of the commission.

(d) The commission may at any time, for good cause, suspend and, upon not less than fifteen days’ notice to the grantee of any permit and an opportunity to be heard, revoke or amend any permit.

(e) Every contract carrier by motor vehicle who shall cease operation or abandon his rights under a permit issued shall
notify the commission within thirty days of such cessation or abandonment.

Sec. 4. Regulatory Powers of Commission. The commission is hereby vested with power and authority, and it shall be its duty, to supervise and regulate contract carriers by motor vehicle for the purpose of promoting safety of their operation as transportation agencies upon the highways; to regulate and supervise the accounts and method of keeping the same; to prescribe such rules and regulations as it may deem necessary to carry out the provisions of this act; and to supervise and regulate contract carriers by motor vehicle in all matters affecting the relationship between such carriers and the traveling and shipping public.

Sec. 5. Undue Preference Prohibited. Every contract carrier by motor vehicle is hereby forbidden to give or cause any undue or unreasonable advantage or preference to those whom it serves as compared with the patrons of any common carrier by motor vehicle as that term is used in this act, or the patrons of any other common carrier, or to subject the patrons of any such common carriers to any undue or unreasonable discrimination or disadvantage; or by unfair competition to destroy or impair the service or business of any common carrier by motor vehicle, or of any other common carrier, or the integrity of the state's regulation of any such service or business; and, to the end that the said commission may enforce these provisions, each such contract carrier by motor vehicle shall maintain on file with the commission a statement of its charges, and of such other matters as the commission may require.

Sec. 6. Rules and Regulations; Minimum Rates. The commission is hereby vested with power and authority, and it is hereby made its duty, to prescribe rules and regulations covering the operations of contract carriers by motor vehicles in competition with common carriers of this state, and the commission shall prescribe minimum rates, fares, and charges to be collected by such contract carriers by motor vehicle, which shall not be less than the rates prescribed for common carriers by motor vehicles for substantially the same service.
Article 4. Private Carriers of Property by Motor Vehicle.

Section

2. Regulatory powers of commission.
3. Permits required.
4. Permits; application; form and filing.
5. Permits; assignment, surrender or revocation.

Section 1. Provisions of Act to Govern. No private carrier of property by motor vehicle shall operate any motor vehicle for the transportation of property on any public highway in this state except in accordance with the provisions of this act.

Sec. 2. Regulatory Powers of Commission. The commission is hereby vested with power and authority, and it shall be its duty, to issue permits to private carriers of property by motor vehicle; to require the filing of annual and other reports and such additional data as may be required by the commission in carrying out the provisions of this act. The commission shall have power and authority, by general order or otherwise, to prescribe reasonable and necessary rules and regulations governing all private carriers of property by motor vehicle, and to supervise and regulate such private carriers in all other matters affecting their relationship with the shipping and the general public.

Sec. 3. Permits Required. It shall be unlawful for any private carrier of property by motor vehicle to operate within this state without first having obtained from the commission a permit therefor. An application shall be made to the commission in writing, stating the ownership of the equipment to be used, and such other information as the commission may request. Upon receipt of such information, and on compliance with the provisions of this act and the commission's rules and regulations, the commission shall issue a permit to such applicant.

Sec. 4. Permits; Application; Form and Filing. The commission shall prescribe forms of application for such permits for the use of applicants and shall make regulations for the filing thereof.

Sec. 5. Permits; Assignment, Surrender or Revocation. No permit issued under the authority of this act shall be subject
to assignment or transfer. Subject to any right a holder of a
permit may have to engage in interstate commerce, no permit
issued in accordance with the terms of this act shall be con-
strued to be irrevocable. Every private carrier of property
by motor vehicle who shall cease operation or abandon his
rights under a permit issued shall notify the commission with-
in thirty days of such cessation or abandonment. The commis-
sion may at any time, for good cause, suspend, and upon at
least fifteen days’ notice to the grantee of any permit, and an
opportunity to be heard, revoke such permit.

Article 5. Powers and Duties of the Commission.

Section 1. Powers of Commission as to Rates, Schedules, Etc.

The commission shall have power to originate, establish,
promulgate, change, investigate and enforce tariffs, rates, joint
rates, classifications, and schedules for all motor carriers, and
the practices, services and facilities of all motor carriers. And
whenever the commission shall, after hearing, find any exist-
ing rates, tariffs, joint rates, classifications, schedules, prac-
tices, services, or facilities unjust, unreasonable, insufficient,
or unjustly discriminatory or otherwise in violation of any of
the provisions of this act, the commission shall, by order, fix
and require reasonable rates, joint rates, tariffs, classifications,
schedules, practices, services, or facilities to be followed or
established in the future in lieu of those found to be unjust,
unreasonable, insufficient, or unjustly discriminatory or other-
wise in violation of any provisions of law.

Sec. 2. Change of Rates; Suspending Order; Hearing. No
motor carrier subject to this act shall change, suspend, or
annul any individual rate, joint rate, fare, charge, or classi-
fication for the transportation of passengers or property ex-
cept after thirty days’ notice to the commission and the pub-
lic, which notice shall plainly state the changes proposed to
be made in the schedule then in force and the time when the
changed rates or charges shall go into effect. The commission
may enter an order suspending the proposed rate and prohibiting such motor carrier from putting such proposed new rate into effect pending the hearing and final decision of the matter, in which case the proposed new rate shall stand suspended until it is determined by the commission whether or not the same is just or reasonable. The proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time, and kept open to public inspection: Provided, however, That the commission may, in its discretion, and for good cause shown, allow changes upon less time than the notice herein specified, or may modify the requirements of this section in respect to publishing, posting and filing of tariffs, either by particular instructions or by general order.

Whenever there shall be filed with the commission any schedule stating a change in the rates or charges, or joint rates or charges, or stating a new individual or joint rate or charge or joint classification or any new individual or joint regulation or practice affecting any rate or charge, the commission shall have authority, either upon complaint or upon its own initiative without complaint, to enter upon a hearing concerning the propriety of such rate, charge, classification, regulation or practice; and, if the commission so orders, it may proceed without answer or other form of pleading by the interested parties, but upon reasonable notice, and pending such hearing and the decision thereon the commission, upon filing with such schedule and delivering to the motor carrier affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, classification, regulation or practice, but not for a longer period than one hundred and twenty days beyond the time when such rate, charge, classification, regulation or practice would otherwise go into effect; and after full hearing, whether completed before or after the rate, charge, classification, regulation or practice goes into effect, the commission may make such order in reference to such rate, charge, classification, regulation or practice as would be proper in a proceeding initiated after the rate, charge, classification, regulation or practice had become effective: Provided, That if any such hearing cannot be conducted
within the period of suspension, as above stated, the commission may in its discretion extend the time of suspension for a further period, not exceeding six months. At any hearing involving a rate sought to be increased or involving the change of any fare, charge, classification, regulation or practice, the burden of proof to show that the increased rate or proposed increased rate, or the proposed change of fare, charge, classification, regulation or practice, is just and reasonable, shall be upon the motor carrier making application for such change. When in any case pending before the commission all evidence shall have been taken, and the hearing completed, the commission shall, within three months, render a decision in such case.

The commission shall prescribe such rules and regulations as to the giving of notice of a change in rates as are reasonable and are deemed proper in the public interest.

Sec. 3. Joint Rates and Service. The commission shall have power and authority to require a common carrier by motor vehicle, railroad, express, air, or water to establish reasonable through rates with other common carriers by motor vehicle, railroad, express, air, or water and to provide safe and adequate service, equipment, and facilities for the transportation of passengers and property; to establish and enforce just and reasonable individual and joint rates, charges, and classifications, and just and reasonable regulations and practices relating thereto; and in case of such joint rates, fares, and charges to establish just and reasonable divisions thereof as between the carriers participating therein which shall not unduly prefer or prejudice any of such participating carriers.

Sec. 4. Merger or Joint Ownership. (a) It shall be lawful, under the conditions specified below, but under no other conditions, for two or more motor carriers to consolidate or merge their property, or any part thereof, into one corporation for the ownership, management, and operation of the properties theretofore owned, managed, and operated separately; or for any such motor carrier or two or more such carriers jointly, to purchase, lease or contract to operate the properties, or any part thereof, of another such carrier; or for any such motor
carrier or two or more such carriers jointly, to acquire control
of another such carrier through purchase of its stock; or for
a person, not a motor carrier, to acquire control of two or
more motor carriers through ownership of their stock; or for
any person in control of one or more motor carriers to acquire
control of another such carrier through ownership of its
stock; or for a carrier by railroad, express, air, or water to
consolidate or merge with, purchase, or acquire control of,
any motor carrier, or lease or contract to operate its prop-
erties or any part thereof.

(b) When a consolidation, merger, purchase, lease, operat-
ing contract, or acquisition of control is proposed under this
section the carrier, or carriers, or person, seeking authority
therefor shall present an application to the commission and,
after hearing, if the commission deems a hearing necessary,
if the commission finds that the transaction proposed will be
consistent with the public interest, it shall enter such order
as it may deem proper and as the circumstances may require,
attaching thereto such conditions as it may deem proper,
consenting to the entering into or doing of the things herein-
above provided without approving the terms and conditions
thereof, and thereupon it shall be lawful to do the things
provided for in such order.

(c) Every consolidation, merger, purchase, lease, operat-
ing contract, or acquisition of control, or other transaction
referred to in this section made otherwise than as hereinabove
provided, shall be void.

Sec. 5. Further Regulatory Powers of Commission. The
commission may:

(a) Prescribe rules of practice and procedure, the method
and manner of holding hearings, and for taking evidence on
all matters that may come before it and enter such orders as
may be just and lawful. In the investigations, preparations,
and hearings of cases, the commission shall not be bound by
the technical rules of pleading and evidence but in that respect
it may exercise such discretion as will facilitate its efforts to
understand and learn all the facts bearing upon the right and
justness of the matters before it.

(b) Appoint such employees as may be necessary to carry
out the provisions of this act and shall fix their respective salaries or compensation. Such employees shall hold office during the pleasure of the commission. The commission may designate such employees as it deems necessary to take evidence at any hearing held or acquired by the provisions of this act, which employees are hereby empowered to administer oaths in all parts of the state so far as the exercise of such power is properly incidental to the performance of their duties in connection with the provisions of this act.

(c) Prescribe a schedule of fees to accompany applications for certificates of convenience and necessity and permits and for the filing and recordation of other papers with the commission. The commission shall likewise prescribe a schedule of fees to be charged for the certification of all records and papers and sums to be paid witnesses and other costs necessary and incident to hearings before it or its employees and order the same paid by the unsuccessful party. Sums collected in this manner, except witness fees, shall be paid into the state treasury and be credited to the public service commission fund provided for in chapter twenty-four of the code of West Virginia as amended. The witness fees shall be paid to the persons who are entitled thereto. The sums to be paid into the public service commission motor carrier fund representing the collections of any month shall be so paid on or before the tenth of the following month.

(d) Establish a system of accounts to be kept by motor carriers or classify motor carriers and establish a system of accounts for each class, and prescribe the manner in which such accounts shall be kept. It may also in its discretion prescribe the form of accounts, records, and memoranda to be kept by such motor carriers, including the accounts, records, and memoranda for the movement of traffic as well as the receipts and expenditures of moneys, and any other forms, records and memoranda which in the judgment of the commission may be necessary to carry out any of the provisions of this chapter.

(e) Require persons subject to the provisions of this chapter, to furnish any information which may be in their possession, or obtainable from their accounting or other records, respecting rates, charges, classifications, or practices in con-
ducing their business, and to furnish the commission at all
times for inspection any books or papers or reports and
statements, which reports and statements shall be under oath,
when so required by the commission, and the form of all re-
ports required under this act shall be prescribed by the com-
mmission. The commission shall collect, receive and preserve
the same, and shall annually tabulate and publish the same
in statistical form, together with the other acts and proceed-
ings of the commission.

(f) Either as a commission or by any of its members, or
by designated employees, subpoena witnesses and take testi-
ymony, and administer oaths to any witness in any proceeding
or examination instituted before it or conducted by it with
reference to any matter within its jurisdiction. In all hear-
ings or proceedings before the commission or its designated
employees the evidence of witnesses and the production of
documentary evidence may be required at any designated
place of hearing within the state; and in case of disobedience
to a subpoena or other process the commission or any party
to the proceedings before the commission may invoke the aid
of any circuit court in the state in requiring the evidence and
testimony of witnesses and the production of papers, books,
and documents. And such court, in case of refusal to obey
the subpoena issued to any person or to any motor carrier
subject to the provisions of this chapter, shall issue an order
requiring such motor carrier or any person to appear before
the commission or designated employees and produce all
books and papers, if so ordered, and give evidence touching
the matter in question. Any failure to obey such order of
the court may be punished by such court as contempt there-
of. A claim that any such testimony or evidence may tend
to incriminate the person giving the same shall not excuse
such witness from testifying, but such witness shall not be
prosecuted for any offense concerning which he is compelled
hereunder to testify.

(g) Require common carriers by motor vehicle and con-
tract carriers by motor vehicle subject to the provisions of
this act either to procure and file liability and property
damage insurance from a company licensed to write such in-
surance in West Virginia or to deposit such security for such
limits of liability and upon such terms and conditions as the
commission shall determine to be necessary for the reasonable
protection of the public against damage and injury for which
such carrier may be liable by reason of the operation of any
motor vehicle. In fixing the amount of said insurance policy,
or policies, or deposit of security, the commission shall give
due consideration to the character and amount of traffic and
the number of persons affected and the degree of danger
which the proposed operation involves.

(h) Cooperate with the federal government and the inter-
state commerce commission of the United States or any other
commission or organized delegated authority to regulate in-
terstate or foreign commerce by motor vehicles, and it shall
be its duty so to do, to the end that the transportation of
persons and property by motor vehicles in interstate and for-
ign commerce into and through the state of West Virginia
may be regulated and the laws of the United States and of
the state of West Virginia enforced and administered co-
operatively in the public interest.

(i) Make agreements on behalf of the state of West Vir-
ginia with any other state or states providing for reciprocal
rights, privileges, and courtesies between the licensees and
permittees of the said state or states and the state of West
Virginia respecting licenses and the transportation of prop-
erty into and through the respective state or states and the
state of West Virginia, and all existing agreements between
a state or states and the state of West Virginia for reciprocal
rights, privileges, and courtesies may, provided constitutional
and contractual rights are not violated, be declared void by
the commission and new agreements negotiated.

(j) Promulgate safety rules and regulations applicable to
motor vehicles subject to the provisions of this act and pro-
mulgate regulations governing the hours of employment of
drivers and chauffeurs of motor vehicles subject to the pro-
visions of this act and any other rules and regulations which
the commission may deem proper to carry out the provisions
and intent of this act.
Sec. 4. Identification Card. The commission shall prescribe an identification card which must be displayed within the cab of each motor vehicle required to have a permit under this act, setting forth permit number and the route over, or territory in which, the vehicle is authorized to operate and the name and address of the owner of said permit. The identification card provided for herein may be in such form and contain such other information as may be required by the commission. It shall be unlawful for the owner of said permit, his agent, servant, or employee, or any other person, to use or display said identification card, the permit number, or other insignia of authority from the commission after said permit has expired, been cancelled, or disposed of, or to operate any vehicle under permit without such identification card.

Sec. 5. Identification Plate; Fee. It shall be unlawful for any motor carrier to operate any motor vehicle within this state unless there shall be displayed and firmly fixed upon the rear of such vehicle, an identification plate to be furnished by the commission. Such plate shall be different in design for the different classes of certificates or permits, shall bear the number given to the vehicle by the commission, and such other marks of identification as may be prescribed, and shall be in addition to the regular license plates required by law. Such plates shall be issued annually and attached to each such motor vehicle not later than July first of each year. The commission shall collect from the applicant a fee of one dollar for each plate so issued, and all fees for such plates shall be deposited in the state treasury to the credit of the public service commission motor carrier fund.

Sec. 6. Special License Fees. In addition to the license fees, registration fees, or taxes now required by law upon common carriers by motor vehicle and contract carriers by motor vehicle, subject to the provisions of this act, there shall be assessed against and collected from each such carrier annually a special license fee for the administration of this act computed as hereinafter provided.

(a) The special license fee for all common carriers of
for property by motor vehicle and contract carriers of property by motor vehicle shall be as follows:

<table>
<thead>
<tr>
<th>Weight Range</th>
<th>Annual Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 ton or less</td>
<td>$10.00</td>
</tr>
<tr>
<td>Over 1 ton to 1½ tons</td>
<td>$15.00</td>
</tr>
<tr>
<td>Over 1½ tons to 2 tons</td>
<td>$20.00</td>
</tr>
<tr>
<td>Over 2 tons to 3 tons</td>
<td>$25.00</td>
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<tr>
<td>Over 3 tons to 4 tons</td>
<td>$30.00</td>
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<tr>
<td>Over 4 tons to 5 tons</td>
<td>$35.00</td>
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<tr>
<td>Over 5 tons to 6 tons</td>
<td>$40.00</td>
</tr>
<tr>
<td>Over 6 tons to 7 tons</td>
<td>$45.00</td>
</tr>
<tr>
<td>Over 7 tons to 8 tons</td>
<td>$50.00</td>
</tr>
<tr>
<td>Over 8 tons to 9 tons</td>
<td>$55.00</td>
</tr>
<tr>
<td>Over 9 tons to 10 tons</td>
<td>$60.00</td>
</tr>
<tr>
<td>Each additional ton over 10 tons</td>
<td>$5.00</td>
</tr>
</tbody>
</table>

(b) The special license fee for common carriers of passengers by motor vehicle, and contract carriers of passengers by motor vehicle shall be as follows:

<table>
<thead>
<tr>
<th>Seating Capacity</th>
<th>Annual Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 passengers or less</td>
<td>$15.00</td>
</tr>
<tr>
<td>10 to 20 passengers</td>
<td>$25.00</td>
</tr>
<tr>
<td>20 to 30 passengers</td>
<td>$35.00</td>
</tr>
<tr>
<td>30 to 40 passengers</td>
<td>$50.00</td>
</tr>
<tr>
<td>Over 40 passengers</td>
<td>$60.00</td>
</tr>
</tbody>
</table>

(c) The special license fees herein provided for shall be paid to, and collected by, the state road commission of West Virginia at the same time and in the same manner as registration fees and license fees required by the motor vehicle laws of the state of West Virginia are now paid and collected and no license or permit shall be issued by the state road commission to any motor carrier subject to the provisions of this act until it has paid to the state road commission of West Virginia the special license fee as herein provided.

(d) All special license fees collected by the state road commission by virtue of this act shall be paid into the state treasury and credited to the special fund designated public service commission motor carrier fund, to be appropriated as provided by law for the purpose of paying the expenses of the commission and salaries, compensation costs and expenses of its employees in administering this act. Each member of the commission shall receive a salary of fifteen hundred
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dollars ($1500) per annum as compensation for the administration of this act in addition to all other salary or compensation provided by law, to be paid in monthly installments from said fund, but in no event shall the salary of a commissioner exceed six thousand dollars per annum: Provided, however, That the total sum to be expended in the administration of this act shall not exceed during any fiscal year the sum of one hundred thousand dollars.

(e) Any balance remaining in said fund, including other fees collected by the commission pursuant to the provisions of this act, at the end of the fiscal year shall, the succeeding year, be applied as credit on the special license fee herein required and the special license fee required of each motor carrier shall be proportionately reduced on a percentage basis.

Article 7. Complaints, Damages and Violations.

Section 1. Complaints against motor carriers; investigations.
2. Falsifying records; penalty.
3. Continuing offenses.
4. Penalty for violation of act; second offense.
5. Duty of prosecuting attorneys and peace officers to enforce act; police powers of inspectors.

Section 1. Complaints Against Motor Carriers; Investigations. Any person, firm, association of persons, corporation, municipality, or county, complaining of anything done or omitted to be done by any motor carrier or by any private carrier of property by motor vehicle subject to this act, in contravention of the provisions thereof, or any duty owing by it under the provisions of this act, may present to the commission a petition which shall succinctly state all the facts. Whereupon, if there shall be any reasonable ground to investigate such complaint, a statement of the charges thus made shall be forwarded by the commission to such motor carrier or private carrier of property by motor vehicle, which shall be called upon to satisfy such complaint or to answer the same in writing within a reasonable time to be specified by the commission. If such motor carrier or private carrier of property by motor vehicle within the time specified shall make reparations for the injury alleged to have been done or correct the practice complained of and obey the law and
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19 discharge its duties in the premises, then it shall be relieved
20 of liability to the complainant for the particular violation of
21 law or duty complained of. If such motor carrier or private
22 carrier of property by motor vehicle shall not satisfy the
23 complaint within the time specified it shall be the duty of the
24 commission to investigate the same in such manner and by
25 such means as it shall deem proper.

Sec. 2. Falsifying Records; Penalty. Any person, officer,
2 agent or employee of any motor carrier or private carrier of
3 property by motor vehicle subject to this act who shall know-
4 ingly or wilfully make any false entries in the accounts, ac-
5 count books, records, or memoranda kept by any motor car-
6 rier or private carrier of property by motor vehicle, or who
7 shall knowingly or wilfully destroy or mutilate any account
8 book, record, or memorandum useful for the enforcement or
9 administration of this act by the commission, or who shall al-
10 ter or by any other means or device falsify the record of any
11 such accounts, account book, records, or memoranda, or who
12 shall knowingly or wilfully neglect or fail to make full, true
13 and correct entries of or in such account, account book, record,
14 or memorandum of all the facts and transactions appertaining
15 to such motor carrier or private carrier of property by motor
16 vehicle, or who shall falsely make any statement required to
17 be made to the commission, shall be deemed guilty of a felony,
18 and upon conviction thereof, shall be confined in the peniten-
19 tiary not less than one year nor more than five years.

Sec. 3. Continuing Offenses. Every day during which any
2 person shall fail to observe and comply with any order or
3 direction of the commission or to perform any duty enjoined
4 by this act shall constitute a separate and distinct violation of
5 the order or direction under this act.

Sec. 4. Penalty for Violation of Act; Second Offense. Every
2 officer, agent, employee, or stockholder of any motor carrier
3 or private carrier of property by motor vehicle, or any motor
4 carrier or private carrier of property by motor vehicle, and ev-
5 ery person who violates, procures, aids, or abets in the violat-
6 ing of any of the provisions of this act, or who fails to obey any
7 order, decision, requirement, rule, or regulation of the com-
mission or procures, aids, or abets any person in his failure to
obey such order, decision, requirement, rule, or regulation,
shall be deemed guilty of a misdemeanor and, upon conviction,
shall be fined not exceeding one thousand dollars or confined
in jail for not less than thirty days nor more than one year,
or both, in the discretion of the court. When any person is
convicted for a violation of any provision of this act or any
order, decision, requirement, rule, or regulation of the com-
mission and it is alleged in the indictment upon which he is
convicted and it is admitted, or by jury found, that he has
been before convicted of a violation of any provision of this
act or order, decision, requirement, rule, or regulation of the
commission, committed prior to the violation for which the in-
dictment upon trial was found, then he shall be fined not less
than five hundred dollars nor more than five thousand dol-
lars and shall, in addition thereto, be confined in the county
jail for not less than three months nor more than one year.

Sec. 5. Duty of Prosecuting Attorneys and Peace Officers
to Enforce Act; Police Powers of Inspectors. It shall be the
duty of the department of public safety and the sheriffs of
the counties in West Virginia to make arrests and the duty of
the prosecuting attorneys of the several counties to prosecute
all violations of this act, and the commission employees desig-
nated by it as inspectors shall have all the lawful powers of
peace officers to enforce this act in any county or city of this
state.

Article 8. Review of Commission's Action by Supreme Court of
Appeals; Inconsistent Acts Repealed.

Section 1. Appeal from commission's action.
2 Provisions of act severable.
3 Inconsistent acts repealed.

Section 1. Appeal From Commission's Action. Any party
feeling aggrieved by the entry of a final order by the commis-
ion, affecting him or it, may present a petition in writing to
the supreme court of appeals, or to a judge thereof in vaca-
tion, within thirty days after the entry of such order, pray-
ing for the suspension of such final order. The applicant shall
deliver a copy of such petition to the secretary of the commis-
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court or judge shall fix a time for the hearing on the application, but such hearing, unless by agreement of the parties, shall not be held, sooner than five days after its presentation; and notice of the time and place of such hearing shall be forthwith delivered to the secretary of the commission, so that the commission may be represented at such hearing by one or more of its members or by counsel. If the court or the judge after such hearing be of the opinion that a suspending order should issue, the court or the judge may require bond, upon such conditions and in such penalty, and impose such terms and conditions upon the petitioner, as are just and reasonable. For such hearing the commission shall file with the clerk of said court all papers, documents, evidence, and records or certified copies thereof as were before the commission at the hearing or investigation resulting in the entry of the order from which the petitioner appeals. The commission shall file with the court before the day fixed for the final hearing a written statement of its reasons for the entry of such order, and after arguments by counsel the court shall decide the matter in controversy as may seem to be just and right.

Sec. 2. Provisions of Act Severable. If any section, subsection, sentence, clause, or phrase is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Sec. 3. Inconsistent Acts Repealed. All parts of chapter seventeen of the code of West Virginia as amended and reenacted by chapter sixty, acts of the West Virginia Legislature, first extraordinary session, one thousand nine hundred thirty-three, inconsistent or in conflict with this act, are hereby expressly repealed, and the provisions of any other act of said Legislature, or the code of West Virginia, one thousand nine hundred thirty-one, as amended, which is inconsistent with the provisions of this act, are hereby expressly repealed.
CHAPTER 51
(House Bill No. 430—By Mr. Van Sickler)

AN ACT to amend section twenty-three, article six, chapter sixty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, as amended by chapter sixty-three, acts of the Legislature of West Virginia, one thousand nine hundred thirty-five, relating to motor vehicle licenses and license plates.

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

Article 7. Licenses.

Section 23. License period; duplicate plates; transfer, surrender or retention of plates.

Be it enacted by the Legislature of West Virginia:

That section twenty-three, article six, chapter sixty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, as amended by chapter sixty-three, acts of the Legislature of West Virginia, one thousand nine hundred thirty-five, be amended to read as follows:

Section 23. License Period; Duplicate Plates; Transfer, Surrender or Retention of Plates. Beginning on the first day of July, one thousand nine hundred thirty-four, the registration fees herein prescribed shall be for the entire fiscal year: Provided, That where application for such registration is made between the first day of October and the thirty-first day of December, inclusive, in any fiscal year, the charge therefor shall be three-quarters of such yearly fee, and when application for such registration is made between the first day of April and the thirtieth day of June, in-
The registration certificate and the right to use corresponding registration plates issued after the first day of July, one thousand nine hundred thirty-four, shall expire at midnight on the thirtieth day of June of the fiscal year for which issued. The commissioner is authorized to transfer the plates of a deceased person to his legal heir or legatee upon payment of a transfer fee of one dollar.

In the event of the loss or inadvertent destruction of any plate issued under the provisions of this article, the commissioner shall investigate the circumstances of alleged loss or destruction, and if satisfied that the loss or destruction has occurred as alleged, shall issue a duplicate, or duplicates, or may in his discretion issue a new set of plates with appropriate certificate of registration, at a cost not to exceed one dollar. The owner of a set of registered plates may surrender them to the commissioner and, upon the payment of one dollar as an exchange fee and upon the payment of such additional fees as are necessary to equalize the value of the plates surrendered with the value of the registration plates desired, receive in exchange a set of registration plates for a vehicle of a different class: Provided, That the vehicle for which such plates are desired is titled in the same name as that in which the original plates were issued. In the event of the loss or inadvertent destruction of any certificate of registration issued under the provisions of this article, the commissioner may issue a duplicate upon receipt of affidavit of such loss at a cost not to exceed one dollar. Upon the transfer of ownership of any motor vehicle, it shall be the duty of the original owner to retain the registration plates issued therefor and to immediately notify the state road commissioner of such transfer upon such form as may be provided therefor and to deliver to him the certificate of registration, whereupon the commissioner shall, upon the payment of a fee of one dollar, issue a new certificate showing the use that is to be made of such plates. Such plates may be used by such owner on another vehicle of the same class as the vehicle for which they were originally issued if such other vehicle does not require a greater license fee than was required for such
original vehicle. If such other vehicle requires a greater
license fee than such original vehicle, then such plates may
be used by paying such difference to the road commissioner,
but it shall be unlawful to use such plates until such differ­
ence is paid. When such transfer of ownership is made to a
licensed dealer in motor vehicles it shall be the duty of such
licensed dealer to immediately execute notification of trans­
er, in triplicate, to have this notification properly signed by
the owner making the transfer. The dealer will also collect
the transfer fee of one dollar and any additional fee that
may be required under the terms of this act. The dealer will
immediately forward to the road commissioner the original
copy of the notification of transfer together with all fees
collected. One copy of the notification of transfer shall be
given to the owner and one shall be retained by the dealer.
The owner’s copy, properly signed by the dealer, will be the
owner’s identification until he receives a new registration
 card from the road commissioner.

Any licensed dealer who shall fail to comply with the pro­
visions of this act shall be guilty of a misdemeanor, and upon
conviction thereof shall be fined not less than fifty, nor more
than three hundred dollars. Certificates of registration and
corresponding registration plates of vehicles operating under
a permit or certificate of convenience may be transferred only
under the provisions of, and when provided by, the rules and
regulations of the commissioner.

Any owner or operator who shall obtain a registration cer­
tificate, or registration plates, or other licenses provided for
in this article, by misrepresentation or by any other method
not authorized by law, or who shall violate any of the other
provisions of this section, shall be guilty of a misdemeanor,
and, upon conviction thereof, shall be fined not less than ten
nor more than fifty dollars.
AN ACT to amend and reenact sections one and nine, chapter twenty-six, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, as amended by chapter forty-nine, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, relating to water works systems of municipal corporations.

[Passed February 23, 1937; in effect from passage. Approved by the Governor.]

Section

1. Municipal water works; extension beyond corporate limits.
2. Right of eminent domain; limitations.

Be it enacted by the Legislature of West Virginia:

That sections one and nine, chapter twenty-six, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, as amended by chapter forty-nine, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 1. Municipal Water Works; Extension Beyond Corporate Limits. Subject to and in accordance with the provisions of this act, any municipal corporation in the state of West Virginia may purchase, construct, extend and operate a water works system or construct and operate betterments and improvements to an existing water works system within the corporate limits of said municipality and within the area included in a three mile extension of the corporate limits of said municipality, notwithstanding any provision or limitation to the contrary in any other general law or municipal charter.

Sec. 9. Right of Eminent Domain; Limitations. For the purpose of acquiring any water works system under the provision of this act, or for the purpose of acquiring any property
necessary therefor, the municipality shall have the right of eminent domain as is now provided by chapter fifty-four of the code of West Virginia, one thousand nine hundred thirty-one, as now or hereafter amended: Provided, however, That such right of eminent domain for the acquisition of a complete privately owned water works system shall not be exercised under the provision of this act without prior approval of the public service commission of West Virginia, and in no event shall any municipality establish, construct or extend beyond the corporate limits of said municipality a municipal water works system under the provisions of this act to supply service in competition with an existing privately or municipally owned water works system in such municipality or within the proposed extension of such system, unless a certificate of public convenience and necessity therefor shall have been issued by the public service commission of West Virginia.

CHAPTER 53

(Senate Bill No. 181—By Mr. Green, by request)

AN ACT to amend and reenact sections nine, ten and fourteen, article six, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to hours of work by municipal fire departments and to the firemen’s and policemen’s pension or relief funds.

[Passed March 11, 1937; in effect from passage. Became a law without the approval of the Governor.]

Article 6. Fire Departments, Fire Companies, and Firemen’s and Policemen’s Pension or Relief Funds.

Section
9. Two platoon system of municipal fire department.
10. Pension or relief fund for firemen and policemen; trustees.
14. Levy to maintain fund; gifts, etc.; assessment on members of department.

Be it enacted by the Legislature of West Virginia:

That sections nine, ten and fourteen, article six, chapter eight
Section 9. Two Platoon System of Municipal Fire Department. In any municipal corporation in this state having a population of more than eighteen thousand inhabitants, having, or which may hereafter have, a fire department supported in whole or in part at public expense, the council shall declare the necessity of such service to each twenty-four hours shall be as follows, to-wit: From eight A. M. to six P. M. and from six P. M. to eight A. M.

Upon such declaration being made by the council the members of the fire department shall be divided into two platoons, and the members of such department shall be assigned to service in such platoons by the superintendent of the department of public safety or chief. The periods of service to each twenty-four hours shall be as follows: From eight A. M. to six P. M. and from six P. M. to eight A. M. The superintendent of the department of public safety or chief shall assign one platoon of officers and members to the period from eight A. M. to six P. M. and the other platoon of officers and members from six P. M. to eight A. M., and the officers and members assigned to each platoon shall alternate on the two periods of duty at intervals of not more than two weeks. No officer or member shall be required to remain on duty for more than fourteen consecutive hours except when changing from one tour of duty to the other, or in case of a conflagration requiring the services of more than one-half of the department. The superintendent of the department of public safety or chief is hereby authorized and directed to make the necessary assignments to the two respective platoons.

Nothing in this section shall apply to any town which does not maintain and pay for a fire department and employees thereof for full time.

Sec. 10. Pension or Relief Fund for Firemen and Policemen; Trustees. In any municipal corporation in this state having, or which may hereafter have, a fire department and a police department, or either of such departments, supported in whole or in part at public expense, the council or other governing body shall, by ordinance, provide for the establish-
ment and maintenance of a firemen’s pension or relief fund,
and for a policemen’s pension or relief fund, for the pur-
poses hereinafter enumerated, and thereupon there shall be
created boards of trustees who shall administer and distribute
the funds authorized to be raised by this section and suc-
ceeding sections.

Sec. 14. Levy to Maintain Fund; Gifts, Etc; Assessment
on Members of Department. In every municipality there shall
be a firemen’s pension or relief fund and a policemen’s pen-
sion 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 mu-
unicipal levies, and include within the maximum levy or levies
permitted by law, and if necessary in excess of any charter
provision, 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, for the firemen’s pension or relief fund,
and a like levy on all real and personal property as listed
for taxation in such municipality, for a policemen’s pension
fund: Provided, That in any city or municipality of twenty
thousand population or less the laying of the levy herein pro-
vided for shall be within the discretion of the common council
or other body of like power and duties in such city or mu-
nicipality.

The levies authorized under this section, or any part of
them, may by the council or other governing body be laid in
addition to all other municipal levies, and to that extent be-
yond the limit of levy imposed by the charter of such mu-
nicipality; and such levies shall supersede and if necessary
exclude levies for other purposes if such priority or exclusion
is necessary under limitations upon taxes or tax levies im-
posed by law.

Such corporations are authorized to take by gift, grant, de-
vice or bequest, any money or real or personal property, upon
such terms as to the investment and expenditure thereof as
may be fixed by the grantor or determined by said trustees.

In addition to all other sums provided for pensions in this
section, it shall be the duty of every municipal corporation
to assess and collect from each member of such fire depart-
ment and police department, the sum of one dollar each
35 month, which sum shall be deducted from the monthly pay
36 of such person, and the amount so collected shall become a
37 regular part of the firemen's pension fund, if collected from
38 a fireman, and of the policemen's pension fund, if collected
39 from a policeman.

CHAPTER 54
(Senate Bill No. 182—By Mr. Green, by request)

AN ACT to amend and reenact section eighteen, chapter sixty, acts
of the Legislature of West Virginia, regular session, one thou­
sand nine hundred thirty-three, relating to political activities
of members of fire departments under civil service.

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

Section
18. Political activity of members of fire departments under civil
service.

Be it enacted by the Legislature of West Virginia:

That section eighteen, chapter sixty, acts of the Legislature of
West Virginia, regular session, one thousand nine hundred thirty­
three, be amended and reenacted to read as follows:

Section 18. Political Activity of Members of Fire Depart­
ments Under Civil Service. No member of any fire department
within the terms of this act shall engage in any political ac­
tivity of any kind, character or nature whatsoever, except to
cast his vote at any election, and shall not act as an officer of
election in any election, municipal or general. Any member of
any fire department engaging in any political activity herein
prohibited shall be subject to dismissal, as provided by the
provisions of this act.
CHAPTER 55
(Senate Bill No. 252—By Mr. Curtis, by request)

AN ACT to amend and reenact sections twenty-one and twenty-four, chapter sixty-eight, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, relating to municipal public works and to the issuance and sale of revenue bonds for the construction thereof.

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

Section
21. Municipal public works; board to supervise; leasing.
24. Enforcement of rights of bondholders; receivership, including lessee.

Be it enacted by the Legislature of West Virginia:

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

Section 21. Municipal Public Works; Board to Supervise; Leasing. The municipal authorities may, in their discretion, provide by ordinance that the custody, administration, operation and maintenance of public works shall be under the supervision and control of a board as provided by section three hereof, and in such case, the municipal authorities may provide, by ordinance or resolution, for said board to exercise such of the functions of the municipal authorities in connection with the matter as they deem proper, and may provide for said board to receive such compensation as such authorities may deem proper, all of which authority and compensation shall be specifically provided for by ordinance or resolution. All compensation and expense of such board shall be paid solely from funds provided under the authority of this act. Such board shall have power to establish by-laws, rules and regulations for its own government.
The municipal authorities also, in their discretion, may provide by ordinance for the leasing of municipal public works and provide for the custody, operation and maintenance thereof by a lessee in accordance with the provisions of such ordinance and lease contract executed pursuant thereto: Provided, however, That the lessor shall pay to the municipality for the use and occupancy of such municipal public works so leased an amount sufficient to provide a sinking fund for the payment of the bonds and the interest thereon and all other charges mentioned in said section sixteen, chapter sixty-eight of the code.

Sec. 24. Enforcement of Rights of Bondholders; Receivership, Including Lessee. Any holder of any such bonds, or any of the coupons attached thereto, and the trustee, if any, except to the extent of the rights herein given, may be restricted by said ordinance or resolution authorizing issuance of the bonds, or by the trust indenture, may either at law or in equity, by suit, action, mandamus, or other proper proceeding, protect and enforce any and all rights granted hereunder or under such ordinance, resolution, or trust indenture, and may enforce and compel performance of all duties required by this act, or by such ordinances, resolution or trust indenture to be performed by the municipality issuing the bond, or by the board or any officer, including the making and collecting of reasonable and sufficient charges and rates for services rendered by the works. If there be any failure to pay the principal or interest of any of the bonds on the date therein named for such payment, any court having jurisdiction may appoint a receiver to administer the works on behalf of the municipality, and the bond holders and/or trustees, except as so restricted, with power to charge and collect rates sufficient to provide for the payment of the expenses of operation, repair and maintenance, and also to pay any bonds and interest outstanding, and to apply the revenues in conformity with this act, and the said ordinance, resolution and/or trust indenture, and the power herein provided for the appointment of a receiver and the administration by the court of the works on behalf of the municipality and the bondholders and/or trustees, shall apply to cases where such works are operated by a lessee.
of the municipality as well as to cases where works are
operated by the municipality. In case a receiver is ap-
pointed for works operated by a lessee of a municipality, the
lease agreement then existing between the municipality and
the lessee ipso facto thereby shall be terminated and all
property, equipment, bills receivable and assets of every
kind, used in connection with the operation of such works
shall pass to the receiver and upon the termination of such
receivership, such works, equipment, property, bills receiv-
able and assets of every kind then in the hands of the re-
ceiver thereupon shall pass to the municipality.

CHAPTER 56
(Joint Com. Sub. for Senate Bill No. 325—Originating in the Joint
Committee on Municipal Home Rule)

AN ACT to give effect to the Municipal Home Rule Amendment
to the state constitution by adding a new chapter to the
code of West Virginia, one thousand nine hundred thirty-one,
to be designated as chapter eight-a.

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

Chapter 8-a. MUNICIPAL HOME RULE

1. Purpose; short title.
2. Definitions.
3. Legislative interpretation.

Be it enacted by the Legislature of West Virginia:

That a new chapter designated eight-a be added to the code of
West Virginia, one thousand nine hundred thirty-one, to read as
follows:

4. Classification of municipal corporations.
5. Prior classification.
7. General enumeration of powers of home rule cities.
8. Manner of exercise of municipal powers.
9. Existing status of cities confirmed.
10. Adoption of powers granted by this chapter by amendment to existing charter.
11. Application of other general laws.
12. Sanctions, enforcement of ordinances.

Section 1. Purpose; Short Title. The purpose of this chapter is to give effect to the "Municipal Home Rule Amendment" to the state constitution. It may be cited as the "Municipal Home Rule Law".

Sec. 2. Definitions. For the purpose of this chapter, unless the context clearly requires a different meaning:
1 "Home rule charter" shall mean a charter adopted under this chapter;
2 "Governing body" shall mean the council or commission created by the charter which enacts ordinances and resolutions and is responsible for the public policy of the city;
3 "Administrative authority" shall mean the officer or body which is responsible for the conduct and management of the affairs of the city in accordance with general law, the charter and the ordinances, resolutions and orders of the governing body;
4 "City" shall mean a municipal corporation with a population in excess of two thousand;
5 "Town" or "village" shall mean a municipal corporation with a population of two thousand or less;
6 "Voter" shall mean a person qualified to vote in accordance with the provisions of general law and the city charter.

Sec. 3. Legislative Interpretation. The Legislature hereby declares its interpretation of the Municipal Home Rule Amendment to be that a single classification by population of municipalities in this state is required which shall exclude any other classification of municipalities by population for any purpose. It is, therefore, the intention of the legislature that the classification established by section four of this article, shall give effect to the constitutional mandate and shall be the only classification by population applying
to municipalities in this state. It is the further intention of
the Legislature that subsequent legislation affecting munici-
palities in this state shall treat municipalities differently
upon the basis of population, only in accordance with the
general classification established by section four of this
article.

Sec. 4. Classification of Municipal Corporations. Pursuant
to the mandate of the Municipal Home Rule Amend-
ment, municipal corporations are hereby classified by popu-
lation into four classes as follows:

(1) Every municipal corporation, the population of
which exceeds fifty thousand persons, shall be a class I
city;

(2) Every municipal corporation, the population of which
is more than ten thousand and not more than fifty thousand
persons shall be a class II city;

(3) Every municipal corporation, the population of which
is more than two thousand and not more than ten thousand
persons shall be a class III city;

(4) Every municipal corporation not included in any of
the foregoing classes shall be known as a town or village.

Transition from one to another class of municipal cor-
poration shall occur automatically when the requisite popu-
lation qualification has been met.

Sec. 5. Prior Classification. Provisions of general law
establishing classifications by population in effect at the
time of the adoption of the Municipal Home Rule Amend-
ment or enacted prior to the adoption of this enabling act
under the amendment shall operate as follows:

(1) The provisions of an act of the Legislature, regular
session, one thousand nine hundred thirty-seven, known and
designated as house bill number two, and chapter sixty of
the acts of the Legislature of one thousand nine hundred
thirty-three, regular session, and as amended, shall be in full
force and effect notwithstanding the provisions of this act as
to classifications by population, and nothing herein contained
shall supersede the provisions of said house bill number two,
or said chapter sixty of the acts of the Legislature, one thou-
sand nine hundred thirty-three, as amended, or to amend,
modify, or repeal any part thereof.
(2) The provisions of section seventeen, article four, chapter eight of the official code shall apply only to class I, II and III cities;

(3) The provisions of section eighteen, article four, chapter eight of the official code shall apply only to class I, II, and III cities;

(4) The provisions of sections nineteen and twenty, article four, chapter eight of the official code shall apply only to class I, II, and III cities;

(5) The provisions of section nine, as amended by the Legislature of West Virginia, regular session, one thousand nine hundred thirty-seven, article six, chapter eight of the official code, shall apply only to class I and II, and shall be optional with class III cities;

(6) The provisions of section fifty-three, article twelve, chapter eleven of the official code shall apply only to class I, II, and III cities;

(7) The provisions of section fifteen, article one, chapter forty-seven of the official code shall apply only to class I, II, and III cities.

Sec. 6. Population. For the purposes of this chapter population shall be determined by reference to the last preceding census taken under the authority of the Congress of the United States or the Legislature of West Virginia.

Sec. 7. General Enumeration of Powers of Home Rule Cities. Every city from and after the effective date of a charter adopted under this chapter, shall be empowered:

(1) To have and use a common seal;

(2) To contract and be contracted with and to institute, maintain and defend any action or proceeding in any court;

(3) For any municipal purpose to take, purchase, hold and lease real and personal property within and without the limits of the city, and to acquire by condemnation real and personal property within or without the limits of the city for the purposes set forth in and in accordance with chapter fifty-four of the official code;

(4) To take by gift, grant, bequest or devise and to hold and administer real and personal property within and without the limits of the city, absolutely or in trust for any public or municipal purpose, upon such terms and con-
Sec. 8. Manner of Exercise of Municipal Powers. Subject to the provisions of this or any other general law, the powers granted by this chapter shall be exercised, in the manner prescribed, and by the officer, officers or official body designated, by a charter or charter amendment adopted under this chapter, but no provision hereof or of any such charter or charter amendment shall operate to enlarge the grant of powers contained herein, or limit the jurisdiction or power of any state officer or body under general law. If the matter is not covered by general law or by such a charter or charter amendment, the governing body of the city shall have power to determine by ordinance in what manner and by whom such powers shall be exercised.

Sec. 9. Existing Status of Cities Confirmed. The corporate being and powers of every city now existing is hereby confirmed. General and special laws and municipal charters in effect upon the adoption of this chapter shall remain in operation and effect unless amended or repealed by this chapter, or until amended or repealed by a general law hereafter enacted, or until a municipal charter is amended in accordance with article two of this chapter.

Sec. 10. Adoption of Powers Granted by this Chapter by Amendment to Existing Charter. A city which shall continue to operate under a charter in force upon the effective date of this chapter may by charter amendment hereunder adopt any of the powers conferred by articles four and five of this chapter. It shall derive none of those powers from this chapter until so adopted. It shall suffice that an amendment shall make an identifying reference to the section or subsection of this chapter, as the case may be, sought to be adopted. Section three of article five hereof may be so adopted only as a whole. An amendment so adopted shall entirely supersede prior charter provisions on the same subject.

Sec. 11. Application of Other General Laws. Except as otherwise expressly provided in this chapter none of the pro-
visions of chapter eight of the official code shall apply to
cities which adopt a charter under this chapter. To the
extent that provisions of chapter eight constitute parts
of the existing charter of a city they shall not be affected
hereby but shall continue as such until superseded by a
charter or charter amendment adopted under this chapter
or by any other general law. All other general laws re-
ating to municipal corporations shall continue to apply to
cities except to the extent otherwise expressly provided in
this chapter.

Sec. 12. Sanctions, Enforcement of Ordinances. The
governing body of a city may provide by ordinance for
penalties, in the form of fines, forfeitures and imprisonment
in the city jail, for the violation of the ordinances of the
city. It may also maintain a suit in equity in the name of
the city to compel compliance with, or to restrain by injunction
the violation of any ordinance. The maximum fine and the
maximum imprisonment which may be provided shall be
five hundred dollars and six months, respectively, or both.
Provision may be made to contract for lodging city
prisoners in the jail of any county in which any part of the
city lies, or of an adjoining county, for part or all of their
terms of imprisonment. Police officers of a city shall have
the same authority of pursuit and arrest beyond their
normal jurisdiction as has a sheriff.

placed on the amount of taxes upon real and personal prop-
erty that may be levied, or the amount of a mandatory levy,
for the support of a specific municipal service or activity
by any provision of general law, shall not apply to cities
under this chapter in the exercise of powers granted to them
by this chapter. But the total amount of taxes upon real
and personal property levied for municipal purposes in any
year shall not exceed the limitations stipulated by article
eight, chapter eleven of the official code.

Sec. 14. Reference. A reference contained in this chapter
to another provision of the official code shall be construed
to mean the provision as amended. Where additional sec-
tions are added to the subject matter of sections as referred
5 to in this chapter, the reference shall include such additional
6 sections.


Section
1. Grant of charter-making power.
2. Initiation of proceedings for framing a charter.
3. The ballot; election of a charter board.
5. Charter board; number, qualifications and nomination of members.
6. Charter board, cumulative voting for members.
7. Organization and powers of charter board.
8. Reference of draft of charter to the attorney general.
9. Public hearing on draft of charter.
10. Completion, authentication and filing of draft of charter.
11. First charter board a continuing body.
12. Submission of charter to the voters.
13. When a home rule charter takes effect.
14. Home rule charter supersedes existing charter; effect on local
   legislation and administrative law.
15. Charter amendment.
17. Submission of alternative provisions.
18. Qualifications for voting registration.
19. Requisite vote; ballot.
20. Conduct of elections; canvass and declaration of result.
22. Election officials.

Section 1. Grant of Charter-making Power. The voters of
2 any city may frame, adopt and amend the charter of the cor-
3 poration in the manner provided by this article.

Sec. 2. Initiation of Proceedings for Framing a Charter.
2 The governing body of a city may, by the affirmative vote of
3 two-thirds of its members, and shall, upon petition bearing
4 the signatures, written in their own handwriting, of voters
5 of the city equal in number to fifteen per centum, if a class I
6 or class II city, and ten per centum, if a class III city, of the
7 total registration of voters therein or if there be no registra-
8 tion of voters then a like per centum of duly qualified voters
9 for the last preceding general election provide by or-
10 dinance for the submission at the next regular municipal
11 election, to the voters of the city of the question, "Shall a
12 charter be framed by representatives of the voters?"
13 The ordinance shall provide for a special election if a peti-
14 tion bearing the signatures of voters of the city equal in
15 number to twenty per centum, if a class I or class II city,
16 and fifteen per centum if a class III city, of such registration
17 or qualified voters and expressly requesting that a special
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18 election be called for the purpose, shall be presented to the
governing body more than one hundred and twenty days
prior to the date of the next regular municipal election.
The special election shall be held not less than thirty nor
more than sixty days after the petition shall have been pre-

Sec. 3. The Ballot; Election of a Charter Board. Pro-
vision shall be made for the election of a charter board con-
currently with the submission of the question whether a
charter shall be framed. The names of the candidates for
membership on the charter board shall be set out in alpba-
etical order beneath the question on a special ballot. A
voter who shall vote "No" on the question may, neverthe-
less, vote for such candidates. The ballot shall bear instruc-
tions to this effect, and also instructions which shall indicate
that the names of the candidates are arranged alphabetically
simply for convenience, the number of candidates for which
the voter may vote (which shall be the same as the number
of members to be elected), and that cumulative voting is
permitted.

After such an election the votes on the question shall be
counted and canvassed. If the result be in the affirmative
the votes cast for members for the charter board shall be
counted and canvassed and the candidates, in the number to
be chosen, who received the highest number of votes shall be
declared elected.

Sec. 4. Notice of Election. The notice of an election on
the question whether a charter shall be framed shall consist
of the initiatory ordinance and a brief prefatory statement
setting out the purpose and date of the election, naming the
candidates, if any, nominated by the governing body for
membership on the charter board and stating how and within
what time limit other nominations may be made. It shall
be published once a week for three consecutive calendar weeks
in two newspapers of opposite politics published in the city,
if there be such, and if not, it shall be published in the news-
paper having the largest circulation in the city and posted
at ten or more public places within the city not less than
thirty days prior to the date set for the election. The first
publication shall be made not less than thirty days prior to
the date fixed for the election.
Sec. 5. Charter Board; Number, Qualifications and Nomination of Members. A charter board shall consist of eleven members in a class I or class II city and of seven members in a class III city. Members shall be elected at large. Any person who has been a qualified voter of a city for two years at the date of the election of members shall be eligible for membership on the charter board.

The governing body of a class I or class II city may nominate five candidates, and that of a class III city three candidates for members of a charter board. Other nominations may be made by petition bearing the signatures, written in their own handwriting, of not less than two hundred registered voters of the city. Nominations by the governing body shall be made in the initiatory ordinance. Nominating petitions may be filed at any time after the adoption of an initiatory ordinance and not less than ten days prior to the date fixed for the election.

Sec. 6. Charter Board, Cumulative Voting for Members. Each voter entitled to vote on the question of framing a charter may cast as many votes for members of the charter board as there are members to be elected. He may cumulate all his votes for one candidate or distribute them among the several candidates as he sees fit.

Sec. 7. Organization and Powers of Charter Board. A charter board shall convene within ten days after election and perfect its organization by electing a chairman and clerk from its membership and by determining the rules of its proceedings. A journal shall be kept by the clerk upon which shall be entered, upon demand by any member, the vote by “ayes” and “nays” on any question. A majority shall constitute a quorum. Any voter or taxpayer of a city may file with a charter board thereof any written material bearing upon the purposes of the board that he sees fit and the board shall give material so filed such consideration as it merits. The charter drafting process may be carried on through committees but their work shall be advisory only. A charter board shall complete its draft of charter within one hundred and twenty days after the date of its organization meeting.
Sec. 8. Reference of Draft of Charter to the Attorney General. A draft of charter shall, upon its completion, be certified at once to the attorney general of the state. It shall be his duty to examine the draft to determine whether it is consistent in all respects with the constitution and general laws of the state. Within thirty days after receipt of such a draft he shall certify to the charter board in what particulars, if any, the draft is, in his opinion, inconsistent or in conflict with the constitution or general laws of the state.

Sec. 9. Public Hearing on Draft of Charter. When it shall have completed its draft of charter a charter board shall conduct a public hearing thereon. Notice of the time, place and purpose of the hearing shall be given by publication at least ten days prior to the date set for the hearing in two newspapers of opposite politics published in the city, if there be such, and if not, by publication in a newspaper of general circulation in the city. Notice shall also be posted in at least ten public places in the city at least ten days prior to the date set for the hearing. The notice shall state where copies of the draft of charter may be obtained. The hearing may be continued by the charter board by adjournments over a period not exceeding fourteen days.

Sec. 10. Completion, Authentication and Filing of Draft of Charter. A charter board shall have thirty days after the conclusion of the hearing required by section nine of this article, or the receipt of the certificate of the attorney general, required by section eight of this article, whichever shall occur later, to make any changes it may consider necessary or desirable in its draft of charter. The completed draft of charter shall be signed in triplicate by at least a majority of the members of the board and two copies shall be filed with the clerk or other recording officer of the city, and one with the clerk of the county court.

Sec. 11. First Charter Board a Continuing Body. The members of the first charter board elected in a city under this act shall hold office for a period of six years, in the event their draft of charter is adopted. Any vacancy occurring during that period shall be filled temporarily by appointment by majority action of the remaining members. A suc-
cessor shall be elected at the next regular municipal election in the same manner as elective city officers, to hold office for the remainder of the term. The board shall make a continuing study of the functioning of the city government under a home rule charter adopted during its life and may, by a two-thirds vote of its members and not less than four years after such charter shall have taken effect, require the submission to the voters of the city of the question whether the charter shall be revised. By a like vote and at any time not less than one year after the charter shall have taken effect the board may require the submission of one or more proposed charter amendments to the voters of the city. In the event revision is voted pursuant to such submission the board as then constituted shall proceed to prepare a revision of the charter and the process of revision as so initiated shall be the same as that for the framing and adoption of a new charter under this chapter.

Sec. 12. Submission of Charter to the Voters. The proposed charter shall be submitted to the voters at a special election to be held at the time determined by the charter board. Notice of the time, place and purpose of a charter election shall be given by publication once a week for three consecutive calendar weeks in two newspapers of opposite politics published in the city, if there be such, and if not, in a newspaper of general circulation in the city. Notice shall be posted at ten or more public places within the city not less than thirty days prior to the date set for the election. The first of said publications shall be made not less than thirty days prior to the date fixed for the election. Each such notice of election shall state that any qualified voter of the city may obtain a copy of the proposed charter, from a designated officer and place, upon request.

Sec. 13. When a Home Rule Charter Takes Effect. A home rule charter shall take effect on the first day of the fiscal year next after the date of its adoption, if the interim exceeds sixty days; and otherwise on the first day of the second fiscal year after its adoption. If a proposed charter shall be approved by the voters of a city one of the signed copies on file with the recording officer of the city, with a certified copy of the declaration of result
of the election showing the total votes cast for and against adoption attached, shall be certified forthwith to the clerk of the House of Delegates of the Legislature, in his capacity as keeper of the rolls. The same shall be preserved by said clerk as an authentic public record. After the effective date of a charter so filed all courts shall take judicial notice of its provisions.

A copy of the declaration of the result of the election showing the total votes cast for and against adoption shall be certified to the clerk of the county court for filing with the signed copy of the charter previously deposited with him.

Sec. 14. Home Rule Charter Supersedes Existing Charter; Effect on Local Legislation and Administrative Law. A home rule charter shall entirely supersede the prior charter of a city. All legislative and administrative acts or rules theretofore adopted by the governing body and administrative agencies of a city which are inconsistent or in conflict with a home rule charter, shall continue in force for sixty days after the effective date of the home rule charter, unless sooner modified or repealed by competent authority; but at the end of this period, shall to the extent of such inconsistency or conflict, be of no further force or effect.

Sec. 15. Charter Amendment. The voters of a city may amend an existing special charter or a charter adopted under the provisions of this chapter. An amendment may be initiated in the same manner as for the adoption of a charter. An amendment to a charter adopted hereunder may also be initiated in the manner provided in section eleven of this article.

A special election shall be called to pass upon a proposed charter amendment if (1) the date of the next regular municipal election shall be more than ninety days after the date fixed for such special election; (2) the governing body by the affirmative vote of two-thirds of its members shall determine as a fact that an emergency exists which requires that the proposal be submitted without delay; or (3) a petition expressly requesting the election, which has been signed by twenty per centum of the total registration of the voters in the city for the last preceding general election, in case of
a class I or class II city, or by fifteen per centum thereof, in
case of a class III city, has been filed with the governing
body. In any other case a proposed charter amendment shall
be submitted at the next regular municipal election. The
petition or ordinance proposing a charter amendment shall
set it out in full.

The date of a special election for the purpose shall be fixed
by the initiatory ordinance. The notice of the election shall
state the time, place and purpose thereof and shall set out the
proposed amendment or amendments at length or state that
copies may be obtained by any qualified voter from a design-
nated officer at a stated place upon request. Notice shall
be published and posted, as in the case of a charter election.

A charter amendment shall take effect on the date that
the canvass and declaration of result showing approval by
the voters has been made and entered in the minutes of the
governing body, and one copy thereof with a copy of the
canvass and declaration of result attached shall be certified
to the clerk of the House of Delegates, as keeper of the rolls,
and another to the clerk of the county court.

Sec. 16. Charter Revision. A charter adopted pursuant
to this article may be revised in like manner as framed and
adopted but no revision shall be made within four years of
the effective date of such a charter or of the last preceding
revision, as the case may be.

Sec. 17. Submission of Alternative Provisions. A charter,
charter revision or charter amendment may be proposed with
alternative provisions for submission to the voters and the
same may be voted upon separately without prejudice to
the primary question whether the proposed charter, charter
revision or amendment shall be adopted or to other provisions
thereof.

Sec. 18. Qualifications for Voting Registration. The
qualifications for voting at an election held under this article
shall be those prescribed by the constitution and by chapter
three of the official code.

For purposes of any election in a city under this article
the latest registration of voters for regular municipal elec-
tions shall be used.
Sec. 19. Requisite Vote; Ballot. A simple majority of the votes cast on the question shall be determinative of any proposition submitted to the voters of a city under this article. A separate, special ballot without party designation shall be used at every election held under this article even though conducted at the same time as another election, whether general or special.

Sec. 20. Conduct of Elections; Canvass and Declaration of Result. A special election held under this article shall be conducted in like manner as a regular municipal election. The governing body of a city shall canvass the returns at relatively the same time with reference to an election held hereunder and in the same manner as county courts are required to do with respect to general elections, and shall declare the result of the election. This requirement shall apply to any election held under this article whether it be special or conducted in conjunction with a regular municipal election. The canvass and declaration of result shall be entered in the minutes of the governing body on the date made.

Sec. 21. Expense of Proceeding. The governing body of a city shall make full provision for the expense of advertising and holding any election and all other proper expenses incurred in complying with the provisions of this article, including the expenses of a charter board, but the members of a charter board shall receive no compensation.

Sec. 22. Election Officials. In a special election held under this article, election officials shall be of the number and shall perform the duties prescribed by general law. Election officials shall be appointed by the local governing body, but the proponents and opponents of the new charter or charter amendment shall be entitled to representation among the election officials at each polling place. Election officials shall be designated as follows:

(1) The proponents and the opponents, or either, of a new charter or a charter amendment, if organized, may not less than ten days prior to the date of the special election file with the local governing body a list of persons nominated as election officials to represent their organization. The governing body shall appoint as election officials the
persons so nominated. If the proponents or opponents, or
either, of a new charter or charter amendment desire rep-
resentation at a special charter or charter amendment
election as an organization they shall, within ten days
after the official notice of the election has been published
for the first time, submit to the governing body a state-
ment showing the name, officers and members of their
organization. An organization shall have as members at
least five per cent of the registered voters of the city.
A person shall not be a member of more than one such
organization;
(2) If the proponents and opponents, or either, of a new
charter or charter amendment are not organized, the govern-
ing body shall not less than eight days prior to the special
election appoint as representatives of proponents and op-
ponent or either as the case may be an equal number of
persons known to be in favor of the proposed charter or
amendment and of persons known to be opposed to the
proposed charter or amendment, to act at each polling place.

Article 3. Home Rule Charters; Ordinances.

Section
1. Home rule charters.
2. Plan I: “Mayor-council plan.”
3. Plan II: “Strong-mayor plan.”
5. Plan IV: “Manager plan.”
6. Municipal officers and employees.
7. Elections.
8. Initiative, referendum and recall.
10. Ordinance procedure.

Section 1. Home Rule Charters. A home rule charter
shall provide for a form of city government in accordance
with plans, I, II, III or IV of this article. The intention of
sections two through five, inclusive, of this article is to
establish basic requirements of alternative plans of structure
and organization. The structure and organization of a city
government under a home rule charter may be specified by
the charter in respects other than those enumerated, and in
elaboration of the basic requirements, in so far as such pro-
visions do not conflict with the purpose and the provisions
of the alternative plans prescribed.
Sec. 2. Plan I: "Mayor-council Plan." A home rule charter may provide for a form of government as follows:
(1) A city council, elected at large or by wards, or both, by the voters of the city;
(2) A mayor elected by the voters of the city;
(3) Such other elective officers as the charter may prescribe;
(4) The mayor and council shall be the governing body.

Sec. 3. Plan II: "Strong-mayor Plan." A home rule charter may provide for a form of government as follows:

(1) A mayor elected by the voters of the city;
(2) A city council elected at large or by wards, or both, by the voters of the city;
(3) The council shall be the governing body;
(4) The mayor shall be the administrative authority;
(5) Other officers and employees shall be appointed by the mayor or by his order in accordance with this chapter. Appointments by the mayor or by his order may be made subject to the approval of the council.

Sec. 4. Plan III: "Commission Government." A home rule charter may provide for a form of government as follows:

(1) A commission of three or five members elected at large by the voters of the city;
(2) The commissioners shall be as follows: A commissioner of public affairs, a commissioner of finance, a commissioner of public safety, a commissioner of public works, and a commissioner of streets. A charter for a class III city shall, and a charter for a class I or class II city may provide for a commission of three members to be a commissioner of finance, a commissioner of public works, and a commissioner of public safety;
(3) The members of the commission shall elect a mayor from among their membership;
(4) The commission shall be the governing body and administrative authority of the city;
(5) Officers and employees, other than members of the commission shall be appointed in accordance with this chapter, by the commission or by each commissioner with respect to his department as the charter may prescribe.
Sec. 5. Plan IV: "Manager Plan." A home rule charter may provide for a form of government as follows:

1. (1) A council of not to exceed seven members elected at large by the voters of the city;
2. (2) A mayor elected by the council from among its membership, who shall serve as the presiding officer of the council;
3. (3) A city manager who shall be appointed by the council;
4. (4) The council shall be the governing body;
5. (5) The manager shall be the administrative authority. He shall manage the affairs of the city under the supervision of the council and he shall be responsible to them. He shall appoint or employ in accordance with this chapter all subordinates and employees for whose duties or work he is responsible to the council.

Sec. 6. Municipal Officers and Employees. Subject to the provisions of the state constitution, general law and this chapter, a home rule charter or, in the absence of charter provisions, a governing body may determine and regulate the number, method of selection, tenure, qualifications, compensation, and powers and duties of city officers and employees.

Sec. 7. Elections. Regular city elections under a home rule charter shall be held on the first Tuesday in June at which elective city officers shall be chosen to take office upon the first day of July next ensuing for a term of as many years, not to exceed four, as the charter may prescribe.

Persons shall be eligible to vote at city elections who are qualified to vote at general elections in this state and who have resided in the city for at least sixty days. But a charter may provide that a person shall be ineligible to vote in city elections who has not lived within the city for at least six months.

A home rule charter shall provide a method and time of registering voters, nominating candidates, conducting elections, and determining and certifying results of elections. A charter may prescribe that county registration books be used for the purposes of registration, and that the pro-
visions of general law with respect to primary and general elections, so far as applicable, shall apply to city elections. The provisions of article seven, chapter three of the official code relating to offenses and penalties shall apply to all elections held under this chapter.

Sec. 8. Initiative, Referendum and Recall. A home rule charter may provide for any or all of the following:

1. The initiation of ordinances by petition of not less than ten per cent of the voters;
2. The submission to the voters of a proposed ordinance at a regular or special election upon the petition of not less than ten per cent of the voters or upon resolution of the governing body;
3. The holding of a special election to submit to the voters the question of the recall of an elected officer upon petition of not less than twenty per cent of the voters. Not more than one recall election shall be held with respect to an officer during his term of office.

Sec. 9. Ordinances. In the following enumerated cases the action of a governing body shall be by ordinance:

1. Levying taxes or providing for the collection of fees of any kind;
2. Requiring a license to do business;
3. Relating to offenses and penalties;
4. Authorizing the issuance of bonds or other forms of indebtedness;
5. Providing for a public improvement;
6. Providing for the purchase of private property by the city or for the sale of property belonging to the city;
7. Laying out or vacating a public street, alley, or way;
8. Relating to zoning;
9. Granting franchises to public utilities;
10. Providing for a contractual or other agreement with another jurisdiction;
11. Relating to such other matters as the charter may require;
12. Any other case in which an ordinance is required by this chapter.
Sec. 10. Ordinance Procedure. The governing body of a city shall enact an ordinance in the cases specified by section nine of this article in accordance with the following requirements:

1. An ordinance shall be read at not less than two meetings with at least one week intervening between each meeting;
2. Before final passage an ordinance shall be published in two newspapers of opposite politics published in the city, if such there be, and otherwise in one newspaper so published. If no newspaper is published in the city, publication shall be in a newspaper of general circulation in the city;
3. An ordinance shall not be finally passed until after three days have elapsed after the date of publication and persons interested have been given an opportunity to attend a meeting of the council and be heard with respect to the ordinance;
4. An ordinance shall not be materially amended at the same meeting at which finally passed. If materially amended after publication the ordinance shall be republished and considered as though publication had not taken place.

A home rule charter may prescribe a procedure for the enactment of ordinances in greater detail than prescribed by this section, but the provisions of this section shall be required. A governing body may enact an ordinance under suspension of the rules prescribed by this section only in the case of a pressing public emergency making a procedure in accordance with the section dangerous to the public health, safety, or morals, and by the affirmative vote of two-thirds of the members elected to the governing body. The nature of the emergency shall be set out in full in the ordinance.


Section
1. General provisions.
2. General provisions; police power.
3. Public morals, safety and good order.
4. Police department.
5. Police court.
6. Fire department.
7. Public library.
8. Public recreation.
11. Retirement pensions for policemen and firemen.
12. Regulatory licenses.
15. Hazards to life and property; abatement of nuisances.
17. Articles unfit for human use or consumption.
18. Accumulation of refuse.
20. Opening of streets.
21. Regulation of traffic.
22. Conservation; shade trees, lowlands and water courses.
23. Signs, billboards and advertising.
24. Planning and zoning.
25. Public property and improvements.
26. Municipal ownership and operation of public utilities.
27. Alienation of municipal public utilities.
28. Franchises.
29. General welfare; miscellaneous powers.
30. Civil service.
31. Intermunicipal contracts and agreements.
32. Special powers of class I and class II cities.

Section 1. General Provisions. Every city, from and after the adoption of a charter under this chapter shall have all the powers conferred by this chapter upon cities of the class to which it belongs. A city operating under a home rule charter may exercise its powers beyond the boundaries of the city so far as may be necessary to assure the effective exercise of its powers within the city, but no authority is conferred hereby to exercise governmental powers within the limits of any other municipality.

Sec. 2. General Provisions; Police Power. A city shall have the power to protect and promote the public safety, health, morals and welfare by the exercise of the powers granted by this article. The enumeration of powers in this article shall not operate to exclude the exercise of other powers fairly incidental thereto or reasonably implied and within the purposes of this chapter; and the provisions of this article shall be given full effect without regard to the common law rule of strict construction.

Sec. 3. Public Morals, Safety and Good Order. A city may exercise its police power to protect the public morals, safety and good order. It may prevent and suppress conduct and practices which are immoral, disorderly, lewd, obscene and indecent.
Sec. 4. **Police Department.** A city may provide for and maintain a police department. The department shall be subject to authority, control and discipline of the local administrative authority.

Sec. 5. **Police Court.** A city may provide for the creation and maintenance of a police court and for the selection by appointment or by election of a police judge. The police court shall have criminal jurisdiction over violations of city ordinances and the criminal jurisdiction of a justice of the peace. A person convicted in a police court shall have the right to an appeal *de novo* to the court having jurisdiction over appeals from justice of the peace courts in the county in the same manner as provided by law for appeals from justice of the peace courts.

Sec. 6. **Fire Department.** A city may provide for, equip and maintain a fire department. The department shall be subject to the authority, control and discipline of the local administrative authority. A city may contribute to the support of a volunteer fire department by providing a fire house, fire fighting equipment, necessary paid personnel and incidental requirements to maintain the department upon an efficient basis. A volunteer fire department shall be subject to the authority of the local governing body.

Sec. 7. **Public Library.** A city may provide for the establishment and maintenance of a public library by ordinance or may submit the question to the voters of the municipality in accordance with article one, chapter ten of the official code.

Sec. 8. **Public Recreation.** A city may provide for the establishment and maintenance of public recreation and play grounds by ordinance or in accordance with article two, chapter ten of the official code.

Sec. 9. **Public Health Unit.** A city may establish and maintain a public health unit in accordance with section two, article two, chapter sixteen of the official code. A public health unit shall exercise its powers subject to the supervision and control of the state public health council and the state department of health.
Sec. 10. Purchasing. A city may provide for the centralized purchasing of materials, supplies and equipment. A city may, by agreement with the state director of purchases, purchase through the state department of purchases or may make agreements with one or more other municipalities, counties, and/or county boards of education, for centralized purchasing for all governmental units which are parties to such an agreement.

Sec. 11. Retirement Pensions for Policemen and Firemen. Cities of class I and class II shall, and cities of class III may provide for pension and relief funds for firemen or policemen, or both, by charter provisions, or by ordinance, in accordance with sections ten through twenty-one, article six, chapter eight of the official code. Amounts paid into a pension and relief fund shall be held in trust for the purposes of the fund, and shall not be used for or diverted to any other purpose. A city may extend a pension and relief fund to include all or specific classes of other city employees.

Sec. 12. Regulatory Licenses. A city may regulate the business of and require a special license to be obtained by:

1. Hawkers, peddlers, solicitors and other persons selling from door to door;
2. Persons maintaining or operating pool rooms, auditoriums, theaters, and other places of public gathering and recreation;
3. Persons dealing in second hand or used articles, including pawn brokers and junk dealers;
4. Businesses or activities affecting the public health or safety;
5. Any other business or practice to which the police power extends.

Sec. 13. Municipal Inspection. A city may provide for the entering and inspection of private premises for the purpose of the enforcement of state law and city ordinances. This section shall not be construed to authorize an unreasonable search or seizure in violation of section six, article three of the state constitution.

Sec. 14. Permits for Construction and Alteration. The
2 City may require a permit as a condition precedent to the
3 construction, alteration or repair of any structure or of any
4 equipment or parts of structures that are regulated by state
5 law or city ordinance.

Sec. 15. Hazards to Life and Property; Abatement of
2 Nuisances. The city may provide for the elimination of
3 hazards to public health and safety and may define and abate
4 public nuisances.

Sec. 16. Animals Within City Limits. A city may regu-
2 late or prohibit the keeping of animals within the city
3 limits. A city may provide for the impounding, sale and
4 destruction of animals kept contrary to law or found running
5 at large.

Sec. 17. Articles Unfit for Human Use or Consumption.
2 A city may regulate or prohibit the purchase or sale of
3 articles which are unfit for human use or consumption or
4 which may be contaminated or otherwise unsanitary.

Sec. 18. Accumulation of Refuse. A city may prohibit
2 the accumulation and require the disposal of garbage, refuse,
3 waste, ashes, trash and any other similar matter.

Sec. 19. Building Regulation: General and Special
2 Codes. A city may, by ordinance, or by a code of ordinances:
3 (1) Regulate the erection, construction, repair and alter-
4 ation of structures of every kind within the city. A city
5 may prohibit, within specified territorial limits the erection,
6 construction, repair and alteration of structures of wood or
7 other combustible material. Regulations may extend to
8 excavations upon private property;
9 (2) Regulate electric wiring by prescribing minimum speci-
10 fications to be followed in installation, alteration or repairs;
11 (3) Regulate plumbing by prescribing minimum specifi-
12 cations to be followed in the installation, alteration or repair
13 of plumbing including equipment, water and sewer pipe,
14 traps, drains, cesspools and septic tanks.

Sec. 20. Opening of Streets. A city may provide for the
2 opening and excavation of public streets, and ways, and
3 public places of the city, and may regulate the conditions
4 under which such openings may be made. Regulations shall
5 apply to streets maintained by the state only in the absence
of regulations applying thereto prescribed by the state road
commission pursuant to general law.

Sec. 21. Regulation of Traffic. A city may regulate the
use of public streets and ways, and public places of the
city. Regulations applying to streets or ways maintained
by the state shall be subject to provisions of law relating
to state roads and the regulations prescribed by the state road
commission.

Sec. 22. Conservation; Shade Trees, Lowlands and Water
Courses. A city may provide for:
(1) The protection and conservation of shade or orna-
tmental trees whether on public or private property and
the removal of trees or limbs of trees in dangerous con-
dition;
(2) The construction and maintenance of water drains
and the drainage of swamps or marsh lands;
(3) The construction, maintenance and covering over of
water courses.

Sec. 23. Signs, Billboards and Advertising. A city may
regulate by ordinance the location and placing of signs,
billboards, posters and similar advertising.

Sec. 24. Planning and Zoning. A city may provide for
city planning and zoning in accordance with article five,
chapter eight of the official code.

Sec. 25. Public Property and Improvements. A city
shall have power:
(1) To establish and maintain public buildings, including
a city hall, public auditoriums and a city jail, necessary
or appropriate for the performance of municipal functions;
(2) To lay out, establish, construct, maintain, operate,
alter and discontinue streets, sewers and drainage systems,
sewage disposal plants and street lighting systems;
(3) To establish, construct and maintain, operate, alter
and discontinue bridges, tunnels and ferries, and approaches
thereto;
(4) To establish, construct, maintain and operate markets,
parks, recreation grounds, municipal camps, and parking
lots, and upon the discontinuance thereof to sell and convey
the same;
16 (5) To control and administer the water front and water-
ways of the city, and to establish, maintain, operate and
regulate flood control works, wharves and public landings,
warehouses and all adjuncts and facilities for navigation and
commerce and the utilization of the water front and water-
ways and adjacent property;
22 (6) To establish, maintain, manage and administer
hospitals, sanitaria, dispensaries and public baths;
24 (7) To establish, maintain and operate airports as pro-
vided by article eleven, chapter eight of the official code;
26 (8) To establish, maintain and operate cemeteries;
28 (9) To establish, maintain, manage and administer ab-
batoirs, incinerators and all other facilities for the efficient
removal and destruction of garbage, refuse and other offensive
matter;
31 (10) To exercise its police powers to protect the water-
shed and water supply of the city and to exercise general
police jurisdiction over any territory beyond its limits
owned by the city or over which it has a right-of-way.

Sec. 26. Municipal Ownership and Operation of Public
Utilities. Subject to general law a city shall have power to
acquire or establish, improve, operate, maintain and repair,
within or without the city, water systems and electric and gas
systems for the production and distribution of light, heat
and power primarily for the benefit of the city and con-
sumers therein. A city may acquire watersheds, water
and riparian rights, plant sites, rights-of-way and any and all
other property and appurtenances necessary or appropriate
for such a system. The products and services of any such
utility may be sold to consumers outside the city limits to
the extent, in the judgment of the governing body, that they
are not required to satisfy the needs of consumers within
the city.

A city may purchase the franchises and properties of a
privately owned public utility which the city would have
the authority to acquire and construct as an original under-
taking.

Sec. 27. Alienation of Municipal Public Utilities. No
city shall alienate the franchises and properties of a munici-
pal public utility or lease the same for a period in excess of
ten years unless the proposition shall first have been sub-
mitted to the voters of the city in the manner provided by
this chapter for the submission of proposed charter amend-
ments and shall have been approved by a majority of the
voters voting thereon. This limitation does not apply to such
parts of the franchises or properties of a municipal utility
system as the governing body shall determine to be unneces-
sary for the efficient rendering of the services to the city
and consumers within the city.

Sec. 28. Franchises. A city shall have power to grant
franchises or rights to use the streets, waters, water front,
public ways and public places in the city. No franchise shall
be granted for a period in excess of twenty-five years, nor
until after a public hearing has been held thereon after notice
of the time, place and purpose of the hearing shall have been
given once a week for four successive calendar weeks in a
newspaper of general circulation in the city.

Sec. 29. General Welfare; Miscellaneous Powers. A city
shall have power:
(1) To investigate and inquire into all matters of concern
to the city or its inhabitants;
(2) To establish, maintain, manage and administer instru-
mentalities other than free public schools for the instruction,
enlightenment, improvement, entertainment, recreation and
welfare of its inhabitants as it may deem appropriate or neces-
sary for the public interest;
(3) To create, maintain and administer a system or sys-
tems for the enumeration, identification and registration, or
either, of the inhabitants of the city and visitors thereto, or
such classes thereof as may be deemed advisable;
(4) To appropriate and expend not exceeding twenty-five
cents per capita per annum for advertising the city and the
entertainment of visitors.

Sec. 30. Civil Service. A city may provide by charter
provision for a merit system for all or any class of city
employees in addition to those classes for which a merit
system is made mandatory by general law.

Sec. 31. Intermunicipal Contracts and Agreements. Two
or more cities, a city and a town or village, a city and a
county whether the city is located within the county or not, 
or a city and a county board of education may engage jointly 
in the exercise of any power, the making of any improvement, 
or the promotion and maintenance of any undertaking which 
the several parties are empowered to exercise or undertake 
separately under this chapter or by any other provision of 
general law or special act.

The contract or agreement shall be reduced to writing, 
and before final approval by the governing bodies involved, 
shall be submitted to the attorney general. After approval, 
by the governing bodies concerned certified copies of the con-
tract or agreement shall be filed in the office of the county 
clerk of the county or counties in which the local jurisdictions 
are located, and in the office of the state tax commissioner. 
A contract or agreement shall be limited in duration to one 
fiscal year unless ratified by popular vote of the qualified 
voters of the several jurisdictions voting separately at a 
regular or special election.

Sec. 32. Special Powers of Class I and Class II Cities. 
A class I or class II city shall have the power:
(1) To operate and maintain passenger transportation 
lines and facilities. Such lines may be operated for a dis-
tance of not exceeding three miles beyond the limits of the 
city, but may not be operated within the limits of another 
municipality without the consent of the governing body 
thereof;
(2) For the purpose of inquiring into and investigating 
matters of concern to the city and its inhabitants, to require 
the attendance and testimony of witnesses and the produc-
tion of evidence. In case of failure or refusal of a witness to 
appear and testify, or to produce evidence, the governing 
body may invoke the aid of the circuit court of the county. 
Upon proper showing, the circuit court shall issue an order 
requiring a witness to appear and to produce evidence and 
to give testimony concerning the matter in question. A per-
son who fails or refuses to obey the order of the circuit court 
may be punished by the court as for contempt.
A claim that any such testimony or evidence may tend to 
incriminate the person giving the testimony or evidence shall 
not excuse the witness, but such testimony or evidence shall
not be used against the witness in any criminal prosecution under the laws of the state or a municipal ordinance;
(3) To provide for a sealer of weights and measures who shall exercise his powers in accordance with article one, chapter forty-seven of the official code.

Article 6. Taxation and Finance.

Section 1. General Property and Benefit Taxes. A city shall have power:
(1) To levy and collect taxes on real and personal property for any municipal purpose within the limitations and subject to the classifications prescribed by the constitution and general laws of the state. The assessment, levy and collection of such taxes shall be governed by chapter eleven of this code;
(2) To finance public improvements by the levy and collection of special assessments or other benefit taxes in the manner and to the extent permitted by articles eight and nine of chapter eight of this code and by any other general law. The entire cost of sidewalk construction, including curbing, may be imposed upon the owners of abutting property and made a lien thereon which shall have priority over all other liens except tax liens.

Sec. 2. Capitation Taxes. A city shall have power to levy and collect an annual capitation tax upon all inhabitants who have attained the age of twenty-one years. The governing body may exempt from such tax all persons who are dependent in whole or in part upon public assistance for their support. The rate of such tax shall not exceed two dollars per person and the revenue so produced shall be applied primarily to the maintenance and repair of streets and other public ways and places.
Sec. 3. License and Privilege Taxes. A city may levy and collect an annual license tax upon businesses, occupations, or economic activities regularly conducted within the city, and a special license tax upon an itinerant or transitory business occupation or economic activity conducted within the city, as follows:

1. Upon any public utility business exercising a franchise from the city. The annual tax shall not exceed five hundred dollars in class I cities, three hundred fifty dollars in class II cities, and two hundred dollars in class III cities;

2. Upon any manufacturing or other production business or activity. The annual tax shall not exceed two hundred dollars in class I cities, one hundred fifty dollars in class II cities, and one hundred dollars in class III cities;

3. Upon any wholesale or other intermediate distribution business or activity. The annual tax shall not exceed one hundred fifty dollars in class I cities, one hundred twelve dollars fifty cents in class II cities and seventy-five dollars in class III cities;

4. Upon any amusement or entertainment business or activity, other than literary, dramatic, musical, or benevolent societies not conducted for private profit or gain. The annual tax shall not exceed two hundred dollars in class I cities, one hundred fifty dollars in class II cities, and one hundred dollars in class III cities;

5. Upon the business of selling tangible personal property at retail, except farmers selling products produced by them, and upon any service business, agency or calling. The annual tax shall not exceed one hundred dollars in class I cities, seventy-five dollars in class II cities, and fifty dollars in class III cities;

6. Upon any profession, recognized and regulated as such by the laws of this state. The annual tax shall not exceed twenty-five dollars in a class I or class II city and fifteen dollars in a class III city;

7. If the business, occupation, or activity taxed under this section is conducted at two or more separate places, or locations, each of which is a distinct branch or business unit, a separate license tax may be imposed and collected for each place or location;

8. A license tax levied under this section may be further
42 classified within the classes for which maximum amounts of
taxes are fixed to the extent that such further classifications
are not unreasonable or discriminatory in effect.

Sec. 4. Motor Vehicle Operator's Tax. A city may levy
2 and collect an annual motor vehicle operator's license tax of
3 not exceeding two dollars. The tax shall apply only to inhab-
4 itants of the city.

Sec. 5. Amusement Tax. A city may levy and collect an
2 admission and amusement tax upon any public amusement
3 or entertainment conducted for private profit or gain. The
tax shall be added to and collected with the price of admis-
4 sion, or other charge for the amusement or entertainment.
The tax shall not exceed three per cent of the admission price
5 or charge, but a tax of one cent may be levied and collected
6 in any case.

Sec. 6 Domestic Animal Tax. A city may levy and collect
2 an annual license tax upon the privilege of keeping a domestic
3 animal.

Sec. 7. Preservation of Prior Taxing Powers. A city may
2 include within a home rule charter, and may continue to
3 exercise under a home rule charter, powers of taxation, other
4 than property taxes, which are contained in a special charter
5 in effect upon the adoption of this chapter, and which are
6 not in conflict with general law.

Sec. 8. Fees and Charges for Municipal Services. A city
2 shall have power to charge and collect reasonable rates, fees
3 and charges for municipal services other than those rendered
4 as fire and police protection, subject to the provisions of
5 chapter twenty-four of the official code of West Virginia, as
6 amended. In the case of police power services, which may
7 be mandatory upon those served, the charge shall be based
8 upon and shall not substantially exceed the cost of render-
9 ing the same.

Sec. 9. Borrowing Power. A city shall have power to
2 borrow money on the general faith and credit of the city for
3 any municipal purpose in the manner and subject to the limi-
4 tations provided by article nine of chapter eight and by chap-
5 ter thirteen of this code.
Sec. 10. Audits and Accounts. The provisions of article nine, chapter six of the official code shall apply to cities under this chapter. A home rule charter or, in the absence of charter provision, a governing body of a city may provide for a system of budgeting, accounting, and record-keeping, and for the conduct of the transactions of the city, but such provision shall not conflict with article nine, chapter six of the official code or with the regulations or orders promulgated under it by the state tax commissioner.

Article 6. Consolidation.

Section
1. Authority to consolidate.
2. Petition and resolution.
3. Orders for elections.
4. Elections.
5. Ballots; expenses of elections.
6. Counting and canvassing; certificate of results.
7. Endorsement of certificate; filing.
8. Effective date of consolidation.
10. Ward representation.
11. Commission on wards and election districts.
13. Officers and employees of old municipalities.
14. Succession to rights and properties of merged municipalities.
15. Taxes and obligations of merged municipalities.
16. Transfer of funds and property.
17. Permits and licenses issued by merged municipalities.
18. Legal proceedings pending at merger.
19. Municipalities in different counties.
20. Annexation of unincorporated territory.
22. Ballots.
23. Election.
24. Certification of results.
25. Minor boundary adjustments.

Section 1. Authority to Consolidate. Any two or more adjoining municipalities in this state, lying in the same county, may consolidate and become one municipality in the manner provided in this article.

Sec. 2. Petition and Resolution. Upon the presentation to the governing body of a municipality of a petition, signed by twenty per cent of the qualified voters thereof, requesting consolidation with one or more municipalities and setting forth the name by which the consolidated municipality is to be known, the governing body shall forthwith adopt a resolution proposing such consolidation.
Sec. 3. **Order for Elections.** The governing body shall forthwith present a copy of the resolution to the circuit court of the county or the judge in vacation. If the court, or judge receives copies of such resolutions from the respective governing bodies of two or more municipalities proposing to consolidate with each other, it shall be the duty of the court or judge to call, by written order, an election to be held within such municipalities for a determination, by the qualified voters of the respective municipalities, upon the question of consolidation. The order shall set the date for the elections, which date shall be not less than thirty nor more than sixty days from the date of the order, and shall be on the same day in each of the municipalities concerned.

The order shall state the names of the municipalities, the object of the election, and the name by which the consolidated municipality is to be known.

The order shall forthwith be filed in the office of the clerk of the county court, and true copies shall at once be served upon the clerk, or other recording officer, of each of the municipalities concerned.

Sec. 4. **Elections.** The elections shall be held as are other municipal elections. The provisions of law governing regular municipal elections shall, except as otherwise provided herein, apply to those held under this article.

The question of the consolidation of the same municipalities shall not be submitted to the voters thereof more often than once in two years.

Sec. 5. **Ballots; Expenses of Elections.** The ballots to be used shall be in substantially the following form:

Shall ................................................................. (name the municipalities) be consolidated and become one municipality, to be known as ................................................. ?

(name of the proposed new municipality).

For consolidation □

Against consolidation □

The expenses of the elections shall be borne by the separate municipalities.

Sec. 6. **Counting and Canvassing; Certificate of Results.**
The county court shall furnish sealed ballot boxes to the proper officers of the municipalities wherein the elections are to be held. The municipal officers responsible for the custody of the ballots, shall, immediately upon the closing of the elections, transmit the ballot boxes to the county court, sealed and unopened. The county court shall proceed to count and canvass the votes cast, and shall forthwith certify over their signatures to the circuit court or judge in vacation the result of the canvass, showing distinctly in their certificate the number of votes for and the number of votes against the consolidation in each of the municipalities, and also the number of voters in each municipality who voted on the question.

Sec. 7. Endorsement of Certificate; Filing. If a majority of the qualified voters in each of the municipalities are shown by the county court's certificate to have voted in favor of the consolidation, the circuit court or judge, if satisfied as to the correctness of the returns evidenced by that certificate, shall so certify upon the certificate. He shall cause the same to be filed forthwith in the office of the clerk of the county court, and to be published in a newspaper of general circulation in the municipalities so voting.

Sec. 8. Effective Date of Consolidation. The consolidation shall be effective at twelve o'clock noon of the first day of the fiscal year next succeeding the date of the elections unless that day is less than ninety days prior to such date, in which event the consolidation shall be effective at twelve o'clock noon of the first day of the fiscal year next but one succeeding that date.

Sec. 9. Charter and Ordinances of Consolidated Municipality. When the consolidation becomes effective, the consolidated municipalities shall constitute and be one municipality under the name set forth in the initiatory petitions and the election order.

The charter of the consolidating municipality having the largest population shall, when the consolidation becomes effective, be and remain the charter for the whole of the consolidated territory, until supplanted.

The ordinances, resolutions, orders, rules and regulations
in force in the consolidating municipality having the largest population when the consolidation becomes effective, shall extend to and be in force throughout the newly consolidated municipality, until they are supplanted. And the ordinances, resolutions, orders, rules and regulations of the other municipalities shall cease to be operative.

Sec. 10. Ward Representation. If the charter applying to the new municipality provides for ward or other territorial representation, in whole or in part, upon the membership of the governing body, every ward or similar division in the new municipality shall be entitled to representation upon the governing body of the new municipality.

The commission provided for in section eleven of this article shall give careful attention to this section before commencing upon their prescribed duties.

Sec. 11. Commission on Wards and Election Districts. Within one week after the filing and publication provided for in section seven of this article, a joint commission shall be formed consisting of the mayor or other chief executive officer and the clerk or other recording officer of each municipality to be consolidated, and three inhabitants thereof appointed by the governing body.

The commission shall be called together by the mayor or other chief executive of the consolidating municipality largest in population, at a time and place fixed by him, but not later than ten days from the formation of the commission. The commission shall organize by selecting a chairman and clerk. The clerk shall keep a record of all proceedings and expenses and shall file the same, not more than fourteen days after the commission has filed its report and certificate hereinafter prescribed, in the office of the clerk of the county court, together with an affidavit as to the truth and correctness thereof.

The commission shall fix and determine the ward lines (if the largest municipality is so divided) and election districts of the new municipality. The commission shall, within forty-five days from the date of its organization, make a report and certificate over the signatures of a majority of its members, and shall file the same in the office of the clerk of the county court. The certificate shall set forth and accurately describe the ward lines, if any, and election
27 district lines fixed by the commission, and shall contain a
28 proper map of the new municipality with such lines set out
29 thereon. The clerk of the commission shall cause a copy
30 of the certificate to be filed in the office of the secretary
31 of state.
32 The lines fixed and determined by the commission shall
33 be those of the new municipality until changed in accord-
34 ance with law. Wards, if any, shall be formed of contiguous
35 territory. No election district shall be in more than one
36 ward. In dividing the new municipality into wards and
37 election districts, the commission shall have regard for, and
38 shall take into consideration, the election laws of the state,
39 as well as the area and population in all wards and election
40 districts, and shall divide and arrange the same so that
41 each will contain, as nearly as possible, an equal number of
42 inhabitants.
43 A notice setting forth the ward lines, if any, and election
44 district lines as fixed by the commission shall be published
45 by the clerk thereof, in at least one newspaper of general
46 circulation in the municipalities concerned, for two success-
47 sive weeks next succeeding the filing of the certificate with
48 the clerk of the county court. The expenses of the publica-
49 tion shall be paid by the new municipality. Upon the com-
50 pletion of the publication, the wards and election districts
51 of the consolidating municipalities shall be superseded. The
52 commission shall appoint, in accordance with the charter
53 of the new municipality, election officers to serve at the
54 election provided for by section twelve of this article.
55 The commission may employ an engineer and an attorney
56 to assist in performing its duties. The commission may pro-
57 vide for compensation to be allowed to its clerk, engineer
58 and attorney, which shall be paid by the new municipality.
59 The commission members shall not receive compensation for
60 their services, but all expenses incurred by them in the
61 performance of their duties, when itemized and sworn to
62 by the chairman and clerk, shall be paid by the new
63 municipality.

Sec. 12. Election of New Officers. An election shall be
2 held upon the first Tuesday in June next preceding the
3 date when the consolidation becomes effective for the election
4 of officers for the new municipality. The officers shall be
elected and the election shall be conducted in accordance with the charter which shall apply to the new municipality and as though the consolidation had become effective.

Persons elected to office at the election held under this section shall take office upon the day the consolidation becomes effective, for the term specified by the charter applying to the new municipality.

Sec. 13. Officers and Employees of Old Municipalities.

When the consolidation becomes effective, the terms of office of all officers and officials of the consolidating municipalities, elected or appointed, shall, except as herein otherwise provided, cease and be at an end.

Policemen and firemen of the consolidating municipalities shall, when the consolidation becomes effective, continue as policemen and firemen of the new municipality. They shall be subject to the orders and control of the mayor or other chief executive officer of the new municipality, until the heads of the police and fire departments are chosen and placed in charge thereof.

Tenure of office and pension laws applicable to the employees of consolidating municipalities shall not be affected by the provisions of this article.


The new municipality shall, when the consolidation becomes effective, be vested with all the rights and properties of the municipalities of which it was formed, and shall be responsible and liable for all contracts, debts and obligations of such municipalities. But the lands and property in a municipality superseded under this article shall not be taxed or assessed for the debts or obligations of another municipality thus superseded. The lands and properties in each of the constituent and superseded municipalities shall be taxed and assessed for the debts and obligations of its superseded government until the same shall be paid and satisfied.

Sec. 15. Taxes and Obligations of Merged Municipalities.

The taxes and assessments, levied or imposed by one of the superseded municipalities, remaining outstanding and unpaid, and all other moneys due and owing such municipality when the consolidation becomes effective shall be collected by the
new municipality and shall be applied to the purposes for which raised or owing, and if not raised or owing for a specific purpose, shall be applied to the reduction or payment of the bonded or other indebtedness, if any, of the superseded municipality.

Proceedings pending to enforce the payment or collection of taxes and assessments in any of the consolidating municipalities shall be carried to completion by the proper officers of the new municipality; and all taxes and assessments theretofore levied and assessed by any of the consolidating municipalities shall be valid and effectual as if originally levied and assessed by the officers of the new municipality. The governing body of the new municipality is authorized to perform all necessary acts to confirm and effectuate such levies and assessments.

Sec. 16. Transfer of Funds and Property. Immediately upon the installation of the new municipal government the officers having custody of the funds of the consolidated municipalities shall deliver all funds in their possession into the custody of the proper fiscal officer of the new municipality, who shall acknowledge delivery by giving his receipt therefor.

The mayor or other chief executive officer shall supervise and direct the transfer of all personal property, books, papers, vouchers, or other documents belonging to the consolidated municipalities, to the proper officers of the new government. He shall also cause a complete inventory to be made of all assets, real and personal, thus received by the new government.

The tax commissioner shall cause an audit and settlement of officers' accounts to be made forthwith.

Sec. 17. Permits and Licenses Issued by Merged Municipalities. Permits and licenses granted to any place or person by any of the consolidating municipalities shall, subject to their conditions, remain in full force and effect and be recognized by the new municipality until the expiration of the term for which they were granted. But this section shall not be construed to prevent the revocation of any such permit or license before its expiration in the manner provided by law.
Sec. 18. Legal Proceedings Pending at Merger. No suit, action or proceeding pending in any court or before any board or department, wherein one of the consolidating municipalities is a party, or in which it is interested, or by the determination of which it might be affected, shall abate by reason of the consolidation, but the new municipality shall be substituted in the place and stead of such consolidating municipality, and the suit, action or proceeding shall continue as if the consolidation had not taken place.

Sec. 19. Municipalities in Different Counties. Two or more adjoining municipalities in different counties may consolidate and become one municipality in the manner provided in this article for the consolidation of adjoining municipalities lying in the same county. But where a county court or clerk, or circuit court is designated in this article, it shall, as to municipalities in different counties, be the county court or clerk, and the circuit court of the county wherein the consolidating municipality or part thereof having the largest population is located.

Sec. 20. Annexation of Unincorporated Territory. Unincorporated territory may be annexed to and become part of a municipality contiguous thereto in accordance with sections twenty to twenty-four, inclusive, of this article.

Sec. 21. Petition for Annexation. Ten per cent of the inhabitants of the municipality may file a petition, in writing and signed by them, with the governing body, setting forth by metes and bounds the territory proposed to be annexed and asking that a vote be taken upon the proposed annexation. Upon the filing of the petition, the governing body shall order a vote of the qualified voters of the municipality to be taken upon the proposed annexation at a time to be named in the order, but not less than twenty nor more than sixty days from the date of the order. The governing body shall, at the same time, order a vote of all the qualified voters residing in the contiguous territory, and of all the qualified voters owning any part of such territory whether resident thereon or not, to be taken upon the question on the same day at some convenient place on or near such contiguous territory. The orders shall be published, at the cost of the
municipality, in a newspaper of general circulation in the
municipality and the contiguous territory, once a week for
two successive weeks, the first publication to be at least
fourteen days prior to the day the vote is to be taken. The
orders so published shall contain an accurate description
by metes and bounds of the territory proposed to be an-
nexed, and, if practicable, shall contain also a popular de-
scription of such territory.

Sec. 22. Ballots. The ballots shall be in substantially the
following form:

(Here shall be a map showing plainly the municipality, and
the territory proposed to be annexed.)

Shall the territory indicated on the map be annexed to
and become part of ...........................................? (name
of the municipality).

For annexation □

Against annexation □

Sec. 23. Election. The election shall, except as herein
otherwise provided, be held and conducted by the proper
officers of the municipality. The circuit court or judge of
the county wherein the municipality or the portion thereof
greatest in population lies, shall appoint persons to attend
the election, which persons shall have the right to challenge
the casting of any vote on the question of the annexation.
The court or judge shall appoint and designate three such
challengers to serve at each place of voting both in the
municipality and in the territory proposed to be annexed.
A challenger so appointed and designated shall be a resi-
dent of the municipality or territory where he officiates.
The county court of the county where the municipality or
portion thereof greatest in population lies, shall furnish
sealed ballot boxes, which at the close of the voting shall be
transmitted sealed and unopened to the county court, which
shall proceed to count and canvass the votes cast.

Sec. 24. Certification of Results. The county court shall
forthwith certify to the circuit court or judge, hereinbefore
designated, the results of the election. If a majority of the
votes cast by the qualified voters of the municipality, and
Sec. 25. Minor Boundary Adjustments. In the case of a minor boundary adjustment, the governing body of a municipality may apply to the circuit court, or judge in vacation having jurisdiction over the area to be annexed. Application shall show the metes and bounds of the area to be annexed, the number of persons residing therein, and a proper map of the area.

The court or judge, if satisfied that the annexation applied for is only a minor boundary adjustment, shall order publication of a notice that annexation has been proposed, and shall set a time for a hearing on the question. Publication shall be as in the case of an annexation election. Notice shall be prominently posted at not less than five public places within the area to be annexed.

If the proposed annexation is not substantially opposed at the hearing by a person having an interest in the land within the area to be annexed, the court or judge may enter an order changing the boundaries of the municipality to embrace the annexed area. If the annexation is substantially opposed at the hearing by a proper party the court or judge shall dismiss the application. The municipality shall pay the costs of the proceedings under this section.

CHAPTER 57
(House Bill No. 2—By Messrs. Jimison and Russek)

AN ACT to provide for the appointment and promotion of members of paid police departments in cities and municipalities; to provide for the creation and maintenance of a civil service commission for that purpose; to establish rules and procedure therefor; to regulate the manner in which demotions and discharge of em-
employees of paid police departments shall be made, and the
rights and limitations of said employees in that respect; to
provide for other matters relating to the duties and powers
of said civil service commission, defining its powers, limiting
its authority, etc.; and providing penalties for the violation
of the provisions of this act.

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

Section 1. Appointments and promotions in paid police departments.
2. Civil service commission; appointment; qualifications; removal.
3. Clerk of commission.
4. Offices and supplies for commission.
5. Powers and duties of commission.
6. Rules and regulations of commission; probationary period for
   appointees.
7. Examinations; eligible lists.
8. Application for examination; refusal to examine or certify; hear-
   ing on.
9. Appointments from eligible list.
10. Filling vacancy when there is no eligible list.
11. Filling vacancies by promotion.
12. Physical examinations of applicants; age limits; reappointment of
   former members.
13. Removal, discharge, retirement, etc., of members of police de-
   partment.
14. No political or religious test permitted.
15. Failure to comply with provisions of act a misdemeanor.
16. Offenses constituting misdemeanors under act.
17. Penalties.
18. When examinations not required.
20. Inconsistent acts repealed.
22. Election to determine if act applies to city of five thousand popu-
   lation or less; cities having police civil service not affected.

Be it enacted by the Legislature of West Virginia:

Section 1. Appointments and Promotions in Paid Police
2 Departments. All appointments to and promotions in all
3 paid police departments of cities and municipalities of
4 five thousand population or more, shall be made only accord-
5 ing to qualifications and fitness to be ascertained by exam-
6 inations, which, so far as practicable, shall be competitive, as
7 hereinafter provided. On and after the date this act takes
8 effect no person except the chief of police shall be appointed,
9 reinstated, promoted or discharged as a paid member of said
10 department of any city or municipality in the state of West
Virginia subject to the provisions hereof, in any manner or by any means other than those prescribed in this act.

Sec. 2. Civil Service Commission: Appointment; Qualifications; Removal. There shall be a "civil service commission" in each city or municipality of five thousand population or more, having a police department, in which members thereof are paid by said city or municipality. The civil service commission in each shall consist of three commissioners, one of whom shall be appointed by the governor; one of whom shall be appointed by the local fraternal order of police and the third shall be appointed by the local chamber of commerce, or if there be none, by a business men's association. The persons appointed commissioners shall be qualified voters of the city or municipality for which they are appointed; and at least two of said commissioners shall be persons in full sympathy with the purposes of this act. Not more than two of the said commissioners, at any one time, shall be adherents of the same political party. The commissioners in each city or municipality shall be appointed as follows: On the date this act takes effect, the person, organization or board having appointive power to this civil service commission shall appoint three commissioners, the first of which to be appointed by the governor shall serve for six years from the date of his appointment; the second commissioner to be appointed by the local fraternal order of police shall serve for four years from the date of his appointment; and the third commissioner to be appointed by the chamber of commerce, or business men's association of each city or municipality shall serve for a term of two years from the date of his appointment; in the absence of the existence of a chamber of commerce or business men's association at the time any appointment is to be made, this third appointment shall be made by the other two commissioners by mutual agreement; thereafter all appointments shall be made for periods of four years each by the appointing power hereinbefore designated. In event that any commissioner of said civil service commission shall cease to be a member thereof by virtue of death, removal, or other cause, a new commissioner shall be appointed to fill out the unexpired term of said commissioner within ten days after said excommissioner
shall have ceased to be a member of said commission. Such
appointment shall be made by the person, officer or body who
in the first instance appointed the commissioner who is no
longer a member of the commission. The three members of
the commission shall, together, elect one of their number to
act as president of the commission, who shall serve as presi-
dent for one year. Each year thereafter the commissioners
shall elect one of their number president, the member so
elected to serve one year. The governor, mayor, city man-
ger, or principal executive officer of any city or munici-
pality may, at any time, remove a commissioner or commis-
sioners for good cause, which shall be stated in writing and
made a part of the records of the commission: Provided,
however, That once the governor, mayor, city manager, or
principal executive officer, has to remove any commissioner,
or commissioners such removal shall be temporary only and
shall be in effect for a period of ten days, if at the end of
said period of ten days the circuit court of the county in
which said city or municipality is located, is in term or
session. Within said ten-day period the governor, mayor,
city manager or principal executive officer, shall file in the
office of the clerk of the circuit court of said county a petition
setting forth in full the reason for said removal and praying
for the confirmation of said circuit court of the action of the
governor, mayor, city manager or principal executive officer,
in so removing the said commissioner or commissioners. A
copy of said petition, in writing, shall be served upon the
commissioner or commissioners so removed simultaneously
with its filing in the office of the clerk of the circuit court
and shall have precedence on the docket of said court and
shall be heard by said court as soon as practicable upon the
request of the removed commissioner or commissioners. All
rights hereby vested in said circuit court may be exercised
by the judge thereof during vacation. In event that no term
of circuit court is being held at the time of the filing of said
petition, and the judge thereof can not be reached in the
county wherein the petition was filed, said petition shall be
heard at the next succeeding term of said circuit court,
whether regular or special, and the commissioner or commis-
sioners so suspended shall remain suspended until a hearing
is had upon the said petition of the governor, mayor, city
manager, or principal executive officer of the city. The court,
or the judge thereof, in vacation, shall hear and decide upon
said petition. The contestant or contestants against whom
the decision of the court or judge thereof, in vacation, shall
be rendered, shall have the right to petition the supreme
court of appeals for a review of the decision of the circuit
court, or the judge thereof, in vacation, as in chancery cases.

In the event that the governor, mayor, city manager, or prin-
cipal executive officer of the city, shall fail to file his petition
in the office of the clerk of the circuit court, as hereinbefore
provided, within ten days after the removal of said com-
missioner, or commissioners, such commissioner or commis-
sioners shall immediately resume his or their position or
positions of the civil service commission.

Any citizen or citizens shall have the right, at any time,
to file charges against any member of the civil service com-
mission; such charges shall be filed in the form of a petition
in the office of the clerk of the circuit court, a copy of said
petition, in writing, to be served upon the commissioner or
commissioners sought to be removed. Said petition shall be
matured for hearing and heard by the circuit court of the
county wherein the said city or municipality for which said
commissioner or commissioners serves, as members of the
civil service commission in the same manner as chancery pro-
ceedings in the circuit courts of West Virginia are heard,
saving the right to petition the supreme court of appeals for
a review of the action of the circuit court of the contestant
or contestants against whom the circuit court's decision is
rendered.

No commissioner shall hold any other office under the
United States, the state of West Virginia, or any city,
municipality, county or other political subdivision thereof;
nor shall any commissioner serve on any political committee
or take any active part in the management of any political
campaign.

Sec. 3. Clerk of Commission. The city clerk or city recorder
of any city or municipality under the terms of this act shall
be ex officio clerk of the civil service commission and shall
supply to the commission without extra compensation all
necessary clerical and stenographic services for the work of
the civil service commission.

Sec. 4. Offices and Supplies for Commission. It shall be the
duty of the mayor, city manager, or principal executive officer,
and heads of departments of every city or municipality of five
thousand population or more, to cause suitable and convenient
rooms and accommodations to be assigned and provided, and to
be furnished, heated and lighted for carrying on the work and
examinations of the civil service commission. The civil service
commission may order from the proper authorities the neces-
sary stationery, postage stamps, official seal and other articles
to be supplied, and the necessary printing to be done, for its
official use. It shall be the duty of the officers of every city or
municipality to aid the civil service commission in all proper
ways in carrying out the provisions of this act, and to allow
the reasonable use of public buildings, and to heat and light
the same, for holding examinations and investigations, and in
all proper ways to facilitate the same.

Sec. 5. Powers and Duties of Commission. The civil serv-
ice commission in each city or municipality, within the terms
of this act, shall:
First: Keep minutes of its own proceedings, and records
of its examinations and other official actions. All recommen-
dations of applicants for office, received by the said commis-
sion or by any officer having authority to make appointments
to office, shall be kept and preserved for a period of ten years,
and all such records, recommendations of former employees
excepted, and all written causes of removal, filed with it.
shall, subject to reasonable regulation, be open to public in-
spection;
Second: Make investigations, either by sitting as a body
or through a single commissioner, concerning all matters
touching the enforcement and effect of the provisions of this
act, and the rules and regulations prescribed thereunder,
concerning the action of any person in the public service in
respect to the execution of this act; and, in the course of
such investigation, each commissioner shall have the power
to administer oaths and affirmations, and to take testimony;
21 Third: Have power to subpœna and require the attendance
22 of witnesses, and the production thereby of books and papers
23 pertinent to the investigations and inquiries hereby author-
24 ized and to examine them and such public records as it shall
25 require, in relation to any matter which it has the authority
26 to investigate. The fees of such witnesses for attendance and
27 travel shall be the same as for witnesses before the circuit
28 courts, and shall be paid from the appropriation for the
29 incidental expense of the commission. All officers in the
30 public service, and their deputies, clerks, subordinates and
31 employees shall attend and testify when required to do so by
32 said commission and all cities and municipalities are re-
33 quired to appropriate sufficient funds for the purpose of
carrying out the provisions of this act. Any disobedience to,
or neglect of any one of them, to any person, shall be held a
contempt of court, and shall be punished by any circuit court,
within the county in which is the city, from the civil service
commission of which the said subpœna had issued, as if such
subpœna had been issued therefrom. Any judge of any of said
courts shall, upon the application of any one of said commis-
soners, in such cases, cause the process of said court to issue
to compel such person or persons, disobeying or neglecting
any such subpoena, to appear and to give testimony before the
said commissioners, or any of them and shall have power to
punish any such contempt;

Fourth: Make an annual report to the mayor, city man-
gager, or principal executive officer showing its own action,
and rules and regulations, and all the exceptions thereto in
force, and the practical effects thereof, and any suggestions
it may approve for the more effectual accomplishment of the
purpose of this act. Such report shall be available for public
inspection five days after the same shall have been delivered
to the mayor, city manager, or principal executive officer of
any city or municipality.

Sec. 6. Rules and Regulations of Commission; Probationary
Period for Appointees. The civil service commission, in each
city or municipality, shall make rules and regulations provid-
ing for examinations for positions in the paid police depart-
ment in each city or municipality under this act, and for ap-
pointments to and promotions therein, and for such other mat-
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Sec. 7. Examinations; Eligible Lists. All examinations for positions or promotions shall be practical in their character, and shall relate to such matters, and include such inquiries, as will fairly and fully test the comparative merit and fitness of the person or persons examined to discharge the duties of the employment sought by him or them. All examinations shall be open to all applicants who have fulfilled the preliminary requirements, stated in other sections of this act. All applicants for any position in police department shall, as hereinafter stated, subject to regulations adopted by the civil service commission, be required to submit to a physical examination before being admitted to the regular examinations held by the commission. Said applicant shall have been a resident for three years next preceding date of his application, of the city or municipality in which he seeks to obtain employment in the police department. Adequate public notice of the time and place of every examination held under the provisions of this act, together with information as to the kind of position or place to be filled, shall be given at least one week prior to such examination. The said commission shall adopt reasonable regulations for permitting the presence of representatives of the press at the examinations. The commission shall post, in a public place at its office, the eligible list, containing the names and
Sec. 8. Application for Examination; Refusal to Examine or Certify; Hearing on. The civil service commission, in each city or municipality, shall require persons applying for admission to any examination provided for under this act or under the rules and regulations of the said commission, to file in its office, within a reasonable time prior to the proposed examination, a formal application in which the applicant shall state under oath or affirmation:

First: His full name, residence, and post office address;
Second: His United States citizenship, age, and the place and date of his birth;
Third: His health, and his physical capacity for public service;
Fourth: His business and employments and residences for at least three previous years;
Fifth: Such other information as may reasonably be required, touching the applicant’s qualifications and fitness for the public service.

Blank forms for such applications shall be furnished by the said commission, without charge, to all persons requesting the same. The said commission may require, in connection with such application, such certificate of citizens, physicians or others, having knowledge of the applicant, as the good of the service may require. The said commission may refuse to examine an applicant, or, after examination, to certify as eligible, one who is found to lack any of the established preliminary requirements for the examination or position or employment for which he applies; or who is physically so disabled as to be rendered unfit for the performance of the duties of the position to which he seeks appointment; or who is addicted to the habitual use of intoxicating liquors or drugs; or who has been guilty of any crime, or of infamous or notoriously disgraceful conduct; or who has been dismissed from the public service for delinquency or misconduct; or who has made a false statement of any material fact, or practiced or attempted to practice any deception or fraud in his application, in his examin-
CIVIL SERVICE FOR POLICE DEPARTMENTS

Sec. 8. If any applicant feels himself aggrieved by the action of the commission in refusing to examine him, or after an examination, to certify him as an eligible, as provided in this section, the commission shall, at the request of such applicant, appoint a time and place for a public hearing; at which time such applicant may appear, by himself or counsel, or both, and the commission shall then review its refusal to make such examination or certification, and testimony shall be taken. The commission shall subpoena, at the expense of the applicant, any competent witnesses requested by him. After such review, the commission shall file the testimony taken, in its records, and shall again make a decision, which decision shall be final.

Sec. 9. Appointments From Eligible List. Every position or employment, unless filled by promotion, reinstatement, or reduction, shall be filled only in the following manner: The appointing officer shall notify the civil service commission of any vacancy in the service which he desires to fill, and shall request the certification of eligibles. The commission shall forthwith certify, from the eligible list, the names of three persons thereon who received the highest averages at preceding examinations held under the provisions of this act within a period of three years next preceding the date of such appointment. The appointing officer shall, thereupon, with sole reference to the relative merit and fitness of the candidates, make an appointment from the three names so certified: Provided, however, That should he make objection, to the commission, to one or more of these persons, for any of the reasons stated in section eight of this act, and should such objection be sustained by the commission, as provided in section eight of this act, the commission shall thereupon strike the name of such person from the eligible list, and certify the next highest name for each person so stricken off. As each subsequent vacancy occurs, in the same or another position, precisely the same procedure shall be followed: Provided, however, That after any name has been three times rejected for the same or another position, in favor of a name or names below it on the same list, the said name shall be
stricken from the list. When there are a number of positions
of the same kind to be filled at the same time, each appoint-
ment shall, nevertheless, be made separately and in accord-
ance with the foregoing provisions. When an appointment is
made under the provisions of this section it shall be, in the
first instance, for the probationary period of six months as
provided in section six of this act.

The term "appointing officer" as used in this act shall be
construed to mean the city or municipal officer in whom the
power of appointment of members to a paid police department
is vested by the charter of a city or municipality in which an
appointment shall be made.

Sec. 10. Filling Vacancy When There is no Eligible List.
Whenever there are urgent reasons for filling a vacancy in
any position in the police department and there is no list of
persons eligible for appointment after a competitive examina-
tion, the appointing officer may nominate a person to the civil
service commission for noncompetitive examination; and if
such nominee shall be certified by the said commission as
qualified, after such noncompetitive examination, he may be
appointed provisionally, to fill such vacancy until a selection
and appointment can be made after competitive examination,
in the manner prescribed in section nine; but such provisional
appointment shall not continue for a longer period than
three months, nor shall successive provisional appointments
be made to the same position, under this provision.

Sec. 11. Filling Vacancies by Promotion. Vacancies in
positions in the police department shall be filled, so far as
practicable, by promotion from among persons holding posi-
tions in the next lower grade in the department. Promotions
shall be based upon merit to be ascertained by tests to be
provided by the civil service commission and upon the su-
perior qualifications of the persons promoted, as shown by
his previous service and experience: Provided, however, That
except for chief of police no person shall be eligible for
promotion from the lower grade to the next higher grade
until such person shall have completed at least two years'
service in the next lower grade in the department. The com-
mission shall have the power to determine in each instance
whether an increase in salary constitutes a promotion.
Sec. 12. **Physical Examination of Applicants; Age Limits; Reappointment of Former Member.** All applicants for any position in the police department shall undergo a physical examination which shall be conducted under the supervision of a commission composed of two doctors of medicine appointed for that mission by the mayor, city manager, or principal executive officer of the city or municipality. Said commission shall certify that an applicant is free from any bodily or mental defects, deformity or diseases that might incapacitate him from the performance of the duties of the position desired before said applicant shall be permitted to take further examination. No application will be received if the person applying is less than twenty-one years of age or more than thirty-five years of age at the date of his application: **Provided, however,** That in event any applicant has formerly served upon the police department of the city to which he makes application, for a period of more than six months, and has resigned from the department at a time when there were no charges of misconduct or other misfeasance pending against such applicant, within a period of two years next preceding the date of his application, and is a resident of the city or municipality, and is still a resident of the city or municipality of the police department on which he seeks reinstatement, then such person shall be eligible for reinstatement in the discretion of the civil service commission, even though such applicant shall be over the age of thirty-five years. Such applicant, providing his former term of service so justifies, may be reappointed to the police department without examination other than a physical examination; if such person shall be so reinstated to the police department, he shall be the lowest in rank in the department next above the probationers of the department: **Provided further,** That any person who is, at the time this act goes into effect, serving upon the police department of the city to which he makes application, and has served in such capacity for at least six months prior to the time this act takes effect, shall be eligible to take the examination provided for herein even though such applicant shall be over the age of thirty-five years.

Sec. 13. **Removal, Discharge, Retirement, etc. of Members of Police Department.** No member of any police department
within the terms of this act shall be removed, discharged or reduced in rank or pay except for just cause, which shall not be religious or political, except as hereinafter provided in section twenty-one; further, no such employee shall be removed, discharged or reduced except as provided in this act, and in no event until he shall have been furnished with a written statement of the reasons for such action. In every case of such removal or reduction, a copy of the statement of reasons therefor and of the written answer thereto, if the person sought to be removed desires to file such written answer, shall be furnished to the civil service commission and entered upon its records. If the person sought to be removed or reduced shall demand it, the civil service commission shall grant him a public hearing, which hearing shall be held within a period of ten days from the filing of the charges in writing and the written answer thereto. At such hearing the burden shall be upon the removing officer to justify his action and in event that the civil service commission finds the action of the removing officer unjustified, then the person removed shall be reinstated with full pay for the entire period during which he may have been prevented from performing his usual employment, and no charges shall be officially recorded against his record. A written record of all testimony taken at such hearing shall be kept and preserved by the civil service commission, which record shall be sealed and not be open to public inspection, if no appeal be taken from the action of the commission. In event that the civil service commission shall sustain the action of the removing officer the person removed shall have an immediate right of appeal to the circuit court of the county wherein the city or municipality is situated. Said appeal shall be taken within ninety days from the entry by the civil service commission of its final order; upon such an appeal being taken and docketed with the clerk of the circuit court of said county, the circuit court shall proceed to hear the appeal upon the original record taken therein and no additional proof shall be permitted to be introduced. The circuit court's decision shall be final, saving to the employee, however, the right to petition the supreme court of appeals for a review of the circuit court's decision.
The removing officer and the person sought to be removed shall at all times, both before the civil service commission and upon appeal, be given the right to employ counsel to represent them: Provided, however, That if for reasons of economy or other reasons it shall be deemed necessary by any city or municipality to reduce the number of paid members of any police department then said municipality shall follow the following procedure:

First: If there be any paid policemen eligible for retirement under the terms of a pension fund act, if such fund exists in said city or municipality, then such reduction in numbers shall be made by retirement on pension of all such eligible paid members of the police department;

Second: If the number of paid policemen eligible for retirement under the pension fund of said city or municipality, if such pension fund exists, is sufficient to effect the reduction in numbers of said paid police department desired by said city or municipality, or if there is no eligible person for retirement under the pension fund of said city or municipality, or no pension fund exists in said city or municipality, then reduction in members of the paid police department of said city or municipality shall be effected by suspending the last man or men, including probationers, that have been appointed to said police department. Such removal shall be accomplished by suspending the number desired in the inverse order of their appointment: Provided, further, That in event the said police department shall again be increased in numbers to the strength existing prior to such reduction of members the said policemen suspended under the terms of this act shall be reinstated in the inverse order of their suspension before any new appointments to said police department shall be made.

Sec. 14. No Political or Religious Test Permitted. No question in any form of application or in any examination shall be so framed as to elicit information concerning the political or religious opinions or affiliations of any applicant; nor shall inquiry be made concerning such opinions or affiliations; and all disclosures thereof shall be discountenanced.

No discrimination shall be exercised, threatened, or promised by any person in the police department against, or in favor
of, an applicant, eligible, or employee in police departments under this act because of his political or religious opinions or affiliations.

Sec. 15. *Failure to Comply With Provisions of Act a Misdemeanor.* Whoever makes an appointment to office, or selects a person for employment, contrary to the provisions of this act, or wilfully refuses or neglects otherwise to comply with, or to conform to any of the provisions of this act, or violate any of such provisions, shall be deemed guilty of a misdemeanor.

Sec. 16. *Offenses Constituting Misdemeanors Under Act.* Any commissioner or examiner, or any other person, who shall wilfully, by himself or in cooperation with one or more persons, defeat, deceive or obstruct any person in respect to his right of examination or registration according to this act, or to any rules or regulations prescribed pursuant thereto, or who shall wilfully or corruptly, falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined, registered, or certified, pursuant to the provisions of this act, or aid in so doing, or who shall wilfully or corruptly furnish to any person any special or secret information, for the purpose of either improving or injuring the prospects or chances of appointment of any person so examined, registered, or certified, or to be examined, registered, or certified; or who shall personate any other person, or permit or aid in any manner any other person to impersonate him in connection with any examination or registration, or application or request to be examined or registered, shall, for each offense, be deemed guilty of a misdemeanor.

Sec. 17. *Penalties.* Misdemeanors under the provisions of this act shall be punishable by a fine of not less than fifty dollars, nor more than one thousand dollars, or by imprisonment for a term not exceeding one year, or by both fine and imprisonment, in the discretion of the court.

Sec. 18. *When Examinations Not Required.* All paid policemen, including officers, except chiefs of police, who have had four years' service, in any city or municipal police department, and who are employed by any city or municipality on the date this act takes effect, shall be construed to have been ap-
pointed under the provisions of this act and shall hold their
positions in accordance therewith. Policemen, including of-
fers, who have not had four years’ service in a paid city or
municipal police department, shall be subject to the exam-
ination provided for in this act: Provided, That the re-
quirement for examination of men who have not had four
years’ service prior to the passage of this act, shall not
apply to men who have been injured in line of duty while
in service, which injuries would disqualify them under
the examination herein required, nor shall it apply to mem-
ers of paid police departments, including officers of such de-
partments, in cities or municipalities which now operate un-
der a city system of civil service.

Sec. 19. Provisions Severable. If any clause, sentence, sec-
tion, provision or part of this act shall be adjudged to be
unconstitutional or invalid for any reason by any court of
competent jurisdiction, such judgment shall not impair, af-
fect or invalidate the remainder of this act, which shall re-
main in full force and effect thereafter.

Sec. 20. Inconsistent Acts Repealed. All acts and parts of
acts of the Legislature of the state of West Virginia, general,
special, local or municipal charters, or parts thereof, in re-
lation to any civil service measure affecting the paid police
departments of any city or municipality inconsistent with
this act shall be, and the same are hereby repealed insofar
as such inconsistencies shall exist. It is understood and in-
tended by this act to furnish a complete and exclusive system
for the appointment, promotion, reduction, removal and re-
instatement of all officers, policemen or other employees of
said police departments in all cities and municipalities of
five thousand population or more, wherein the members of the
police department are paid.

Sec. 21. Political Activity of Police Officers Prohibited.
No police officer shall serve as an election official, nor shall
he engage in any political activity, other than to vote, in
behalf of, or in opposition to, any candidate, political party
or public issue involved in any election. Any violation by a
police officer of the provisions of this section shall automatic-
ally vacate his appointment.
Sec. 22 Election to Determine if Act Applies to City of Five Thousand Population or Less; Cities Having Police Civil Service Not Affected. Any municipality of five thousand population or less, may, by ordinance, provide for an election to determine whether the provisions of this act shall apply to such municipality. Such election shall be held at the first general election held in such municipality after the adoption of said ordinance and shall be conducted and the result thereof ascertained as is provided by law for other elections. The ballots shall have printed thereon:

☐ For Police Civil Service.
☐ Against Police Civil Service.

If a majority of all the votes cast on this question be against police civil service, then none of the provisions of this act shall apply within such municipality.

The provisions of this section shall not apply to any municipality now operating under police civil service.

CHAPTER 58

(House Bill No. 414—By Mr. Doringer)

AN ACT to amend article six, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, by adding to said article a new section to be designated section fourteen-a, providing for the collection of an arrest fee for the benefit of policemen’s pension or relief fund, to be taxed as part of costs in convictions for violation of municipal ordinances when arrest is made by a member of the police department.

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

Article 6. Fire Departments, Fire Companies, and Firemen’s and Policemen’s Pension or Relief Fund.

Section
14-a. When arrest fee to be collected for municipal policemen’s pension or relief fund.

Be it enacted by the Legislature of West Virginia:

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

Section 14-a. When Arrest Fee to be Collected for Municipal Policemen’s Pension or Relief Fund. In cases of the conviction for violation of any municipal ordinance of any person arrested by any member of the police department of any city or municipality having a policemen’s pension or relief fund an arrest fee of one dollar shall be taxed as part of the costs, in addition to other fees authorized by law, and shall be collected from the person convicted, and such arrest fee shall be paid into the policemen’s pension or relief fund.

CHAPTER 59
(Senate Bill No. 119—By Mr. Allen, by request)

AN ACT to amend and reenact section nine, article seven, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, relating to the registration of nurses, and prohibiting the illegal practice of nursing.

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

Article 7. Nurses.

Section 9. Use of title “registered nurse”; nurses registered in another state.

Be it enacted by the Legislature of West Virginia:

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

Section 9. Use of Title “Registered Nurse”; Nurses Registered in Another State. Any person who has received a certificate according to the provisions of this article shall be styled and known as a “registered nurse,” and no other per-
son shall assume such title, or use the abbreviation "R. N." or any other letters or figures to indicate that she is a registered nurse. No person who has not duly received a certificate from the state board of examiners shall practice professional nursing with the representation that she is a registered nurse, nor shall advertise to the public as a nurse, without stating that she is not a registered nurse, and it shall be unlawful for any hospital, or other similar institution, physician, dentist, pharmacist or other person to advertise any person as a nurse, or to keep publicly the name of any person upon a record or list of names of nurses, unless such person has been duly granted a certificate to practice as a registered nurse within this state, or unless such advertisement, record or list shall state that such person or nurse is "not registered". No registered nurse who is registered in any other state, territory or in the District of Columbia, shall practice nursing in this state without being registered in this state under the provisions of this article.

CHAPTER 60
(Senate Bill No. 120—By Mr. Allen, by request)

AN ACT to amend and reenact section five, article seven, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, relating to the registration and training of nurses.

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

Article 7. Nurses.

Section 5. Accredited schools for nurses; affiliated schools; school records; advance credit to pupils.

Be it enacted by the Legislature of West Virginia:

That section five, article seven, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:
Section 5. Accredited Schools for Nurses; Affiliated Schools; School Records; Advance Credit to Pupils. An accredited school for nurses within the meaning of this article is defined to be one connected with a hospital having a daily average of at least fifteen patients, which requires its pupil nurses in training to have had at least four years of high school education, or three years of high school work after graduation from a standard junior high school, and to have received a diploma or certificate of graduation from a standard high school in this state, or from a high school outside this state having equal standards, grades and requirements; which does not send out its pupil nurses for private duty; which employs regularly at least one registered nurse; and which provides for its pupil nurses a three years’ continuance theoretical and practical course of training in bedside nursing, except for a vacation not to exceed four weeks each year, and a substantial course of training in each of the subjects named in the preceding section upon which applicants for certificates are to be examined by the board of examiners for nurses. Practical bedside nursing shall include the care of medical and surgical patients, male and female, obstetrical patients and children.

If a school for nurses is unable to give a full three years’ course, but provides a two years’ course and otherwise meets the requirements of an accredited school, it may affiliate for a third year’s training with an accredited three-year school which complements the training of the first by supplying the courses which the first lacks. An applicant who has completed a full three years’ course by attendance in two such affiliated schools may, in the board’s discretion, be treated as a graduate of an accredited school. A hospital which gives training to pupil nurses along special lines may, under the supervision of the board, be accredited for its particular service as an affiliated school.

Any school for nurses to receive credit under this article shall maintain accurate and current records showing in full the theoretical and practical courses of instruction given to each pupil, and shall maintain healthful and comfortable living conditions for the pupils. Schools may only give
39 advance credit to pupils transferring from accredited schools,
40 and then only upon a certificate from the school from which
41 the pupil is transferred, evidencing the good standing of the
42 pupil at the time of transfer.

CHAPTER 61
(Senate Bill No. 2—By Mr. Barnhart)

AN ACT to regulate the assignment of the assets of an insolvent
debtor to a trustee for the benefit of all of his creditors; to pre­
scribe the rights, powers and duties of trustees thereunder, the
powers and duties of commissioners of accounts and clerks of
county courts in connection therewith; to provide for the proof,
allowance and payment of secured and unsecured claims
against such debtors; to regulate the sale of the assets assigned
thereby; to authorize the payment of the costs and expenses of
administration and the payment of dividends to the persons
entitled thereto, and for said purposes to repeal sections four­
teen, fifteen, sixteen, seventeen and eighteen, article one, chap­
ter thirty-eight of the code of West Virginia, one thousand
nine hundred thirty-one, and to enact a new article of said
chapter thirty-eight to be known as article thirteen thereof.

[Passed March 3, 1937; in effect from passage. Became a law without the approval
of the Governor.]

Article 13. Assignment by Insolvent for the Benefit of all Creditors.

Section
1. Assignment by insolvent; form; acknowledgment; recordation;
   assent of trustee.
2. Oath and bond of trustee.
3. Reference to commissioner of accounts; appraisers.
4. Trustee to file schedule; substitute trustee.
5. Notice by trustee to creditors; publication and mailing.
6. Filing and proof of claims.
7. Liens requiring or not requiring proof; waiver by lienor; delin­
   quent taxes.
8. First meeting of creditors; substitute trustee.
9. Sales by trustee; creditors may prescribe manner and terms;
   powers of commissioner.
10. Trustee's report to commissioner; notice to creditors of filing and
    meeting.
11. Report by commissioner; appeal from decision; directions to trustee; dividends; closing trusteeship.
12. Powers, duties and qualifications of trustee; substitute trustee.
15. Commissioner to certify to circuit court disobedience of order, etc.; action by court.
16. Expenses and fees of trustee, commissioner, appraisers and attorney for trustee.
17. Provisions of article severable.
18. Sections repealed; code chapter and article of act.

Be it enacted by the Legislature of West Virginia:

That sections fourteen, fifteen, sixteen, seventeen and eighteen, article one, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, be repealed, and that a new article, to be known as article thirteen, be added to said chapter thirty-eight, as follows:

Section 1. Assignment by Insolvent; Form; Acknowledgment; Recordation; Assent of Trustee. Every assignment, conveyance or transfer made by an insolvent debtor to a trustee which is intended to operate as an assignment of all of such debtor’s property for the benefit of all of his creditors, or of all such property except what is exempt from execution or other process, shall be in writing, and shall specifically state therein the residence and kind of business carried on by such debtor at the time of making the assignment, the place at which such business was conducted, and the name, residence, address and place of business of the trustee and there shall be annexed thereto a statement of the assets of the debtor and the location thereof, and a list of the names and addresses of his creditors.

Every such assignment, conveyance or transfer shall be duly acknowledged before an officer authorized to take the acknowledgment of deeds and shall be recorded in the office of the clerk of the county court of the county in which the principal place of business of the debtor is situated when real property is a part of the property assigned and is situated in a county other than the one in which the original assignment is required to be recorded, a certified copy of such assignment shall be filed and recorded in the county where such property is situated. The assent of the trustee, subscribed and acknowledged by him, shall appear in writing embraced in or at
the end of, or endorsed upon the assignment, before the
same is recorded. In all cases where an assignment is
made by a corporation the right to recover the amount due
from stockholders on unpaid capital stock issued to or sub-
scribed by them shall pass to the trustee whether mentioned in
the assignment or not.

No such assignment, conveyance or transfer shall be valid
and no title to the property assigned, conveyed or transferred
shall vest in the trustee unless the same be executed as herein-
above provided and unless the same be recorded within five
days after the date of the execution thereof. The clerk shall
record such instruments in the deed books in his office, and
shall also keep them on file in his office.

Sec. 2. Oath and Bond of Trustee. Before the trustee shall
have any power or authority to sell, dispose of or convert to
the purposes of the trust any of the assigned property he
shall qualify as such by taking an oath and giving a bond in
a penalty double the amount of the estate, with a solvent sur-
ety company as surety, before the clerk of the county court of
the county in which such assignment, conveyance or trans-
fer has been recorded. The oath of the trustee shall be
that he will faithfully perform the duties of the office
of trustee to the best of his skill and judgment, and will
account for and pay over all money that comes into his
hands as such trustee. The bond of the trustee shall be
approved by the clerk, shall be conditioned that the trustee
shall faithfully perform the duties of trustee to the best
of his skill and judgment and account for and pay over
all money that may come into his hands as trustee, and
shall be filed in the office of the clerk. At any time after
the giving of such bond the clerk may, upon his own motion,
or upon the application of any party in interest, and on five
days’ notice given to the assignor, trustee and surety, increase
the amount of the bond or require further security to be given,
whenever in his judgment the penalty of the bond or the se-
curity afforded by it is not adequate.

Sec. 3. Reference to Commissioner of Accounts; Appraisers.
Upon the qualification of the trustee, the clerk shall refer the
estate to a commissioner of accounts of the county, provided,
that in counties where there are two or more such commis-
ioners, such estates shall be referred to such commissioners
in rotation; and the clerk shall appoint three disinterested
appraisers to appraise all the property belonging to the estate
and, within seven days after their appointment, they shall
make to the commissioner a report thereof in writing duly
sworn to.

Sec. 4. Trustee to File Schedule; Substitute Trustee. With-
in ten days after the recordation of an assignment, conveyance
or transfer the trustee shall cause to be made and filed with
the clerk of the county court of the county where the same is
recorded a schedule containing:
1. The name, occupation, place of residence and place of
business of the debtor;
2. A full and true account of all the creditors of the
debtor, stating the last known place of residence of each,
if known, or if unknown, the fact to be stated; the sum owing
to each, with the true cause and consideration thereof; and a
full statement of any existing security for the payment of the
same;
3. A full and true inventory of all the debtor’s estate
at the date of the assignment, both real and personal,
in law and in equity, with the liens and encumbrances
existing thereon. The trustee shall verify the schedule so
made by him to the effect that the same is in all respects
just and true to the best of his knowledge and belief,
and shall state the sources of his information and the grounds
of his belief. The trustee shall at the same time file a dupli-
cate of the said schedule with the commissioner of accounts
to whom the estate has been referred. In case said trustee
shall be unable to make and file such schedule, within ten
days, the commissioner may, upon application under oath,
showing such inability, allow him such further time as shall
be necessary, not exceeding thirty days. If the trustee fails
to make and file such schedule within said ten days or such
further time as may be allowed, the commissioner shall re-
quire, by order, the trustee forthwith to appear before him,
and show cause why he should not be removed, and, if good
cause be not shown, such trustee shall be removed and a meet-
ing of the creditors shall be called by the commissioner, at
which meeting a substitute trustee shall be elected. Any per-
son interested in the trust estate may apply for such order
and demand such removal.

Sec. 5. Notice by Trustee to Creditors; Publication and Mail-
ing. Within ten days after the filing of the schedule the trustee
shall cause to be published once a week for two successive
weeks in some newspaper published in the county, or, if there
be no newspaper published in the county, in some newspaper
having general circulation in the county, in which the assign-
ment, conveyance or transfer was recorded, a notice reading
substantially as follows:

"To the Creditors of .......................................................... :
Take notice that a general assignment for the benefit of
creditors was made by the above named debtor to ...............
and that said assignment has been duly recorded in the office of
the Clerk of the County Court of .............. County.
All persons having claims against the said debtor are here-
by notified that the same shall be presented to the undersigned
Trustee on or before ..........................................................
The estate has been referred to ............................................,
Commissioner of Accounts, and the first meeting of the
creditors will be held in his office at ........................................,
in .............. County, West Virginia, on ..................
at .............. o'clock ......... M.
Dated this .............. day of ..................................
(Signed) .................................................., Trustee
(Address of Trustee) ..........................................

A copy of the said notice shall be mailed by the trustee
on or before the date of the first publication thereof to
every creditor whose name appears in the schedule or of
whom the trustee has notice, to the assignor and to the
commissioner of accounts, and an affidavit evidencing such
mailing and publication shall be filed by the trustee with the
commissioner.

Sec. 6. Filing and Proof of Claims. The trustee shall specify
in the notice a date on or before which claims shall be present-
ed to him which date shall be not less than thirty days nor more
than sixty days after the date of the first publication of the notice, and no claim filed with the trustee after the date specified in the notice shall be recognized or allowed, except that if a surplus remain after the payment of the claims presented on or before the date specified such surplus shall be applied to the payment of the claims presented after that date. Claims of creditors shall be itemized, accompanied by proper vouchers, and verified by the affidavit of the creditor or his duly authorized agent, stating the character of the claim, whether open account, note, bond, bill, writing obligatory, judgment, decree or other evidence of debt, and the amount thereof, and from what date and on what items interest runs and at what per cent per annum, and stating further that the claim is just and true, and that the creditor, or any prior owner of the claim, if such there was, has not received any part of the money stated to be due, or any security or satisfaction for the same, except what is credited. The vouchers for a judgment or decree shall be an abstract thereof; for a specialty, bond, note, bill of exchange, writing obligatory, or other instrument, shall be the instrument itself, or a true copy thereof, verified by the commissioner of accounts, or proof of the same in case the instrument be lost; and for an open account, an itemized copy of the account. A surety may prove a claim of a creditor which he has secured when such creditor fails or refuses to do so. Every claim so itemized, so accompanied by proper vouchers, and so verified, shall be taken to be proved and shall be allowed unless, before the trustee shall make up his report of claims, the assignor or a creditor or any party in interest shall file before the trustee a counter-affidavit, denying the claim in whole or in part; and when such counter-affidavit is so filed the trustee shall at once refer the claim to the commissioner who shall at the request of the claimant fix a time and place for hearing evidence of and against such claim and give reasonable notice of such time and place to the claimant and the party objecting. All hearings on disputed claims shall be completed within seven days after the last day on which claims may be presented.
to the trustee, unless for good cause shown the commissioner extends the time for such hearings.

Sec. 7. Liens Requiring or Not Requiring Proof; Waiver by Lienor; Delinquent Taxes. Creditors holding valid liens of the following character on property belonging to the estate, to-wit: vendor’s lien reserved in a deed duly recorded; lien created by deed of trust or mortgage, duly recorded, on real or personal property; judgment lien on real estate, duly dock- eted in the county in which the real estate is situated; lien on personal property created by execution, duly docketed in the county in which the property is located; reservation of title contained in conditional sales contract, duly filed, need not file proof of their said secured claims with the trustee, and in the event they do not do so the property affected shall be sold by the trustee subject to any such liens; but if said creditors file proofs of their secured claims with the trustee and request that the property affected shall be sold by the trustee free of said liens and deliver to the trustee a consent in writing, duly ac- knowledged in the manner provided for the acknowledg- ment of releases of liens, the trustee may, if he deems it in the best interest of the estate, record said consent in the release book in the office of the clerk of the county court of the county in which the property is located, and sell the property free and clear of the said lien, but the said lien shall attach to the proceeds of the property at the sale, and the trustee shall pay the said proceeds to the secured creditor to the amount of the secured claim, without any deduction for costs of administration. Creditors holding landlord’s liens and other liens not included in those mentioned above shall file proof of their claims in the manner and within the time prescribed for proving unsecured claims, otherwise they shall not be recognized or allowed; but if they are properly filed the lien shall attach to the proceeds of the sale of the property covered thereby. The trustee may sell property belonging to the estate subject to delinquent taxes, or may sell free of taxes, and pay the same, but no proof of delinquent taxes need be filed with the trustee.
Sec. 8. First Meeting of Creditors; Substitute Trustee. The commissioner of accounts shall preside over the first meeting of the creditors which shall be held not less than ten nor more than twenty days after the date of the first publication of the notice thereof by the trustee. The assignor and the trustee shall attend the meeting, and either or both of them may be publicly examined at the meeting at the instance of any creditor. The creditors shall at the meeting take such steps as may be pertinent and necessary for the promotion of the best interests of the estate, and the meeting may be adjourned from time to time if the creditors see fit. If a majority in number and amount of all the unsecured creditors of the assignor, including those absent as well as those present, desire that the trustee named in the assignment shall not serve, at the first meeting of the creditors such a majority may elect a substitute trustee who shall have all the rights, powers and duties conferred upon the trustee named in the assignment. The substitute trustee shall qualify by taking the oath and giving a proper bond before the clerk, and a copy of the order appointing the substitute trustee shall be recorded in each county in which the assignment is recorded. Creditors may be represented at meetings by their agents, employees, or attorneys, duly authorized in writing.

Sec 9. Sales by Trustee; Creditors May Prescribe Manner and Terms; Powers of Commissioner. At the first meeting of the creditors a majority in number and amount of the creditors present may prescribe in what manner and on what terms the property belonging to the estate shall be sold, and the trustee shall not sell, or otherwise dispose of, any property belonging to the estate prior to the first meeting of the creditors, unless expressly authorized to do so by the commissioner of accounts after good cause therefor has been shown. The trustee shall not sell or otherwise dispose of, the property belonging to the estate for less than seventy-five per cent of its appraised value without the approval of the commissioner. The trustee may compromise or compound any claim or debt belonging to the estate with the approval of the commissioner. All sales by the trustee shall be made at public auction, unless otherwise ordered by the commissioner or authorized by the
creditors. The trustee shall give at least ten days’ notice by mail to all of the creditors of the time and place of sale of any property belonging to the estate of the value of five hundred dollars, or more, and shall advertise the sale once a week for two successive weeks in some newspaper published in the county, if there be one, unless such notice and advertisement are waived by the creditors at their first meeting. Upon application to the commissioner, and for good cause shown, the trustee may be authorized to sell any portion of the estate at private sale, in which case he shall keep an accurate record of each article sold, the price received therefor and to whom sold, which account he shall file with the commissioner. Upon application by the trustee or a creditor setting forth that a part or the whole of the estate is perishable, the nature and location of such perishable property, and that there will be loss if the same is not sold immediately, the commissioner, if satisfied, of the facts stated and that the sale is required in the interests of the estate, may order the same to be sold without notice or with such notice as he may direct. Upon application by the trustee or a creditor setting forth that it is for the best interests of the estate that the trustee continue to operate the business, the commissioner may authorize the trustee to operate the business until the first meeting of the creditors, at which meeting a majority in number and amount of the creditors present shall determine whether such operation is to be continued thereafter.

Sec. 10. Trustees Report to Commissioner; Notice to Creditors of Filing and Meeting. Within ten days after the last day on which claims may be presented to him the trustee shall file with the commissioner of accounts a report showing the names of the creditors whose claims have not been contested and who have filed proper proofs of claims, and the amounts thereof; the names of the creditors whose claims have been contested, and the amounts thereof; the disposition he has made of the property belonging to the estate; the costs and expenses he has incurred; the amount of money he has on hand and the name of the bank in which it is deposited; the property of the estate not disposed of and his plans for disposing of the same. The trustee shall attach to said report all
proofs of claims, vouchers, exhibits, accounts, writings, affidavits and counter-affidavits which have been filed with him.

The trustee shall at once notify each creditor who has presented a claim that the report has been filed, and that a meeting of the creditors will be held before the commissioner on a date specified in the notice, which date shall not be less than five days after the notice is mailed nor more than ten days after the report is filed.

Sec. 11. Report by Commissioner; Appeal From Decision; Directions to Trustee; Dividends; Closing Trusteeship. At the meeting of the creditors held following the filing of the trustee's report the commissioner of accounts shall file a report showing how much, if anything, he has allowed on each of the disputed claims. Any party interested may, within ten days thereafter, appeal from the decision of the commissioner to the circuit court of the county without any formal bill of exceptions, and the appeal shall be tried and heard in the circuit court, or before the judge thereof in vacation, on the record made before the commissioner. At the same meeting the commissioner shall approve such expenditures, costs and expenses as he may find necessary and proper in the administration of the estate; shall direct the payment of proper fees and commissions; shall direct the trustee to distribute the funds in his hands belonging to secured creditors; and shall direct the trustee to pay a dividend of an equal per cent on all allowed claims, except such as have priority or are secured. A secured creditor whose claim is in excess of the security held may share in such dividend on such excess only. The trustee shall not pay such dividend until the time has expired within which an appeal may be taken from the decision of the commissioner on a disputed claim, and if any such appeal is pending the trustee shall retain in his hands sufficient money to pay the same dividend thereon, should the claim be allowed on appeal, and shall distribute the remainder to the creditors entitled thereto. After paying any dividend the trustee shall file with the commissioner a copy of a dividend sheet showing to whom the dividend was paid. If all of the property belonging to the estate has not been disposed of at the time of
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32 said meeting, the trustee shall from time to time make further
33 reports to the commissioner, and the commissioner may di-
34 rect the trustee to pay further costs, expenses, fees and divi-
35 dends. Dividends which are unclaimed for six months shall
36 be distributed among the remaining creditors whose claims
37 have been allowed. After the trustee has disposed of all the
38 property belonging to the estate, and has paid out all of the
39 funds which have come into his hands, he shall without delay
40 make a final report in duplicate to the commissioner show-
41 ing all his receipts and disbursements, and if the commis-
42 sioner finds the same correct and approves it, the commissioner
43 shall enter an order discharging the trustee, a copy of which
44 order the commissioner shall furnish to the surety on the bond
45 of the trustee, and the commissioner shall transmit a copy of
46 said order and a copy of the final report of the trustee to the
47 clerk of the county court to be filed.

Sec. 12. Powers, Duties and Qualifications of Trustees; 
Substitute Trustee. It shall be the duty of the trustee to
1 collect and reduce to money the property belonging to the
2 estate; to keep all funds belonging to the estate on deposit in
3 a sound bank; to report promptly to the creditors any claims
4 presented to him which are not provable or are incorrect
5 or false so that counter-affidavits may be filed thereto; to file
6 the reports and give the notices herein provided for; to close
7 up the estate as expeditiously as possible; to furnish such in-
8 formation concerning the estate as may be requested by par-
9 ties in interest; to keep regular accounts; to pay dividends as
10 often as is compatible with the best interests of the estate. The
11 trustee shall, as to all property transferred by the assignment,
12 be deemed vested with all the rights, remedies and powers of
13 a creditor holding a lien thereon by legal or equitable pro-
14 ceedings. The trustee shall be a resident of West Virginia, and
15 shall not occupy the position of relative, creditor, attorney,
16 agent or employee to the assignor, nor an officer of the as-
17 signor, if the assignor be a corporation, and if an assignment,
18 conveyance or transfer be made to such a person it shall not
19 for that reason be void, but shall be deemed to be for the benefit
20 of all the creditors of the assignor, and the clerk, at the request
21 of any party in interest, may refer the estate to a commissioner
of accounts who shall proceed to call a meeting of the creditors, at which meeting a majority in number and amount of the creditors present shall elect a substitute trustee. Upon the petition of one or more creditors showing misconduct or incompetency of the trustee, or on the petition of the trustee himself, showing sufficient reason therefor, and after due notice of not less than five days to the assignor, trustee, the surety on the bond of the trustee, and the creditors whose claims have been filed with the trustee, the commissioner may, after hearing the parties in interest, remove or discharge the trustee; and in that event a majority in number and amount of the creditors present shall elect a substitute trustee. If the trustee shall die or become unable to act the commissioner shall call a meeting of the creditors whose claims have been filed with the trustee, after notice of not less than five days, and a majority in number and amount of the creditors present at the hearing shall elect a substitute trustee.

Sec. 13. Powers and Duties of Commissioner. Commissioners of accounts shall have power to preside over all meetings of creditors; to preside over all examinations of the assignor or trustee; to allow and disallow all claims presented to them for determination; to administer oaths to witnesses; to issue subpoenas for the attendance of any person for examination; to examine accounts filed by trustees hereunder, to hear and determine any objections thereto, and to surcharge any trustee for any moneys improperly expended or for which the trustee shall have failed to account; to authorize the business of the assignor to be conducted for limited periods by the trustee if necessary in the best interests of the estate; to re-open estates whenever it appears that they have been closed before being fully administered; to authorize a trustee to bring an action, which he is hereby empowered to maintain, against any person who has received, taken, or in any manner interfered with the estate, property or effects of the debtor, in fraud of his creditors, and which might have been avoided by a creditor of the assignor, and the trustee may recover the property so transferred or its value; to require or allow any inventory or schedule filed to be corrected or amended, and require and compel from time to time supplemental
inventories or schedules to be made and filed; to determine
the excess of the claims of secured creditors over and above the
value of the securities held by them; to require the trustee
to render and file the accounts and reports herein provided
for; to authorize and approve the payment of costs, expenses,
fees and commissions; to declare dividends; to discharge the
trustee and his surety after the trustee has properly completed
the performance of his duties; to authorize the appointment
of an attorney for the trustee if necessary in the best interests
of the estate.

Sec. 14. Duties of Assignor. The assignor shall comply with
all lawful orders of the commissioner of accounts, examine
the correctness of all claims presented against the estate if
ordered by the commissioner so to do, and if any are incorrect
or false notify the trustee thereof immediately; deliver to the
trustee all his books, papers and records; execute and deliver
such papers relating to the estate as shall be ordered by the
commissioner; execute and deliver to the trustee proper trans-
fers of all his property outside the state of West Virginia;
attend the first meeting of the creditors; and submit to an
examination under oath concerning the conduct of his
business, the cause of his inability to pay his debts, his
dealings with his creditors and other persons, the amount,
kind and whereabouts of his property, and all matters
which may affect the administration and settlement of his
estate, but no testimony given by him shall be offered in
evidence against him in any criminal proceedings. The
books and papers of the assignor shall at all times be subject
to the inspection and examination of any creditor.

Sec. 15. Commissioner to Certify to Circuit Court Diso-
bedience of Orders, Etc.; Action by Court. The commissioner
of accounts shall certify the facts to the circuit court of the
county if any person shall disobey or resist any order, process,
or writ which may be issued, or misbehave during any hear-
ing, or neglect to produce, having been ordered to do so, any
pertinent documents, or refuse to appear, take the oath, or be
examined according to law, after having been subpoenaed. Up-
on the filing of such certificate by any commissioner the judge
shall in a summary manner hear the evidence of the acts complained of, and, if it is such as to warrant him in so doing, he may punish such person in the same manner and to the same extent as for a contempt committed before the court.

Sec. 16. Expenses and Fees of Trustee, Commissioner, Appraisers and Attorneys for Trustee. Trustees shall be allowed their reasonable and necessary disbursements for the costs and expenses, and shall receive for their services commissions on all moneys disbursed or turned over by them to any person, not including lienholders or secured creditors, which commissions shall be five per cent on the first five thousand dollars or less, two per cent on moneys in excess of five thousand dollars and less than ten thousand dollars, and one per cent on moneys in excess of ten thousand dollars, but the commission in no case shall be less than twenty-five dollars. Commissioners of accounts shall be allowed their reasonable and necessary disbursements for costs and expenses, and shall receive for their services commissions on all moneys disbursed or turned over by the trustees to any person, not including lienholders or secured creditors, which commissions shall be one per cent on the first five thousand dollars or less, and one half of one per cent on moneys in excess of five thousand dollars, but the commission in no case shall be less than fifteen dollars. Appraisers shall receive for their services a fair and reasonable allowance which shall be fixed by the commissioner upon a petition therefor showing the amount of time spent by the appraisers in the performance of their duties. Attorneys for the trustee shall receive for their services a fair and reasonable allowance which shall be fixed by the commissioner upon petition showing the services rendered by them.

Sec. 17. Provisions of Article Severable. The sections, provisions and clauses of this act shall be deemed separable each from the other, and if any separable part of this act be, or be held to be unconstitutional or for any reason invalid or unenforceable, the remaining parts thereof shall be and remain in full force and effect.
Sec. 18. Sections Repealed; Code Chapter and Article of
Act. Sections fourteen, fifteen, sixteen, seventeen and
eighteen, article one, chapter thirty-eight of the code of West
Virginia, and all other acts and parts of acts inconsistent with
this act are hereby repealed, and this act shall be known as
article thirteen of chapter thirty-eight of the code of West
Virginia.

CHAPTER 62
(House Bill No. 7—By Mr. Van Sickler)

AN ACT to amend and reenact section six, article one, chapter
sixty-two of the code of West Virginia, one thousand nine hun-
dred thirty-one, as amended by chapter thirty-eight, acts of
the Legislature, regular session, one thousand nine hundred
thirty-five, relating to criminal procedure and admission to
bail.

[Passed February 1, 1935: in effect from passage. Approved by the Governor.]

Article 1. Arrest, Commitment and Bail, Searches and Seizures.

Section 6. Admission to bail; procedure; exceptions.

Be it enacted by the Legislature of West Virginia:

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

Section 6. Admission to Bail; Procedure; Exceptions. A
justice may admit to bail a person who is charged with, but
not convicted of, an offense not punishable with death. If the
offense be punished by confinement in the penitentiary, he
shall not admit such person to bail in a sum less than
five hundred dollars. But a justice shall not admit any per-
son to bail if bail has been previously refused to such person
by any court or judge; nor shall any person confined in jail
by an order of commitment in which the amount of bail he is to give is specified, or where an order has been made by a court or judge fixing the bail such person is to give, be admitted to bail by a justice in a sum less than is specified in the order. But a circuit, intermediate or criminal court, or the supreme court of appeals, or a judge of either of said courts in vacation, may, for good cause shown, admit any person to bail before conviction, or after conviction, except a conviction for offenses where the penalty is confinement in the penitentiary for life, or death, and during the suspension of the execution of the judgment of conviction or pending an appeal or writ of error, and may, by order, direct the clerk of the circuit, intermediate or criminal court of the county in which the offense is charged to have been committed to take the bond with good security in such sum as the court or judge may fix in such order: Provided, That in cases where bail has been allowed, after conviction as aforesaid, the condition of the recognizance, or bond, shall be that the accused shall appear before the said circuit, intermediate or criminal court at its first regular term after the appellate court shall have rendered its final order or judgment, upon such writ of error, appeal or supersedeas, and submit himself to such order or judgment, and to be further dealt with according to law.

CHAPTE63

(Office Bill Mo. 9—By Mr. Van Sickler)

AN ACT to amend and reenact section four, article three, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, relating to commissioner of accounts.

(Passed March 1, 1937; In effect from passage. Approved by the Governor.)

Article 3. Commissioners of Accounts; Their Powers and Duties Generally.

Section 4. Matters that will disqualify commissioner of accounts.

Be it enacted by the Legislature of West Virginia:

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

Section 4. Matters That Will Disqualify Commissioner of Accounts. No person shall perform the duties of a commissioner of accounts in any matter wherein he will be passing upon his own account or acts; nor, where he will be called to pass upon any account or acts with reference to which he served as attorney or counsellor in or out of court; nor shall he be in any manner interested in the fees or emoluments of any fiduciary whose account or acts are before him for any action required by this chapter; nor shall he be surety on the bond of the fiduciary whose accounts are before him, or agent of, or pecuniarily associated with, another who may be such surety; nor shall he be qualified to act in or pass upon any matter before him in which, were he a judge of the circuit court, and the matter were therein pending, he would for any reason be disqualified to serve. Any person who violates this section shall be guilty of a misdemeanor, and, upon conviction thereof shall, for each and every violation, be fined not less than fifty nor more than five hundred dollars, or imprisoned in the county jail for not more than six months, or punished by both fine and imprisonment at the discretion of the court; and upon such conviction his office shall ipso facto become vacant.

CHAPTER 64
(House Bill No. 109—By Mr. LaFon)

AN ACT to amend and reenact section one, article four, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, relating to accounting by fiduciaries and the filing of inventories and appraisements.

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

Article 4. Accounting by Fiduciaries.

Section
1. Inventories in duplicate.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Inventories in Duplicate. Every personal representative, guardian, curator, or committee, shall, within two months after the date of the order conferring his authority or qualifying him, return to the commissioner of accounts to whom the estate or trust has been referred, an inventory, executed in duplicate, in proper form, of all the personal and real estate which has come to his possession or knowledge, or which is under his management or subject to his authority in his fiduciary character; and shall, within two months after any other such estate shall come to his possession or knowledge, return to such commissioner a further inventory thereof, in duplicate. If any fiduciary shall fail to make the return herein first mentioned, or such commissioner shall have reason to believe that a fiduciary has failed to make the further return herein required, such commissioner of accounts shall summon such fiduciary to make a return as to which he appears to be delinquent; and if such return be not made within thirty days after the date of service of the summons, such commissioner shall make report of the fact to the circuit court of the county, or to the judge thereof in vacation, as soon as possible, and shall cause such fiduciary to be summoned to appear before such court, or judge in vacation, on a day to be fixed by the court or judge, and the attendance of such fiduciary may be compelled by rule, and attachment. Such fiduciary upon appearing shall, unless excused for sufficient reason, be fined by the court not less than fifty nor more than five hundred dollars, and be ordered by the court to make such return within a time to be specified by the court, and if he fails to comply with such order he shall be deemed guilty of contempt of court and be dealt with accordingly. An appraisal of an estate as required by law shall be considered such an inventory as is required by this section if it be signed by the personal representative.
AN ACT to amend and reenact section five, article three, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, relating to the duties of commissioner of accounts and fiduciaries of estates.

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

Article 3. Commissioners of Accounts; Their Powers and Duties Generally.

Section 5. Disposition by commissioner of accounts of inventories and accounts of sales.

Be it enacted by the Legislature of West Virginia:

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

Section 5. Disposition by Commissioner of Accounts of Inventories and Accounts of Sales. The commissioner of accounts shall inspect all inventories and accounts of sales returned to him by fiduciaries, require the same to be executed in duplicate and in proper form, and, within ten days after they are respectively received and approved by him, deliver one copy thereof to the clerk of the county court and mail one copy to the tax commissioner of West Virginia. Any commissioner of accounts who fails, refuses or declines to comply with the provisions of this section shall be guilty of a misdemeanor and shall be punished for each offense by a fine of not less than twenty-five dollars nor more than five hundred dollars.
CHAPTER 66
(House Bill No. 111—By Mr. LaFon)

AN ACT to amend and reenact section fourteen, article one, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, relating to appraisal of estates.

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

Article 1. Personal Representatives.

Section 14. Appraisal of estates in duplicate; disposition.

Be it enacted by the Legislature of West Virginia:

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

Section 14. Appraisal of Estates in Duplicate; Disposition.
2 The real and personal estate of every deceased person shall be appraised as follows: The court or clerk by whose order any person is authorized to act as personal representative shall, upon the qualification of such personal representative, appoint not less than three nor more than five appraisers, any three of whom may act, in the county in which the will of the deceased is probated or administration is granted upon his estate, and a like number in every other county in which there may be any real or personal estate of the deceased. Such appraisers, after first taking an oath for the purpose, shall list and appraise at its real and actual value all the real estate and all the tangible property of every description owned by the deceased at the time of his death and located in their respective counties, and they shall also list and appraise all his intangible property of every description, including moneys, credits, investments, annuities, insurance policies, judgments, and decrees for moneys, notes, bonds, accounts and all other evidences of debt, whether owing to him by persons or corporations in or out of the state, and the number and value, including both the par value, if any, and the actual value, of any shares of capital stock owned by him in any corporation,
whether located in this state or elsewhere. Such appraisers shall designate such intangible property as good, bad or doubtful as to them may appear to be correct, and by whom owing and when payable, and from what time such of them as are interest-bearing bear interest. Every note, bond or evidence of debt shall have endorsed thereon the word "appraised", under which each acting appraiser shall sign his name. No judgment shall be rendered by any of the courts of this state upon such note, bond or evidence of debt unless and until the same shall be first shown to have been listed by the appraisers: Provided, however, That any note, bond or evidence of debt which bears the endorsement by the appraisers, as above required, shall need no further proof that the same was listed. The several appraisements and lists aforesaid shall be executed in duplicate and shall be signed by the appraisers who made the same, and be forthwith returned to the commissioner of accounts to whom the estate of such deceased person has been referred as provided in section one, article two of this chapter. Said commissioner of accounts shall inspect such appraisements, see that the same are in proper form, and, within ten days after they are received and approved by him, deliver one copy of the same to the clerk of the county court, who shall record the same, with the certificate of approval, and mail one copy of the same to the tax commissioner of West Virginia. The date of return of an appraisement shall be entered by such clerk in his record of fiduciaries. Every such appraisement and list shall be prima facie evidence of the value of the estate embraced therein, and that the personal estate embraced therein came to the hands of the personal representative. Such appraisers shall each receive a fee of not less than one dollar nor more than five dollars per day, to be fixed by said commissioner in accordance with the amount of the estate and the work involved in making the appraisement, and their actual expenses necessarily incurred in making such appraisement, and such fees and expenses and the commissioner's approval thereof shall be noted in the commissioner's certificate. No person shall be permitted by any means whatsoever to avoid the appraisement and listing of his estate as herein provided, nor shall his personal representative be permitted to do so.
Any personal representative who fails, refuses or declines to comply with the provisions of this section shall be guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars nor more than five hundred dollars.

CHAPTER 67
(House Bill No. 345—By Mr. Kurtz)

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

[Passed March 11, 1937; in effect from passage. Approved by the Governor.]

Article 3. Competency of Witnesses.

Section 1. Competency of Party or Interested Person to Testify; Transactions With Decedent or Lunatic.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Competency of Party or Interested Person to Testify; Transactions With Decedent or Lunatic. No person offered as a witness in any civil action, suit or proceeding, shall be excluded by reason of his interest in the event of the action, suit or proceeding, or because he is a party thereto, except as follows: No party to any action, suit or proceeding, nor any person interested in the event thereof, nor any person from, through or under whom any such party or interested person derives any interest or title by assignment or otherwise, shall be examined as a witness in regard to any personal transaction or communication between such witness and a person at the time of such examination, deceased, insane or lunatic, against the executor, administrator, heir-at-law, next of kin, assignee, legatee, devisee or survivor
15 of such person, or the assignee or committee of such insane
16 person or lunatic. But this prohibition shall not extend to
17 any transaction or communication as to which any such
18 executor, administrator, heir-at-law, next of kin, assignee,
19 legatee, devisee, survivor or committee shall be examined on
20 his own behalf, nor as to which the testimony of such de-
21 ceased person or lunatic shall be given in evidence: Provided,
22 however, That where an action is brought for causing the
23 death of any person by any wrongful act, neglect or default
24 under article seven, chapter fifty-five of this code, the person
25 sued, or the servant, agent or employee of any firm or cor-
26 poration sued, shall have the right to give evidence in any
27 case in which he or it is sued, but he may not give evidence
28 of any conversation with the deceased.

CHAPTER 68
(Senate Bill No. 237—By Mr. Paull, by request)

AN ACT to amend and reenact section one, article four, chapter
seven of the code of West Virginia, one thousand nine hundred
thirty-one, relating to duties of prosecuting attorney.

[Passed March 6, 1937: in effect ninety days from passage. Approved by the
Governor.]

Article 4. Prosecuting Attorney, Rewards and Legal Advice.

Section
1. Duties of prosecuting attorney; further duties upon request of the
attorney general.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Duties of Prosecuting Attorney; Further Duties
Upon Request of the Attorney General. It shall be the duty of the prosecuting attorney to attend to the criminal business of the state in the county in which he is elected and qualified, and when he has information of the violation of any penal law committed within such county, he shall institute and prosecute all necessary and proper proceedings against the offender, and may in such case issue or cause to be issued a summons for any witness he may deem material. Every public officer shall give him information of the violation of any penal law committed within his county. It shall also be the duty of the prosecuting attorney to attend to civil suits in such county in which the state, or any department, commission or board thereof, is interested, and to advise, attend to, bring, prosecute or defend, as the case may be, all matters, actions, suits and proceedings in which such county or any county board of education is interested. It shall also be the duty of the prosecuting attorney, when requested by the attorney general, to perform or to assist the attorney general in performing, in the county in which he is elected, any legal duties required to be performed by the attorney general, and which are not inconsistent with the duties of the prosecuting attorney as the legal representative of such county. It shall also be the duty of the prosecuting attorney, when requested by the attorney general, to perform or to assist the attorney general in performing, any legal duties required to be performed by the attorney general, in any county other than that in which such prosecuting attorney is elected, and for the performance of any such duties in any county other than that in which such prosecuting attorney is elected he shall be paid his actual expenses.

Upon the request of the attorney general the prosecuting attorney shall make a written report of the state and condition of the several causes in which the state is a party, pending in his county, and upon any matters referred to him by the attorney general as provided by law.
AN ACT to amend and reenact section six, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, relating to assistants and stenographers or clerks for prosecuting attorney; salaries, and when the court may appoint attorney to prosecute.

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

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

Section 6. Assistants and stenographers for prosecuting attorney; salaries; when court may appoint attorney to prosecute.

Be it enacted by the Legislature of West Virginia:

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

Section 6. Assistants and Stenographers for Prosecuting Attorney; Salaries; When Court May Appoint Attorney to Prosecute. Any prosecuting attorney may, with the assent of the county court of his county, entered of record, appoint one (and in Ohio and Kanawha counties two each) practicing attorney to assist him in the discharge of his official duties for and during his term of office, and such assistant shall take the same oath and may perform the same duties as his principal; and he may be removed from office as such at any time by his principal; and further he may be removed from his office as such assistant by the circuit court of the county in which he is appointed, for any cause for which his principal might be so removed. The compensation of such assistant shall be paid by the principal, except in the counties of Barbour, Berkeley, Boone, Brooke, Cabell,
Assistant, etc., to Prosecuting Attorneys  [Ch. 69

16 Calhoun, Fayette, Harrison, Hancock, Kanawha, Lewis, Logan, Marion, Marshall, McDowell, Mercer, Mineral, Mingo, Monongalia, Nicholas, Ohio, Putnam, Raleigh, Randolph, Summers, Taylor, Wayne, Wetzel, Wood and Wyoming, and in 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; in Ohio county for the first assistant, three thousand dollars, and for the second assistant not to exceed fifteen hundred dollars; in Kanawha county for the first assistant, not less than four thousand nor more than five thousand dollars, and for the second assistant not less than three thousand nor more than four thousand dollars; in Marion county not less than two thousand nor more than three thousand dollars; in Harrison, McDowell, Mercer, Mingo and Raleigh counties, not less than fifteen hundred nor more than three thousand dollars; in Cabell, Fayette, Logan, Summers, and Wood counties, not less than one thousand nor more than two thousand dollars; in Boone and Wyoming counties, not less than twelve hundred nor more than eighteen hundred dollars; in Barbour county, one thousand dollars; in Monongalia county, two thousand dollars; in Berkeley and Wayne counties, not to exceed one thousand two hundred dollars; in Lewis, Lincoln, Marshall, Mineral, Nicholas and Randolph counties, not to exceed nine hundred dollars; in Wetzel county, not less than six hundred nor more than nine hundred dollars; in Taylor and Tucker counties, not to exceed six hundred dollars; in Putnam and Calhoun counties, three hundred dollars. In each case such compensation shall include the compensation provided by law for such assistant's services as attorney for boards of education and other administrative boards and officers of the county.

In any case in which it would, in the opinion of the court, be improper for the prosecuting attorney and his assistant (if he has one) to act; or if the prosecuting attorney and his assistant be unable to act, such court shall appoint some competent practicing attorney to prosecute such case, and upon the performance of the service for which he was appointed, the court shall certify that fact, with its opinion of what would be a reasonable allowance to such attorney for
the service rendered, to the county court of the county, and
such sum, or a different sum, when allowed by the county
court, shall be paid out of the county treasury: Provided,
That nothing in this section shall be construed to prohibit
the employment by any person of a competent attorney or
attorneys to assist in the prosecution of any person or cor-
poration charged with crime.
In each of the counties herein named except Har-
rison, and including Greenbrier, Lewis, Hampshire, Poca-
hontas, Preston, Putnam, Ritchie, Roane, Tucker and Up-
shur, the prosecuting attorney may employ a stenographer
for his office at a salary payable out of the county treasury
of not less than nine hundred nor more than two thousand
dollars per annum; except, the annual salary of such sten-
ographer in Barbour, Lewis, Pocahontas, Preston and Taylor
counties shall not exceed twelve hundred dollars; in Upshur
and Calhoun counties shall not exceed nine hundred dollars;
in Berkeley, Hampshire, Roane and Wetzel counties shall
not exceed six hundred dollars; in Putnam and Ritchie coun-
ties shall be seven hundred dollars; in Boone county shall be
twelve hundred dollars; in Tucker and Webster counties shall
be six hundred dollars; and in Braxton and Jefferson counties
shall not exceed nine hundred dollars: Provided, That in each
of the last three named counties the prosecuting attorney may
not employ a stenographer except with the consent of the
county court entered of record.
In the county of Harrison the prosecuting attorney may
employ two stenographers for his office at a salary for each
stenographer of not less than nine hundred nor more than
twelve hundred dollars per annum, payable out of the county
treasury.
In the county of Clay the prosecuting attorney may em-
ploy a clerk or a stenographer for his office at a salary of
twelve hundred dollars per annum, payable out of the county
treasury.
In the county of Mingo the prosecuting attorney may em-
ploy one stenographer for his office at a salary not to exceed
fifteen hundred dollars per annum, payable out of the county
treasury.
AN ACT authorizing certain special grants for relief made necessary by the recent emergency conditions.

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

Section
1. Special emergency grants by department of public assistance.
2. Application by county court for special grant for general relief.
3. Duties of director upon application.
4. Duties of state board upon application.
5. Notification of action of state board upon application.
6. Reports by county council to state director.
7. Suspension of payments under special grant.
8. Special grants conditioned on repayment.
9. Expiration of authority to make special grants.

WHEREAS, A flood of unprecedented proportions has created unusual and unforseen demands for relief upon the department of public assistance and upon certain counties; and

WHEREAS, Adequate funds exist in the department of public assistance but no authority exists for their expenditure, as hereinafter provided; therefore

Be it enacted by the Legislature of West Virginia:

Section 1. Special Emergency Grants by Department of Public Assistance. Until the close of the fiscal year terminating June thirty, one thousand nine hundred thirty-seven, the department of public assistance is authorized to make special grants from the state general relief fund of such sums as are necessary to provide relief in those counties where funds are unavailable either from the county or under the provisions of section eight, article ten, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, in order to meet these emergency conditions.

Sec. 2. Application by County Court for Special Grant for General Relief. If the amount needed for general relief in a county exceeds the amount available under section eight, article ten, chapter nine of the code, as amended, the county council and the county court may apply to the state depart-
ment of public assistance for a special grant from the state fund. The application shall be in such form and shall be submitted at such times as the state department shall prescribe. The application shall set forth:

The conditions which make necessary the request for special grant; the actual cost of general relief in the county for the first six months of the fiscal year one thousand nine hundred thirty-seven, and the estimated cost for the remainder of the fiscal year; the levies and expenditures of the county, showing the rate of tax delinquency, amounts provided for various county activities, expenditures made mandatory by law, and amounts allocated to the county relief fund; such other information as the state department or the state board may require.

Sec. 3. Duties of Director Upon Application. Upon receipt of an application for a special grant the director shall examine the application and make such investigations as are necessary to determine the existence of need and compliance with the requirements of this act. The director shall prepare a report and recommendations for submission to the state advisory board.

Sec. 4. Duties of State Board Upon Application. The state board shall determine as to each county whether:

The special conditions specified by this act exist in respect to the particular county; a special grant from the state fund is necessary to maintain relief until the end of the fiscal year one thousand nine hundred thirty-seven; the estimated cost of relief is reasonable both as to the total cost and the estimated cost per case.

If the state board determines that the special grant should be made to a county it shall set the total amount of the grant to be authorized and shall fix the conditions upon which the grant shall be made.

The state board may hold a hearing upon the application of a county at which the county council, the county court, citizens of the county, and other interested parties may be heard.

Sec. 5. Notification of Action of State Board Upon Appli-
The state director shall notify the county council and the county court of the action taken by the state board with respect to the matters herein provided.

Sec. 6. Reports by County Council to State Director. The county council shall submit to the state director, at such times as he shall prescribe, reports similar to those required by the public welfare law of one thousand nine hundred thirty-six.

Sec. 7. Suspension of Payments Under Special Grant. The state director may suspend payments under a special grant if he finds that:
- There has been a misrepresentation of the need for the special grant; or relief is being granted to ineligible persons; or funds dedicated for relief have not actually been made available for expenditure by the county council or are being diverted for other purposes; or need for the special grant no longer exists.

Sec. 8. Special Grants Conditioned on Repayment. Special grants made under the provisions of this act shall be conditioned upon a written undertaking by the county council and the county court to provide within the maximum levies for the fiscal year one thousand nine hundred thirty-eight an amount necessary to repay to the department of public assistance the amount of the special grant.

Sec. 9. Expiration of Authority to Make Special Grants. The authority to make special grants under this act shall expire June thirtieth, one thousand nine hundred thirty-seven, but all rights of the department of public assistance to supervise and protect the special grants shall continue thereafter.

CHAPTER 71
(House Bill No. 444—By Mr. LaFon)

AN ACT to amend article four, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-six,
by adding thereto section fifteen, relating to the administration of the public welfare law in a county in order to insure compliance with the federal social security act.

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


Section 15. Administration in default of county compliance.

Be it enacted by the Legislature of West Virginia:

That article four, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding section fifteen, as follows:

Section 15. Administration in Default of County Compliance. Whenever in any county the condition of the "general relief fund", its administration, or the general administration of this act endangers compliance with the standards established by the federal social security act on which the receipt of federal grants are conditioned, the director may:

1. Withhold the payment of state funds into the county fund and make payments through the county council directly to those entitled to benefits.
2. Supervise and advise the county council on the administration necessary for compliance with the terms of the state and federal acts.
3. Upon the failure of the county council to comply with the necessary administrative standards for federal compliance, temporarily provide for the administration of this chapter within the county until a proper county administration can be established. No state administration under the authority of this sub-section shall be continued for longer than ninety days.
CHAPTER 72
(House Bill No. 445—By Mr. LaFon)

AN ACT to amend and reenact section two, article six, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-six, relating to general relief under the public welfare law of one thousand nine hundred thirty-six.

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

Article 6. General Relief.

Section
2. General relief; definition.

Be it enacted by the Legislature of West Virginia:

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

Section 2. General Relief; Definition. "General relief" shall mean care and assistance to an indigent person who is a resident of the county and who is in fact and is found to be by the county council:

(1) A public charge, or in danger of becoming a public charge, or
(2) In need of continuing institutional care because of his physical or mental condition, or
(3) In need of medical or surgical care whether in an institution or in his home.

Unless the county council specifically assumes responsibility in writing, it shall not be charged with or responsible for cost of transportation or support of a person institutionalized by another committing authority.
AN ACT to amend article three by adding thereto section ten-a; to amend and reenact section three, article seven; and to amend article seven by adding thereto sections three-a, three-b and three-c; all of chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-six, relating to institutional care under the public welfare law.

(Article 3. The Director of Public Assistance.
7. County Infirmaries.

Be it enacted by the Legislature of West Virginia:

That section ten-a be added to article three, section three of article seven be amended, and sections three-a, three-b, and three-c be added to article seven, all of chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter one, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-six, to read as follows:

Article 3. The Director of Public Assistance.

Section 10-a. Temporary assembly institutions.

Section 10-a. Temporary Assembly Institutions. The state department, upon the approval of the advisory board, may maintain such temporary assembly institutions as are necessary for the temporary care, maintenance, and training of children and persons needing institutional protection.
Article 7. County Infirmaries.

Section
3. Two or more counties may jointly establish.
3-a. Contribution to support by county council.
3-b. Management by county council.
3-c. Transfer of institutional cases to other counties.

Section 3. Two or More Counties May Jointly Establish.
2 The county courts of two or more adjoining counties may es-
3 tablish jointly an institution for general relief and contribute
4 to the expense of establishing and maintaining it in the pro-
5 portions and under the regulations agreed upon, or a county
6 court of one county may contract for the maintenance of per-
7 sons eligible for institutional care with the county court of an-
8 other county maintaining an institution.
9 Where an institution is jointly established the management
10 shall be in the county court of the county where the institu-
11 tion is situated unless otherwise agreed by the county courts
12 concerned.

Sec. 3-a. Contribution to Support by County Council. If a
2 county court has complied with the maximum levy require-
3 ments of section five of article ten and there is still an in-
4 sufficient amount to maintain a county infirmary or institu-
5 tion the county council may contribute to the support of that
6 institution or infirmary.

Sec. 3-b. Management by County Council. A county court
2 and county council may transfer by written agreement the
3 management and operation of a county infirmary or institu-
4 tion from the county court to the county council. The trans-
5 ference of management and operation, however, shall not re-
6 lieve the county court from the obligation to levy for the
7 support of such institution or infirmary according to the pro-
8 visions of section five, article ten of this chapter.

Sec. 3c. Transfer of Institutional Cases to Other Counties.
2 If the maintenance of persons in a county institution or in-
3 firmary within the county is determined to be uneconomical,
4 undesirable, or impractical by the county council, the council
5 may contract with the county court or county council of an-
6 other county for the institutional care and maintenance of
7 such persons.
8 If the state director determines that efficiency and economy
9 in the administration of the department can be achieved by
10 the transference of persons from a county infirmary or insti-
11 tution in one county to an institution in another county he
12 may order such transference if such transfer does not result
13 in unreasonable separation of persons.

CHAPTER 74
(House Bill No. 448—By Mr. LaFon)

AN ACT to amend article ten, chapter nine of the code of West
Virginia, one thousand nine hundred thirty-one, as enacted
by chapter one, acts of the Legislature of West Virginia, first
extraordinary session, one thousand nine hundred thirty-six,
by adding thereto section seventeen-a, creating a special fund
under the public welfare law of one thousand nine hundred
thirty-six.

(Passed March 13, 1937; in effect from passage. Approved by the Governor.)


Section
17-a. Creation of special fund.

Be it enacted by the Legislature of West Virginia:

That article ten, chapter nine of the code of West Virginia, one
thousand nine hundred thirty-one, as amended by chapter one, acts
of the Legislature of West Virginia, first extraordinary session, one
thousand nine hundred thirty-six, be amended by adding section
seventeen-a, to read as follows:

Section 17-a. Creation of Special Fund. In addition to the
2 fund maintained for the payment of public assistance benefits
3 and the "general relief fund", the department shall maintain
4 a "special fund" for the support and furtherance of any ac-
5 tivity not embraced within the scope of the funds above speci-
6 fied, but authorized by the "Public Welfare Law of 1936".
CHAPTER 75

(House Bill No. 449—By Mr. LaFon)

AN ACT to amend and reenact section thirty-four, article five, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-six, relating to liens against benefits to blind persons under the public welfare law of one thousand nine hundred thirty-six.

(Passed March 13, 1937; in effect from passage. Approved by the Governor.)

Article 5. Public Assistance.

Section 34. Liability of blind persons.

Be it enacted by the Legislature of West Virginia:

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

Section 34. Liability of Blind Persons. The same liens shall be taken against the grant of assistance to blind persons as are imposed on grants to aged persons. The total amount of public assistance granted to a blind person shall be allowed as a claim of the state against the recipient and his estate but the lien shall not be enforced against real estate of the recipient occupied by a surviving spouse unless such spouse is a widow who remarries.
AN ACT to amend and reenact section twenty-seven, article five, and to amend article six by adding thereto section seventeen, both of chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-six, relating to exemptions of payments made under the authority of the public welfare law of one thousand nine hundred thirty-six.

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

Article 5. Public Assistance.
6. General Relief.

Be it enacted by the Legislature of West Virginia:

That section twenty-seven, article five, be amended and reenacted, and that section seventeen be added to article six, both of chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-six, to read as follows:

Article 5. Public Assistance.

Section 27. Grants exempt from taxes and legal process.

Section 27. Grants Exempt from Taxes and Legal Process.
2 Public assistance grants received under the provisions of this
3 article shall be exempt from the collection of taxes (except
4 sales taxes), from levy of execution, garnishment, and any
5 other legal process.

Article 6. General Relief.

Section 17. Payments exempt from taxes and legal process.

Section 17. Payments Exempt From Taxes and Legal Pro-
2 cess. General relief payments received under the provisions of this article shall be exempted from the collection of taxes (except sales taxes), from levy of execution, garnishment and any other legal process.

CHAPTER 77
(Senate Bill No. 136—By Mr. Hodges, Mr. President, by request)

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

[Passed February 18, 1937; in effect ninety days from passage. Approved by the Governor.]

Section
1. Road bonds; amount; when may issue.
2. Transfer, fee; registration, fee; where payable; interest rate; tax exempt.
3. Form of bond.
4. Form of coupon.
5. Listing by auditor.
6. State road sinking fund, sources; used to pay bonds and interest; investment of remainder.
7. Tax levy to pay, unless other funds available.
8. Sale by governor; minimum price.
9. Proceeds paid into state road fund.
10. Plates property of state.
11. Auditor to be custodian of unsold bonds.
12. Interim certificates.
13. Payment of expenses.

Be it enacted by the Legislature of West Virginia:

Section 1. Road Bonds; Amount; When May Issue. That bonds of the state of West Virginia of the par value of ten million dollars are hereby authorized to be issued and sold for
the purpose of raising funds for assisting in building and con-
structing the system of state roads and highways provided for
by the constitution. Said bonds may be issued by the governor
in such amounts, in coupon or registered form, in such de-
nominations, at such times and bearing such date or dates as
the governor may determine, and shall become due and pay-
able serially in equal amounts beginning one year and ending
twenty-five years from the date thereof: Provided, however,
That no bonds may be issued under the provisions of this act
until bonds authorized and issued under the provisions of the
"good roads amendment" to the constitution of the state,
ratified at the general election held in November, one thou-
sand nine hundred twenty, have been retired and cancelled
out of the state road sinking fund created by section six,
chapter one hundred thirteen, acts of the Legislature of
West Virginia, one thousand nine hundred twenty-one, in
an amount equal to or greater than the amount to be issued
hereunder at any one time.

Sec. 2. Transfer, Fee; Registration, Fee; Where Payable;
Interest Rate; Tax Exempt. The auditor and treasurer are
hereby authorized to arrange for the transfer of registered
bonds, and for each such transfer a fee of fifty cents shall be
charged by and paid to the state of West Virginia, to the
credit of the state road sinking fund. Bonds taken in ex-
change will be cancelled by the auditor and treasurer and be
carefully preserved by the treasurer. The treasurer shall make
provisions for registering "payable to bearer" bonds and for
each bond registered a fee of fifty cents shall likewise be
charged by and paid to the state of West Virginia, to the credit
of the state road sinking fund. All of such bonds shall be pay-
able at the office of the treasurer of the state of West Virginia,
or, at the option of the holder, at some designated bank in the
city of New York to be designated by the governor. Said bonds
shall bear interest at a rate not exceeding four and one-half
per centum per annum, payable semi-annually, on the first day
of................................ and the first day of........................., of
each year, to bearer, at the office of the treasurer of the state
of West Virginia, at the capitol of said state, or at the bank
designated by the governor, upon presentation and surrender
of interest coupons then due, in the case of coupon bonds. In
the case of registered bonds the treasurer of the state of West
Virginia shall issue his check for the interest then due on the
first day of ................................................................. of each year, and
mail the same to the registered owner at his address as shown
by the record of registration. Both the principal and interest
of said bonds shall be payable in lawful money of the United
States of America and said bonds shall be exempt from tax-
atation by the state of West Virginia, or by any county, district,
or municipality thereof, which fact shall appear on the face
of the bonds as part of the contract with the holder thereof.

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

COUPON ROAD BOND
(Or registered road bond, as the case may be)
OF THE
STATE OF WEST VIRGINIA

$........................ No...........................

The State of West Virginia, under and by virtue of author-
ity of an act of its Legislature passed at the regular session
of one thousand nine hundred thirty-seven, on the ..............
day of ............................................ one thousand nine hundred thirty-
seven, and approved by the governor on the ......................
day of ............................................ one thousand nine hundred thirty-
seven, which is hereby made a part hereof as fully as if set forth
at length herein, acknowledges itself to be indebted to, and
hereby promises to pay to the bearer hereof (in the case of
a coupon bond) or to ............................................ or assigns, (the owner
of record, in case of registered bonds) ............................................ years
after the date of this bond, to-wit: On the .............. day
of ............................................ 19........, in lawful money of the United
States of America at the office of the Treasurer of the State
of West Virginia, at the capitol of said state, or at the option
of the holder at ............................................ bank in the City of New York,
the sum of ............................................ dollars, with interest thereon at
............................................ per centum per annum from date, payable
30 semi-annually in like lawful money of the United States of
31 America at the Treasurer's office or bank aforesaid, on the
32 first day of.......................... and the first day of........................of
33 each year, (and in the case of coupon bonds) according to
34 the tenor of the annexed coupons, bearing the engraved fac-
35 simile signature of the Treasurer of the State of West Virginia,
36 upon surrender of such coupons. This bond (in the case of a
37 coupon bond) may be exchanged for a registered bond of like
38 tenor upon application to the Treasurer of the State of West
39 Virginia.
40 To secure the payment of this bond, principal sum and
41 interest, when other funds and revenues sufficient are not
42 available for that purpose, it is agreed that, within the limits
43 prescribed by the constitution, the board of public works of
44 the State of West Virginia shall annually cause to be levied
45 and collected an annual state tax on all property in the state,
46 until said bond is fully paid, sufficient to pay the annual in-
47 terest on said bond and the principal sum thereof within the
48 time this bond becomes due and payable.
49 This bond is hereby made exempt from any taxation by the
50 State of West Virginia, or by any county, district or munici-
51 pal corporation thereof.
52 In testimony whereof, witness the signature of....................... .
53 Treasurer of the State of West Virginia, and the counter-
54 signature of........................., the Auditor of said State, hereto
55 affixed according to law, dated the................day of................,
56 one thousand nine hundred........................., and the seal of
57 the State of West Virginia.
58 (S E A L)
59
60 Treasuer of the State of West Virginia
61 Countersigned:
62 ............................................
63 Auditor of West Virginia.

Sec. 4. Form of Coupon. The form of coupons shall be
2 substantially as follows, to-wit:
3
4 Bond No............................ Coupon No............................
5 On the first day of......................, 19......, the State of West
Virginia will pay to the bearer, in lawful money of the United States of America, at the office of the Treasurer of the State, or at the option of the holder at ...................... bank in the City of New York, the sum of ...................... dollars, the same being semi-annual interest on Road Bond No ....................., series of one thousand nine hundred .....................

Treasurer of the State of West Virginia

The signature of the treasurer to said coupon shall be by his engraved facsimile signature and the coupons shall be numbered in the order of their maturity, from number one consecutively. Said bonds and coupons may be signed by the present treasurer and auditor, or by any of their respective successors in office, and bonds signed by the persons now in office may be sold by the governor or his successor in office without being signed by the successor in office of the present treasurer or auditor.

Sec. 5. Listing by Auditor. All coupons and registered bonds issued under this act shall be separately listed by the auditor of the state in books provided for the purpose, in each case giving the date, number, character and amount of obligations issued, and in case of registered bonds, the name and post office address of the person, firm or corporation registered as the owner thereof.

Sec. 6. State Road Sinking Fund, Sources; Used to Pay Bonds and Interest; Investment of Remainder. Into the state road sinking fund shall be paid all moneys received from the annual state tax levy on the taxable property in the state levied under the provisions of this act, from any and all appropriations made by the state from other sources for the purposes of paying the interest on said bonds or paying off and retiring same, from fines, forfeitures and penalties, if any made applicable by law for the payment of said bonds or the interest thereon, from transfer fees as herein provided, and from any source whatsoever, which is made liable by law for the payment of the principal of said bonds or the interest thereon. All such funds shall be kept by the treasurer in a separate account, under the designation aforesaid, and all money be-
longing to said fund shall be deposited in the state treasury to the credit thereof.

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

Sec. 7. Tax Levy to Pay, Unless Other Funds Available. In order to provide the revenue necessary for the payment of the principal and interest of said bonds, as hereinbefore provided, the board of public works, within the limits prescribed by the constitution, is authorized, empowered and directed to lay annually a tax upon all real and personal property subject to taxation within this state, sufficient to pay interest on said bonds accruing during the current year and one twenty-fifth of the total issue (at par value) of said bonds, for such number of years, not exceeding twenty-five, as may be necessary to pay the interest thereon and to pay off the principal sum of said bonds; and said taxes, when so collected, shall not be liable for or applicable to any other purpose: Provided, however, That if there be other funds in the state treasury, or in the state road funds, in any fiscal year, not otherwise appropriated, or if other sources of revenue be hereafter provided by law for the purpose, the board of public works is authorized, empowered and directed to set apart, in any year there be such funds, or other sources of revenue provided for such purpose, a sum sufficient to pay the interest on bonds accrue-
The authority hereby vested in the board of public works shall be in addition to the authority now vested in it by present law.

Sec. 8. Sale by Governor; Minimum Price. The governor shall sell all bonds herein mentioned at such time or times as he may determine necessary to provide funds for road construction purposes, as herein provided, upon recommendation of the state road commission. All sales shall be at not less than par and accrued interest. Registered bonds shall bear interest only from the date of delivery. All interest coupons becoming payable prior to said sale date shall be cancelled by the treasurer and rendered ineffective, before the delivery of the bonds so sold.

Sec. 9. Proceeds Paid Into State Road Fund. The proceeds of all sales of bonds herein authorized shall be paid into the state road fund created by section one, article three, chapter forty, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three.

Sec. 10. Plates Property of State. The plates from which the bonds authorized by this act are engraved shall be the property of the state of West Virginia.

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

Sec. 12. Interim Certificates. The governor may authorize the issuance of interim certificates to be issued to the purchasers of said bonds to be held by them in lieu of engraved bonds. When said interim certificates are so issued, they shall become full and legal obligations of the state of West Virginia under all of the provisions of this act just as fully and completely as the engraved and permanent bonds.

Sec. 13. Payment of Expenses. All necessary expenses incurred in the execution of this act shall be paid out of any money in the treasury of the state of West Virginia, not otherwise appropriated, on warrants of the auditor of the state drawn on the state treasurer.
AN ACT to amend and reenact section eight, article two-a; section four, article four; and section nineteen, article four, all of chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to roads and highways.

[Passed March 5, 1937; in effect ninety days from passage. Approved by the Governor.]

Article 2-a. State Road Commissioner.

Be it enacted by the Legislature of West Virginia:

That section eight, article two-a; section four, article four; and section nineteen, article four, all of chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, are hereby amended and reenacted to read as follows:

Section 8. Assistants and Employees. The commissioner shall employ such assistants and employees as may be necessary for the efficient operation of his department, who shall possess all of the qualifications which may from time to time be prescribed for such positions by the road commissioner. The duties and salaries of such assistants and employees shall be fixed by the road commissioner, who shall have authority to remove the same at his will and pleasure.

The commissioner shall require every employee who collects fees or handles funds or who has custody of equipment and supplies belonging to the state to take the constitutional oath and give an official bond properly conditioned and signed by sufficient sureties in a sum to be fixed by the commissioner, which bond shall be approved by him and filed in the office of the secretary of state.
The commissioner shall fix their compensation, but the total compensation paid to assistants and employees shall not exceed in any one year the appropriation made by the Legislature for that purpose.

Article 4. State Road System; Primary and Secondary Roads.

Section

4. Powers of state road commissioner over state roads.
9. Contracts for road construction or materials; convict labor.

Section 4. Powers of State Road Commissioner Over Roads.

2. The authority and control over the state roads vested in the state road commissioner shall include the power to:

(1) Locate and relocate any primary or secondary road; and upon the petition of any interested party or upon his own initiative create, extend or establish any new road that shall be necessary;

(2) Upon petition and hearing, or after due investigation, upon his own initiative, discontinue any road no longer necessary;

(3) Construct, reconstruct, repair and maintain the state roads;

(4) Allocate the cost of retaining walls for the protection of a state road or its right-of-way to the cost of construction, reconstruction, improvement or maintenance;

(5) Close any state road while under construction or repair and provide for a temporary road during the course of construction or repair;

(6) Adjust damages occasioned by the construction, reconstruction or repair of any state road or the establishment of any temporary road;

(7) Fix standard widths for rights-of-way, bridges and approaches; fix the grades on all state roads; and provide for the acquisition of land necessary for cuts and fills;

(8) Make emergency purchases of materials, supplies, repair parts for road equipment and emergency equipment rentals, such emergency purchase or rental in no event to exceed two hundred dollars in value; to purchase or lease all necessary ground and buildings for the storage of road equipment or road building materials, including necessary
rights-of-way for the construction of public roads; to pur-
chase and negotiate for the use of waste sites, gravel or
sand banks, cinders, red dog or other road building materials;
(9) Purchase, produce and sell road materials as provided
by section twenty-five of this article;
(10) Test and standardize materials used in the construc-
tion and maintenance of state roads;
(11) Establish a uniform system of road signs and
markers;
(12) Classify and designate by number the routes within
the primary and secondary road system;
(13) Institute complaints before the public service com-
mission concerning interstate freight rates, car service, and
movement of road materials and machinery;
(14) Make such administrative rules and regulations as
are necessary to give effect to the powers granted by this
chapter.

Sec. 19. Contracts for Road Construction or Material; Con-
vict Labor. All work of construction and reconstruction of
state roads and bridges, and the furnishing of all materials and
supplies therefor, and for the repair thereof, unless manufac-
tured or assembled by the commissioner, shall be done and
furnished pursuant to contract except that the commissioner
shall not be required to award any contract for work or for ma-
terials or supplies for an amount less than three thousand dol-
lars. When the commissioner is about to construct, reconstruc-
(or improve any road or highway, he shall file with the clerk of
the county court, or of the municipality, as the case may be, in
which such road lies, a certified copy of the plans and specifica-
tions therefor, and a notice that the commissioner is about to
enter upon and proceed with the work in question. If the work
is to be done, or the materials therefor are to be furnished
by contract, the commissioner shall thereupon advertise once
each week for at least two successive weeks in two news-
papers of opposite politics, if there be such, but if not,
then in one newspaper published in each county or munici-

pality in which the road lies, and once in at least one daily
newspaper published in the city of Charleston, and in such
other journals or magazines as may to the commissioner
seem advisable, for sealed proposals for the construction or other improvement of such road, and for the furnishing of materials therefor, accurately describing the same, and stating the time and place for opening such proposals and reserving the right to reject any and all proposals. The commissioner shall have the power to prescribe proper pre-qualifications of contractors bidding on state road construction work. To all sealed proposals there shall be attached the certified check of the bidder or bidder’s bond acceptable to the commissioner, in such amount as the commissioner shall specify in the advertisement, but not to exceed five per cent of the aggregate amount of the bid; but such amount shall never be less than five hundred dollars. Such proposals shall be publicly opened and read at the time and place specified in the advertisement, and the contract for such work, or for the supplies or materials required therefor shall, if let, be awarded by the commissioner to the lowest responsible bidder for the type of construction selected. In case the commissioner shall reject all bids, he may thereafter do the work with his own forces or with prison labor, or may readvertise in the same manner as before and let a contract for such work pursuant thereto. But nothing in this section shall be so construed as to prevent the commissioner from building, constructing, reconstructing or repairing a road to any extent with prison labor without first advertising and rejecting bids therefor.

CHAPTER 79
(Com. Sub. for House Bill No. 16—Originating in the House Committee on Roads)

AN ACT to provide for the working of felony prisoners in the construction of state roads, and in making articles required by the state departments and institutions or otherwise, by amending and reenacting the whole of article five, chapter seventeen, and amending and reenacting sections one, two and four, article fifteen, chapter seventeen, and section nine, article five, chapter twenty-eight of the code of West Virginia,
one thousand nine hundred thirty-one; and repealing the portions thereof not reenacted.

(Passed March 13, 1937; in effect ninety days from passage. Became a law without the approval of the Governor.)

Article 5. State Convict Road Force.

Section
1. State convict road force; how used.
2. How convict workers selected.
3. Guards and regulations; pay of prisoners.
4. Housing, feeding and transportation of prisoners.
5. Escape of convict from state road force.
6. Return of convicts to penitentiary; trusties.
7. Medical inspection of convict camps.
8. Convicts in same classification placed in same camp.
9. Commissioner to pay expenses of convicts and cost of equipment and materials.
10. Convict discharged at expiration of term.
11. Commissioner may act through agents; may set up department of prison labor.
12. In what work other convicts may be employed by warden.
13. Other acts repealed.

Be it enacted by the Legislature of West Virginia:

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

Section 1. State Convict Road Force; How Used. All male persons convicted of felony and sentenced to imprisonment or confinement in the penitentiary by any court, or who may hereafter be sentenced for a felony, whether actually sentenced to labor or not, or so many thereof as may be required by the state road commissioner, shall, as incident to such sentence or confinement, constitute the state convict road force and as such may be employed under the supervision of the state road commissioner in building, surfacing, and maintaining roads under the supervision of the state road commission, including both primary and secondary roads, and in and about any quarries, gravel pits, sandbanks, crushers, brick kilns, or other plants and places operated by the state road commission for the manufacture and acquisition of ma-
Sec. 2. How Convict Workers Selected. The warden of
the penitentiary shall prepare for the road commissioner
a monthly report which shall show the names of not less than
five hundred inmates who are suitable for road work. From
the said prepared list of inmates the road commissioner shall
select the number needed for road work.
The warden shall deliver and the road commissioner shall
receive at the penitentiary, convicts selected by the warden
to work on the road.

Sec. 3. Guards and Regulations; Pay of Prisoners. The
state convict road force shall be guarded when working on
the roads and in making road materials, and when being
transported to and from the penitentiary, by guards detailed
by the warden, who shall designate one guard as the superior,
and the other or others as assistants. The state guard and as-
sistants shall obey the rules prescribed for prison camps. Any
guard or assistant not obeying such rules shall, on the rec-
ommendation of the superintendent or engineer in charge of
the work, be immediately recalled, and some other person de-
tailed in his stead. The wages of each guard, superior and as-
sistant, shall be fixed by the road commissioner. All guards
and prisoners shall be under the direction of the warden, or
his authority, and shall work not to exceed sixty hours per
week, and each prisoner shall be paid for each work day, not
to exceed ten hours, the sum of ten cents and for time in
excess thereof ten cents per hour for such excess time worked.

Sec. 4. Housing, Feeding and Transportation of Prisoners.
The state board of health, warden and the state road commis-
sioner shall promptly formulate rules and regulations govern-
ing the camps essential to the housing of the prisoners, and
the state road commissioner shall provide suitable quarters,
not inconsistent with such rules and regulations, for such conv-
ict road force, to be constructed, when practicable, with pris-
on labor. He shall supply such force with all necessary food.
cooking utensils, beds and bedding, and provide means of
transportation for such road force and camp equipment, when
necessary, from place to place, or to and from the work of such convicts.

Sec. 5. Escape of Convict From State Road Force. Any penitentiary convict who shall escape from the state road force, or in going to or returning therefrom, shall be guilty of a felony and on conviction in the county where the escape was made, shall be sentenced by the court and returned to the authority from which he escaped, there to labor on the roads for a sentence of not more than two years in addition to the unserved time of his original sentence; and it is made the duty of all arresting officers in the state to apprehend such escaped prisoner and return him to the jail of the county from which he escaped as for an original felony; and the costs shall be paid as in other cases of felony; but the road commissioner may offer and pay suitable rewards for his apprehension, and any guard may pursue and arrest him in any county.

Sec. 6. Return of Convicts to Penitentiary; Trusties. The state road commissioner or warden shall in all cases where convicts or prisoners are under his control and supervision have authority to return any convict or prisoner to the penitentiary who because of mental or physical infirmity is unable to work, or whose presence in the camp, due to insubordination, bad conduct or disposition may impair the discipline of the road force.

Under the supervision of the warden, or rules promulgated for the government and discipline of the state convict road force approved by him, such force, or so many thereof as appear eligible and trustworthy, shall be made trusties; but reasonable corrective measures may be taken against trusties who violate their privileges as such.

Sec. 7. Medical Inspection of Convict Camps. It shall be the duty of the state road commissioner to designate some competent physician or physicians to make inspection of all camps where a convict road force is employed. It shall be the duty of such physician to make thorough investigations of the sanitary conditions of such camps each sixty days and report every inspection to the governor, together with such recommendations as he may deem necessary; and he shall
Sec. 8. Convicts in Same Classification Placed in Same Camp. It shall be the duty of the state road commissioner, with the assistance of the warden, to organize the penitentiary convicts in the state road force, as far as practicable, into groups or classes according to the similarity of their respective dispositions, temperaments, criminal inclinations, regard for orderly observance of the rules and general habits respecting stability or safety, and, as far as practicable, to place those so classified in separate camps, and particularly to employ or use in one camp, or class of camps, those youths and first offenders whose correction, improvement and reclamation may reasonably be anticipated and whose habits are not dangerous to their fellow convicts, and for the purpose of effecting such classifications prisoners may be removed from one camp to another. All classes of prisoners on the state convict road force shall be employed and used under such safeguards and in accordance with such rules and regulations as may be provided by the road commissioner, the warden and the governor.

Sec. 9. Commissioner to Pay Expenses of Convicts and Cost of Equipment and Materials. The expenses incident to the transportation of convicts and prisoners, their food, clothing, medical attention and maintenance while in the state convict road force shall be paid by the state road commissioner, and all equipment, materials, tools, teams and machinery necessary in the prosecution of the work shall be provided out of any funds at his disposal available for the building, surfacing, paving and completing of the roads upon which such convicts and prisoners labor. And when a convict is discharged at camp the commissioner shall pay him any sum due him and may pay in whole or in part his expenses home.

In any case of a prisoner taken from the penitentiary to a road convict camp the state road commissioner shall pay for the per diem cost of feeding, clothing and caring for such prisoners.
Sec. 10. Convict Discharged at Expiration of Term. The warden of the penitentiary shall have power to discharge any prisoner working on the state road force wherever he may be in the state when the term of such prisoner has expired, and section twenty-seven, article five, chapter twenty-eight shall apply to all convicts from the penitentiary on said state road force.

Sec. 11. Commissioner May Act Through Agents; May Set Up Department of Prison Labor. Where anything herein is required or permitted to be done by the state road commissioner, the same may be done in person or by superintendents, agents, or employees of the state road commissioner, upon his authority duly given, and he may set up a department of prison labor having charge of the agencies and persons under his authority as herein provided for, and account for the operations of the state convict road force therein; but in any event such accounts and operations shall be separately stated.

Sec. 12. In What Work other Convicts May be Employed by Warden. Convicts of both sexes not employed in the state convict road force as provided by article five of chapter seventeen, may be employed by the warden under the directions of the state board of control in work for the state at the penitentiary or any farm now or hereafter under control of the state, but such convicts actually confined within the penitentiary and not available for outside work shall, as far as possible, be used in the making of articles required by the state departments and institutions. The warden may charge the various state departments and institutions for such convict-made supplies the actual cost of the materials used in the manufacture of the articles furnished them and, in addition thereto, an amount sufficient to defray the maintenance cost of the prisoners employed in such manufacture and to keep in repair with suitable replacements the machinery, tools and appliances used in the manufacture of such articles, to the extent of the fair market price thereof, the amount of which shall be stated by the state board of control. Any articles and supplies so manufactured and not required by the state departments and institutions may be sold by the warden to municipalities and counties and the agencies thereof, or to
federal agencies, upon the same terms and conditions, but in no event shall such articles be sold to private persons, firms, or corporations, or be sold or consumed otherwise than by public departments and institutions of government. This act shall not impair any contracts now existing between the state board of control and any person, firm, or corporation for the use of convict labor for manufacturing within the walls of the penitentiary, nor prevent the hiring of convicts either within or without the walls as otherwise provided by this article.

Sec. 13. Other Acts Repealed. Article five of chapter seventeen, sections one, two and four of article fifteen of chapter seventeen and section nine of article five of chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, except to the extent amended and reenacted by this act, are hereby repealed.

CHAPTER 80

(AN ACT to amend article eight, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter forty, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, by adding section thirty-one-a, relating to the powers of the state road commissioner to regulate traffic upon state roads.


Section 31-a. When commissioner may prohibit, restrict or regulate traffic on a state road; copies of regulations; official signs.

Be it enacted by the Legislature of West Virginia:

That article eight, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chap-
Section 31-a. When Commissioner May Prohibit, Restrict or Regulate Traffic on a State Road; Copies of Regulations; Official Signs. If the state road commissioner finds that life, property, or the preservation of a state road is endangered because of the condition of the road, the congestion of traffic on the road, or the character of traffic on the road, he may promulgate regulations as follows, by:

1. Closing the road to the use of vehicles of specified size, weight, load or other characteristics.
2. Prescribing maximum and minimum rates of speed which shall be observed by vehicles using the road.
3. Prohibiting the use of the road by all vehicles or by particular classes of vehicles during particular hours of the day or on particular days of the week.
4. Specifying minimum distances to be maintained between heavy vehicles traveling in the same direction.
5. Prescribing such other traffic regulations as he may find necessary for the purposes of this section.

The state road commissioner shall deposit a copy of a regulation promulgated by him with the county clerk of each county through which the road passes. He shall print copies and distribute them free of charge to any person requesting them.

The state road commissioner shall place official signs prominently located at the entrance of the state road affected by a regulation, and at each intersection where vehicles habitually enter upon the road. The placing of official signs shall be notice that the regulations with respect to that road have been promulgated and are in effect.

A person who violates a regulation promulgated under this section shall be guilty of a misdemeanor, and upon conviction shall be fined not less than five dollars nor more than one hundred dollars or imprisoned in the county jail not less than three days nor more than thirty days, or both, in the discretion of the court.
CHAPTER 81
(House Bill No. 470—By Mr. Shores)

AN ACT to amend and reenact section twenty-six, article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter forty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, relating to bridges.

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

Section 26. Bridges as part of state road system; maintenance by state.

Be it enacted by the Legislature of West Virginia:

That section twenty-six, article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter forty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 26. Bridges as Part of State Road System; Maintenance by State. The state road commissioner shall designate and may, at any time, relocate and redesignate as a connecting part of a primary road, any bridge or street within a municipal corporation. The commissioner shall construct, reconstruct, improve and maintain the designated connecting part at the cost and expense of the state: Provided, however, That any existing free bridge forming a connecting link between two counties and two state routes, is hereby adopted as part of the state road system and shall hereafter be maintained by the state: Provided further, That any existing free bridge forming a connecting link as an interstate bridge between this state and another state is hereby adopted as part of the state road system, and as to that part of the bridge within the boundary of this state shall be maintained by the state.
CHAPTER 82

(House Bill No. 1—By Mr. Doringer)

AN ACT to fix the compensation of certain elective and appointive state and county officers, to prescribe the method of fixing the compensation of other state officers, and of assistants and employees, and to repeal chapter twenty of the acts of the extraordinary session of the Legislature of West Virginia, one thousand nine hundred thirty-two.

[Passed March 9, 1937; in effect from passage. Approved by the Governor.]

Section
2. Salaries of other elective state officials.
4. Salary of tax commissioner.
5. Salary of members of public service commission.
7. Salary of banking commissioner.
9. Salary of members of board of control.
10. Salary of chief of department of mines.
11. Salary of warden of the penitentiary.
15. Salary of director of bureau of negro welfare and statistics.
17. Salary of adjutant general.
18. When increases effective; how paid.
19. How and by whom compensation of assistants and employees fixed.
20. Salaries of judges of circuit courts; additional compensation from counties.
22. Employment of wife at public expense by state official or employee prohibited.
23. Act repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. Salary of Governor. The salary of the governor shall be ten thousand dollars per annum.

Sec. 2. Salaries of Other Elective State Officials. The salary of the attorney-general, the auditor, the secretary of state, the treasurer, the commissioner of agriculture and the superintendent of free schools shall be, each, six thousand dollars per annum.
Sec. 3. Salary of Judges of Supreme Court of Appeals. The salary of each of the judges of the supreme court of appeals shall be ten thousand dollars per annum.

Sec. 4. Salary of Tax Commissioner. The salary of the tax commissioner shall be six thousand dollars per annum.

Sec. 5. Salary of Members of Public Service Commission. The salary of each of the members of the public service commission shall be six thousand dollars per annum.

Sec. 6. Salary of Compensation Commissioner. The salary of the state compensation commissioner shall be six thousand dollars per annum.

Sec. 7. Salary of Banking Commissioner. The salary of the commissioner of banking shall be six thousand dollars per annum.

Sec. 8. Salary of Commissioner of Health. The salary of the commissioner of health shall be five thousand dollars per annum.

Sec. 9. Salary of Members of Board of Control. The salary of each of the members of the state board of control shall be five thousand dollars per annum.

Sec. 10. Salary of Chief of Department of Mines. The salary of the chief of the department of mines shall be six thousand dollars per annum.

Sec. 11. Salary of Warden of the Penitentiary. The salary of the warden of the West Virginia penitentiary shall be five thousand dollars per annum.

Sec. 12. Salary of Superintendent of Department of Public Safety. The salary of the superintendent of the department of public safety shall be six thousand dollars per annum.

Sec. 13. Salary of Conservation Commissioner. The salary of the conservation commissioner shall be five thousand dollars per annum.

Sec. 14. Salary of Commissioner of Labor. The salary of the commissioner of labor shall be four thousand dollars per annum.
Sec. 15. *Salary of Director of Bureau of Negro Welfare and Statistics.* The salary of the director of the bureau of negro welfare and statistics shall be three thousand six hundred dollars per annum.

Sec. 16. *Salary of Director of Purchases.* The salary of the director of purchases shall be six thousand dollars per annum.

Sec. 17. *Salary of Adjutant General.* The salary of the adjutant general shall be four thousand dollars per annum.

Sec. 18. *When Increases Effective; How Paid.* Where an officer of any executive department is now receiving a compensation different in amount from that fixed by this act the rate of compensation provided for by this act shall not become effective until the close of the term for which the officer was elected or appointed.

Where under the provisions of the constitution and this act an increase in salary may become effective, such increase may be paid from any other item of the appropriation for such department not otherwise expended, if the specific item in the budget act is insufficient therefor.

Sec. 19. *How and by Whom Compensation of Assistants and Employees Fixed.* The compensation of officers, assistants, and employees in state departments, agencies or institutions whose salary is not otherwise fixed by law, shall be determined in accordance with personnel classifications and uniform salary schedules established as provided by law. Subject to such classifications and schedules the amount of the compensation shall be fixed as follows:

1. The salary of an officer in the state government who is appointed by the governor shall be fixed by the governor.
2. The compensation to be received by a subordinate officer, assistant, or employee in the state government shall be fixed by the person who appoints or employs the subordinate officer, assistant or employee.
3. The compensation to be received by persons employed in state institutions under the control of the board of governors of West Virginia University shall be fixed by such board of governors.
4. The compensation to be received by persons employed in state institutions under the control of the state board of education shall be fixed by the state board of education.

5. The compensation to be received by persons employed in state institutions under the control of the board of control shall be fixed by the board of control.

Sec. 20. Salaries of Judges of Circuit Courts; Additional Compensation From Counties. The salaries of the judges of the circuit courts shall be paid out of the state treasury and shall, unless otherwise provided by law, be in the following annual amounts:

1. In circuits having more than one hundred thousand population, seven thousand five hundred dollars;
2. In circuits having more than eighty thousand and less than one hundred thousand population, seven thousand dollars;
3. In circuits having more than sixty thousand and less than eighty thousand population, six thousand five hundred dollars;
4. In circuits having more than forty thousand and less than sixty thousand population, six thousand dollars;
5. In circuits having less than forty thousand population, five thousand dollars.

A county court may pay the judge of the circuit additional compensation, but the salary and additional compensation shall not exceed seven thousand five hundred dollars, except in circuits of over one hundred thousand population, where the salary and additional compensation shall not exceed eight thousand dollars.

The population shall be according to the United States census, or the estimate of the United States bureau of census, as certified to the state auditor by the United States director of the census, last preceding the beginning of the calendar year in which the salary is payable.

Sec. 21. Salaries of Judges of Inferior Courts. The salary of each and every judge of a criminal, intermediate, domestic relations, or other court of record, inferior to circuit courts, is restored to the sum and amount received as salary by each of such judges prior to the enactment of chapter
SALARIES OF COUNTY OFFICIALS

6 twenty, acts of the Legislature of West Virginia, extraordinary session, one thousand nine hundred thirty-two.

Sec. 22. Employment of Wife at Public Expense by State Official or Employee Prohibited. The employment of his wife at public expense by any official or employee of the state is expressly prohibited.

Sec. 23. Act Repealed. Chapter twenty, acts of the Legislature of West Virginia, extraordinary session, one thousand nine hundred thirty-two, is hereby repealed.

Sec. 24. Provisions Severable. The provisions of this act shall be construed as separable and several, and should any of the provisions or parts hereof be construed or held to be unconstitutional, or for any other reason invalid or unenforceable, the remaining provisions of this act shall not be thereby affected.

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

CHAPTER 83

(Com. Sub. for House Bill No. 420—Originating in the House Committee on the Judiciary)

AN ACT to amend and reenact sections one, two, three, four and five, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter nineteen, acts of the Legislature, extraordinary session, one thousand nine hundred thirty-two, relating to the salaries of sheriffs, county clerks, circuit clerks, and prosecuting attorneys.

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

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

Section
1. Salaries of sheriffs.
2. Salaries of county clerks.
4. Salaries of joint clerks of the county and circuit courts.
5. Salaries of prosecuting attorneys.

Be it enacted by the Legislature of West Virginia:

That sections one, two, three, four and five, article seven, chapter
seven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter nineteen, acts of the Legislature, extraordinary session, one thousand nine hundred thirty-two, be amended and reenacted so as to read as follows:

Section 1. Salaries of Sheriffs. The annual compensation of the sheriff of each county shall be as follows: Barbour county, two thousand five hundred dollars; Berkeley county, three thousand seven hundred dollars; Boone county, two thousand five hundred dollars; Braxton county, two thousand eight hundred dollars; Brooke county, two thousand five hundred dollars; Cabell county, four thousand eight hundred dollars; Calhoun county, one thousand eight hundred dollars; Clay county, one thousand eight hundred dollars; Doddridge county, two thousand four hundred dollars; Fayette county, four thousand dollars; Gilmer county, two thousand two hundred dollars; Grant county, one thousand eight hundred dollars; Greenbrier county, two thousand seven hundred dollars; Hampshire county, two thousand dollars; Hancock county, two thousand dollars; Hardy county, one thousand six hundred dollars; Harrison county, four thousand five hundred dollars; Jackson county, two thousand dollars; Jefferson county, two thousand five hundred dollars; Kanawha county, five thousand dollars; Lewis county, three thousand dollars; Logan county, three thousand six hundred dollars; Lincoln county, two thousand five hundred dollars; Marion county, four thousand eight hundred dollars; Marshall county, three thousand five hundred dollars; Mason county, two thousand five hundred dollars; Mercer county, three thousand nine hundred dollars; Mineral county, three thousand dollars; Mingo county, three thousand five hundred dollars; Monongalia county, three thousand six hundred dollars; Monroe county, one thousand eight hundred dollars; McDowell county, four thousand eight hundred dollars; Morgan county, one thousand five hundred dollars; Nicholas county, two thousand five hundred dollars; Ohio county, four thousand five hundred dollars; Pendleton county, one thousand six hundred dollars; Pleasants county, one thousand eight hundred dollars; Pocahontas county, two thousand one
### Salaries of County Officials

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**Sec. 2. Salaries of County Clerks.** The annual compensation of the clerk of the county court in each county shall be as follows: Barbour county, two thousand two hundred dollars; Berkeley county, two thousand dollars; Boone county, two thousand four hundred dollars; Braxton county, two thousand two hundred dollars; Brooke county, one thousand nine hundred dollars; Cabell county, four thousand five hundred dollars; Calhoun county, one thousand seven hundred dollars; Clay county, one thousand seven hundred dollars; Doddridge county, one thousand eight hundred dollars; Fayette county, three thousand two hundred dollars; Gilmer county, one thousand eight hundred dollars; Greenbrier county, two thousand five hundred dollars; Hampshire county, one thousand eight hundred dollars; Hancock county, one thousand eight hundred dollars; Harrison county, four thousand dollars; Jackson county, one thousand eight hundred dollars; Jefferson county, two thousand dollars; Kanawha county, five thousand five hundred dollars; Lewis county, two thousand five hundred dollars; Lincoln county, two thousand four hundred dollars; Logan county, three thousand three hundred dollars; Marion county, four thousand eight hundred dollars; Marshall county, three thousand dollars; Mason county, two thousand five hundred dollars; McDowell county, four thousand five hundred dollars; Mercer county, three thousand six hundred dollars; Mineral county, three thousand dollars; Mingo county, three thousand dollars;
SALARIES OF COUNTY OFFICIALS

Sec. 3. Salaries of Circuit Clerks. The annual compensation of the clerk of the circuit court (or clerk of the circuit and criminal or intermediate or other court of limited jurisdiction) in each county shall be as follows: Barbour county, two thousand dollars; Berkeley county, two thousand dollars; Boone county, two thousand dollars; Braxton county, two thousand dollars; Brooke county, one thousand eight hundred dollars; Cabell county, four thousand five hundred dollars; Calhoun county, one thousand two hundred dollars; Clay county, one thousand four hundred dollars; Doddridge county, one thousand five hundred dollars; Fayette county, three thousand dollars; Gilmer county, one thousand six hundred dollars; Greenbrier county, one thousand eight hundred dollars; Hampshire county, one thousand dollars; Hancock county, one thousand eight hundred dollars; Harrison county, four thousand dollars; Jackson county, one thousand five hundred dollars; Jefferson county, two thousand dollars; Kanawha county, five thousand five hundred dollars; Lewis county, two thousand two hundred dollars; Monongalia county, three thousand five hundred dollars; Monroe county, one thousand five hundred dollars; Morgan county, one thousand seven hundred dollars; Nicholas county, two thousand two hundred fifty dollars; Ohio county, four thousand dollars; Pleasants county, one thousand eight hundred dollars; Pocahontas county, one thousand eight hundred dollars; Preston county, two thousand three hundred dollars; Putnam county, two thousand two hundred dollars; Raleigh county, three thousand six hundred dollars; Randolph county, two thousand eight hundred dollars; Ritchie county, two thousand five hundred dollars; Roane county, two thousand two hundred dollars; Summers county, one thousand six hundred dollars; Taylor county, two thousand dollars; Tucker county, one thousand nine hundred dollars; Tyler county, two thousand dollars; Upshur county, two thousand dollars; Wayne county, two thousand four hundred dollars; Webster county, two thousand dollars; Wetzel county, two thousand six hundred dollars; Wirt county, one thousand two hundred dollars; Wood county, three thousand six hundred dollars; Wyoming county, three thousand dollars.
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20 hundred dollars; Lincoln county, two thousand dollars;
21 Logan county, three thousand dollars; Marion county,
22 four thousand eight hundred dollars; Marshall county,
23 two thousand four hundred dollars; Mason county, one
24 thousand eight hundred dollars; McDowell county, four
25 thousand five hundred dollars; Mercer county, three thou-
26 sand six hundred dollars; Mineral county, three thou-
27 sand dollars; Mingo county, three thousand dollars; Monon-
28 galia county, three thousand five hundred dollars; Mon-
29 roe county, one thousand two hundred dollars; Morgan
30 county, nine hundred dollars; Nicholas county, two thousand
31 dollars; Ohio county, five thousand dollars; Pleasants county,
32 one thousand three hundred fifty-dollars; Pocahontas county,
33 one thousand eight hundred dollars; Preston county, two
34 thousand dollars; Putnam county, one thousand eight hun-
35 dred dollars; Raleigh county, three thousand three hundred
36 dollars; Randolph county, two thousand six hundred dollars;
37 Ritchie county, one thousand eight hundred dollars; Roane
38 county, one thousand eight hundred dollars; Summers
39 county, one thousand six hundred dollars; Taylor county,
40 two thousand dollars; Tucker county, one thousand six hun-
41 dred dollars; Tyler county, one thousand eight hundred
42 dollars; Upshur county, two thousand dollars; Wayne county,
43 two thousand dollars; Webster county, one thousand eight
44 hundred dollars; Wetzel county, two thousand dollars; Wirt
45 county, nine hundred dollars; Wood county, three thousand
46 dollars; Wyoming county, three thousand dollars.

Sec. 4. Salaries of Joint Clerks of County and Circuit
2 Courts. The annual compensation of the clerks of the courts in
3 the counties where both the office of the clerk of the county
4 court and clerk of the circuit court are held by the same per-
5 son shall be as follows: Hardy county, one thousand eight hun-
6 dred dollars; Grant county, one thousand nine hundred dol-
7 lars; Pendleton county, one thousand eight hundred dollars.

Sec. 5. Salaries of Prosecuting Attorneys. The annual
2 compensation of the prosecuting attorney in each county,
3 including the compensation provided by law for his services
4 as attorney for boards of education and other administrative
5 boards and officers in the county, shall be as follows: Bar-
SALARIES OF COUNTY OFFICIALS

6 bour county, two thousand dollars; Berkeley county, one thousand eight hundred dollars; Boone county, two thousand four hundred dollars; Braxton county, one thousand eight hundred dollars; Brooke county, one thousand eight hundred dollars; Cabell county, four thousand eight hundred dollars; Calhoun county, one thousand two hundred dollars; Clay county, one thousand five hundred dollars; Doddridge county, one thousand two hundred dollars; Fayette county, three thousand two hundred dollars; Gilmer county, one thousand five hundred dollars; Grant county, six hundred dollars; Greenbrier county, two thousand five hundred dollars; Hampshire county, one thousand dollars; Hancock county, two thousand dollars; Hardy county, one thousand dollars; Harrison county, four thousand dollars; Jackson county, one thousand two hundred dollars; Jefferson county, one thousand two hundred dollars; Kanawha county, six thousand dollars; Lewis county, two thousand dollars; Lincoln county, two thousand four hundred dollars; Logan county, three thousand six hundred dollars; Marion county, four thousand eight hundred dollars; McDowell county, four thousand eight hundred dollars; Mercer county, three thousand six hundred dollars; Mineral county, two thousand dollars; Mingo county, four thousand two hundred dollars; Monongalia county, four thousand dollars; Monroe county, six hundred dollars; Morgan county, one thousand dollars; Nicholas county, two thousand two hundred dollars; Ohio county, four thousand seven hundred dollars; Pendleton county, six hundred dollars; Pleasants county, one thousand two hundred dollars; Pocahontas county, one thousand two hundred dollars; Preston county, two thousand five hundred dollars; Putnam county, one thousand eight hundred dollars; Raleigh county, not less than three thousand nor more than four thousand dollars; Randolph county, two thousand four hundred dollars; Ritchie county, one thousand two hundred dollars; Roane county, one thousand five hundred dollars; Summers county, one thousand six hundred dollars; Taylor county, two thousand dollars; Tucker county, one thousand two hundred dollars; Tyler county, one thousand two hundred dollars; Upshur
46 county, one thousand five hundred dollars; Wayne county, 47 one thousand five hundred dollars; Webster county, one thou- 48 sand eight hundred dollars; Wetzel county, two thousand 49 dollars; Wirt county, six hundred dollars; Wood county, 50 three thousand six hundred dollars; Wyoming county, not less 51 than three thousand dollars nor more than four thousand 52 dollars.

This act shall not apply to any sheriff, prosecuting attorney, 54 clerk of a county court, or clerk of a circuit court, now hold- 55 ing the respective offices, during the terms for which they 56 were elected or appointed, prior to the passage of this act.

CHAPTE R 84
(Senate Bill No. 236—By Mr. Paull, by request)

AN ACT to amend and reenact section two, article three, chapter five of the code of West Virginia, one thousand nine hundred thirty-one relating to duties of the attorney general.

[Passed March 6, 1937; in effect ninety days from passage. Approved by the Governor.]

Article 3. Attorney General.

Section
2. To act as counsel for state; duties and powers as to prosecuting attorneys.

Be it enacted by the Legislature of West Virginia:

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

Section 2. To Act as Counsel for State; Duties and Powers as to Prosecuting Attorneys. He shall appear as counsel for the state in all causes pending in the supreme court of appeals, or in any federal court, in which the state is interested; he shall appear in any cause in which the state is interested that is pending in any other court in the state, on the written request of the governor, and when such appearance is entered he shall take charge of and have control of
such cause; he shall defend all actions and proceedings against any state officer in his official capacity in any of the courts of this state or any of the federal courts, when the state is not interested in such cause against such officer, but should the state be interested against such officer, he shall appear for the state; he shall institute and prosecute all civil actions and proceedings in favor of or for the use of the state which may be necessary in the execution of the official duties of any state officer, board or commission, on the written request of such officer, board or commission; he may consult with and advise the several prosecuting attorneys in matters relating to the official duties of their office, and may require a written report from them of the state and condition of the several causes, in which the state is a party, pending in the courts of their respective counties; he may require the several prosecuting attorneys to perform, within the respective counties in which they are elected, any of the legal duties required to be performed by the attorney general, which are not inconsistent with the duties of the prosecuting attorneys as the legal representatives of their respective counties; when the performance of any such duties by the prosecuting attorney conflict with his duties as the legal representative of his county, or for any reason any prosecuting attorney is disqualified from performing such duties, the attorney general may require the prosecuting attorney of any other county to perform such duties, in any county other than that in which such prosecuting attorney is elected and for the performance of which duties outside of the county in which he is elected the prosecuting attorney shall be paid his actual traveling and other expenses out of the appropriation for contingent expenses for the department for which such services are rendered; he shall keep, in proper books, a register of all causes prosecuted or defended by him in behalf of the state or its officers and of the proceedings had in relation thereto, and deliver the same to his successor in office; he shall preserve in his office all his official opinions and publish the same in his biennial report.
CHAPTER 85
(House Bill No. 355—By Mr. LaFon)

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

[Passed March 10, 1937; in effect from passage. Approved by the Governor.]

Article 3. Attorney General.

Section
3. Assistants to attorney general.

Be it enacted by the Legislature of West Virginia:

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

Section 3. Assistants to Attorney General. The attorney general may appoint four assistants to serve at his pleasure and to perform such duties as he may require of them. They shall each receive a salary not in excess of four thousand eight hundred 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 four hundred dollars per month.

CHAPTER 86
(House Bill No. 359—By Mr. Speaker, Mr. Thomas)

AN ACT to authorize the expenditure of appropriations made by the Legislature for the purpose of relieving the congested con-
dation of the West Virginia penitentiary, and to authorize the acceptance and expenditure of federal money provided for or applicable to that purpose.

(Passed March 11, 1937; in effect ninety days from passage. Approved by the Governor.)

Section 1. Expenditure of appropriation to relieve congestion at state penitentiary.

2. Federal funds for penitentiary; governor's powers.

Be it enacted by the Legislature of West Virginia:

Section 1. Expenditure of Appropriation to Relieve Congestion at State Penitentiary. The board of control is hereby authorized to provide, with the approval of the Governor, for the expenditure of appropriations, made by the Legislature for the purpose of relieving the congested condition of the West Virginia penitentiary, by increasing the capacity of the West Virginia penitentiary at Moundsville.

The board may, with the approval of the Governor, provide for the expenditure of such appropriations or part thereof in the purchase, operation and maintenance of a suitable place or places in the state other than within the walls of the West Virginia penitentiary, for the purpose stated.

The board shall have power and authority to acquire, by purchase, gift or condemnation, lands upon which to operate such place or places; to construct necessary buildings and structures thereon; to purchase suitable or other buildings and structures already located thereon, and make necessary alterations and improvements to such buildings; to develop and use such place or places in the manner found necessary and desirable by them and approved by the Governor.

Sec. 2. Federal Funds for Penitentiary; Governor's Powers. The Governor is hereby authorized and empowered to accept and provide for the expenditure of any money from federal sources which may be provided for or applicable to the purpose of this act.
AN ACT to amend and reenact section five, article nine, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter three, acts of the Legislature, regular session, one thousand nine hundred thirty-three, and as further amended and reenacted by chapter eighty-one, acts of the Legislature, regular session, one thousand nine hundred thirty-five, by adding thereto a new subsection (d), relating to the board of the school fund, and providing for the extension of time in the payment of securities invested by the board prior to March fourth, one thousand nine hundred thirty-three, as the board may deem proper and expedient.

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

Article 9. School Finances.

Section 5. School fund; board of the school fund; investment of school fund.

Be it enacted by the Legislature of West Virginia:

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

Section 5. School Fund; Board of the School Fund; Investment of School Fund. All such sums as have accrued to this state from the several sources enumerated in section four, article twelve of the constitution, not in excess of one million dollars, shall be set apart as a separate fund to be called "the school fund," and the governor, state superintendent of free schools, auditor and treasurer shall be a corporation under the name of "The Board of the School Fund," and shall have
the management, control and investment of said fund, as
provided by section four, article twelve of the constitution.
Such fund shall be invested in the interest-bearing securities
of the United States, or securities, the payment of which as
to both principal and interest, has been guaranteed by the
United States, or of this state, or of any county, city, town
or village, or school district of this state, or, if such interest-
bearing securities cannot be obtained, then such fund shall
be invested in such other solvent interest-bearing securities
as shall be approved by such board. The governor shall be
president of the board, and in his absence the board shall
choose one of the number to preside temporarily in his place.
The auditor shall be secretary of the board. The state treas­
urer shall be custodian of all investments made by such
board. A record shall be kept of all the proceedings and be
signed by the president and secretary, and a copy thereof,
certified by the secretary of the board, shall be evidence in
all cases in which the original would be. A majority of the
board shall constitute a quorum for the transaction of busi­
ness.
The board may acquire, own, hold, use, receive rents and
issues from, dispose of and convey, real estate, subject to the
following limitations, and for the following purposes:
(a) Such as shall have been mortgaged to it, or conveyed
to trustees, as security for debts in its favor;
(b) Such as shall be conveyed to it in satisfaction of debts,
or in partial payment of debts, previously contracted;
(c) Such as it has heretofore purchased, or shall hereafter
purchase, at sales under judgments, decrees, trust deeds or
mortgages in its favor, or shall purchase at private sale, to
secure and effectuate the payment of debts due to it.
Any real estate acquired by the board under clauses (b)
and (c) shall be disposed of by the board at the earliest
practicable date, but the board shall have a reasonable dis­
cretion in the matter of the time to dispose of such property
in order to prevent unnecessary losses; and such property, in
the discretion of the board, may be sold either at public sale
or at private sale and for cash or on such other terms as the
board may deem expedient.
(d) The board shall have full power and authority to ex­
tend the time for the payment of the principal or interest,
or both principal and interest or any part thereof, of any interest-bearing securities in which the fund may have been invested prior to March fourth, one thousand nine hundred thirty-three, as in the discretion of the board it may deem proper and expedient.

CHAPTER 88
(Senate Bill No. 327—By Mr. Hodges, Mr. President, by request)

AN ACT to authorize the board of public works to provide for and maintain developments upon and adjacent to the grounds of the state capitol, to the extent that moneys for the purpose may be appropriated; and to authorize the appointment of an advisory committee to advise with and assist the board in the preparation of plans for such development.

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

Section 1. Development of State Capitol Grounds.

Section 2. Advisory Committee.

Be it enacted by the Legislature of West Virginia:

Section 1. Development of State Capitol Grounds. To the extent that moneys may be appropriated for the purpose, the board of public works is hereby authorized to provide for and maintain developments upon and adjacent to the grounds of the state capitol, including among such development: Streets, sidewalks, driveways, paths, landscaping, ornamentation, and memorial structure. The board may employ architects and landscape gardeners.

Sec. 2. Advisory Committee. The governor is hereby authorized to appoint an advisory committee of not more than five members to advise with and assist the board of public works in the planning of the developments contemplated in section one of this act. The governor shall designate one member of the committee as chairman. The committee shall select one of its own members as secretary. It shall meet as and when re-
quested by the governor, and shall render such advice and assistance as the board of public works may, under the purpose of this act, request.

The members of the committee shall receive no compensation for their services, but may be allowed their expenses actually incurred in the performance of their duties as members, when submitted upon sworn and itemized requisitions, signed by the chairman.

CHAPTER 89
(Com. Sub. for House Bill No. 261—Originating in the House Committee on the Judiciary)

AN ACT to amend and reenact sections two and three, article one; and sections one, seven and fourteen, article three, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to the state department of labor.

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

Article
1. State Department of Labor.

Be it enacted by the Legislature of West Virginia:

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


Section
2. Commissioner of labor; qualifications; appointment; term of office; salary.
3. Inspections by commissioner; duties and records of employer; commissioner may appoint assistants.

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 March, one thousand nine hundred thirty-one, and on or before the first day of March 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 March. The salary of the commissioner of labor shall be four thousand dollars per annum.

Sec. 3. Inspections by Commissioner; Duties and Records of Employer; Commissioner May Appoint Assistants. The commissioner of labor and his authorized representatives shall have the power and authority in the discharge of their duties, to enter any place of employment or public institution, for the purpose of collecting facts and statistics relating to the employment of workers and of making inspections for the proper enforcement of all labor laws of the state. No employer or owner shall refuse to admit the commissioner of labor or his authorized representative when they so seek admission to his place of employment, public building or place of public assembly.

The commissioner or his authorized representative shall, at least once each year, visit and inspect the principal factories and workshops of the state, and shall, upon complaint and request of any three or more reputable citizens, visit and inspect any place where labor is employed and make true report of the result of his inspection.

Every employer and owner shall furnish to the department of labor all information which the commissioner of labor or his representative is authorized to require, and shall make true and specific answers to all questions submitted by the department of labor, orally or in writing as required by the said department. Every employer shall keep a true and accurate record of the name, address, and occupation of each person employed by him, and of the daily and weekly hours worked by each such person, and of the wages paid each pay period to each such person. Such records shall be kept on
file for at least one year after the date of the record. No em-
ployer shall make or cause to be made any false entries in
any such record.
In addition to such other powers and duties as may be
conferred upon the commissioner of labor by law, the said
commissioner of labor shall have the power, duty, jurisdiction
and authority to employ, promote and remove deputies, in-
spectors, clerks, and other assistants, as needed, and to fix
their compensation, with regard to existing laws applicable
to the employment and compensation of officers and employees
of the state of West Virginia, and to assign to them their
duties; to make or cause to be made all necessary inspections,
to see that all laws and lawful orders which the department
has the duty, power, and authority to enforce, are promptly
and effectively carried out.


Section
1. Employer to safeguard life, etc., of employees; reports and investiga-
tions of accidents; orders of commissioner.
7. Regulations for operation of steam boilers; penalty.
14. Power of commissioner as to witness.

Section 1. Employer to Safeguard Life, Etc., of Employees;
Reports and Investigations of Accidents; Orders of Commis-
sioner. Every employer shall furnish employment which shall
be reasonably safe for the employees therein engaged and shall
furnish and use safety devices and safeguards, and shall adopt
and use methods and processes reasonably adequate to render
employment and the place of employment safe, and shall do
every other thing reasonably necessary to protect the life,
health, safety, and welfare of such employees: Provided, That
as used in this section, the terms "safe" or "safety" as applied
to any employment, place of employment, place of public as-
sembly or public building, shall include, without being re-
stricted hereby, conditions and methods of sanitation and hy-
giene reasonably necessary for the protection of the life,
health, safety, or welfare of employees or the public.

Every employer and every owner of a place of employment,
place of public assembly, or a public building, now or here-
after constructed, shall so construct, repair and maintain the
same as to render it reasonably safe.
When an accident occurs in any place of employment or public institution which results in injury to any employee, the employer or owner of such place of employment or public institution, when the same shall come to his knowledge, shall provide the commissioner of labor the necessary information as to cause of the injury, on blanks furnished free of charge to the employer and prescribed by the commissioner of labor.

To carry out the provisions of this chapter the commissioner of labor shall have the power to investigate and prescribe that reasonable safety devices, safeguards, or other means of protection be adopted for the prevention of accidents in every employment or place of employment, and to make, modify, repeal, and enforce reasonable general orders, applicable to either employers or employees, or both, for the prevention of accidents.

All orders of the commissioner of labor shall be prima facie lawful and reasonable, and shall not be held invalid because of any technical omission, provided there is substantial compliance with the provisions of this act.

Sec. 7. Regulations for Operation of Steam Boilers; Penalty.

Any person owning or operating a steam boiler of more than three horse power (except boilers on railroad locomotives subject to inspection under federal laws; portable boilers used for agricultural purposes, boilers on automobiles, boilers of steam fire engines brought into the state for temporary use in times of emergency for the purpose of checking conflagrations, boilers carrying pressure of less than fifteen pounds per square inch, which are equipped with safety devices approved by the commissioner of labor, and boilers under the jurisdiction of the United States) in this state shall first obtain a permit to operate a steam boiler from the commissioner of labor, or from an inspector working under his jurisdiction.

Applications for permits to operate a steam boiler must be accompanied by a sworn statement made by the owner or operator of such boiler, setting forth the condition of the boiler and its appurtenances, at which time, if the facts disclosed by such statement meet the safety requirements established under this article, the commissioner of labor shall issue a temporary permit, which shall be valid until such boiler has
been inspected by a boiler inspector authorized by the state commissioner of labor; thereupon, if the boiler meets the safety requirements established under this article, the commissioner of labor shall issue an annual permit to operate such steam boiler: Provided, however, That boilers which are insured by an insurance company operating in this state and which are inspected by such insurance company's boiler inspector, then such boiler will not be subject to inspection by the state department of labor for so long a period as is covered by a copy of the insurance company's boiler inspector's sworn report when such report is filed annually with the state department of labor, or as often as such boiler inspection is made by the insurance company's boiler inspector.

The commissioner of labor or state boiler inspector shall have the authority to inspect steam boilers in this state. To carry out the provisions of this section, the commissioner of labor shall prescribe rules and regulations under which boilers may be constructed and operated, according to their class. The commissioner of labor shall be authorized to revoke any permit to operate a steam boiler if the rules prescribed by the commissioner of labor, or his authorized representative, are violated, or if a condition shall prevail which is hazardous to the life and health of persons operating or employed at or around the boiler. Any person or corporation who shall operate a steam boiler for which a permit is necessary under the provisions of this section, without first obtaining such permit to operate a steam boiler, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars. Each day a steam boiler requiring a permit to operate is operated without such permit shall be considered a separate offense.

Sec. 14. Power of Commissioner as to Witness. The commissioner of labor or any authorized representative of the department of labor in the performance of any duty or the execution of any power prescribed by law shall have the power to administer oaths, certify to official acts, take and cause to be taken depositions of witnesses.
It shall be the duty of the attorney general and the several prosecuting attorneys, upon request of the commissioner of labor or any of his authorized representatives, to prosecute any violation of the law which it is made the duty of the said commissioner of labor to enforce.

If any employer, employee, owner or other person shall violate any provision of this chapter or shall fail or refuse to perform any duty lawfully required within the time prescribed by the commissioner of labor or his authorized representatives, for which no penalty has been specifically provided, or shall fail, neglect, or refuse to obey any lawful order given, made or promulgated by the commissioner of labor or his authorized representatives, or shall interfere with, impede, or obstruct in any manner the commissioner of labor or his authorized representatives in the performance of his or their official duties, he shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars nor more than fifty dollars, or shall be imprisoned for not exceeding six months, or both so fined and imprisoned, for each such offense; and each day such violation, omission, failure, or refusal continues shall be deemed a separate offense.

A justice of the peace shall have concurrent jurisdiction with the circuit court and other courts having criminal jurisdiction in his county for the trial of offenses under this article. Those portions of all coal mining properties and operations which are under the supervision of the department of mines are excepted from the operation of provisions of this act.

In lieu of the penalties heretofore provided in this section, any such penalty may be recovered in a civil action in the name of the state of West Virginia.
CHAPTER 90

(House Bill No. 262—By Mr. LaFon)

AN ACT to amend and reenact sections four and twenty, article one, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, relating to weights and measures.

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

Article 1. Weights and Measures.

Section 4. Commissioner of weights and measures; deputies and inspectors.

The state commissioner of labor shall be ex officio commissioner of weights and measures, and he shall be authorized to appoint such deputies and inspectors as may be required to carry out the provisions and purposes of this article within the limits of such appropriation as may be made by the Legislature for the maintenance of the work of the department of labor.

Sec. 20. Records and Reports of County and City Sealers.

The county or city sealer shall keep a complete record of all his official acts, and shall submit monthly reports, and shall make an annual report duly sworn to on the first day of July, to the state commissioner of weights and measures, on blanks furnished by the commissioner.
AN ACT to amend and reenact section twenty-eight, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by section twenty-eight, chapter twenty-eight, acts of the Legislature, regular session, one thousand nine hundred thirty-five, relating to pensions for members of the department of public safety and for their dependents.

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

Article 2. Department of Public Safety.

Section 28. Pension fund board; payments from fund.

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

Section 28. Pension Fund Board; Payments From Fund.

(a) The board of commissioners created by section twenty, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, and the superintendent of the department of public safety shall constitute a pension fund board and shall have the power to make awards or to revise awards previously made for such times and under such terms and conditions as are hereinafter provided for, and shall make all necessary rules and regulations regarding the same not inconsistent with this act.

(b) Any member of the department of public safety who has served in said department for a period of twenty years and who has reached the age of fifty-five years, upon application by said member to the superintendent of said depart-
ment, together with certificate of service and with the ap-
proval of the board of commissioners, shall be retired and
shall thereupon receive annually, in monthly installments,
from said pension fund an amount equal to two per cent of
the total salary earned by him during his service in the
department.
(c) Any member of said department of public safety who
has heretofore received or who may hereafter receive per-
manent disability in the performance of his duty shall, upon
certificate of disability of a physician designated for the
purpose by the board of commissioners, be retired upon an
annual pension of not less than two nor more than five per
cent of twenty years' salary based on his average earnings
while employed by the department: Provided, That in no
case shall the total amount received be more than the total
amount received when regularly employed as a member of
the department.
(d) The widow or children under the age of sixteen years,
or sole dependent parent of any member of the department
of public safety who shall have heretofore or shall hereafter
lose his life in the performance of his duty, or where death
results from injury received in the performance of duty,
shall receive an annual pension that shall not exceed two
per cent of twenty years' salary based on his average earn-
ings while employed by the department: Provided, That in
case of a widow and children such pension shall be for the
widow and the children and shall be paid to the widow, and
in case there are three or more children under the age of
sixteen years and no widow, the said children shall receive
the pension in equal shares until they attain the age of six-
ten years, and in case there are two children under the age
of sixteen years and widow, they shall be paid such pension,
but not to exceed fifteen dollars monthly each, until they
attain the age of sixteen years, and in the case of only one
child and no widow, he or she shall be paid such pension, but
not to exceed fifteen dollars monthly, until he or she attains
the age of sixteen years: Provided further, That in case there
is no widow and no children under the age of sixteen years
then such pension shall be paid to the parent or parents de-
pendent upon the deceased member: Provided further, That if any widow entitled to a pension aforesaid dies or remarries, then such pensions shall cease to be paid to such widow, or her estate, but shall be paid to each of said children, or child, until they reach the age of sixteen years. No such child shall receive more than fifteen dollars per month.

(e) Any member of the department of public safety who is released or who severs his connection with the department of public safety and who has served two full years or more with the department, shall, upon request, be refunded all deductions made from his salary, but without interest, on account of this fund. But in the event that such refund is made, and such member subsequently reenlists, no credit shall be allowed to him for any former service. If any member is released or severs his connection with the department before he has served two full years, he shall forfeit his right to have refunded to him any such deductions.

(f) All outstanding annuities shall be paid from the current income to such fund and from the interest on or income from an accumulated fund amounting to one hundred and seven thousand dollars.

(g) All future awards from such fund shall be valued annually and reserves based on sound actuarial principles for their payment shall be carried on the funds account as a liability against the general fund.

(h) An adequate system of accounting shall be installed and kept so as to insure a proper record of all transactions in a detailed record of all contributions and refunds, dates of enlistments, time served, and all releases of members.

CHAPTER 92

(House Bill No. 321—By Mr. Speaker, Mr. Thomas)

AN ACT to amend and reenact section nine, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter
twenty-nine, acts of the Legislature of West Virginia, one thousand nine hundred thirty-five, relating to equipment, supplies, local headquarters and quarters for members of department of public safety.

(Passed March 6, 1937; in effect from passage. Approved by the Governor.)

Article 2. Department of Public Safety.

Section 9. Equipment and supplies; local headquarters and quarters for members.

Be it enacted by the Legislature of West Virginia:

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

Section 9. Equipment and Supplies; Local Headquarters and Quarters for Members. The standard uniform to be used by the department of public safety on and after the first day of July, one thousand nine hundred thirty-five, shall be as follows: Forestry green blouse with West Virginia state police emblem on sleeve; black shoulder strap; one inch black stripe around sleeve, four inches from end of sleeve; forestry green breeches with one-inch black stripe down the side; trousers (slacks) with one-inch black stripe down the side for officers and clerks regularly enlisted in the department; forestry green shirts with West Virginia state police emblem, on sleeve; black shoulder straps; forestry green mackinaw with West Virginia state police emblem on sleeve; black shoulder straps; one-inch black stripe around sleeve four inches from end of sleeve; campaign hat of olive drab color; cordovan Sam Browne belt with holster; cordovan leggings and shoes; the officers' uniform will have one and one-quarter inch black stripe around the sleeve or blouse and mackinaw, four inches from end of
sleeve circumposed with one-half inch gold braid, also black
collars on blouse, with two silver shoulder bars for captains,
one silver shoulder bar for first lieutenant and one gold
shoulder bar for second lieutenant. For non-commissioned
officer the uniform blouse and shirt will have thereon black
chevrons of the appropriate rank.

The superintendent shall provide the members of the de-
partment of public safety with suitable arms and weapons,
and, when and where he shall deem it necessary, with suit-
ably equipped horses, automobiles, motorcycles, watercraft,
aeroplanes, and other means of conveyance, to be used by the
department of public safety, the Governor, and other officers
and executives in the discretion of the Governor, in times of
flood, disaster, and other emergencies, for traffic study and
control, criminal and safety work, and in other matters of
official business. He shall also provide the standard uni-
forms for all members of the department, for officers, non-
commissioned officers and privates herein provided for. All
uniforms and all arms, weapons and other property furnished
the members of the department of public safety by the state
of West Virginia shall be and remain the property of the
state.

The superintendent shall establish and maintain local
headquarters at such places in West Virginia as are in his
judgment suitable and proper to render the department of
public safety most efficient for the purpose of preserving the
peace, protecting property, preventing crime, apprehending
criminals and carrying into effect all other provisions of this
article. The superintendent shall provide by lease or other-
wise for housing and quarters for the accommodation of the
members of the department of public safety, and shall pro-
vide all equipment and supplies necessary for them in the
performance of the duties of their office.
CHAPTER 93

(House Bill No. 357—By Mr. Speaker, Mr. Thomas)

AN ACT to provide for the establishment by the department of public safety of a radio broadcasting system in the state for police purposes, and for the operation and maintenance of the same.

(Passed March 13, 1937; in effect from passage. Approved by the Governor.)

Section 1. Radio broadcasting stations for department of public safety.

2. Superintendent responsible for operation; receiving sets for sheriffs and municipalities.

3. Use of stations.

4. Priority of calls to stations.

5. Permits for short wave sets on motor vehicles; exceptions.

6. Location of stations.

7. Staffs of stations.

8. Superintendent to make rules and regulations to govern system.

9. Jurisdiction of justices to enforce act.


Be it enacted by the Legislature of West Virginia:

Section 1. Radio Broadcasting Stations For Department of Public Safety. The superintendent of the department of public safety is authorized and empowered to establish one or more radio broadcasting stations in the state, one of which shall be in the city of Charleston. The station or stations shall be used for police purposes only. The superintendent is further authorized and empowered to provide for the purchase of the necessary apparatus and equipment, and of materials for the construction and maintenance of the station or stations.

Sec. 2. Superintendent Responsible for Operation; Receiving Sets for Sheriffs and Municipalities. The superintendent of the department of public safety shall be responsible for the operation, maintenance and conduct of the station or stations.

The sheriff of any county in the state may apply to the
superintendent for a radio receiving set to be used in the county. If the superintendent approves the application, he shall furnish the receiving set without cost. The expense of operating and maintaining such a receiving set shall be upon the county, and the sheriff shall be responsible for the proper care thereof. But the receiving set so furnished shall remain the property of the state.

A municipality of the state may, with the approval of the superintendent, purchase such radio receiving sets from the state at cost.

Sec. 3. Use of Stations. The superintendent of the department of public safety shall broadcast all police dispatches and reports submitted which, in his opinion, have a reasonable relation to or connection with the apprehension of criminals, the prevention of crime, or the maintenance of peace, safety and order in the state.

It shall be the duty of every sheriff and of the police authorities of every municipality to report to the superintendent such information as he may request and at the times and in the form requested.

Sec. 4. Priority of Calls to Stations. Every telegraph and telephone company operating in this state shall give priority to all messages or calls directed to the state police radio station or stations provided for in this act. A person responsible for failure to do so shall be guilty of a misdemeanor and upon conviction thereof fined not to exceed five hundred dollars.

Sec. 5. Permits for Short Wave Sets on Motor Vehicles; Exceptions. A person desiring to equip a motor vehicle with a short-wave radio receiving set to be used in this state shall first make written application to the superintendent of the department of public safety for a permit to do so. Such a permit shall not be transferable.

A person who equips a motor vehicle with such a receiving set without the permit herein required, or who operates or knowingly possesses such a set in a motor vehicle when a permit has not been granted, shall be guilty of a misdemeanor.
punishable by a jail sentence not exceeding one year, or by a fine of not more than five hundred dollars, or both such fine and imprisonment in the court’s discretion.

The provisions of this section shall not apply to vehicles used by police officers, sheriffs and other law enforcement officers, nor shall the provisions of this section apply to mobile radio stations licensed by the federal communications commission, nor registered professional communications engineers engaged in the pursuit of their profession.

Sec. 6. Location of Stations. The superintendent of the department of public safety is empowered to authorize a statewide survey, and to seek cooperation of the federal communications commission in the survey, to determine suitable locations for the state radio station or stations provided for in this act.

Sec. 7. Staffs of Stations. The superintendent of the department of public safety may employ radio engineers, radio operators, assistants, and radio maintenance men, necessary to effectuate the purposes of this act.

The cost of the establishment, operation, and maintenance of the state radio station or stations, and the cost of the receiving sets furnished to the counties shall be subject to the funds available therefor.

Sec. 8. Superintendent to Make Rules and Regulations to Govern System. The superintendent of the department of public safety shall have authority to prescribe and promulgate reasonable rules and regulations to carry out the purposes of this act.

Sec. 9. Jurisdiction of Justices to Enforce Act. Justices of the peace shall have concurrent jurisdiction with other courts in the enforcement of this act.

Sec. 10. Provisions of Act Severable. The provisions of this act shall be construed as severable, and if any part is held to be unconstitutional, or for any other reason invalid, the remaining provisions shall not be affected.
CHAPTER 94

(House Bill No. 358—By Mr. Speaker, Mr. Thomas)

AN ACT to authorize and provide for the acceptance by the state of federal aid which may be made available during a period when the Legislature is not in session.

[Passed March 10, 1937; in effect from passage. Approved by the Governor.]

Section

1. Governor may secure congressional appropriations when legislature not in session.
2. Powers of designated state agency.
3. Transfers by the governor.

Be it enacted by the Legislature of West Virginia:

Section 1. Governor May Secure Congressional Appropriations When Legislature Not in Session. The Governor is hereby authorized and empowered to take whatever action not contrary to law that he may find proper and necessary to enable the state to receive the benefits of appropriations which may be made by the congress of the United States while the Legislature is not in session.

Sec. 2. Powers of Designated State Agency. A department, institution or agency of the state government designated by congress, in the event contemplated in section one and with the approval of the Governor, shall have authority to do all acts not contrary to law which may be necessary for enforcement with the requirements and conditions for the receipt of such federal appropriations.

Sec. 3. Transfers by the Governor. The Governor shall have authority to order transfers within the items of appropriations for such department, institution or agency as may be necessary to effectuate the purpose of this act (and not contrary to law).
AN ACT to amend and reenact section two, article one, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, relating to the state historian and archivist.

[Passed March 11, 1937; in effect ninety days from passage. Approved by the Governor.]

Article 1. Department of Archives and History.

Section 2. State Historian and Archivist; Duties; Annual Report.

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

Section 2. State Historian and Archivist; Duties; Annual Report. The department shall be in charge of a person who shall be appointed by the governor for a term of four years, and who shall be known as the state historian and archivist. He shall be the custodian of the collections of this department and it shall be his duty to carry into operation and full effect the provisions of section one of this article. He shall have power and authority to adopt and establish such by-laws and regulations for its government as may seem necessary and proper to effect the objects of the department, subject in all matters, however, to the approval of the governor; and he shall cause to be enforced such library rules and regulations as will aid students, readers, investigators and research workers in the use of the material of the department and in the proper protection thereof. He shall employ the necessary clerical assistants and make rules and regulations for their government. He shall arrange for the publication of such matter as the legislature may from time to time provide for printing, including the editing and publishing of a quarterly historical magazine devoted to the history, biography, bibliography
and genealogy of West Virginia. He shall cause the rooms
of the department to be kept open to the public daily, ex-
cept Sunday, from nine o'clock in the morning until five
o'clock in the afternoon, throughout the year; and upon
the request of the president of the senate or the speaker of
the house of delegates, from seven o'clock until nine o'clock
in the evening during the sessions of the legislature. He
shall make annually a report to the governor to be trans-
mitted by him to the legislature, which report shall contain
a list of all the state's papers, public documents, books,
pamphlets, and other property belonging to the depart-
ment, not theretofore published, also a statement of its
annual accumulations, and a statement of the receipts and
expenditures, accompanied by such recommendations as he
deems best for the state's interests in said department.

CHAPTER 96
(Senate Bill No. 145—By Messrs. Beacom and Hall)

AN ACT to authorize the West Virginia board of control to use
any surplus collections from pay patients in the "clinic" at
the Huntington state hospital for the purpose of purchasing
additional farm land adjacent to said Huntington state hos-
pital farm.

[Passed February 26, 1937; in effect from passage. Became a law without the
approval of the Governor.]

Section
1. Expenditure of surplus of executive emergency fund of Huntington
state hospital.
2. Payment from future surplus collections.

Be it enacted by the Legislature of West Virginia:

Section 1. Expenditure of Surplus of Executive Emergency
Fund of Huntington State Hospital. In the event the collec-
tions from pay patients in the "clinic" operated at the Hunt-
ington state hospital and deposited to the credit of a special
fund known as the "executive emergency fund" exceed the
amount necessary for the payment of all salaries, charges and
expenses connected with the operation of said clinic, the West
Virginia board of control is authorized to expend, payable out
of said surplus collections in said "executive emergency
fund," a sum not to exceed eight thousand dollars, to be used
in the purchase of the fee simple title to a tract of land con-
taining two hundred fifty-six and sixty-seven one hundredths
acres, known as the "J. W. Crotts farm," or now known as
the "Coffey farm," and now under lease to the West Virginia
board of control for the use of the Huntington state hospital,

said lease being dated the twenty-first day of February, one
thousand nine hundred thirty-six, and which said lease con-
tains an option, giving the state the right to purchase said
leased property in fee simple at any time during said lease
at the price of eight thousand dollars, including all gas rights
under said property and the gas well now located on said prop-
erty, which leased property adjoins the present state hospital
farm on Guyandotte river; and the said board is also author-
ized to expend out of said surplus collections in said "execu-
tive emergency fund," if any, the sum of three thousand dol-
ars to be used for fencing and equipping said farm.

Sec. 2. Payment From Future Surplus Collections. In the
event the surplus collections accruing in said "executive emer-
gency fund" during the fiscal year ending June thirtieth, one
thousand nine hundred thirty-seven, should not be sufficient
to pay in cash the sums hereby authorized to be expended out
of said anticipated surplus collections, but will pay a substan-
tial part of said purchase price, then the West Virginia board
of control is authorized to purchase said property under its
said option, paying in cash the amount on hand in any said
surplus collections, after payment of all charges in connection
with the operation of said "clinic" for the fiscal year ending
June thirtieth, one thousand nine hundred thirty-seven, and
contract in the deed to pay the balance on said purchase price
out of any such surplus collections remaining in said fund
during the biennium ending June thirtieth, one thousand nine
hundred thirty-nine.
CHAPTER 97
(House Bill No. 182—By Mr. LaFon)

AN ACT to make available for the payment of the expenses of the public service commission of West Virginia, and the salaries, compensations, costs and expenses of its employees, the balance of funds appropriated for its use during prior years and unexpended on the first day of July, one thousand nine hundred thirty-six, and to authorize said commission to expend the same, and providing for the disposition of any portion thereof remaining unexpended on the thirtieth day of June, one thousand nine hundred thirty-seven.

[Passed February 26, 1937; in effect from passage. Approved by the Governor.]

Section 1. Appropriation for public service commission.

2. Uses of appropriations.


WHEREAS, There is now in the public service commission fund, not available for the use of said commission or for any other purpose, because it arose from a special license tax levied on and paid by public utilities, which in no event, can become general revenue for the state, the sum of ninety-eight thousand eight hundred fourteen dollars and twenty-three cents heretofore appropriated and collected for the use of the public service commission of West Virginia prior to the current fiscal year, and unexpended within the several periods for which appropriated; and

WHEREAS, The said public service commission does not now have available sufficient funds remaining of its appropriation for the current fiscal year to continue and complete investigations initiated by it and now in progress and to pay its current general expenses; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. Appropriation for Public Service Commission.

2 There is hereby made available for the fiscal year ending
June thirtieth, one thousand nine hundred thirty-seven, out of the balance remaining unexpended, but heretofore appropriated for the public service commission of West Virginia, in the public service commission fund in the treasury, to pay the current general expenses of the public service commission of West Virginia, and the salaries, compensations, costs and expenses of its employees, as provided by law, the sum of ninety-eight thousand eight hundred fourteen dollars and twenty-three cents, in addition to the appropriation made for said commission by section one, account number sixty, title two, chapter nine, acts of the Legislature, regular session, one thousand nine hundred thirty-five.

Sec. 2. Uses of Appropriations. The public service commission of West Virginia is hereby authorized to expend said sum of ninety-eight thousand eight hundred fourteen dollars and twenty-three cents so made available, to pay its current general expenses and the salaries, compensations, costs and expenses of its employees.

Sec. 3. Disposition of Residue of Funds. Any amount of the sum hereby made available remaining unexpended on the thirtieth day of June, one thousand nine hundred thirty-seven, shall not revert to the treasury, nor remain as an unexpended balance in the public service commission fund, but shall be credited by the auditor upon the amount of the special license fees to be levied by him upon the public utilities subject to the public service commission law of this state, for the next ensuing fiscal year, under the provisions of section six, article three, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter one hundred fifteen, acts of the Legislature, regular session, one thousand nine hundred thirty-five, on the same basis and in the same proportions as funds are raised under said section.
CHAPTER 98
(Senate Bill No. 187—By Mr. Howard, by request)

AN ACT to amend article two-a, chapter forty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three; by adding a new section to be numbered eighteen, relating to the sale of property of the state road commission.

[Passed March 3, 1937; in effect from passage. Became a law without the approval of the Governor.]

Section 18. State road commissioner may sell or exchange property of commission.

Be it enacted by the Legislature of West Virginia:

That article two-a, chapter forty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, be amended by adding section eighteen, to read as follows:

Section 18. State Road Commissioner May Sell or Exchange Property of Commission. The state road commissioner shall have the authority, by and with the consent of the governor, to sell or exchange any property, real or personal, held by it, and any sale or exchange of such property heretofore made by the commissioner is hereby ratified and declared valid.

CHAPTER 99
(Senate Bill No. 323—By Mr. Belknap, by request)

AN ACT to amend and reenact section one, article three, chapter twelve of the code of West Virginia, one thousand nine hund-
Article 3. Appropriations and Expenditures.

Section 1. Manner of payment from treasury; form of checks.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Manner of Payment From Treasury; Form of Checks. Every person claiming to receive money from the treasury of the state shall apply to the auditor for a warrant for same. The auditor shall thereupon examine the claim, and the vouchers, certificates and evidence, if any, offered in support thereof, and for so much thereof as he shall find to be justly due from the state, if payment thereof be authorized by law, and if there be an appropriation not exhausted or expired out of which it is properly payable, he shall issue his warrant on the treasurer, specifying to whom and on what account the money mentioned therein is to be paid, and to what appropriation the same is to be charged. On the presentation of such warrant to the treasurer, he shall ascertain whether the same has been drawn in pursuance of an appropriation made by law, and if he finds it to be so, he shall in that case, but not otherwise, indorse his check upon such warrant, directed to some depository, which check shall be payable to the order of the person who is to receive the money therein specified. If such check shall not be presented for payment within three years after it is drawn, it shall then be the duty of the treasurer to charge it again to the depository on which it was drawn, to credit the state fund with the amount, and immediately to notify the auditor to make corresponding entries on his books. No state depository shall pay a check unless it is presented within six months after it is drawn, and the treasurer is hereby authorized to cover into the treasury, by appropriate entries, all checks that have been outstanding.
28 for three years or over. Every check shall bear upon its face
29 the words, "Void, unless presented for payment within six
30 months." All claims required by law to be allowed by any
31 court, and payable out of the state treasury, shall have the
32 seal of the court allowing or authorizing the payment of the
33 same affixed by the clerk of such court to his certificate of its
34 allowance; and no such claim shall be audited and paid by the
35 auditor unless the seal of such court be thereto attached as
36 aforesaid. No tax or fee shall be charged by the clerk for affix-
37 ing his seal to the certificate referred to in this section.

CHAPTER 100
(Senate Bill No. 263—By Mr. Paull, by request)

AN ACT to amend and reenact section three, article one; sections
six, seven, fourteen, seventeen and eighteen, article two; sections three, four, five, seven, ten, eleven, twelve and nineteen,
article five; sections one, two, three, four, eight, ten, eleven,
twelve and thirteen, article six; sections two, four, six and
eight, article seven; sections five and nine, article eight; and
section four, article ten; to add section six-a to article two; to re-
peal section eight, article five; and sections fourteen, fifteen, six-
ten, seventeen, eighteen and nineteen, article six; all of chapter
one, acts of the Legislature of West Virginia, second extra-
ordinary session, one thousand nine hundred thirty-six, relat-
ing to unemployment compensation.

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

Article
1. Department of Unemployment Compensation.
2. The Director of Unemployment Compensation.
3. Employer Coverage and Responsibility.
4. Employee Eligibility; Benefits.
5. Claim Procedure.

Be it enacted by the Legislature of West Virginia:

That section eight, article five, and sections fourteen, fifteen, six-
ten, seventeen eighteen and nineteen, article six, chapter one, acts
of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-six, be, and they are hereby, repealed; that section three, article one, sections six, seven, fourteen, seventeen and eighteen, article two, sections three, four, five, seven, ten, eleven, twelve and nineteen, article five, sections one, two, three, four, eight, ten, eleven, twelve and thirteen, article six, sections two, four, six and eight, article seven, sections five and nine, article eight and section four, article ten of said chapter one be amended and reenacted; and that article two of said chapter one be amended by adding thereto a new section to be numbered section six-a, all to read as follows:

Article 1. Department of Unemployment Compensation.

Section 3. Definitions.

As used in this chapter, unless the context clearly requires otherwise:

“Administration fund” means the unemployment compensation administration fund, from which the administrative expenses under this chapter shall be paid.

“Annual payroll” means the total amount of wages payable by an employer (regardless of the time of payment) for employment during one year.

“Average annual payroll” means the average of the annual payrolls of an employer for the last three or five preceding years, whichever is the higher.

“Base period” means the period beginning with the first day of the nine completed calendar quarters immediately preceding the first day of an individual’s benefit year and ending with the last day of the next to the last completed calendar quarter immediately preceding any week with respect to which benefits are payable.

“Benefit year” with respect to any individual, means the fifty-two consecutive week period beginning with the first day of the week with respect to which benefits are first payable to him, and thereafter the fifty-two consecutive week period beginning with the first day of the first week with respect to which benefits are next payable to him after the termination of his last preceding benefit year.

“Benefits” means the money payable to an individual with respect to his unemployment.
"Board" means board of review.

"Calendar quarter" means the period of three consecutive calendar months ending on March thirty-one, June thirty, September thirty, or December thirty-one, excluding, however, any calendar quarter or portion thereof which occurs prior to January one, one thousand nine hundred thirty-seven, or the equivalent thereof as the director may by regulation prescribe.

"Director" means the unemployment compensation director.

"Employing unit" means an individual, or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, corporation (domestic or foreign), or the receivership, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person which has on January one, one thousand nine hundred thirty-five, or subsequent thereto, had in its employ one or more individuals performing service within this state.

"Employer" means an employing unit which for some portion of a day, not necessarily simultaneously, in each of twenty different weeks, which weeks need not be consecutive, within either the current year or the preceding year, has had in employment eight or more individuals (irrespective of whether the same individuals were or were not employed on each of such days).

"Employment," subject to the other provisions of this subsection, means:

1. Service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.

2. The term "employment" shall include an individual's entire service, performed within or both within and without this state if: (a) The service is localized in this state; or (b) The service is not localized in any state but some of the service is performed in this state; and (i) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled,
is in this state; or (ii) the base of operations or place
from which such service is directed or controlled is not
in any state in which some part of the service is per-
formed but the individual’s residence is in this state.

(3) Service not covered under paragraph (2) of this sub-
section and performed entirely without this state, with re-
spect to no part of which contributions are required and
paid under an unemployment compensation law of any
other state or of the federal government, shall be deemed
to be employment subject to this act if the individual per-
forming such services is a resident of this state and the
director approves the election of the employing unit for
whom such services are performed that the entire service
of such individual shall be deemed to be employment sub-
ject to this act.

(4) Service shall be deemed to be localized within a
state if: (a) The service is performed entirely within
such state; or (b) the service is performed both within
and without such state, but the service performed without
such state is incidental to the individual’s service within
the state: For example, is temporary or transitory in
nature or consists of isolated transactions.

(5) Services performed by an individual for wages shall
be deemed to be employment subject to this act unless
and until it is shown to the satisfaction of the director
that: (a) Such individual has been and will continue to
be free from control or direction over the performance
of such services, both under his contract of service and
in fact; and (b) such service is either outside the usual
course of the business for which such service is performed
or that such service is performed outside of all the places
of business of the enterprise for which such service is per-
formed; and (c) such individual is customarily engaged in
an independently established trade, occupation, profession,
or business.

The term “employment” shall not include:

(1) Services performed in the employ of this state or
any political subdivision thereof, or any instrumentality
of this state or its subdivisions.
(2) Service performed in the employ of another state, its political subdivisions or an instrumentality of that state or its subdivisions.

(3) Service performed in the employ of the United States or an instrumentality of the United States.

(4) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of congress. The director may enter into agreements with the proper agency established under such act of congress to provide reciprocal treatment to individuals who, after acquiring potential rights to benefits under this chapter, have acquired rights to unemployment compensation under an act of congress, or who have, after acquiring potential rights to unemployment compensation under an act of congress, acquired rights to benefits under this chapter. Such agreements shall become effective ten days after such publication as complies with the general rules of the department.

(5) Agricultural labor.

(6) Domestic service in a private home.

(7) Service performed as an officer or member of a crew of a vessel on the navigable waters of the United States.

(8) Service performed by an individual in the employ of his son, daughter, or spouse.

(9) Service performed by a child under the age of twenty-one years in the employ of his father or mother.

(10) Service performed in the employ of an employing unit organized and operated exclusively for religious, charitable, scientific, literary, or educational purpose or for prevention of cruelty to children or animals, no part of the net earnings of which inure to the benefit of any private shareholder or individual.

"Employment office" means a free employment office or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices.

"Fund" means the unemployment compensation fund established by this chapter.

"Payments" means the money required to be paid into the state unemployment compensation fund as provided by article five of this chapter.
"State" includes in addition to the states of the United States, Alaska, Hawaii, and the District of Columbia.

"Total and partial unemployment":

(1) An individual shall be deemed "totally unemployed" in any week during which he performs no services and with respect to which no wages are payable to him.

(2) An individual shall be deemed "partially unemployed" in any week of less than full time work if the wages payable to him for such week are less than six-fifths of the weekly benefit amount he should be entitled to receive if totally unemployed and eligible.

(3) As used in this subsection, the term "wages" shall include only that part of remuneration for odd jobs or subsidiary work, or both, which is in excess of three dollars in any one week, and the term "services" shall not include that part of odd jobs or subsidiary work, or both, for which remuneration equal to or less than three dollars in any one week is payable.

(4) An individual's week of unemployment shall be deemed to commence only after his registration at an employment office, except as the director may by regulation otherwise prescribe.

"Wages" means all remuneration payable for personal services, including commissions and bonuses and the cash value of all remuneration payable in any medium other than cash. Gratuities customarily received by an individual in the course of his employment from persons other than his employing unit shall be treated as wages paid by his employing unit.

The reasonable cash value of remuneration payable in any medium other than cash, and the reasonable amount of gratuities shall be estimated and determined in accordance with rules prescribed by the director.

"Week" means a calendar week, ending at midnight Saturday, or the equivalent thereof, as determined in accordance with the regulations prescribed by the director.

"Weekly benefit amount" means the amount of benefit an individual would be entitled to receive for one week of total unemployment.

"Year" means a calendar year, or the equivalent thereof as determined by the director.
Article 2. The Director of Unemployment Compensation.

Section 6. Powers and Duties. The director shall be the executive and administrative head of the department and shall have the power and duty to:

1. Exercise general supervision of and make regulations for the government of the department.
2. Prescribe uniform rules pertaining to investigations, departmental hearings, and promulgate rules and regulations.
3. Supervise fiscal affairs and responsibilities of the department.
4. Prescribe the qualifications of, appoint, remove, and fix the compensation of the officers and employees of the department.
5. Organize and administer the department so as to comply with the requirements of this chapter and to satisfy any conditions established in applicable federal legislation.
6. Make reports in such form and containing such information as the federal social security board may from time to time require, and comply with such provisions as the federal social security board may from time to time find necessary to assure the correctness and verification of such reports.
7. Make available to any agency of the United States charged with the administration of public works or assistance through public employment, upon its request, the name, address, ordinary occupation and employment status of each recipient of unemployment compensation, and a statement of the recipient's rights to further compensation under this chapter.
8. Keep an accurate and complete record of all departmental proceedings; record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the department.
9. Sign and execute in the name of the state, by "The State Department of Unemployment Compensation," any con-
tract or agreement with the federal government, its agencies, other states, their subdivisions, or private persons.

(10) Prescribe a salary scale to govern compensation of appointees and employees of the department.

(11) Make the original determination of right in claims for benefits.

(12) Make recommendations, and an annual report to the governor concerning the condition, operation, and functioning of the department.

(13) Invoke any legal, equitable or special remedy for the enforcement of orders or the provisions of this chapter.

(14) Exercise any other power necessary to standardize administration, expedite departmental business, assure the establishment of fair rules and regulations and promote the efficiency of the service.

Sec. 6-a. Agreements Concerning Persons Employed in This and Other States. The director is hereby authorized to enter into arrangements with the appropriate agencies of other states or the federal government whereby individuals performing services in this and other states for a single employing unit under circumstances not specifically provided for in section three, article one, of this act, or under similar provisions in the unemployment compensation laws of such other states, shall be deemed to be engaged in employment performed entirely within this state or within one of such other states, and whereby potential rights to benefits accumulated under the unemployment compensation laws of several states or under such a law of the federal government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the director finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund.

Sec. 7. Divisions Within the Department. The director shall establish within the department the division of unemployment compensation, and the division of employment service and such other divisions as will promote efficiency and economy in administration. Each division shall be a separate administrative division with respect to personnel, budget and duties, except insofar as the director may find that such separation is impracticable.
Sec. 14. Deputies. For the original determination of benefit claims, the director shall appoint a necessary number of deputies as his representatives.

Sec. 17. Federal-State Cooperation. The head of the employment service division shall have all powers and duties necessary to secure to the state the benefits of congressional action for the promotion and maintenance of a system of public employment offices. To this end the provisions of the act referred to in the preceding section and such additional congressional action consistent with the above act are accepted by the state and the state pledges its observance and compliance therewith.

The state employment service division is designated the agent of this state for the purpose of compliance with the act of Congress entitled "An act to provide for the establishment of a national employment system and for cooperation with states in the promotion of such system, and for other purposes," approved June six, one thousand nine hundred thirty-three, as amended. The director shall appoint the head of the service and all appointees and employees in accordance with the regulations prescribed by the director of the United States employment service.

Sec. 18. Acceptance of Aid. All moneys received by this state under the said act of Congress, as amended, shall be paid into the employment service account, to be expended as provided by this act and by said act of Congress. For the purpose of establishing and maintaining free public employment offices, the director may enter into agreements with any political subdivision of the state or with any private nonprofit organization, and as part of such an agreement the director may accept money, services, or quarters as a contribution to the employment service account.

Article 5. Employer Coverage and Responsibility.

Section
3. Voluntary coverage.
4. Payments.
5. Rate of contributions.
7. Separate or joint accounts of employers; charges against.
10. Merit rating; decreased rates.
11. Merit rating; increased rates.
19. Adjustments and refunds.
Section 3. Voluntary Coverage. (1) An employing unit, not otherwise subject to this act, which files with the director its written election to become an employer subject hereto for not less than two calendar years, shall, with the written approval of such election by the director, become an employer subject hereto to the same extent as all other employers, as of the date stated in such approval, and shall cease to be subject hereto as of January first of any calendar year subsequent to such two calendar years, only if at least thirty days prior to such first day of January, it has filed with the director a written notice to that effect.

(2) Any employing unit for which services that do not constitute employment as defined in this act are performed, may file with the director a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this act for not less than two calendar years. Upon the written approval of such election by the director, such services shall be deemed to constitute employment subject to this act from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January first of any calendar year subsequent to such two calendar years, only if at least thirty days prior to such first day of January such employing unit has filed with the director a written notice to that effect.

(3) Any employing unit which is or becomes an employer subject to this act within any calendar year shall be subject to this act during the whole of such calendar year.

Sec. 4. Payments. On and after January first, one thousand nine hundred thirty-six, an employer shall be liable for payments in respect to wages payable for employment occurring during each year in which he is subject to this act.

Sec. 5. Rate of Contributions. An employer shall make payments to the unemployment compensation fund equal to the following percentages of wages payable by him with respect to employment as follows:

Nine-tenths of one per cent with respect to employment during the year one thousand nine hundred thirty-six.
One and eight-tenths per cent with respect to employ-
ment during the year one thousand nine hundred thirty-
seven.

Two and seven-tenths per cent with respect to employ-
ment during the years one thousand nine hundred thirty-
eight, one thousand nine hundred thirty-nine and one thou-
sand nine hundred forty; and thereafter, the percentage
shall be determined by sections eight to thirteen of this ar-
ticle.

Sec. 7. Separate or Joint Accounts of Employers; Charges
Against. (1) The director shall maintain a separate account
for each employer, and shall credit his account with all the
contributions paid on his own behalf in excess of one per
centum of his annual pay roll for each calendar year. But
nothing in this act shall be construed to grant any employer
or individuals in his service prior claims or rights to the
amounts paid by him into the fund either on his own behalf
or on behalf of such individuals. Benefits paid to an eligible
individual shall be charged, in the amount hereinafter pro-
vided, against the account of his most recent employer, except
that if such individual had not earned within the completed
calendar quarter and the expired portion of the uncompleted
calendar quarter immediately preceding the first week of any
continuous period of unemployment, wages for employment by
such most recent employer equal to more than twelve times
his weekly benefit amount, such benefits may also be charged
against the account of his next most recent employer, in the
inverse chronological order in which the employment of such
individual occurred. The maximum amount so charged
against the account of any employer shall not exceed one-sixth
of the wages payable to such individual by each such employer
for employment which occurs on and after the first day of such
individual's base period, and shall not exceed sixty-five dollars
per completed calendar quarter or portion thereof, which oc-
curs within such base period. The director shall by general
rules prescribe the manner in which benefits shall be
charged against the accounts of several employers for whom
an individual performed employment at the same time.

(2) The director may prescribe regulations for the estab-
ishment, maintenance, and dissolution of joint accounts by
two or more employers, and shall, in accordance with such
regulations and upon application by two or more employers
to establish such an account, or to merge their several indi-
vidual accounts in a joint account, maintain such joint ac-
count as if it constituted a single employer’s account.

(3) The director shall, for the year one thousand nine
hundred forty-one and for each calendar year thereafter,
classify employers in accordance with their actual experience
in the payment of contributions on their own behalf and
with respect to benefits charged against their accounts, with
a view to fixing such contribution rates as will reflect such
experience.

Sec. 10. Merit Rating; Decreased Rates. After the require-
ments of section nine have been complied with, an employer’s
payment shall remain two and seven-tenths per cent, until:
(1) There have elapsed three years throughout which an
individual in his employ could have received benefits if un-
employed and eligible.
(2) His payments credited to his account for all past years
exceed the benefits charged to his account by an amount
equal to at least seven and one-half per cent of his average
annual payroll, in which case his rate shall be one and eight-
tenths per cent.
(3) His payments credited to his account for all past
years exceed the benefits charged to his account by an
amount equal to at least ten per cent of his average annual
payroll, in which case his rate shall be nine-tenths of one
per cent.
The director shall determine an employer’s compliance
with these requirements.

Sec. 11. Merit Rating; Increased Rates. If the total pay-
ments credited to an employer’s account for all the past pe-
riods or the last sixty consecutive calendar months (whichever
period is the more advantageous to the employer) are less
than the total benefits charged against his account during the
same period, his rate shall be three and six-tenths per cent,
unless he shows to the satisfaction of the director that such ex-
perience is due to an act of God, fire, or other catastrophe, or
act of civil or military authority, directly affecting the place
in which individuals were employed by him, in which case the
rate shall be two and seven-tenths per cent.
Sec. 12. Auxiliary Rates. If the director determines that the above rates work inequities and hardships upon particular individuals or industries he may hold an investigation after proper notice and hearing and establish other rates more in consonance with the risk of each employer and more nearly calculated to increase stabilization of employment. Rates fixed by the director shall be subject to the following limitations:

(1) The combined rates of all employers shall be calculated to yield approximately two and seven-tenths per cent of the total annual payrolls.

(2) The rate for a particular employer shall not be less than two and seven-tenths per cent until there has been three years throughout which an individual in his employ could have received benefits if unemployed and eligible.

Sec. 19. Adjustments and Refunds. Within one year after the date on which payment or interest thereon is due, an employer, who has paid such payment or interest, may make application for:

(1) An adjustment thereof in connection with subsequent payments.

(2) A refund thereof if adjustment cannot be made.

If the director determines that payments and interest were erroneously collected, he shall make the adjustment without interest, in connection with subsequent payments of the employer, or if such adjustment cannot be made, refund the amount without interest from the clearing account of the unemployment compensation fund.

For like cause and within the same period the director, on his own initiative, may make an adjustment or refund.

Article 6. Employee Eligibility; Benefits.

Section
1. Eligibility qualifications.
2. Waiting period construed.
3. Extension of employment period.
4. Disqualification for benefits.
8. Payment of benefits
10. Amount of benefits; total unemployment.
11. Amount of benefits; partial unemployment.
12. Ratio of benefits.
Section 1. Eligibility Qualifications. An unemployed individual shall be eligible to receive benefits, only if the director finds that:

1. He has registered for work at and thereafter continues to report at an employment office in accordance with the regulations of the director.
2. He has made a claim for benefits in accordance with the provisions of article seven of this chapter.
3. He is able to work, and is available for work.
4. He has been totally unemployed for a waiting period of two weeks prior to the week for which he claims benefits for total unemployment (and for the purposes of this subsection two weeks of partial unemployment shall be deemed to be equivalent to one week of total unemployment).
5. He has within the first three out of the last four completed calendar quarters immediately preceding the first day of his benefit year, earned wages for employment by employers equal to not less than twelve times his weekly benefit amount.

Sec. 2. Waiting Period Construed. The waiting period of two weeks need not be consecutive but may be accumulated during the thirteen consecutive weeks preceding the week for which benefits are claimed. This requirement shall not interrupt the payment of benefits for consecutive weeks of unemployment; but the waiting period must occur after benefits could first become payable to an individual under this chapter: Provided further, That no individual shall be required to accumulate more than five waiting period weeks during any sixty-five consecutive week period.

During the waiting period the individual must be eligible in all respects except for the requirements of subsections two and five, section one of this article.

No week shall be counted toward the waiting period if benefits have been paid with respect thereto.

Sec. 3. Extension of Employment Period. If the director finds that during the qualifying period specified by subsection (5) of section one of this article, an individual has been:
1. Incapable of work because of some physical or mental disability; (2) engaged in self-employment; or (3) engaged
Sec. 4. **Disqualification for Benefits.** Upon the determination of the facts by the director, an individual shall be disqualified for benefits:

1. For the week in which he left work voluntarily without good cause and for not less than one nor more than five weeks which immediately follow.

2. For the week in which he has been discharged for misconduct connected with his work and for not less than one nor more than nine weeks which immediately follow.

3. For the week in which he failed without good cause, to apply for available suitable work, accept suitable work when offered, or return to his customary self-employment when directed to do so by the director and for not less than one nor more than five weeks which immediately follow.

4. For a week in which his total or partial unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he was last employed, unless the director is satisfied that he was not (a) participating, financing, or directly interested in such dispute, and (b) did not belong to a grade or class of workers who were participating, financing, or directly interested in the labor dispute which resulted in the stoppage of work.

5. For a week with respect to which he is receiving or has received:

   a. Wages in lieu of notice; (b) compensation for temporary partial disability under the workmen's compensation law of any state or under a similar law of the United States; (c) old age benefits under title II of the social security act or similar payments under any act of congress.

Sec. 8. **Payment of Benefits.** Benefits shall become payable from the fund twenty-four months after the first day when payments first accrue.
4 Benefits shall be payable only with respect to unemployment occurring after expiration of such twenty-four months.

Sec. 10. Amount of Benefits; Total Unemployment. Each eligible individual who is totally unemployed in any week shall be paid benefits with respect to that week at the rate of fifty per cent of his full time weekly wage, but no more than fifteen dollars per week nor less than five dollars or three-fourths of his full time weekly wage, whichever is the lesser.

Sec. 11. Amount of Benefits; Partial Unemployment. An eligible individual who is partially unemployed in any week shall be paid with respect to such week a partial benefit. Such partial benefit shall be an amount equal to the difference between his weekly benefit amount and five-sixths of his wages (as used in the definition of "total and partial unemployment" in section three, article one of this act) for such week. If such partial benefit for any week equal less than two dollars it shall not be payable unless and until the accumulated total of such partial benefits with respect to weeks occurring within the thirteen preceding weeks equal two dollars or more.

Sec. 12. Ratio of Benefits. (1) The full time weekly wage of any individual means the weekly wages that such individual would receive if he were employed at the most recent wage rate earned by him for employment by an employer during the period prescribed pursuant to paragraph (3) of this subsection, and for the customary scheduled full time weekly hours prevailing for his occupation in the enterprise in which he last earned wages for employment by an employer during the same period.

(2) If the director finds that the full time weekly wage, as above defined, would be unreasonable or arbitrary or not readily determinable with respect to any individual, the full time weekly wage of such individual shall be deemed to be one-thirteenth of his total wages for employment by employers during that quarter in which such total wages were highest during the period prescribed pursuant to paragraph (3) of this section.
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18 (3) The full time weekly wage of any individual shall
19 be determined and redetermined at such reasonable times
20 as the director may find necessary to administer this act
21 and may by regulations prescribe. The period hereinabove
22 referred to shall consist of the next to the last completed
23 calendar quarter immediately preceding the date with re-
24 spect to which an individual's full time weekly wage is
25 determined, and such of the seven immediately preceding
26 consecutive calendar quarters as the director may by regula-
27 tion prescribe.

Sec. 13. Method of Charging Benefits. The director shall
2 compute wage credits for each individual by crediting him
3 with the wages earned by him for employment by employers
4 during each quarter, or three hundred ninety dollars, which-
5 ever is the lesser. Benefits paid to any eligible individual shall
6 be charged, in the same chronological order as such wages
7 were earned, against one-sixth of his wage credits which are
8 based upon wages earned during his base period and which
9 have not been previously charged hereunder. The maximum
10 total amount of benefits payable to any eligible individual dur-
11 ing any benefit year shall not exceed whichever is the lesser of
12 (1) twelve times his weekly benefit amount, and (2) one-
13 sixth of such uncharged wage credits with respect to his base
14 period.

Article 7. Claim Procedure.

Section
2. Display of regulations.
4. Initial determination by deputy.
6. Board procedure in referred cases.
8. Appeals; notice of decision by appeal tribunal.

Sec. 2. Display of Regulations. An employer shall post and
2 maintain in places readily accessible to individuals in his ser-
3 vice the claim procedure regulations prescribed by the direct-
4 or. At the time any such individual becomes unemployed, an
5 employer shall furnish such individual with a copy of the
6 regulations. The director shall provide an employer copies of
7 the regulations without cost.

Sec. 4. Initial Determination by Deputy. A deputy shall
2 promptly investigate a claim and shall, after the establishment
of the facts, determine whether or not such claim is valid; and, if valid, shall determine:

1. The week with respect to which benefits will commence.
2. The amount of benefit.
3. The maximum duration of benefits.

The deputy, then, shall promptly notify the claimant and interested parties of his findings and decisions.

Sec. 6. Board Procedure in Referred Cases. The board shall follow the same procedure in referred cases as in disputed cases. The board shall upon such findings and such additional evidence as it may procure make and transmit to the deputy a decision, which shall be deemed the decision of the deputy. The deputy shall promptly notify the claimant and interested parties of his findings and decisions.

Sec. 8. Appeals; Notice of Decision by Appeal Tribunal. Upon reference by the board, or a deputy, or upon appeal from the determination of a deputy, an individual shall be entitled to a fair hearing and reasonable opportunity to be heard before an appeal tribunal as provided in section seven of this article. Upon a consideration of all the evidence the appeal tribunal shall make a decision, and shall notify the parties of its findings and decision.

Article 8. Unemployment Compensation Fund.

Section

5. Clearing account.
9. Deposit of funds.

Sec. 5. Clearing Account. Upon the receipt of payments and other moneys payable into the fund under this chapter, the director shall immediately deposit them in the clearing account. Refunds payable under section nineteen, article five shall be made from the clearing account. Such refunds shall be made upon warrants issued by the director.

Sec. 9. Deposit of Funds. Except as otherwise provided in this article money in the clearing and benefit accounts shall be deposited by the director, with the consent of the governor, in any bank or public depository in which public funds of the state may be deposited. No public deposit insurance charge or
6 premium shall be paid out of the unemployment compensation 7 fund.


Section 4. Records and reports by employer; effective date of act; provisions severable.

Sec. 4. Records and Reports by Employer; Effective Date of Act; Provisions Severable. An employing unit shall keep true and accurate work records containing such information as the director may prescribe. The record shall be open to inspection and be subject to being copied by the director or his authorized representatives at any reasonable time.

This act shall take effect as of January first, one thousand nine hundred thirty-seven.

The provisions of this act shall be construed as severable, and should any provision be held unconstitutional, or for any other reason invalid, the remaining provisions shall not be affected thereby.

Acts or parts of acts in conflict with or superseded by the provisions of this act are hereby repealed.

CHAPTER 101

(House Bill No. 48—By Mr. Jones, of McDowell)

AN ACT to amend and reenact section one, article thirteen, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter twelve, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, relating to West Virginia State College.

[Passed March 9, 1937; in effect from passage. Approved by the Governor.]


Section 1. Continuation and management; Four-H Camp.

Be it enacted by the Legislature of West Virginia:

That section one, article thirteen, chapter eighteen of the code
of West Virginia, one thousand nine hundred thirty-one, as amended by chapter twelve, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted so as to read as follows:

Section 1. Continuation and Management; Four-H Camp. The institution for the instruction of colored students heretofore established and located at Institute, in Kanawha county, shall be continued and shall be known as the "West Virginia State College." The educational affairs of said college shall be under the control, supervision and management of the state board of education and the negro board of education, as provided in sections thirteen and sixteen, article two of this chapter, and its financial and business affairs shall be under the charge and control of the state board of control as provided in section four, article one, chapter twenty-five of the code.

The said joint boards of education shall establish and maintain in the West Virginia State College, in addition to the departments already established, such professional and graduate schools and college courses of study as may be expedient and practicable, and shall prescribe the conditions for graduation therefrom and make rules for the conferring of degrees and for issuing the proper diplomas to those who complete such courses.

The rules and regulations made by the president and faculty of said college for its general government for the admission of students thereto, the standards of scholarship to be maintained therein, and the graduation of students therefrom, shall be submitted to the said joint boards of education for their approval.

The West Virginia State College shall have the power and authority to do extension work in agriculture, home economics, mining, and such other subjects as the said joint boards of education may direct among the negro population of West Virginia. For the purpose of teaching negro boys and girls the Four-H standards of living and to inspire them to lift themselves toward these standards, and to discover and train negro boys and girls for leadership, and for the purpose of teaching standards of excellence in agriculture, soil conser-
vocation, vocational agriculture and home economics, a Four-H camp, institute and state exhibit for negroes is hereby established. It shall be the duty of the state board of control to secure a site for the aforesaid camp, institute and state exhibit at some suitable place and to erect the necessary buildings and provide necessary and suitable equipment for carrying out the purposes aforesaid. It shall be the duty of the state board of control, when such grounds and buildings are provided and equipped, as above stated, to turn same over to the department of agriculture of the West Virginia State College, to be operated by the extension division of said college in carrying out the purposes and intents herein set forth, and in the same manner as at the Four-H camp at Jackson's Mill. When not in use by the extension division of said college and under its regulation, this equipment may be rented to other organizations for convention use, and the funds received as rent or other collections shall be by such extension division turned over to the board of control for deposit in the state treasury to the credit of collections from said state college as required by section two, article two, chapter twelve, for special funds mentioned in subsection (b) of said section two. Any appropriations hereafter made to carry out the provisions and purposes of this section shall be expended through the state board of control. The county court may appropriate money from the county fund to erect county buildings on such Four-H camp property as mentioned in this section, and such buildings shall be operated so as to carry out the provisions and purposes set forth in this section.
CHAPTER 102
(Senate Bill No. 275—By Mr. Fleming)

AN ACT to amend and reenact sections three and six, article eight, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, relating to the West Virginia training school.

[Passed March 11, 1937; in effect ninety days from passage. Became a law without the approval of the Governor.]

Article 8. West Virginia Training School.

Section 3. Persons who may be admitted.
6. Discharge or parole of inmates.

Be it enacted by the Legislature of West Virginia:

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

Section 3. Persons Who May Be Admitted. There shall be admitted to said school any person with mental defectiveness from birth or from an early age, so pronounced that he or she is unable to care for himself or herself and manage his or her affairs with ordinary prudence, and who, because of such mental defect, is a menace to the happiness and welfare of himself or herself or of others in the community, and requires care, training or control for the protection of himself or herself or of others, and yet who is not insane. This type of person, commonly classed as feeble-minded, including idiots, imbeciles or morons, shall be known and designated as "mental defectives" for the purposes of this article. Should the school at any time not be able to accommodate all persons of such class offered for admission, preference in admission shall be given to children between the ages of seven and fourteen years, inclusive, of the moron type who are capable of being trained and of attending to their own ordinary physical needs. No person suffering from epilepsy, tuberculosis or
19 leprosy shall be admitted, nor shall any deaf or blind person
20 be admitted.

Sec. 6. Discharge or Parole of Inmates. When, in the judg-
2 ment of the superintendent of the school, a patient or inmate
3 thereof shall, under the treatment and training given therein,
4 improve mentally and physically to such an extent as to no.
5 longer constitute a menace to himself or herself or others, the
6 superintendent shall have the right, and it shall be his duty,
7 to discharge or parole such person, under such rules and regu-
8 lations as the board of control may prescribe.

CHAPTER 103
(House Bill No. 61—By Mr. Strouss)

AN ACT to authorize the board of public works to revive and
transfer from "Current Expenses" to "Lands," ten thou-
sand dollars of the unexpended balance appropriated for cur-
rent expenses for the West Virginia University by account
number thirty-eight, chapter nine, acts of the Legislature of
West Virginia, one thousand nine hundred thirty-five, and to
authorize the West Virginia board of control to use said funds,
so revived and transferred, for the purchase of the properties
known as the Hunt properties, at the corner of Hunt street
and Beechurst avenue, in Morgantown, West Virginia, in the
rear of the president’s home at West Virginia University.

(Passed January 29, 1937; in effect from passage. Became a law without the
approval of the Governor.)

Section
1. Transfer of West Virginia University funds.
2. Board of control authorized to purchase Hunt property.

Be it enacted by the Legislature of West Virginia:

Section 1. Transfer of West Virginia University Funds. The
2 board of public works is hereby authorized to revive and trans-
3 fer from the "Current Expense" fund to the "Lands" fund
4 under account number thirty-eight, as found in chapter nine,
5 acts of the Legislature of West Virginia, one thousand nine
hundred thirty-five, the sum of ten thousand dollars, being
a part of the balance of the appropriation heretofore made
and now remaining unexpended, out of the current expense
item for the West Virginia University for the fiscal year
ending June thirtieth, one thousand nine hundred thirty-
six.

Sec. 2. **Board of Control Authorized to Purchase Hunt**
**Property.** The West Virginia board of control is hereby
authorized to expend said sum of ten thousand dollars, as
revived and transferred, to purchase the properties at
and near the corner of Hunt street and Beechurst avenue,
in the rear of the president’s residence at the West Virginia
University, known as the Hunt properties, and now under
option to the said board of control under option expiring
February twenty-first, one thousand nine hundred thirty-
seven.

**CHAPTER 104**
(House Bill No. 384—By Mr. LaFon)

AN ACT to amend and reenact sections one, four and eight, article
two, chapter twenty-three of the code of West Virginia, one
thousand nine hundred thirty-one, section two, subdivision (b)
of section three, subdivision (e) of section six, sections eight,
nine, and nine-a, (said section nine-a having been added by
chapter seventy-eight, acts of the Legislature, regular session,
one thousand nine hundred thirty-five), sections fourteen and
seventeen, article four of said chapter of said code, and to add
two new sections to article four of said chapter, to be known,
respectively, as sections nine-b and fifteen-a, and to amend
and reenact sections one, two, three, four and five, article five
of said chapter of said code, (the last four sections having
been added to said article by chapter seventy-eight, acts of the
Legislature, regular session, one thousand nine hundred thirty-
five), all relating to workmen's compensation and the administration of the workmen's compensation law.

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

Article 2. Employers and Employees Subject to Chapter; Premiums.

Section 1. Employers and employees, including state and its agencies, subject to chapter.

4. Classification of industries; accounts by commissioner; rate of premiums.

8. Election not to pay or default in payment of premiums; defenses to action not available.

Section 1. Employers and Employees, Including State and its Agencies, Subject to Chapter. The state of West Virginia and all governmental agencies or departments created by it are hereby required to subscribe to, and pay premiums into the workmen's compensation fund for the protection of their employees, and shall be subject to all requirements of this act, and all rules and regulations prescribed by the
commissioner with reference to rates, classifications and
premium payments.

All persons, firms, associations and corporations regularly
employing other persons for the purpose of carrying on any
form of industry or business in this state, are employers with-
in the meaning of this chapter and subject to its provisions.
All persons in the service of employers as herein defined, and
employed by them for the purpose of carrying on the indus-
try, business or work in which they are engaged, and check-
weighmen employed according to law, and all members of
rescue teams assisting in mine accidents with the consent of
the owner who, in such case, shall be deemed the employer, or
at the direction of the chief of the department of mines, are
employees within the meaning of this chapter and subject to
its provisions: Provided, That the chapter shall not apply to
employers of employees in domestic or agricultural service,
persons prohibited by law from being employed, nor to em-
ployees of any employer while employed without the state;
nor shall a member of a firm of employers, or any officer of an
association or of a corporation employer, including managers,
or any elective or appointive official of the state, whose term of
office is definitely fixed by law, be deemed an employee within
the meaning of this chapter.

The premium and actual expenses in connection with gov-
ernmental agencies and departments of the state of West Vir-
ginia, shall be paid out of the state treasury from appropri-
ations made for such agencies and departments, in the same
manner as other disbursements are made by such agencies and
departments, and such premiums of state agencies and
departments shall be paid into the fund in the same man-
ner as herein provided for other employers subject to this
chapter.

Any employer whose employment in this state is to
be for a definite or limited period, which could not
be considered "regularly employing" within the mean-
ing of this section, may elect to pay into the work-
men's compensation fund the premiums herein provided
for, and at the time of making application to the com-
missioner such employer shall furnish a statement un-
der oath showing the probable length of time the em-
ployment will continue in this state, the character of
the work, an estimate of the monthly payroll, and any other
information which may be required by the commissioner.
At the time of making application such employer shall de-
posit with the state compensation commissioner to the credit
of the workmen’s compensation fund the amount required
by section five of this article, which amount shall be returned
to such employer, if his application be rejected by the com-
missioner. Upon notice to such employer of the acceptance
of his application by the commissioner, he shall be an em-
ployer within the meaning of this chapter and subject to all
of its provisions.
Any foreign corporation employer electing to comply with
the provisions of this chapter and to receive the benefits here-
under, shall, at the time of making application to the com-
missioner, in addition to other requirements of this chapter,
furnish such commissioner with a certificate from the secre-
tary of state showing that it has complied with all the re-
quirements necessary to enable it legally to do business in
this state, and no application of such foreign corporation
employer shall be accepted by the commissioner until such
certificate is filed.
For the purpose of this chapter, a mine shall be adjudged
within this state when the main opening, drift, shaft or slope
is located wholly within this state.
Any employee within the meaning of this chapter whose
employment necessitates his temporary absence from this
state in connection with such employment, and such absence
is directly incidental to carrying on an industry in this state,
who shall have received injury during such absence in the
course of and resulting from his employment, shall not be
denied the right to participate in the workmen’s compensa-
tion fund.

Sec. 4. Classification of Industries; Accounts By Commis-
sioner; Rate of Premiums. The commissioner shall distribute
into groups or classes the industries subject to this chapter,
in accordance with the nature of the business and the degree
of hazard incident thereto. And the commissioner shall have
power, in like manner, to reclassify such industries into
groups or classes at any time, and to create additional groups
or classes. The commissioner may make necessary expendi-
tures to obtain statistical and other information to establish
the classes provided for in this section.

The commissioner shall keep an accurate account of all money or moneys paid or credited to the compensation fund, and of the liability incurred and disbursements made against same; and an accurate account of all money or moneys received from each individual subscriber, and of the liability incurred and disbursements made on account of injuries and death of the employees of each subscriber, and of the receipts and incurred liability of each group or class.

In fatal cases and permanent disability cases exceeding eighty-five per cent disability, the amount charged against the employer’s account shall be such sum as is estimated to be the average cost of such cases to the fund; provided the commissioner decides that the injury or injuries causing death or permanent disability were received in the course of and resulting from the employee’s employment.

It shall be the duty of the commissioner to fix and maintain the lowest possible rates of premiums consistent with the maintenance of a solvent workmen’s compensation fund and the creation and maintenance of a reasonable surplus in each group after providing for the payment to maturity of all liability incurred by reason of injury or death to employees entitled to benefits under the provisions of this chapter. A readjustment of rates shall be made yearly on the first day of July, or at any time the same may become necessary. The determination of the lowest possible rates of premiums within the meaning hereof and of the existence of any surplus or deficit in the fund, shall be predicated solely upon the experience and statistical data compiled from the records and files in the commissioner’s office under this and prior workmen’s compensation laws of this state for the period from the first day of June, one thousand nine hundred thirteen, to the nearest practicable date prior to such adjustment. Provided, however, That any expected future return, in the nature of interest or income from invested funds, shall be predicated upon the average realization from investments to the credit of the compensation fund for the two years next preceding. Any reserves set up for future liabilities and any commutation of benefits shall likewise be predicated solely upon prior experience under this and preceding workmen’s compensation laws and upon expected realization from in-
vestments determined by the respective past periods, as aforesaid.

The commissioner may fix a rate of premiums applicable alike to all subscribers forming a group or class, and such rates shall be determined from the record of such group or class shown upon the books of the commissioner: Provided, That if any group has a sufficient number of employers with considerable difference in their degrees of hazard, the commissioner may fix a rate for each subscriber of such group, such rate to be based upon the subscriber’s record on the books of the commissioner for the twelve months last ending June thirtieth of the year in which the rate is to become effective; and the liability part of such record shall include such cases as have been acted upon by the commissioner during such twelve months’ period, irrespective of the date the injury was received; and any subscriber in a group so rated, whose record for such twelve months’ period cannot be obtained, shall be given a rate based upon his record for any part of such period or such rate as may be deemed just and equitable by the commissioner; and the commissioner shall have authority to fix a reasonable minimum and maximum for any group to which this individual method of rating is applied, and to add to the rate determined from the subscriber’s record such amount as necessary to liquidate any deficit in the schedule or to create a reasonable surplus.

It shall be the duty of the commissioner, whenever he changes any rate, to notify every employer affected thereby of that fact and of the new rate and when the same takes effect. It shall also be his duty to furnish to each employer yearly, or oftener if requested by the employer, a statement giving the name of each of his employees who were paid for injury and the amount so paid during the period covered by the statement.

Sec. 8. Election Not to Pay or Default in Payment of Premiums; Defenses to Action Not Available. All employers subject to this chapter (except the State of West Virginia and political subdivisions thereof) who shall not have elected to pay into the workmen’s compensation fund the premiums provided by this chapter and have not elected to pay individually and directly or from benefit funds, compensation and expenses to injured employees or fatally injured employees’ dependents
under the provisions of section nine, article two of this chapter, or, having so elected, shall be in default in the payment of the same or not having otherwise fully complied with the provisions of section five or section nine of this article, shall be liable to their employees (within the meaning of this article) for all damages suffered by reason of accidental personal injuries or accidental death sustained in the course of and resulting from their employment, and in any action by any such employee or personal representative thereof, such defendant shall not avail himself of the following common law defenses: The defense of the fellow-servant rule; the defense of the assumption of risk; or the defense of contributory negligence; and further, shall not avail himself of any defense that the negligence in question was that of someone whose duties are prescribed by statute, provided no action shall lie, and no recovery shall be had, against casual employers as hereinafter defined, without allegation and proof that such accidental personal injuries or accidental death were caused by the wrongful act, neglect or default of the employer, or any of the employer's officers, agents or employees. Casual employers within the meaning hereof shall be those employing at the time of such accidental personal injuries or accidental death, in and about the operation or work in which such accidental injuries or death occurred, less than ten employees, and those employers employing more than ten employees, who have not conducted the operation or business in which accidental injuries or death occurred, for more than sixty days prior to such accidental injuries or death.

Article 4. Disability and Death Benefits.

Section
2. Disbursement where injury is self-inflicted; when intentionally caused by employer; rules and safety appliances.
3-b. Disbursement for medical treatment, etc.
6-e. Classification of disability benefits.
8. Physical examination of claimant; expenses.
9. Physical and vocational rehabilitation.
9-a. Charge and credit to subscriber in case of total permanent disability.
9-b. Waiver by employee having physical impairment.
17. Computation of periodical benefits.

Section 2. Disbursement Where Injury is Self-Inflicted; When Intentionally Caused by Employer; Rules and Safety
Appliances. Notwithstanding anything hereinbefore or herein­
after contained, no employee or dependent of any employee
shall be entitled to receive any sum from the workmen's com­
ensation fund, or to direct compensation from any employer
making the election and receiving the permission mentioned
in section nine, article two of this chapter, or otherwise under
the provisions of this chapter, on account of any personal
injury to or death of any employee caused by a self-inflicted
injury, wilful misconduct, wilful disobedience to such rules
and regulations as may be adopted by the employer and ap­
proved by the commissioner, and which rules and regulations
have been and are kept posted in conspicuous places in and
about the work, or the intoxication of such employee, or the
failure of such employee to use or make use of any protective
or safety appliance or appliances prescribed by the commis­
sioner and furnished by the employer for the use of or ap­
plicable to such employee. For the purpose of this chapter
and to prevent accidents to employees, the commissioner may
require all employers to adopt rules, which have been ap­
proved by him, for the protection and safety of their em­
ployees and keep the same posted in conspicuous places in
and about the work; and the commissioner may require em­
ployers to install, use or adopt such protective or safety ap­
pliance or appliances as in the commissioner’s opinion are
necessary for the protection of the employees. If injury or
death result to any employee from the deliberate intention
of his employer to produce such injury or death, the em­
ployee, the widow, widower, child or dependent of the em­
ployee shall have the privilege to take under this chapter, and
shall also have cause of action against the employer as if this
chapter had not been enacted for any excess of damages over
the amount received or receivable under this chapter.

Sec. 3-b. Disbursements for Medical Treatment, Etc.
Payment for such medicine, medical, surgical, dental, hospital
treatment, crutches, artificial limbs and such other and ad­
ditional approved mechanical appliances authorized under
subdivision (a) hereof may be made to the injured employee,
or to the person or persons who have furnished such service,
or who have advanced payment for same, as the commissioner
may deem proper, but no such payments or disbursements
shall be made or awarded by the commissioner unless duly verified statements on forms prescribed by the commissioner, shall be filed with the commissioner within three months from the time such services or appliances were authorized by the commissioner.

Sec. 6-e. Classification of Disability Benefits. The total loss of one eye, or the total and irrevocable loss of the sight thereof, shall be considered a thirty-three per cent disability, and the injured employee shall be entitled to compensation for a period of one hundred and thirty-two weeks;

For the partial loss of vision in one, or both eyes, the percentage of disability shall be determined by the commissioner, using as a basis the total loss of one eye;

Should a claimant to whom has been made a permanent partial award of less than eighty-five per cent for one of the specific disabilities as set forth in subdivision (d) and subdivision (e) hereof die from sickness or non-compensable injury, the unpaid balance of such award shall be paid to claimant's dependents as defined in this chapter, if any; such payment to be in the same installments that would have been paid to claimant if living: Provided, however, That no payment shall be made to any widow of such claimant after her remarriage, but this liability shall not accrue to the estate of such claimant and shall not be subject to any debts of, or charges against, said estate.

Sec. 8. Physical Examination of Claimant; Expenses. The commissioner shall have authority, after due notice to the employer and claimant, whenever in his opinion it shall be necessary, to order a claimant to appear for examination before a medical examiner selected by the commissioner; and the claimant and employer, respectively, shall each have the right to select a physician of his or its own choosing and at his or its own expense to participate in such examination. The claimant and employer shall, respectively, be furnished with a copy of the report of examination made by the medical examiner selected by the commissioner. The claimant shall also be entitled to reasonable traveling and other expenses necessarily incurred by him in obeying said order, which shall be paid out of the amount allowed under this chapter for medical, surgical, dental and hospital treatment. The respective physicians
Sec. 9. Physical and Vocational Rehabilitation. In cases
where an employee has sustained a permanent disability, or
has sustained injuries likely to result in permanent disability,
and such fact has been determined by the commissioner, and
the employee can be physically and vocationally rehabilitated
and returned to remunerative employment by vocational train-
ing, by the use of crutches, artificial limbs, and/or other ap-
proved mechanical appliances, or by medicines, medical, sur-
gical, dental or hospital treatment, the commissioner shall
forthwith, after due notice to the employer, expend such an
amount as may be necessary for the aforesaid purposes, not,
however, in any case, to exceed the sum of eight hundred dol-
lars. No payment, however, shall be made for such purposes as
provided by this section unless authorized by the commissioner
prior to the rendering of such treatment.

Sec. 9-a. Charge and Credit to Subscriber in Case of To-
al Permanent Disability. Where an employee in the course
of and resulting from his employment has suffered the loss, or
loss of use of a hand, arm, foot, leg or eye, and receives, in the
course of and resulting from his employment while employed
by the same employer, injury resulting in total permanent
disability, the commissioner in estimating the total cost of
such permanent total disability shall allow the subscriber
credit on his account for the partial permanent disability al-
ready received. Where an employee, in the course of and re-
sulting from his employment, has suffered the loss, or loss of
use of a hand, arm, foot, leg or eye, and in the event of
subsequent accidental injury received in the course of and re-
sulting from his employment while employed by another em-
ployer, resulting in total permanent disability, the cost of
such total permanent disability shall be paid by the commis-
sioner out of any funds in his hands and at his disposal, after
charging to said last employer an amount equal to the partial
permanent disability attributable to the last injury, independently of the pre-existing impairment.

Sec. 9-b. Waiver by Employee Having Physical Impairment. Where an employee has a definitely ascertainable physical impairment originating otherwise than from an injury received in the course of and resulting from employment, such impairment, and the effect thereof, in case of injury as hereinafter set forth and any aggravation thereof on account of such injury, may be waived by said employee, notwithstanding any other provisions of this chapter, but such waiver shall be in the manner hereinafter provided. If said physical impairment shall be so waived, then in the event that such employee shall thereafter receive an injury in the course of and resulting from his employment, such physical impairment, and the effects thereof, and any aggravation thereof, shall not be taken into consideration in fixing the amount of compensation allowed by reason of such injury, and such compensation shall be awarded only in the amount that would have been allowable had such employee not had such pre-existing physical impairment. A waiver, in order to be valid under this section, shall meet the following requirements: (1) It shall be in writing, signed prior to injury by the employee, and either acknowledged before an officer duly qualified to administer oaths in this state, or be witnessed by two persons, neither of whom shall be the employer, or any officer or director of employer; (2) It shall be accompanied by a certificate of a duly licensed physician of this state or of another state, not connected with the employer, which certificate shall contain a statement that such physician has examined the said employee, has found such impairment to exist, that such impairment is definitely ascertainable, and a statement of the character and nature of such impairment.

Sec. 14. Computation of Benefits. The average weekly wage earnings, wherever earned, of the injured person at the time of the injury, shall be taken as the basis upon which to compute the benefits. The time of injury within the meaning of this section shall be sixty days, six months, or twelve months immediately preceding the date of the injury, whichever is most favorable to the injured employee.
Sec. 15-a. Benefits to Nonresident Alien Beneficiaries. Notwithstanding any other provisions of this chapter, benefits payable under any of the provisions of this chapter and commutation of periodical benefits payable under the provisions of section seventeen of this article to nonresident alien beneficiaries, shall be at the rate of one-half of like benefits or commutation of periodical benefits payable to resident beneficiaries. Nonresident alien beneficiaries within the meaning hereof shall mean persons not citizens of the United States residing outside of the territorial limits of the United States at the time of the injury with respect of which such benefits are paid. In case of such nonresident alien beneficiaries, the commissioner in his discretion may make, and such beneficiaries shall be required to accept, commutation of such benefits into a lump sum settlement and payment at the rate of one-half of like benefits to resident beneficiaries.

Sec. 17. Commutation of Periodical Benefits. The commissioner, under special circumstances and when the same is deemed advisable, may commute periodical benefits to one or more lump sum payments. Upon the application of any claimant who has received an award of partial or total disability, who is not a citizen of the United States and desires to reside permanently beyond the territorial limits of the United States, or upon the application of an alien dependent of a deceased employee with respect of whose death award of compensation has been made, such dependent residing in the territorial limits of the United States at the time of decedent’s death, and desiring to reside permanently beyond such territorial limits of the United States, the commissioner may commute into one lump sum payment the periodical payments to which such claimant or dependent would be entitled, but at the rate of one-half the amount that would be payable to a citizen of the United States under like circumstances, and such lump sum payment at the rate aforesaid shall discharge all liability with respect of said award, but in no event shall such award be paid until such claimant or dependent shall have actually arrived and domiciled himself or herself outside the territorial limits of the United States, except a sufficient portion of said award to pay transportation and other necessary expenses.
Article 5. Review of Commissioner’s Finding; Appeal Board.

Section
1. Hearing on commissioner’s finding; appeal.
2. Workmen’s compensation appeal board.
3. Appeals to and hearings by board.
4. Appeals from final decisions of board.
5. Fees of attorney for claimant.

Section 1. Hearing on Commissioner’s Findings; Appeal.
1. The commissioner shall have full power and authority to hear and determine all questions within his jurisdiction, but upon the making or refusing to make any award, or upon the making or refusing to make any modification or change with respect to former findings or orders, as provided by section sixteen, article four of this chapter, the commissioner shall give notice, in writing, to the employer, employee, claimant, or dependent, as the case may be, of his action, which notice shall state the time allowed for filing an objection to such finding, and such action of the commissioner shall be final unless the employer, employee, claimant or dependent shall, within thirty days after the receipt of such notice, object, in writing, to such finding. Upon receipt of such objection the commissioner shall, within thirty days from the receipt thereof, set a time and place for the hearing of evidence. Any such hearing may be conducted by the commissioner or his duly authorized representative at the county seat of the county wherein the injury occurred, or at any other place which may be agreed upon by the interested parties, and in the event the interested parties cannot agree, and it appears in the opinion of the commissioner that the ends of justice require the taking of evidence elsewhere, then at such place as the commissioner may direct, having due regard for the convenience of witnesses. Both the employer and claimant shall be notified of such hearing at least ten days in advance, and the hearing shall be held within sixty days after the filing of objection to the commissioner’s finding as hereinabove provided, unless such hearing be postponed by agreement of the parties or by the commissioner for good cause. The evidence taken at such hearing shall be transcribed and become part of the record of the proceedings, together with the other records thereof in the commissioner’s office. At any time within sixty days after hearing, if the commissioner is of
opinion that the facts have not been adequately developed at such hearing, he may order supplemental hearing upon due notice to the parties. After final hearing the commissioner shall, within sixty days, render his decision affirming, reversing or modifying his former action, which shall be final: Provided, however, That the claimant or the employer may apply to the appeal board herein created for a review of such decision; but no appeal or review shall lie unless application therefor be made within thirty days of receipt of notice of the commissioner's final action, or in any event within sixty days of the date of such final action, regardless of notice.

Sec. 2. Workmen's Compensation Appeal Board. There is hereby created a board to be known as the "Workmen's Compensation Appeal Board," which shall be referred to in this article as the "Board," to be composed of three members, none of whom shall be a contributor to the compensation fund or in any way connected with a contributor thereto, and none of whom shall be a beneficiary of the compensation fund or in any way connected with the beneficiary thereof. Two members of such board shall be of opposite politics to the third, and all three shall be citizens of this state who have resided therein for a period of at least five years. All members of said board shall be appointed by the Governor for a term of six years, except that the persons first appointed under this act shall be appointed to serve, one for two, one for four and one for six years. The Governor is hereby vested with power to remove any member of the board according to section four, article four, chapter six of this code. The members of such board shall be paid for their services a compensation of twenty dollars per day for each day they are in session, which shall be the total compensation, including any and all expenses, of such member or members. The Governor shall designate one of the members of said board as chairman thereof, and said board shall meet at the capitol or at such other places throughout the state as it may determine in regular sessions to be fixed by the board. No more than six sessions shall be held during any one year and no session shall continue more than twenty consecutive calendar days. All clerical services required by the board shall be paid for by the compensation commissioner from any funds at his disposal. The board shall, from time to time, com-
pile and promulgate such rules of practice and procedure as to it shall appear proper for the prompt and efficient discharge of its business, and such rules shall be submitted to the supreme court of appeals for approval, and if approved by said court shall have the same force and effect as the approved rules of procedure of circuit courts.

Sec. 3. Appeal to and Hearings by Board. Any employer, employee, claimant, or dependent, who shall feel aggrieved at any final action of the commissioner taken after a hearing held in accordance with the provisions of section one of this article, shall have the right to appeal to the board created in section two of this article for a review of such action. The aggrieved party shall file a written notice of appeal with the compensation commissioner, directed to said board, within thirty days after receipt of notice of the action complained of, or in any event, regardless of notice, within sixty days after the date of the action complained of, and the commissioner shall notify the other party immediately upon the filing of said notice of appeal. The commissioner shall forthwith make up a transcript of the proceedings before him and certify and transmit the same to the board. In such certificate, he shall incorporate a brief recital of the proceedings therein had and recite each order entered and the date thereof. The board shall review the action of the commissioner complained of at its next meeting after the filing of notice of appeal, provided said notice of appeal shall have been filed thirty days before said meeting of the board, unless such review be postponed by agreement of parties or by the board for good cause. The board shall set a time and place for the hearing of arguments on each claim and shall notify the interested parties thereof, and briefs may be filed by the interested parties in accordance with the rules of procedure prescribed by the board. And thereupon, after a review of the case, the board shall sustain the finding of the commissioner or enter such order or make such award as the commissioner should have made and shall thereupon certify the same to the commissioner, who shall proceed in accordance therewith. Or, instead of affirming or reversing the commissioner as aforesaid, the board may, upon motion of either party or upon its own motion, remand said cause to the commissioner for the taking of such new, additional or further evidence as in the opinion of the board
may be necessary for a full and complete development of the facts of the case. In the event the board shall remand the cause to the commissioner for the taking of further evidence therein, the commissioner shall proceed to take such new, additional or further evidence in accordance with any instructions given by the board, and shall take the same within thirty days after receipt of the order remanding the case, giving to the interested parties at least ten days' notice of such supplemental hearing, unless the taking of evidence shall be postponed by agreement of parties, or by the commissioner for good cause. After the completion of such supplemental hearing the commissioner shall, within sixty days, render his decision affirming, reversing or modifying his former action, which decision shall be appealable to, and proceeded with by the appeal board in like manner as in the first instance. The board may remand any cause as often as in its opinion is necessary for a full development and just decision of the case. The board may take evidence or consider ex parte statements furnished in support of any motion to remand the cause to the commissioner. All evidence taken by or filed with the board shall become a part of the record. All appeals from the action of the commissioner shall be decided by said board at the same session at which they are heard, unless good cause for delay thereof be shown and entered of record. In all proceedings before the board, either party may be represented by counsel.

Sec. 4. Appeals From Final Decisions of Board. From any final decision of the board, an application for review may be prosecuted by either party, or by the commissioner, to the supreme court of appeals within thirty days from the date thereof by the filing of a petition therefor to said court against the board and the adverse party (claimant or employer, as the case may be) as respondents, and the clerk of said court shall notify each of said respondents and the commissioner of the filing of such petition. The board shall, within ten days after receipt of such notice, file with the clerk of said court the record of the proceedings had before it, including all the evidence. The court or any judge thereof in vacation may thereupon determine whether or not a review shall be granted. And if granted to a nonresident of this state, he shall be required to execute and file with the clerk before such order of review
shall become effective, a bond, with security to be approved
by the clerk, conditioned to perform any judgment which may
be awarded against him thereon. The board may certify to
said court and request its decision of any question of law
arising upon the record, and withhold its further proceeding
in the case, pending the decision of the court on the certified
question, or until notice that the court has declined to docket
the same. If a review be granted or the certified question be
docketed for hearing, the clerk shall notify the board and the
parties litigant or their attorneys and the commissioner, of
that fact by mail. If a review be granted or the certified
question docketed, the case shall be heard by said court in the
same manner as in other cases, except that neither the record
nor briefs need be printed. Every such review granted or
certified question docketed prior to thirty days before the be-
ning of the term, shall be placed upon the docket for such
term. The attorney general shall, without extra compensa-
tion, represent the board in such cases. The court shall de-
termine the matter so brought before it and certify its deci-
sion to the board and to the commissioner. The cost of such
proceedings on petition, including a reasonable attorney's
fee, not exceeding thirty dollars to the claimant's attorney,
shall be fixed by the court and taxed against the employer if
the latter be unsuccessful, and if the claimant, or the com-
missioner (in case the latter be the applicant for review) be
unsuccessful, such costs, not including attorney's fees, shall
be taxed against the commissioner, payable out of any funds
available in his hands, or shall be taxed against the claimant,
in the discretion of the court. But there shall be no cost taxed
upon a certified question.

Sec. 5. Fees of Attorney for Claimant. If any claimant shall
employ an attorney to represent him in his claim for compen-
sation while such claim is pending before the commissioner,
the appeal board, or the supreme court of appeals, and such
attorney shall file with the commissioner an attested copy of
his contract of employment with such claimant, it shall be the
duty of the commissioner to protect such attorney in the
collection of his fees to the extent hereinafter provided; and
if said contract of employment shall not violate the following
schedule of fees, the commissioner shall make payment of such fee directly to such attorney out of any award or awards made to the claimant. If the claim is finally determined while pending before the commissioner and no appeal is filed therein with the appeal board the attorney fee shall not exceed two hundred dollars; if the claim is finally determined while pending before the appeal board, the attorney fee shall not exceed three hundred fifty dollars; and if the claim is finally determined by the supreme court of appeals, or if an appeal is allowed by said court, then the attorney fee shall not exceed six hundred dollars. In no event shall the commissioner pay aggregate attorney fees of more than six hundred dollars in any one claim, nor shall the commissioner pay aggregate attorney fees of more than twenty-five per cent of the total award of any claim.

CHAPTER 105
(House Bill No. 112—By Mr. Brotherton)

AN ACT to amend and reenact section two-c, chapter eighty-six, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, relating to business, occupation and privilege taxes.

Section 2-c. Privilege tax on business of selling tangible property; sales exempt.

Be it enacted by the Legislature of West Virginia:

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

Section 2-c. Privilege Tax on Business of Selling Tangible Property; Sales Exempt. Upon every person engaging or continuing within this state in the business of selling any tangible property whatsoever, real or personal, includ-
BUSINESS AND OCCUPATION TAX

AN ACT to amend sections three, twelve, thirteen and twenty, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by sections three, twelve, thirteen and twenty, article twelve, chapter thirty-three, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, relating to privilege tax on business and occupations.

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


Section
3. Exemptions.
12. Lien of tax due and unpaid.
13. Collection by suit; payment by receiver.
20. Collection by distraint.

Be it enacted by the Legislature of West Virginia:

That sections three, twelve, thirteen and twenty, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by sections three, twelve, thirteen and twenty, article twelve, chapter thirty-three, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 3. Exemptions. There shall be an exemption
in every case of twenty-five dollars in amount of tax computed under the provisions of this article. A person exercising a privilege taxable hereunder for a fractional part of a tax year shall be entitled to an exemption of the sum bearing the proportion to twenty-five dollars that the period of time the privilege is exercised bears to a whole year. Only one exemption shall be allowed to any one person, whether he exercised one or more privileges taxable hereunder.

The provisions of this article shall not apply to: (a) Insurance companies which pay the state of West Virginia a tax upon premiums; (b) mutual savings banks not having a capital stock represented by shares and non-profit mutual building and loan associations operated for the exclusive benefit of their members; (c) non-profit cemetery companies organized and operated for the exclusive benefit of their members; (d) societies, organizations and associations organized and operated for the exclusive benefit of their members and not for profit; and (e) corporations, associations and societies organized and operated exclusively for religious or charitable purposes: Provided, however, That the exemptions of this section shall not apply to corporations or cooperative associations organized under the provisions of article four, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter sixteen, acts of the Legislature, regular session, one thousand nine hundred thirty-three.

Sec. 12. Lien of Tax Due and Unpaid. A tax due and unpaid under this article shall be a debt due the state. It shall be a personal obligation of the taxpayer and shall be a lien upon all property used in the business or occupation upon which such tax is imposed and said lien shall have priority over all other liens and obligations except those due the United States. A penalty of five per cent of the tax shall be added for any default for thirty days or less, and for each succeeding thirty days elapsing before payment there shall be an additional penalty of one per cent.

Sec. 13. Collection by Suit; Payment by Receiver. The tax commissioner may by himself, or a duly appoint-
ed agent mentioned in section twenty-two of this article, collect taxes due and unpaid under this article, together with all accrued penalties, by action in assumpsit, motion for judgment, or other appropriate proceeding in the circuit court of the county in which the privilege taxed had been exercised. After delinquency shall have continued sixty days, the tax commissioner may proceed, by himself or agent, in the circuit court of the county in which the privilege taxed had been exercised to obtain an injunction restraining the further exercise of the privilege until full payment shall have been made of all taxes and penalties due under this article. In any proceeding under this section upon judgment or decree for the plaintiff he shall be awarded his costs.

In the event a business subject to the tax imposed by this article shall be operated in connection with a receivership or insolvency proceeding, the court under whose direction such business is operated shall, by the entry of a proper order in the cause, make provision for the regular payment of such taxes as the same become due.

Sec. 20. Collection by Distraint. The tax commissioner may distraint upon any goods, chattels or intangibles represented by negotiable evidences of indebtedness, or any taxpayer delinquent under this article for the amount of all taxes and penalties accrued and unpaid hereunder. The commissioner may require the assistance of the sheriff of any county of the state in levying such distress in the county of which such sheriff is an officer. A sheriff so collecting taxes due hereunder shall be entitled to compensation in the amount of all penalties collected over and above the principal amount of the tax due, but in no case shall such compensation exceed twenty-five dollars. All taxes and penalties so collected shall be reported within ten days after collection to the tax commissioner, who shall prescribe by general regulation the manner of remittance of such funds and of allowing the collecting officer the compensation due him under this section. The lien created by this article on real estate may be enforced by suit in equity and the provisions of section fourteen, article nine of this chapter may also be invoked for the collection of taxes accruing under this article.
CHAPTER 107

(House Bill No. 315—By Mr. LaFon)

AN ACT to amend section ten, article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by article twelve-a, chapter thirty-three, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, and to amend said article twelve-a by the addition thereto of sections ten-a to ten-e, inclusive, relating to privilege taxes on certain carrier corporations.

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


Section
10. Lien of tax; penalty.
10-a. Creation and release of lien.
10-b. Collection by distraint.
10-c. Payment before certificate of dissolution or withdrawal issues.
10-d. Contracts with political subdivisions withheld till taxes paid by contractor.
10-e. Taxes paid first by fiduciary; personal liability.

Be it enacted by the Legislature of West Virginia:

That section ten, article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by article twelve-a, chapter thirty-three, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted, and that said article twelve-a be amended by the addition thereto of sections ten-a to ten-e, inclusive, to read as follows:

Section 10. Lien of Tax; Penalty. The amount of the tax imposed by this article shall be a debt due the state. It shall be a personal obligation of the taxpayer and shall be a lien upon all property used in the business or occupation upon which such tax is imposed, and said lien shall have priority over all other liens and obligations except those due the United States. A penalty of one per cent per month shall be added to the amount of tax for each month of delinquency and shall be secured by the lien herein provided.
Sec. 10-a. *Creation and Release of Lien.* The tax commissioner for the more effective collection of such taxes, may file with the clerk of the county court of any county a certified copy of any assessment of taxes under this article. A certificate so filed shall be recorded in a book provided for the purpose and shall thereby create a lien upon all property and assets of the taxpayer located in the county, which lien shall likewise be binding against all other parties whose interest may arise after such recordation. Upon payment of taxes delinquent under this article and for which such lien shall have been perfected as herein provided, the tax commissioner shall certify in duplicate the fact and amount of payment and the balance due, if any, and shall forward the certificates, one to the taxpayer and one to the clerk of the county court of the county wherein such certificate of assessment shall have been recorded. The clerk of the county court shall record the certificate in the book in which releases are recorded, without payment of any fee, and the recordation of such certificate, certifying to the payment in full of such delinquent taxes, shall constitute a release and full discharge of said lien.

Sec. 10-b. *Collection by Distraint.* The tax commissioner may distrain upon any goods, chattels or intangibles represented by negotiable evidences of indebtedness, of any taxpayer delinquent under this article for the amount of all taxes and penalties accrued. The commissioner may require the assistance of the sheriff of any county of the state in levying such distress in the county of which such sheriff is an officer. A sheriff so collecting taxes due hereunder shall be entitled to compensation in the amount of all penalties collected over and above the principal amount of the tax due, but in no case shall such compensation exceed twenty-five dollars. All taxes and penalties so collected shall be reported within ten days after collection to the tax commissioner, who shall prescribe by general regulation the manner of remittance of such funds and of allowing the collecting officer the compensation due him under this section. The lien created by this article on real estate may be enforced by suit in equity, and the provisions of section fourteen, article nine of this chapter may also be invoked for the collection of taxes accruing under this article.
Sec. 10-c. Payment Before Certificate of Dissolution or
Withdrawal Issues. The secretary of state shall withhold the
issuance of a certificate of dissolution of any corporation or-
ganized under the laws of this state, or a certificate of with-
drawal to any foreign corporation authorized to do business
in this state, until notified in writing by the tax commissioner
that all taxes imposed against such corporation have been
paid in full.

Sec. 10-d. Contracts With Political Subdivisions Withheld
Till Taxes Paid By Contractor. All state, county, district
and municipal officers and agents making contracts on be-
half of the state of West Virginia or any political subdivis-
tions thereof shall withhold final settlement under such con-
tracts until notified in writing by the tax commissioner that
all taxes imposed by this article against such contractors
have been paid.

Sec. 10-e. Taxes Paid First by Fiduciary; Personal
Liability. In the distribution of the estate of any person,
firm or corporation, arising out of a creditor's suit, bank-
ruptcy or receivership proceeding, or assignment for the
benefit of creditors, all unpaid taxes accruing under this
article shall be paid from the first moneys available for dis-
tribution for that purpose, in conformity with the liens cre-
at ed by this article. Any person charged with the adminis-
tration of an estate who shall violate the provisions of this
section shall be personally liable for any taxes accrued and
unpaid under this article, which are chargeable against the
person, firm or corporation whose estate is in administra-
tion.

CHAPTER 108
(Com. Sub. for House Bill No. 60—Originating in the House
Committee on Taxation and Finance)

AN ACT to provide general revenue by amending chapter eleven
of the code of West Virginia, one thousand nine hundred
thirty-one, as amended, by inserting section five-a in article
twelve-a, and section three-a in article thirteen, relating to surtaxes, and by adding article fifteen, relating to a general consumers sales tax.

[Passed February 11, 1937; in effect July 1, 1937. Approved by the Governor.]

Article
15. Consumers Sales Tax.

Be it enacted by the Legislature of West Virginia:

That chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be further amended by adding section five-a to article twelve-a, by adding section three-a to article thirteen, and by adding article fifteen to said chapter, all to read as follows:


Section
5-a. Surtaxes.

Section 5-a. Surtaxes. Every person taxable under sections two, three, four or five of this article shall pay, in addition to that tax and all other taxes, an additional surtax of three-tenths of the tax imposed by such sections.


Section
3-a. Surtaxes; businesses exempt.

Section 3-a. Surtaxes; Businesses Exempt. Every person taxable under sections two-a, two-b, two-c, two-d and two-g of this article shall pay, in addition to that tax, and all other taxes, an additional surtax of three-tenths of each tax imposed by such sections.

The surtax imposed by this section shall not apply to:

1. A public service or utility business conducted wholly within this state by a corporation organized under the laws of this state with a capital stock not in excess of fifty thousand dollars and which does not generate its own current, or any part thereof.

2. Water companies.

3. Privileges taxed under section two-c except in the case of wholesalers or jobbers.
Article 15. Consumers Sales Tax.

Section
1. General consumers sales tax imposed.
2. Definitions.
3. Amount of tax.
4. Purchaser to pay; accounting by retailer.
5. Total amount collected to be remitted.
6. Seller must show sale not at retail; presumption.
7. Tax on gross proceeds of retail sales of manufactured, etc., product.
8. Furnishing of services included; exceptions.
9. Sales not included.
10. Tax paid by consumer.
11. Seller may not pay tax; penalty.
12. Agreements by competing taxpayers.
13. Collection of tax when sale on credit.
14. When separate records of sales required.
15. Sales to affiliated companies or persons.
16. Tax return and payment.
17. Lien of tax; penalties.
18. Enforcement of lien.
19. Other times of filing returns.
20. Quarterly return.
22. Consolidated returns.
23. Keeping and preservation of records.
24. Assessment and collection of tax when return incomplete.
25. Records of nonresidents doing business in state.
26. Records of tax commissioner; preservation of returns.
27. When information obtained is confidential.
29. Penalty for violations.
30. Proceeds of tax for free schools.

Section 1. General Consumers Sales Tax Imposed. The purpose of this article is to impose a general consumers sales tax.

Sec. 2. Definitions. For the purposes of this article:
1. "Person" shall mean any person, firm, partnership, association, corporation, guardian, or committee;
2. "Tax commissioner" shall mean the state tax commissioner;
3. "Gross proceeds" shall mean the amount received in money, credits, property or other consideration from sales at retail within this state, without deduction on account of the cost of the property sold, amounts paid for interest or discounts, or other expenses whatsoever. Losses shall not be deducted, but deductions may be made to the amount of credits or refunds for returned goods and of the sale price of any article sold, if the full sale price of the new article is included in "gross proceeds";
4. "Sale at retail" shall mean any transaction by which the ownership of tangible personal property is transferred for a consideration, when the transfer is made in the ordinary course of the transferor's business and is made to the transferee for consumption or use or any other purpose, save resale, without change or processing, in the form of tangible personal property. "Sale at retail" includes conditional sales and transactions under whatever name whereby title is ultimately to pass, although possession is retained for security;

5. "Sale at retail" shall not include an isolated transaction in which any tangible personal property is sold, transferred, offered for sale, or delivered by the owner thereof, or by his representative for the owner's account, such sale, transfer, offer for sale or delivery not being made in the ordinary course of repeated and successive transactions of a like character by such owner or on his account by such representative;

6. "Retail dealer" shall mean a person engaged in the business of sale at retail in this state, or one who furnishes services taxed by this article;

7. "Wholesale dealer" shall mean a person engaged in this state in the business of selling to a retail dealer in this state for resale only, or of selling machinery, supplies and material in wholesale quantities, to contractors, or to persons engaged in manufacturing in this state or in the production of natural resources;

8. "Business" shall include all activities engaged in or caused to be engaged in with the object to gain or economic benefit, direct, or indirect;

9. "Tax" shall include all taxes, interest or penalties levied hereunder;

10. "Purchaser" shall mean a person who purchases tangible personal property, or a service taxed by this article;

11. "Personal service" shall include those:
   (a) Compensated by the payment of wages in the ordinary course of employment;
   (b) Rendered to the person of an individual without, at the same time, selling tangible personal property or the
use of such property, such as nursing, barbering, shoe shining, manicuring, and similar services;

12. "Taxpayer" shall mean a retail dealer.

Sec. 3. Amount of Tax. For the privilege of engaging in the business of selling tangible personal property at retail, and of dispensing certain selected services defined in section seven of this article, a retail dealer shall collect from a purchaser a tax of two per cent of the gross proceeds of each separate transaction, and shall pay the amount collected to the tax commissioner in accordance with the provisions of this article.

There shall be no tax on sales where the monetary consideration is five cents or less. The amount of the tax payable by the purchaser shall be computed as follows:

(1) On each sale, where the monetary consideration is from six cents to fifty cents, both inclusive, one cent.
(2) On each sale where the monetary consideration is from fifty-one cents to one dollar, both inclusive, two cents.
(3) On each fifty cents of monetary consideration or fraction thereof in excess of one dollar, one cent.

Sec. 4. Purchaser to Pay; Accounting by Retailers. A purchaser shall pay the amount of the tax levied by this article to the retail dealer. The retail dealer shall keep the tax paid by the purchaser separate and apart from the proceeds of sale, unless the tax commissioner authorizes the retail dealer to record the amount of the tax in a different manner. Where such authorization is given, the state’s claim shall be enforceable against and shall take precedence over all other claims against the moneys commingled. The retail dealer shall account to the state for all the tax paid by the purchaser.

Sec. 5. Total Amount Collected to be Remitted. No profit shall accrue to any person as a result of the collection of the tax levied by this article notwithstanding the total amount of such taxes collected may be in excess of the amount for which such person would be liable by the application of the levy of two per cent to the gross proceeds of his sales and the total of all taxes collected by any such person shall be returned and remitted to the tax commissioner as hereinafter provided.

Sec. 6. Seller Must Show Sale Not at Retail; Presumption. The burden of proving that a sale was not at retail shall be
upon the seller, unless he takes from the purchaser a certificate signed by and bearing the address of the purchaser to the effect that the property was purchased for resale. To prevent evasion, it shall be presumed that all proceeds are subject to the tax until the contrary is clearly established.

Sec. 7. Tax on Gross Proceeds of Retail Sales of Manufactured, Etc., Product. A person exercising the privilege of producing for sale, profit or commercial use, any natural resources, product or manufactured product, and engaging in the business of selling at retail any such product not otherwise exempted herein shall make returns of the gross proceeds of such retail sales and pay the tax imposed by this article.

Sec. 8. Furnishing of Services Included; Exceptions. The provisions of this article shall apply not only to selling tangible personal property, but also to the furnishing of all services, except professional and personal services, and except those services furnished by corporations subject to the control of the public service commission and the state road commission.

Sec. 9. Sales Not Included. The provisions of this article shall not apply to:

1. Sales of gasoline, taxable under article fourteen, chapter eleven of the official code, one thousand nine hundred thirty-one;
2. Sales of gas, steam and water delivered to consumers through mains or pipes, and sales of electricity;
3. Sales of school books required to be used in any of the schools of this state.
4. Sales to the state, its institutions or subdivisions, and sales to the United States, including sales to agencies of federal, state or local governments for distribution in public welfare or relief work;
5. Sales on motor vehicles which are titled by the state road commission.

Sec. 10. Tax Paid by Consumer. It is the intent of this article that the tax levied hereunder shall be passed on to and be paid by the consumer. The amount of the tax shall be
added to the sales price, and shall constitute a part of that price and be collectible as such.

Sec. 11. Seller May Not Pay Tax; Penalty. A person engaged in any business taxable hereunder shall not advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or any part of the tax, or that the tax imposed by this article is not to be considered an element in the price to the consumer. A person who violates this provision shall be guilty of a misdemeanor and upon conviction shall be punishable by a fine of not less than fifty, nor more than one thousand dollars, or imprisonment in the county jail for not exceeding one year, or both, in the discretion of the court.

Sec. 12. Agreements by Competing Taxpayers. To provide uniform methods of adding the average equivalent of the tax to the selling price in each sale or transaction subject to the tax, appropriate rules and regulations, except as otherwise herein provided, may be agreed upon or adopted by competing taxpayers or associations of taxpayers, except that all collections shall be made on the basis of the total transaction at the time of sale, without regard to the value of the separate items making up the total amount of the sale. Such rules and regulations, if they do not involve price fixing, shall not be deemed illegal as in restraint of trade or commerce. The tax commissioner shall cooperate in formulating such rules and regulations, and, in the event appropriate rules and regulations are not submitted to him within thirty days after this act takes effect, or within a reasonable extended period fixed by the tax commissioner, he shall himself formulate and promulgate appropriate rules and regulations to effectuate the purpose of this section.

Sec. 13. Collection of Tax When Sale on Credit. A taxpayer doing business wholly or partly on a credit basis shall require the purchaser to pay the full amount of tax due upon a credit sale, at the time such sale is made, or within thirty days thereafter.

Sec. 14. When Separate Records of Sales Required. Any person engaged in the business of making sales at retail who is at the same time engaged in some other kind of business, occupation, or profession, not taxable under this article, shall keep
books to show separately the transactions used in determining
the tax base herein taxed. In the event of such person fail-
ing to keep such separate books, or records, there shall be
levied upon him a tax based upon the entire gross proceeds
of both or all of his businesses.

Sec. 15. Sales to Affiliated Companies or Persons. In de-
termining gross proceeds of sales from one to another of
affiliated companies or persons, or under other circumstances
where the relation between the buyer and seller is such that
the gross proceeds from a sale are not indicative of the true
value of the subject matter of the sale, the tax commissioner
shall prescribe uniform and equitable rules for determining the
amount upon which the tax shall be levied, corresponding as
nearly as possible to gross proceeds from the sale of similar
products of like quality or character, where no common in-
terest exists between the parties.

Sec. 16. Tax Return and Payment. The taxes levied by this
article shall be due and payable in monthly installments, on or
before the fifteenth day of the month next succeeding the month
in which the tax accrued. The taxpayer shall, on or before the
fifteenth day of each month, make out and mail to the tax
commissioner a return for the preceding month, in the form
prescribed by the tax commissioner, showing (a) the total gross
proceeds of his business for that month; (b) the gross proceeds
of his business upon which the tax is computed; (c) the
amount of the tax for which he is liable; and (d) any fur-
ther information necessary in the computation and collec-
tion of the tax which the tax commissioner may require. A
remittance for the amount of the tax shall accompany the
return. A monthly return shall be signed by the taxpayer or
his duly authorized agent.

Sec. 17. Lien of Tax; Penalties. A tax due and unpaid under
this article shall be a debt due the state. It shall be a personal
obligation of the taxpayer and shall be a lien upon all of the
property of the taxpayer. The lien shall have priority over all
other liens and obligations except those due the United States.
A taxpayer who fails to file his return and remit the tax
at the time required by this article shall, in addition to all
other penalties, pay a penalty of six per cent of the amount
of the tax collected during the period reported. For each
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10 succeeding thirty days elapsing before payment there shall
11 be added an additional penalty of one per cent. If the tax-
12 payer is an association, or corporation, the officers thereof
13 whose duty it is to make the return and pay the tax shall be
14 personally liable, jointly and severally, for any default on
15 the part of the corporation.

Sec. 18. Enforcement of Lien. A lien for taxes under this
2 article shall attach when the obligation to pay the tax to the
3 tax commissioner accrues. The lien shall be enforceable by the
4 tax commissioner as any other lien against the property of a
5 debtor.

Sec. 19. Other Times of Filing Returns. The tax commis-
2 sioner may, upon written request, authorize a taxpayer whose
3 books and records are not kept on a monthly basis to file re-
4 turns at other times than those specified in the preceding sec-
5 tion, but in no event shall a taxpayer make less than one re-
6 turn a calendar month, except as provided by section sixteen.

Sec. 20. Quarterly Return. When the total tax for which a
2 person is liable does not exceed ten dollars for any month, he
3 may make quarterly return on or before the fifteenth day of
4 the first month in the next succeeding quarter in lieu of
5 monthly returns.

Sec. 21. Annual Return. On or before thirty days after
2 the end of the tax year, each person liable for the payment of
3 a tax hereunder shall make an annual return in such form as
4 may be required by the tax commissioner, showing total gross
5 proceeds of his business for the preceding tax year, gross pro-
6 ceeds upon which the tax for that year was computed, and any
7 other information necessary in the computation or collection of
8 the tax that the tax commissioner may require. After deducting
9 the amount of prior payments during the tax year, the tax-
10 payer shall transmit the return with a remittance for any
11 remaining tax, payable by him during the preceding tax year,
12 to the tax commissioner. The taxpayer or his duly author-
13 ized agent, shall verify the return under oath. The tax com-
14 missioner for good cause shown, may, on written applica-
15 tion of a taxpayer, extend the time for making any return
16 required by the provisions of this article.
Sec. 22. Consolidated Returns. A person engaging in two or more places in the same business or businesses of like character, taxable hereunder, shall file consolidated returns covering all such business activities engaged in within this state.

Sec. 23. Keeping and Preservation of Records. A person liable for the tax imposed hereunder shall keep the records, render under oath the statements, make returns, and comply with the rules and regulations that the tax commissioner may, from time to time, prescribe. The tax commissioner may require such records, statements, or returns, upon notice, from any person in order to determine whether he is liable to the tax hereunder. The tax commissioner may require preservation of records for not to exceed five years, and may, at any time through his authorized agents, inspect all books and accounts of the taxpayer, including banking accounts, which in any way enter into the record of the business out of which the tax imposed herein arises.

Sec. 24. Assessment and Collection of Tax When Return Incomplete. If the tax commissioner has reason to believe that the tax imposed by this article is insufficiently returned by a taxpayer, either because the taxpayer has failed or refused to make a return, or has made an incomplete return, or has made a return which is deficient or otherwise erroneous, he may proceed to determine the amount of the tax for which the taxpayer is liable. The tax commissioner may make such audits and investigations, and take such evidence and testimony as may be necessary for the purpose of his investigation.

As a result of his investigation, the tax commissioner may assess the amount of the tax which he finds to be due. After ten days' notice in writing to the person assessed, he may proceed to collect the tax.

Sec. 25. Records of Nonresidents Doing Business in State. A nonresident person or foreign corporation engaged in a business within this state in the conduct of which the tax levied by this article becomes due, shall keep within this state adequate records concerning the operation of the business, and all taxes collected in the course of the business. The amount of the tax collected shall not be transmitted outside of this state without the written consent of, and in accordance with the conditions prescribed by the tax commissioner.
Sec. 26. Records of Tax Commissioner; Preservation of Returns. The tax commissioner shall keep full and accurate records of all moneys received by him. He shall preserve all returns filed with him hereunder for five years.

Sec. 27. When Information Obtained is Confidential. Unless, in compliance with the judicial order, or as may be required by the proper administration hereof, the tax commissioner, his agents and employees and former tax commissioners, agents and employees shall not divulge facts or information obtained in the administration hereof.

Sec. 28. Rules and Regulations of Tax Commissioner. The tax commissioner shall have the authority to promulgate and enforce reasonable rules and regulations necessary to the administration and enforcement of this article.

Sec. 29. Penalty for Violations. Except as herein otherwise provided a person who wilfully violates any of the provisions of this article, or any lawful rule or regulation promulgated under it, shall be guilty of a misdemeanor and upon conviction, shall be fined not less than fifty nor more than five thousand dollars.

Sec. 30. Proceeds of Tax for Free Schools. The proceeds of the tax imposed by this article shall be devoted to the support of the free schools, and be expended in such manner as may be provided by law.

Sec. 31. Provisions of Act Severable. The provisions of this act shall be construed as severable and if any part is held to be unconstitutional, or for any other reason invalid, the remaining provisions shall not be affected. If the application of a tax imposed by this act to any particular taxpayer or to period of time is held to be invalid, its application to other taxpayers and to other periods of time shall not be affected thereby.
CHAPTER 109

(Senate Bill No. 241—By Mr. Howard, by request)

AN ACT to amend and reenact sections three and twenty-two, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to the state gasoline tax.

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


Section
3. Amount, duration, measure and lien of tax.
22. Use of tax for roads and road bonds; refunds.

Be it enacted by the Legislature of West Virginia:

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

Section 3. Amount, Duration, Measure and Lien of Tax.
2. There is hereby imposed upon every person who is a distributor, retail dealer or importer under the terms of this article, an excise tax based on the quantities of all gasoline sold, purchased or used in this state on and after the first day of April, one thousand nine hundred thirty-seven (except as herein provided), which tax shall until July one, one thousand nine hundred thirty-nine, be equivalent to five cents per gallon thereof and shall be paid as hereinafter provided. On and after the first day of July, one thousand nine hundred thirty-nine, the tax herein provided shall be equivalent to four cents per gallon.
13. A distributor shall use as the measure of the tax the gallonage sold, for whatever use, in this state (as provided in section four of this article), and the gallonage used by him in motor vehicles operated in this state. A retail dealer shall use as the measure of the tax the gallonage purchased or obtained by him.
18. An importer shall use as the measure of the tax the gallonage
purchased by him for use in motor vehicles to be operated in this state.

The special excise tax imposed by this article shall be paid by the person first selling, or using in this state, the gallonage of gasoline which under this article shall form the measure of such tax; but in no case shall any such gallonage be used more than once in determining taxes due hereunder. The taxes imposed by this article are in addition to all other taxes now imposed or prescribed by law.

The excise tax imposed by this article shall accrue from the date of sale or purchase of the gasoline, whichever accords with the method of reporting required by this article, or conforms with the election of the taxpayer in the case of distributors; and the penalties imposed by section thirteen of this article shall accrue from the date they become due and payable and such taxes and penalties shall be and remain a charge and lien upon the properties, both personal and real, of the person liable to pay such taxes and penalties, superior to any lien created after such taxes and penalties accrue. No title shall vest or be transferred as to any such property, except subject to the lien for such taxes and penalties, and no such property shall be transferred or delivered, in whole or in part, until after payment to the tax commissioner is made of the amount of such taxes and penalties due.

Sec. 22. Use of Tax for Roads and Road Bonds; Refunds.

All taxes collected under the provisions of this article shall be paid into the state treasury and shall be used only for the purpose of the reconstruction, maintenance and repair of roads and highways, and for the payment of the interest and sinking fund on state bonds issued for road purposes.

Unless required for such bond requirements, one-fifth of the taxes collected under the provisions of this article shall until July one, one thousand nine hundred thirty-nine, be used for secondary roads.

Any moneys received by the state and required to be repaid shall be treated as moneys erroneously paid into the treasury, and refunds shall be made and be payable out of the same fund into which paid.
CHAPTER 110
(Senate Bill No. 268—By Mr. Wiseman)

AN ACT to amend and reenact section twenty, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to the taxation of gasoline.

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


Section 20. Refund of tax.

Be it enacted by the Legislature of West Virginia:

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

Section 20. Refund of Tax. Any person who shall buy, in quantities of twenty-five gallons or more at any one time, any gasoline as defined in this article, for the purpose of and the same is actually used for, operating and propelling tractors and gas engines used for agricultural purposes and threshing machines, which gasoline shall have been previously included in the measure by which the excise tax imposed by this article is determined, shall be reimbursed and repaid a sum equal to the amount of such tax, upon presenting to the tax commissioner an affidavit accompanied by a ticket or invoice from the distributor or retail dealer, showing such purchase, which affidavit shall set forth the total amount of such gasoline purchased and used by such consumer, other than in motor vehicles operated in this state, and how used; and the tax commissioner upon the receipt of such affidavit and ticket or invoice shall cause to be refunded to such consumer such tax paid on gasoline purchased and used other than for motor vehicles as aforesaid: Provided, That the tax commissioner shall cause refund to be made under authority of this section only when application for refund, as herein provided, is filed with the tax commissioner, upon forms prepared and furnished by the tax commissioner,
23 within sixty days from the date of purchase or delivery of
24 the gasoline: Provided further, That no refund shall be
25 allowed under authority of this section on gasoline purchased
26 and used for any purpose when the same shall be reused for
27 the purpose of propelling motor vehicles.

CHAPTER 111

(House Bill No. 102—Originating in the House Committee on
Taxation and Finance)

AN ACT to amend and reenact sections three, thirty, thirty-three
and forty-two, article thirteen-a, chapter eleven of the code of
West Virginia, one thousand nine hundred thirty-one, as
amended by chapter eighty-nine, acts of the Legislature, regu­
lar session, one thousand nine hundred thirty-five, relating to
personal net income tax.

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


Section
3. Tax on net income of residents.
30. Gain or loss from property sales.
33. Exemptions.
42. Reports of salaries by employers.

Be it enacted by the Legislature of West Virginia:

That sections three, thirty, thirty-three and forty-two, article
thirteen-a, chapter eleven of the code of West Virginia, one thou­
sand nine hundred thirty-one, as amended by chapter eighty-nine,
acts of the Legislature, one thousand nine hundred thirty-five, be
amended and reenacted to read as follows:

Section 3. Tax on Net Income of Residents. Every
2 resident of this state annually shall pay upon his entire
3 net income, after deducting exemptions provided in section
4 thirty-three of this article, a tax computed on the following
5 rates:
On the first one thousand dollars of net income or any part thereof, one per cent.
On the second one thousand dollars of net income or any part thereof, two per cent.
On the third one thousand dollars of net income or any part thereof, three per cent.
On all net income in excess of three thousand dollars, four per cent.

Sec. 30. *Gain or Loss from Property Sales.* The basis for determining the gain or loss from the sale or other disposition of property, real, personal or mixed, shall be, in the case of property:
1. Acquired before January first, one thousand nine hundred thirty-five, the fair market price as of that date; and if acquired after January first, one thousand nine hundred thirty-five, the actual cost.
2. Included in the last preceding inventory used in determining net income in a return under this article, the inventory value.
The final distribution to the taxpayer of the assets of a corporation shall be treated as a sale of the stock or securities of the corporation owned by him, and the gain or loss shall be computed accordingly.

Sec. 33. *Exemptions.* There shall be deducted from net income the following exemptions:
1. In the case of a single individual, a personal exemption of one thousand dollars;
2. In the case of a head of the family or a married person living with husband or wife, a personal exemption of two thousand dollars. A husband and wife living together shall receive but one personal exemption. If such husband and wife make separate returns, the personal exemption may be taken by either or divided between them;
3. Three hundred dollars for each individual (other than husband and wife) dependent upon and receiving his chief support from the taxpayer, if such dependent individual is under eighteen years of age or is incapable of self-support because mentally or physically defective;
4. If the status of the taxpayer, insofar as it affects the
17 exemptions allowed by this section, changes during the tax
18 year, such exemptions shall be apportioned, under rules and
19 regulations prescribed by the tax commissioner.

Sec. 42. Reports of Salaries by Employers. In order
2 to aid in the effective administration of this article and
3 the procurement of complete returns, the tax commissioner,
4 under such reasonable rules and regulations as are necessary,
5 may require a person who pays during the calendar year,
6 within this state, in excess of one thousand dollars to a single
7 person or in excess of two thousand dollars to a married per-
8 son actually living with husband or wife, as salary, com-
9 pensation for personal services, or for fixed or determined
10 gain, profit or income, to report every such payment and the
11 name and address of the recipient, if known, to such tax com-
12 missioner.

CHAPTER 112
(Senate Bill No. 90—By Mr. Paull, by request)

AN ACT to amend and reenact section four, article eleven, chapter
eleven of the code of West Virginia, one thousand nine hundred
thirty-one, as amended by chapter thirty-six, acts of the Legis­
lature, first extraordinary session, one thousand nine hundred
thirty-three, relating to inheritance and transfer taxes.

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

Article 11. Inheritance and Transfer Taxes.

Section
4. Exemptions.

Be it enacted by the Legislature of West Virginia:

That section four, article eleven, chapter eleven of the code of
West Virginia, one thousand nine hundred thirty-one, as amended
by chapter thirty-six, acts of the Legislature, first extraordinary
session, one thousand nine hundred thirty-three, be amended and
reenacted to read as follows:
Section 4. Exemptions

(a) All property transferred to the state or to any county, school district, or municipal corporation thereof for public purposes shall be exempt from taxation under this article.

(b) No transfer of less than one hundred dollars shall be taxable under this article. For this purpose all transfers from a decedent to the same transferee shall be treated as a unit.

(c) Property transferred to a widow of a deceased person shall be allowed exemptions from taxes under this article as follows: Transfers not in excess of fifteen thousand dollars shall be entirely exempt; transfers in excess of fifteen thousand dollars up to and not exceeding twenty-five thousand dollars shall have an exemption determined by subtracting from fifteen thousand dollars, the difference between fifteen thousand dollars and the amount of the transfer; there shall be no exemption in the case of a transfer in excess of twenty-five thousand dollars.

(d) Property transferred to any person within the classes described in subdivision (a) of section two, other than a wife, shall be allowed exemption from taxes under this article as follows: Transfers not in excess of five thousand dollars shall be entirely exempt; transfers in excess of five thousand dollars up to and not exceeding ten thousand dollars shall have an exemption determined by subtracting from five thousand dollars the difference between five thousand dollars and the amount of the transfer; transfers in excess of ten thousand dollars shall be allowed no exemption.

The decedents of any child referred to in subdivision (a) of section two shall be allowed the exemption of the person they represent per stirpes and not per capita.

(e) There shall be exempt from taxation under this article all property transferred to a person or corporation, in trust or for use solely for educational, literary, scientific, religious or charitable purposes: Provided, however, That the property so transferred for the purpose herein mentioned and the rentals, profits and proceeds thereof, are used exclusively in this state.
AN ACT to amend and reenact section ten, article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by section ten, chapter thirty-seven, acts of the Legislature, regular session, one thousand nine hundred thirty-three, relating to listing of property of public utilities for the purpose of taxation.

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

Article 3. Assessments Generally.

Section 10. Failure to list property, etc.; collection of penalties and forfeitures.

Be it enacted by the Legislature of West Virginia:

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

Section 10. Failure to List Property, Etc.; Collection of Penalties and Forfeitures. If any person, firm or corporation, including public service corporations whose duty it is by law to list any real estate or personal property for taxation, shall refuse to furnish a proper list thereof or refuse to furnish a list within the time required by law, or to make such oath as required by this chapter; or if any person, firm or corporation, including public service corporations, shall refuse to answer or shall answer falsely any question asked by the assessor or by the tax commissioner, or shall fail or refuse to deliver any statement required by law, he or it shall forfeit not less than twenty-five nor more than one hundred dollars, and shall be denied all remedy provided by law for the correction of any assessment made by the assessor or by the board of public works. If any person, firm or corporation, including public service corporations, required by law to make return of prop-
property for taxation, whether such return is to be made to the as-
seessor, the board of public works, or any other assessing officer
or body, fails to return a true list of all property which should
be assessed in this state, including money, notes, bonds, bills
and accounts receivable, stocks and any other intangible per-
sonal property, such person, firm or corporation, in addition to
all other penalties provided by law, shall forfeit five per cent of
the value of the property not returned and not otherwise taxed
in this state. A forfeiture as to all property aforesaid may be
enforced for any such default occurring in any year not ex-
ceeding five prior to the time the same is discovered, but no
liability to penalty or forfeiture as to moneys, notes, bonds,
bills and accounts receivable, stocks and other intangible per-
sonal property arising prior to the first day of January, nine-
teen hundred thirty-three, shall be enforceable on behalf of the
state or of any of its subdivisions. Each failure to make
a true return as herein required shall constitute a separate
offense, and a forfeiture shall apply to each of them, but
all such forfeitures, to which the same person, firm or
corporation is liable, shall be enforced in one proceeding
against such person, firm or corporation, or against the
estate of any deceased person, and shall not exceed twenty-
five per cent of the value of the property not returned.
The state tax commissioner shall collect such forfeitures
without suit, but if unable so to do, shall instruct the prose-
cuting attorney of the county in which the defaulting tax-
payer resides or has its principal office, or in which such
property should have been returned for taxation, to enforce
collection. It shall thereupon be the duty of such prosecut-
ing attorney to institute and prosecute proceedings in the
name of the state of West Virginia against the defaulting tax-
payer, or, in case of a decedent, against his personal
representative, in the circuit court upon motion, whereof
the defendant shall have at least twenty days' notice.
Either party shall have the right to have the issue tried
by jury, and the state, as well as the defendant, shall have
the right to an appeal. Ten per cent of the amount collected
and an attorney's fee of ten dollars to be taxed as a part
of the cost shall be collected and paid over by the prosecut-
ing attorney to the sheriff of the county and by him credited
to the general county fund. No special counsel shall be
employed to institute or conduct such suits. Any prosecuted
attorney failing or refusing to perform the duties re-
quired of him by this section shall forfeit the sum of one
hundred dollars to be recovered against him by the state
tax commissioner in the name of the state of West Vir-
ginia upon twenty days’ notice by motion in any court
having jurisdiction. The amount collected in any such suit
after deducting ten per cent as aforesaid, or the entire sum
if collected by the tax commissioner without suit, shall be
paid over to the sheriff of the proper county and his receipt
taken therefor. The sheriff shall apportion such fund among
the state, county, district, school district, and municipalities
which would have been entitled to the taxes upon such prop-
erty if it had been assessed, in proportion to the rates of
taxation for each such levying unit for the year in which
the judgment was obtained bears to the sum of the rates
for all. When the list of property returned by the appraisers
of the estate of any deceased person shows an amount greater
than the last assessment list of such deceased person next
preceding the appraisal of his estate, it shall be prima facie
evidence that such deceased person returned an imperfect
list of his property: Provided, however, That any person
liable for the tax of his personal representative, may always
be permitted to prove by competent evidence that the discrep-
cy between such assessment list and the appraisal
of the estate is caused by a difference of valuation returned
by the assessor and that made by the appraisers of the
same property or by property acquired after assessment,
or that any property enumerated in the appraisers’ list had
been otherwise listed for taxation, or that it was not liable for
taxation. Any judgment recovered under this section shall
be a lien, from the time of the service of the notice, upon all
real estate and personal property of such defaulting taxpayer,
owned at the time or subsequently acquired, in preference to
any other lien.
CHAPTER 114
(Senate Bill No. 152—By Mr. Howard)

AN ACT to amend and reenact section one, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to businesses requiring a state license.

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

Article 12. License Taxes.

Section 1. Businesses requiring license.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Businesses Requiring License. No person without a state license therefor, shall
2 (a) Keep a hotel, eating house, or restaurant; or
3 (b) Keep, for public use or resort, a bowling alley, pool table, billiard table, bagatelle table, or any table of like kind; or
7 (c) Sell at wholesale or retail patent or proprietary medicines in incorporated cities and towns; or
9 (d) Exhibit any circus, menagerie, circus and menagerie combined, theatrical performance, street or other carnival, or public show, to which admission is obtained for money or reward, except for the benefit or under the auspices of a volunteer fire department; or
14 (e) Run or operate, for profit, a merry-go-round, or roller coaster, scenic railway, or like device, or keep for public use or resort, a shooting gallery, or a skating rink; or run or operate a cane rack, doll baby rack, knife rack, striking machine, jingle board, punch board, artful dodger, candy wheel, or other scheme or device by which merchandise or other things of value are disposed of by game of chance, or like device, or human laundry device, or dip device; or
(f) Act as a hawker or peddler; but bona fide farmers vending farm products shall not be required to have a license; or

(g) Act as auctioneer; or

(h) Practice the business of real estate agent, stockbroker, or other broker, by buying or selling for others, stocks, securities, or any other property for a commission or reward; or

(i) Practice the business of money broker, buying or selling underecurrent or depreciated money or funds, or exchanging one kind of money or funds for another, for benefit or reward; or

(j) Practice the business of pawnbroker by lending money or other things for profit, for or on account of personal property deposited with the lender in pledge; or

(k) Sell, or barter, or offer, or expose for sale or barter, any patent right; or

(l) Sell, offer, or expose for sale, to merchants, trading stamps, premium stamps or certificates of like nature or character, or undertake with merchants to redeem such stamps or certificates in money or goods; or

(m) Being a traveling agent, canvasser or salesman, or itinerant vendor, sell any sewing machines, pianos, organs, victrolas, phonographs, talking machines, or similar musical instruments, or, sell or contract to sell any books, maps, prints, pamphlets, and periodicals, except such books, pamphlets that be of a religious or ethical nature, whether manufactured within or without the state; or

(n) Sell, offer or expose for sale, or solicit, or receive orders for manufactured tobacco, snuff, cigars, cigarettes, or other preparations of tobacco, or cigarette paper or wrapper, at wholesale or retail; or

(o) Carry on the business of junk dealer, or act as agent, solicitor, canvasser, or salesman, for any junk dealer; or

(p) Sell pistols, revolvers, or weapons of like kind; or

(q) Maintain or occupy any house boat, or like structure or vessel, upon or along the bed, banks or shores of any navigable stream; or

(r) Maintain any slot machine, or other automatic device, which, for the same profit or reward, in each case and without any violation of the law, furnishes music, or exhibits
BUSINESSES REQUIRING STATE LICENSE

pictures, or provides facilities for weighing, or supplies any merchandise or other thing or renders any service; but no slot machine or other automatic device with respect to which, or its operation, service, or supplies, there is any element of chance (being a gaming table, within the meaning of section one, article ten, chapter sixty-one of the code) shall be protected by any license; or

(s) Being a corporation, heretofore or hereafter chartered under the laws of this state, whether its principal place of business or chief works be within or without the state, do, or attempt to do, any business by virtue of its charter or certificate of incorporation; or

(t) Being a corporation chartered or organized under the laws of any other state or country, hold property or transact business in this state; or being a corporation, hold more than ten thousand acres of land in this state; or

(u) Solicit, carry on or practice the business of a collection agency, or association, whether it be a person, firm or corporation; or

(v) Keep or maintain a public park, admission to which is obtained for money or reward; or

(w) Carry on the business of a labor agency; or

(x) Manufacture, sell or distribute, either at retail or wholesale, any and all preparations of every kind, character or nature, such as are prepared, mixed and sold at soda fountains, and all such preparations as bevo, pablo, milo, moxie, ginger ale, near beer, coca cola, pop, and all other preparations of like nature and character commonly known as soft drinks; or

(y) Keep or maintain, for public use or resort, a taxi cab stand or any place of like character.

Nothing in this article contained, and no license or payment under the provisions hereof, shall be taken to legalize any act which otherwise may be in violation of law, or exempt any person from any penalty prescribed for such violation.
CHAPTER 115
(House Bill No. 319—By Mr. LaFon)

AN ACT to amend article two, chapter two of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section to be designated section twelve, relating to headings of acts of the Legislature.

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

Article 2. Legal Holidays; Construction of Statutes; Definitions.

Section 12. Headings, etc., not part of act.

Be it enacted by the Legislature of West Virginia:

That article two, chapter two of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new section twelve as follows:

Section 12. Headings, Et Cetera, Not Part of Act. The chapter, article or section headings, headlines or headnotes of any act of the Legislature, whether in the act at the time of passage or inserted after passage by the Clerk of the House of Delegates in editing and compiling the acts of the Legislature, shall be construed as mere catchwords and shall not be deemed or taken to be titles of such chapters, articles or sections, or as any part of the act.
CHAPTER 116
(Senate Bill No. 126—By Mr. Paull, by request)

AN ACT to amend and reenact section seven, article two, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to annual meetings of assessors.

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

Article 2. Assessors.

Section 7. State and local meetings.

Be it enacted by the Legislature of West Virginia:

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

Section 7. State and Local Meetings. There shall be an annual meeting of the assessors, which meeting the assessors of the several counties of the state shall attend. The date and place of such meeting shall be fixed by the tax commissioner and due notice thereof shall be given to the assessors of the state. The tax commissioner shall prepare a program of matters pertaining to assessments and work of the assessors to be discussed at such meeting and he shall attend and be ex officio chairman of the same. The meeting shall continue for a period of two days. The actual necessary expense incurred by any assessor in attendance at such meeting shall be paid out of the county treasury of the county of the assessor so attending. Before such payment, however, the assessor shall file an itemized statement, which shall be sworn to, of his actual and necessary expenses, with the clerk of the county court.

In addition to the meeting hereinbefore provided for, there shall be at least two meetings of each assessor and his deputies between the first day of the assessment year and the twentieth day of June, of the current year, at such time and place as the assessor shall designate, of which meeting all
21 deputies shall have notice, for the purpose of securing uni-
22 form valuation of property, both real and personal, through-
23 out the entire county, according to the true and actual value.
24 The last meeting shall be held after the work of listing prop-
25 erty has been completed, at which meeting all the lists shall
26 be thoroughly gone over, and, if found to be erroneous, either
27 in the amount of property, real or personal, assessed to any
28 person, firm or corporation, or in the value given to any item
29 of property by the taxpayer shall be revised and corrected by
30 placing on such list the omitted property and giving to it, as
31 well as to any property that has been listed, but which has
32 been incorrectly valued, the true and actual value thereof
33 according to the rule prescribed by law and by omitting
34 property improperly listed.

CHAPTER 117
(House Bill No. 70—By Mr. Fite, by request)

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

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

Article 2. Official and Other Bonds.

Section
1. When official bonds to be given.

Be it enacted by the Legislature of West Virginia:

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

Section 1. When Official Bonds to be Given. Any person
2 appointed or elected to any office or position in this state
3 who is required by any statute to enter into or give bond,
unless otherwise provided, shall give his official bond within sixty days after he has been appointed or duly declared elected; but if at the time of his appointment or election he shall be absent from the state, circuit, county or district for which he is appointed or chosen, he shall give such bond within sixty days after notice of his appointment or election. If no term of the court or other tribunal authorized to take and approve such bond shall be held within sixty days after the appointment or declaration of the election of an officer required by law to give bond and qualify before such court or tribunal, or after the person, if absent from the state, county or district, is notified of his appointment or election, he shall give bond at the first term of such court or other tribunal next thereafter held: Provided, That the state executive officers shall qualify on or before the first Monday after the second Wednesday of January next after their election: Provided further, That any person appointed or elected to fill a vacancy in any office shall give such bond within ten days after notice of such appointment or election, if the court or other tribunal authorized to take and approve such bond shall sit within said period; otherwise, at the first sitting of such court or other tribunal after notice of such appointment or election. No person shall enter into or discharge any of the duties of his office until he shall have given the bond required of him by law.
AN ACT to amend and reenact sections four and six, article two; and section nine, article three; all of chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to the issuance and sale of refunding bonds by counties, districts, municipalities and other political divisions.

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

Article 2. Refunding Bonds.

Be it enacted by the Legislature of West Virginia:

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

Article 2. Refunding Bonds.

Section 4. Disposition of bonds; cancellation of original bonds.

Section 4. Disposition of Bonds; Cancellation of Original Bonds. The governing body of the political sub-division issuing bonds under this article shall first offer the bonds to the secretary of the state for purchase by any of the governmental agencies of the state authorized by law to purchase such bonds, in accordance with the provisions of section nine, article three of this chapter. If the state does not purchase any or all of the bonds so offered, the governing body may sell the same or any part thereof and collect the proceeds, or such bonds may be delivered to the holder or holders of the bonds to be refunded in exchange therefor.

It is the intention of this article to authorize political divisions, to issue bonds for the purpose of refunding outstanding bonds without thereby contracting any additional indebtedness, and it shall be conditional upon the delivery of
any refunding bonds that a like principal amount of the bonds
to be refunded be cancelled and paid simultaneously with
the issuance and delivery of such refunding bonds.

Sec. 6. Issuance Without Election or Publication. The issu-
ance and sale of exchange bonds in this article authorized
may be had without an election or publication of any notice.


Sec. 9. Offer of bonds to commission; prior right of board of public works
to purchase.

Sec. 9. Offer of Bonds to Commission; Prior Right of Board
of Public Works to Purchase. Every governing body of a po-
litical division issuing bonds under the authority of this chap-
ter, including refunding bonds issued under the provisions of
article two of this chapter, shall offer the same in writing to
the state sinking fund commission prior to advertising the
same, and the state sinking fund commission shall, within ten
days after receiving such offer, accept the same and purchase
such bonds or any portion of the same at par and accrued in-
terest or, reject such offer: Provided, however, That nothing in
this article shall prohibit the state board of public works
from purchasing bonds as an investment of the workmen’s
compensation fund as provided by the workmen’s compe-
sation act. The offer to and the acceptance by the state sink-
ing fund commission shall be subject to the right of the board
of public works to first purchase.
CHAPTER 119

(SENATE BILL NO. 228—BY MR. PAULL, BY REQUEST)

AN ACT validating, ratifying, approving and confirming bonds and other instruments or obligations heretofore issued, and validating, ratifying, approving and confirming certain proceedings heretofore taken, by public bodies of this state for public works projects.

[Passed March 10, 1937; in effect ninety days from passage. Approved by the Governor.]

Section 1. How act cited.

Section 2. Definitions.

The term "public body" shall mean any city, town or county or the state acting through the West Virginia board of control.

The term "bonds" shall mean bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, including all instruments or obligations payable from a special fund.

Section 3. Prior Bond Issues Validated. All bonds heretofore issued for the purpose of financing or aiding in the financing of any work, undertaking or project by any public body to which any loan or grant has heretofore been made by the United States of America through the federal emergency administrator of public works for the purpose of financing or
aiding in the financing of such work, undertaking or project,
including all proceedings for the authorization and issuance
of such bonds, and the sale, execution and delivery thereof, are
hereby validated, ratified, approved and confirmed, notwith-
standing any lack of power (other than constitutional) of such
public body, or the governing board or commission or officers
thereof, to authorize and issue such bonds, or to sell, execute
or deliver the same, and notwithstanding any defects or irregu-
larities (other than constitutional) in such proceedings, in-
cluding the publication of ordinances or resolutions, the hold-
ing of meetings to hear protests pursuant to such publication,
the description of the work, undertaking or project in such or-
dinances or resolutions, the location of such work, undertaking
or project, whether within or without the limits of the state,
or in the sale, execution or delivery of such bonds, and not-
withstanding that the members of such governing body or
commission or officers may not have been elected, appointed
or qualified for the offices they purported to hold; and such
bonds are and shall be binding, legal, valid and enforceable
obligations of such public body.

Sec. 4. Prior Proceedings for Pending Bond Issues Validat-
ed. All proceedings, which have been taken prior to the
date this act takes effect, for the purpose of financing or aid-
ing in the financing of any work, undertaking or project by
any public body to which any loan or grant is under contract
to be made by the United States of America through the fed-
eral emergency administrator of public works for the purpose
of financing, or aiding in the financing, of such work, under-
taking or project, including all proceedings for the author-
ization and issuance of bonds, and for the sale, execution and
delivery thereof, are hereby validated, ratified, approved, and
confirmed, notwithstanding any lack of power (other than con-
stitutional) of such public body or the governing body or
commission or officers thereof, to authorize and issue such
bonds, or to sell, execute or deliver the same, and notwithstand-
ing any defects or irregularities (other than constitutional) in
such proceedings, including the publication of ordinances or
resolutions, the holding of meetings to hear protests pursuant
to such publication, the description of the work, undertaking
or project in such ordinances or resolutions, the location of
such work, undertaking or project, whether within or without the limits of the state, and notwithstanding that the members of such governing body may not have been elected, appointed or qualified for the office they purported to hold.

CHAPTER 120

(Senate Bill No. 229—By Mr. Paull, by request)

AN ACT to authorize and regulate the issuance of bonds for the purpose of refinancing, or of refinancing and improving, revenue-producing works, undertakings, and projects by cities, towns, counties, the state acting through the West Virginia board of control, the state and agencies thereof having power to issue revenue obligations, and to provide for the payment of such bonds.

[Passed March 10, 1937; in effect ninety days from passage. Approved by the Governor.]

Section 1. How act cited.
2 Definitions.
3 Purpose of refunding bonds.
4 Resolution by governing body for issuance.
5 Form of bonds; negotiability.
6 Validity.
7 Sale or exchange.
8 Security for payment; prior issues not impaired.
9 Payable solely from revenues of enterprise.
10 Tax exempt; exceptions.
11 Fiscal agent.
12 Duties of public body and officers as to bonds and rights of bondholders.
13 Provisions in resolution authorizing bonds.
14 Receivership upon default; termination.
15 Suits by bondholders.
16 Act complete authority for refunding bonds.
17 Provisions severable.

Be it enacted by the Legislature of West Virginia:

Section 1. How Act Cited. This act may be cited as "The revenue bond refinancing act of one thousand nine hundred thirty-seven."

Sec. 2. Definitions. The following terms wherever used or referred to in this act shall have the following meaning, unless
a different meaning plainly appears from the context:

The term "public body" shall mean any city, town, or county, the state acting through the West Virginia board of control, or other agencies thereof having power to issue revenue obligations.

The term "governing body" shall mean board, council or other body having power to borrow money on behalf of a public body.

The term "law" shall mean any act or statute, general, special or local, of this state, including, without being limited to, the charter of any public body.

The term "enterprise" shall mean any work, undertaking, or project which the public body is or may hereafter be authorized to construct and from which the public body has heretofore derived or may hereafter derive revenues, for the refinancing, or the refinancing and improving of which enterprise, refunding bonds are issued under this act, and such enterprise shall include all improvements, betterments, extensions and replacements thereto, and all appurtenances, facilities, lands, rights in land, water rights, franchises, and structures in connection therewith or incidental thereto.

The term "federal agency" shall include the United States of America, the president of the United States of America, the federal emergency administrator of public works, reconstruction finance corporation, or any agency, instrumentality or corporation of the United States of America, which has heretofore been or may hereafter be designated or created by or pursuant to any act or acts or joint resolution or joint resolutions of the congress of the United States of America, or which may be owned or controlled, directly or indirectly, by the United States of America.

The term "improving" shall mean reconstructing, replacing, extending, repairing, bettering, equipping, developing, embellishing or improving; or any one or more, or all of the foregoing.

The term "refunding bonds" shall mean notes, bonds, certificates or other obligations of a public body issued pursuant to this act, or pursuant to any other law, as supplemented by, or in conjunction with this act.

The term "refinancing" shall mean funding, refunding, paying or discharging, by means of refunding bonds or the
proceeds received from the sale thereof, all or any part of
any notes, bonds, or other obligations heretofore or here-
after issued to finance or to aid in financing the acquisition,
construction or improving of an enterprise and payable
solely from all or any part of the revenues thereof, includ-
ing interest thereon in arrears or about to become due,
whether or not represented by coupons or interest cer-
tificates.

The term "revenues" shall mean all fees, tolls, rates,
rentals and charges to be levied and collected in connection
with and all other income and receipts of whatever kind
or character derived by the public body from the operation
of any enterprise or arising from any enterprise.

The term "holder of bonds" or "bondholder" or any
similar term shall mean any person who shall be the bearer
of any outstanding refunding bond or refunding bonds
registered to bearer or not registered, or the registered
owner of any such outstanding bond or bonds which shall
at the time be registered other than to bearer.

Words importing the singular number shall include the
plural number in each case and vice versa, and words im-
porting persons shall include firms and corporations.

Sec. 3. Purpose of Refunding Bonds. Any public body
shall have power and is hereby authorized to refinance, or to
refinance and improve, any enterprise, and for such purpose
or purposes to borrow money and issue refunding bonds from
time to time.

Sec. 4. Resolution by Governing Body for Issuance. The
refunding bonds shall be authorized by resolution or resolu-
tions of the governing body of the public body. Such resolution
or resolutions may be adopted at a regular or special
meeting, and at the same meeting at which they are intro-
duced, by a majority of all the members of the governing
body then in office. Such resolution or resolutions shall take
effect immediately upon the adoption thereof. No other pro-
cedings or procedure of any character whatever shall be re-
quired for the issuance of refunding bonds by the public body.

Sec. 5. Form of Bonds; Negotiability. The refunding bonds
may be issued in one or more series, may bear such date or
dates, may mature at such time or times not exceeding the
period of usefulness of the enterprise, as determined by the
governing body in its discretion, not in any event exceeding
forty years from their respective dates; may bear interest at
such rate or rates not exceeding the maximum rate of inter-
est borne by the notes, bonds, or other obligations refinanced
thereby; may be in such denomination or denominations, may
be in such form either coupon or registered, may carry such
registration and conversion privileges, may be executed in
such manner, may be payable in such medium of payment, at
such place or places, may be subject to such terms of re-
demption, with or without a premium, may be declared or be-
come due before the maturity date thereof, may provide for
the replacement of mutilated, destroyed, stolen, or lost bonds,
may be authenticated in such manner and upon compliance
with such conditions; and may contain such other terms and
covenants, as may be provided by resolution or resolutions
of the governing body of the public body. Notwithstanding
the form or tenor thereof, and in the absence of an express
recital on the face thereof that the bond is non-negotiable,
all refunding bonds shall at all times be, and shall be treated
as, negotiable instruments for all purposes.

Sec. 6. Validity. Refunding bonds bearing the signatures
of officers of the public body in office on the date of the sign-
ing thereof shall be valid and binding obligations of the pub-
lic body for all purposes, notwithstanding that before the de-
ivery thereof any or all the persons whose signatures appear
thereon shall have ceased to be officers of the public body,
the same as if such persons had continued to be officers
of the public body until after the delivery thereof. The
validity of the authorization and issuance of the refunding
bonds shall not be dependent on or affected in any way
by proceedings taken for the improving of any enterprise,
for the refinancing and improving of which the refund-
ing bonds are to be issued, or by contracts made in con-
nection with the improving of any such enterprise. Any
resolution authorizing refunding bonds may provide that any
such refunding bond may contain a recital that such re-
funding bond is issued pursuant to this act, and any re-
funding bond containing such recital under authority of any
such resolution shall be conclusively deemed to be valid and
to have been issued in conformity with the provisions of this
act.

Sec. 7. Sale or Exchange. The refunding bonds may be sold
or exchanged in installments at different times, or an entire
issue or series may be sold or exchanged at one time. Any
issue or series of refunding bonds may be exchanged in part
or sold in part in installments at different times or at one time.
The refunding bonds may be sold or exchanged at any time on,
before, or after the maturity of any of the outstanding notes,
bonds, certificates or other obligations to be refinanced
thereby.

If the governing body determines to exchange any refund-
ing bonds, such refunding bonds may be exchanged privately
for and in payment and discharge of any of the outstanding
notes, bonds or other obligations of the public body
issued to finance or to aid in financing the acquisition, the
construction, the improving, the refinancing, or the improving
and refinancing, of an enterprise. The refunding bonds
may be exchanged for a like or greater principal amount
of such notes, bonds or other obligations of the public body,
except that the principal amount of the refunding bonds
may exceed the principal amount of such outstanding notes,
bonds, or other obligations to the extent necessary or advis-
able, in the discretion of the governing body, to fund interest
in arrears or about to become due. The holder or holders
of such outstanding notes, bonds, or other obligations need
not pay accrued interest on the refunding bonds to be de-
levered in exchange therefor if, and to the extent that
interest is due or accrued and unpaid on such outstanding
notes, bonds, or other obligations to be surrendered.

If the governing body determines to sell any refunding
bonds, such refunding bonds shall be sold at not less than
par at public or private sale in such manner and upon such
terms as the governing body shall deem best for the interests
of the public body.

Sec. 8. Security for Payment; Prior Issues Not Impaired.
The refunding bonds shall be special obligations of the public
body and shall be payable from and secured by a lien upon
the revenues of the enterprise, as shall be more fully de-
scribed in the resolution or resolutions of the governing body
authorizing the issuance of the refunding bonds, having due
regard to the cost of operation and maintenance of the enter-
prise and the amount or proportion, if any, of the revenues of
the enterprise previously pledged, and any public body shall
have power by resolution of its governing body to pledge for
the security of the refunding bonds a fixed amount without
regard to any fixed proportion of the gross revenues of the en-
terprise.

As additional security for any issue of refunding bonds
hereunder, or any part thereof, any public body shall have
power, and is hereby authorized to, by resolution of its gov-
erning body, confer upon the holders of the refunding bonds
all rights, powers and remedies which said holders would be
entitled to if they were the owners and had possession of the
notes, bonds or other obligations for the refinancing of which
such refunding bonds shall have been issued, including, but
not limited to, the preservation of the lien of such notes, bonds
or other obligations without extinguishment, impairment or
diminution thereof. In the event any public body exercises the
power conferred by this paragraph, each refunding bond shall
contain a recital to the effect that the holder thereof has been
granted the additional security provided by this paragraph
and each note, bond, certificate or other obligation of the pub-
lic body to be refinanced by any such refunding bonds, shall be
kept intact and shall not be cancelled or destroyed until the re-
funding bonds, and interest thereon, have been finally paid
and discharged, but shall be stamped with a legend to the
effect that such note, bond, certificate or other obligation has
been refunded pursuant to the revenue bond refinancing act
of one thousand nine hundred thirty-seven.

All refunding bonds of the same issue shall be equally
and ratably secured, without priority by reason of number,
date of bonds, of sale, of execution or of delivery, by a
lien upon the revenues of the enterprise in accordance with
the provisions of this section and the resolution or resolu-
tions authorizing the issuance of such refunding bonds.
Nothing in this section or in any other section of this act shall be deemed in any way to alter the terms of any agreements made with the holders of any outstanding notes, bonds, or other obligations of the public body, or to authorize the public body to alter the terms of any such agreements, or to impair, or to authorize the public body to impair, the rights and remedies of any creditors of the public body.

Nothing in this section or in any other section of this act shall be deemed in any way to authorize any public body to do anything in any manner or for any purpose which would result in the creation or incurring of a debt or indebtedness or the issuance of any instrument which would constitute a bond or debt within the meaning of any provision, limitation, or restriction of the constitution relating to the creation or incurring of a debt or indebtedness or the issuance of an instrument constituting a bond or a debt.

Sec. 9. Payable Solely From Revenues of Enterprise. No recourse shall be had for the payment of the refunding bonds, or interest thereon, or any part thereof, against the general fund of any public body, nor shall the credit or taxing power of any public body be deemed to be pledged thereto.

The refunding bonds, and interest thereon, shall not be a debt of the public body, nor a charge, lien or encumbrance, legal or equitable, upon any property of the public body, nor upon any income, receipts, or revenues of the public body other than such of the revenues of the enterprise as shall have been pledged to the payment thereof, and every refunding bond shall recite in substance that said bond, including interest thereon, is payable solely from the revenues pledged to the payment thereof and that the public body is under no obligation to pay the same, except from said revenues.

Sec. 10. Tax Exempt; Exceptions. The refunding bonds and the income therefrom shall be exempt from taxation, except inheritance, estate and transfer taxes.

Sec. 11. Fiscal Agent. Any public body shall have power, in connection with the issuance of refunding bonds, to appoint a fiscal agent, to provide for the powers, duties and functions and compensations of such fiscal agent, to limit the liabilities
of such fiscal agent, to prescribe a method for the resignation, removal, merger or consolidation of such fiscal agent and the appointment of a successor fiscal agent and the transfer of rights and properties to such successor fiscal agent.

Sec. 12. Duties of Public Body and Officers as to Bonds and Rights of Bondholders. In order that the payment of the refunding bonds, and interest thereon, shall be adequately secured, any public body issuing refunding bonds pursuant to this act and the proper officers, agents and employees thereof, are hereby directed, and it shall be the mandatory duty of such public body and such officers, agents and employees under this act, and it shall further be of the essence of the contract of such public body with the bondholders, at all times:

To pay or cause to be paid punctually the principal of every refunding bond, and the interest thereon, on the date or dates and at the place or places and in the manner and out of the funds mentioned in such refunding bonds and in the coupons thereto appertaining and in accordance with the resolution authorizing their issuance;

To operate the enterprise in an efficient and economical manner and to establish, levy, maintain and collect such fees, tolls, rentals, rates and other charges in connection therewith as may be necessary or proper, which said fees, tolls, rates, rentals and other charges shall be at least sufficient, after making due and reasonable allowances for contingencies and for a margin of error in the estimates, to pay all current expenses of operation, and maintenance of such enterprise; to pay the interest on and principal of the refunding bonds as the same shall become due and payable; to comply in all respects with the terms of the resolution or resolutions authorizing the issuance of refunding bonds or any other contract or agreement with the holders of the refunding bonds; and to meet any other obligations of the public body which are charges, liens, or encumbrances upon the revenues of such enterprise;

To operate, maintain, preserve and keep, or cause to be operated, maintained, preserved and kept, the enterprise and every part and parcel thereof, in good repair, working order and condition;

To preserve and protect the security of the refunding
bonds and the rights of the holders thereof, and to warrant and defend such rights against all claims and demands of all persons whomsoever;

To pay and discharge, or cause to be paid or discharged, any and all lawful claims for labor, materials and supplies, which, if unpaid, might by law become a lien or charge upon the revenues or any part thereof, prior or superior to the lien of the refunding bonds, or which might impair the security of the refunding bonds, to the end that the priority and security of the refunding bonds shall be fully preserved and protected;

To hold in trust the revenues pledged to the payment of the refunding bonds for the benefit of the holders of the refunding bonds and to apply such revenues only as provided by the resolution or resolutions authorizing the issuance of the refunding bonds, or, if such resolution or resolutions shall thereafter be modified in the manner provided therein or herein, only as provided in such resolution or resolutions as modified;

To keep proper books of record and accounts of the enterprise (separate from all other records and accounts) in which complete and correct entries shall be made of all transactions relating to the enterprise or any part thereof, and which, together with all other books and papers of the public body, shall at all times be subject to the inspection of the holder or holders of not less than ten per cent of the refunding bonds then outstanding, or his or their representatives duly authorized in writing.

None of the foregoing duties shall be construed to require the expenditure in any manner or for any purpose by the public body of any funds other than revenues received or receivable from the enterprise.

Sec. 13. Provisions in Resolution Authorizing Bonds. The governing body of any public body shall have power, in addition to the other powers conferred by this act, to insert provisions in any resolution authorizing the issuance of refunding bonds, which shall be a part of the contract with the holders of the refunding bonds, as to:

Limitations on the purpose to which the proceeds of sale of any issue of refunding bonds, or any notes, bonds or
other obligations then or thereafter to be issued to finance the improving of the enterprise, may be applied;

Limitations on the issuance and on the lien of additional refunding bonds, or additional notes, bonds or other obligations to finance the improving of the enterprise which are secured by or payable from the revenues of such enterprise;

Limitations on the right of the public body or its governing body to restrict and regulate the use of the enterprise;

The amount and kind of insurance to be maintained on the enterprise, and the use and disposition of insurance moneys;

Pledging all or any part of the revenues of the enterprise to which its rights then exists or the right to which may thereafter come into existence;

Covenanting against pledging all or any part of the revenues of the enterprise to which its right then exists or the right to which may thereafter come into existence;

Events of default and terms and conditions upon which any or all of the refunding bonds shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived;

The rights, liabilities, powers and duties arising upon the breach by it of any covenants, conditions or obligations;

The vesting in a trustee or trustees the right to enforce any covenants made to secure, to pay, or in relation to the refunding bonds, as to the powers and duties of such trustee or trustees, and the limitation of liabilities thereof, and as to the terms and conditions upon which the holders of the refunding bonds or any proportion or percentage of them may enforce any covenants made under this act or duties imposed hereby;

A procedure by which the terms of any resolution authorizing refunding bonds, or any other contract with bondholders, including but not limited to an indenture of trust or similar instrument, may be amended or abrogated, and as to the amount of refunding bonds the holders of which must consent thereto, and the manner in which such consent may be given;

The execution of all instruments necessary or convenient in the exercise of the powers granted by this act or in
the performance of the duties of the public body and the
officers, agents and employees thereof;
Refraining from pledging or in any manner whatever
claiming or taking the benefit or advantage of any stay or
extension law whenever enacted, or at any time hereafter in
force, which may affect the duties or covenants of the public
body in relation to the refunding bonds, or the performance
thereof, or the lien of such refunding bonds;
The purchase out of any funds available therefor, in-
cluding, but not limited to, the proceeds of refunding
bonds, of any outstanding notes, bonds or obligations, in-
cluding, but not limited to, refunding bonds, and the price
or prices at which, and the manner in which, such purchases
may be made;
Any other acts and things as may be necessary or con-
venient or desirable in order to secure the refunding bonds,
or as may tend to make the refunding bonds more market-
able;
The manner of collecting the fees, tolls, rates, rentals
or other charges for the services, facilities or commodities
of the enterprise, and the combining in one bill of the fees,
tolls, rates, rentals or other charges for the services,
facilities or commodities of the enterprise with the fees,
tolls, rates, rentals or charges for other services, facilities
or commodities afforded by the public body; and
The discontinuance of the services, facilities or commodi-
ties of the enterprise as well as any other services, facilities
or commodities afforded by the public body, in the event
that the fees, tolls, rates, rentals or other charges for the
services, facilities or commodities of the enterprise are not
paid.
Nothing in this section shall be construed to authorize any
public body to make any covenants, to perform any act or to
do anything which shall require the expenditure in any manner
or for any purposes by the public body of any funds other
than revenues received or receivable from the enterprise.

Sec. 14. Receivership Upon Default; Termination. In the
event that the public body shall default in the payment of the
principal or interest on any of the refunding bonds after
the same shall become due, whether at maturity or upon call
for redemption, and such default shall continue for a period of thirty days, or in the event that the public body or the governing body or officers, agents or employees thereof shall fail or refuse to comply with the provisions of this act, or shall default in any agreement made with the holders of the refunding bonds, any holder or holders of refunding bonds, or trustee therefor, shall have the right to apply in an appropriate judicial proceeding to the circuit court, or any court of competent jurisdiction, for the appointment of a receiver of the enterprise, whether or not all refunding bonds have been declared due and payable and whether or not such holder, or trustee therefor, is seeking or has sought to enforce any other right, or exercise any remedy in connection with such refunding bonds. Upon such application the circuit court may appoint, and if the application is made by the holders of twenty-five per cent in principal amount of such refunding bonds then outstanding, or any trustee for holders of such refunding bonds in such principal amount, shall appoint a receiver of the enterprise.

The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of the enterprise and each and every part thereof and may exclude the public body, its governing body, officers, agents, and employees and all persons claiming under them, wholly therefrom and shall have, hold, use, operate, manage and control the same and each and every part thereof, and, in the name of the public body or otherwise, as the receiver shall deem best, shall exercise all the rights and powers of the public body with respect to the enterprise as the public body itself might do. Such receiver shall maintain, restore, insure and keep insured, the enterprise, and from time to time shall make all such necessary or proper repairs which to such receiver shall seem expedient, and shall establish, levy, maintain and collect such fees, tolls, rentals, and other charges in connection with the enterprise as such receiver shall deem necessary or proper and reasonable, and shall collect and receive all revenues and shall deposit the same in a separate account and apply such revenues so collected and received in such manner as the court shall direct.

Whenever all that is due upon the refunding bonds, and
interest thereon, and upon any other notes, bonds or other
obligations, and interest thereon, having a charge, lien or
encumbrance on the revenues of the enterprise and under
any of the terms of any covenants or agreements with bond-
holders shall have been paid or deposited as provided there-
in, and all defaults shall have been cured and made good,
the court may, in its discretion, and after such notice and
hearing as it deems reasonable and proper, direct the re-
ceiver to surrender possession of the enterprise to the
public body, but the same right of the holders of the re-
funding bonds to secure the appointment of a receiver shall
exist upon any subsequent default, as hereinabove pro-
vided.

Such receiver shall, in the performance of the powers
hereinabove conferred upon him, act under the direction and
supervision of the court making such appointment, and
shall at all times be subject to the orders and decrees of
such court and may be removed thereby. Nothing herein
contained shall limit or restrict the jurisdiction of such
court to enter such other and further orders and decrees
as such court may deem necessary or appropriate for the
exercise by the receiver of any functions specifically set
forth herein.

Notwithstanding anything in this section to the contrary,
said receiver shall have no power to sell, assign, mortgage
or otherwise dispose of any assets of whatever kind or char-
acter belonging to the municipality and useful for the enter-
prise, but the authority of any such receiver shall be limited
to the operation and maintenance of the enterprise and no
court shall have jurisdiction to enter any order or decree
requiring or permitting said receiver to sell, mortgage, or
otherwise dispose of any such assets.

Sec. 15. Suits by Bondholders. Subject to any contractual
limitations binding upon the holders of any issue of refund-
ing bonds, or the trustee therefor, including, but not limited
to, the restriction of the exercise of any remedy to a specified
proportion or percentage of such holders, any holder of re-
funding bonds, or trustee therefor, shall have the right and
power for the equal benefit and protection of all holders of re-
funding bonds similarly situated;

By mandamus or other suit, action or proceeding at law
or in equity to enforce his rights against the public body and its governing body and any of its officers, agents and employees, and to require and compel such public body or such governing body or any such officers, agents or employees to perform and carry out its and their duties and obligations under this act and its and their covenants and agreements with bondholders;

By action or suit in equity to require the public body and the governing body thereof to account as if they were the trustee of an express trust;

By action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders;

To bring suit upon the refunding bonds.

No remedy conferred by this act upon any holder of refunding bonds, or any trustee therefor, is intended to be exclusive of any other remedy, but each such remedy is cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred by this act or by any other law.

No waiver of any default or breach of duty or contract, whether by any holder of refunding bonds, or any trustee therefor, shall extend to or shall affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of any bondholder or any trustee therefor, to exercise any right or power accruing upon any default, shall impair any such right or power, nor shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy, conferred upon the holders of refunding bonds, may be enforced and exercised from time to time and as often as may be deemed expedient. In case any suit, action or proceeding to enforce any right or exercise any remedy shall be brought or taken and then discontinued or abandoned, or shall be determined adversely to the holder of the refunding bonds, or any trustee therefor, then and in every such case the public body and such holder, or such trustee, shall be restored to their former positions and rights and remedies as if no such suit, action or proceeding had been brought or taken.
Sec. 16. *Act Complete Authority for Refunding Bonds.* This act constitutes full and complete authority for the issuance of refunding bonds. No procedure or proceedings, publications, notices, consents, approvals, orders, acts or things by any governing body of any public body, or any board, officer, commission, department, agency, or instrumentality of the state or any public body shall be required to issue any refunding bonds or to do any act or perform any thing under this act, except as may be prescribed in this act. The powers conferred by this act shall be in addition and supplemental to, and not in substitution for, and the limitations imposed by this act shall not affect the powers conferred by any other law. This act is remedial in nature and shall be liberally construed.

Sec. 17. *Provisions Severable.* If any section, clause, sentence, paragraph, part or provision of this act shall be found invalid by any court, it shall be conclusively presumed that this act would have been passed by the Legislature without such invalid section, clause, sentence, paragraph, part or provision, and the act as a whole shall not be declared invalid by reason of the fact that one or more sections, clauses, sentences, paragraphs, parts or provisions may be found invalid by any court.

**CHAPTER 121**

*(House Bill No. 83—By Mr. Van Sickler)*

AN ACT to amend and reenact sections two, seven and fourteen, article four, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, relating to the practice of dentistry.

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

**Article 4. Dentists and Dental Hygienists.**

Section 2. Who deemed practitioner of dentistry; limitations of article.
7. Refusal to issue, suspension or revocation of license; grounds.
14. Prerequisites to practice of dental hygiene.

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

That sections two, seven and fourteen, article four, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-
one, relating to the practice of dentistry, be amended and reenacted to read as follows:

Section 2. Who Deemed Practitioner of Dentistry; Limitations of Article. Any person shall be regarded as practicing dentistry within the meaning of this article, who shall diagnose or profess to diagnose or treat or profess to treat, any of the diseases or malformations or lesions of the oral cavity, teeth, gums, or maxillary bones, or shall prepare or fill cavities in human teeth, correct malposition of teeth or jaws or supply artificial teeth as substitutes for natural teeth, or administer anaesthetics, general or local, in connection with any of said work, or perform any other work included in the curricula of recognized dental colleges. To open an office for the practice of dentistry, or to announce to the public in any way a readiness to do any act defined herein as the practice of dentistry, shall be construed as engaging in the practice of dentistry within the meaning of this article: Provided, however, That this section:

1. Shall not apply to a duly licensed physician or surgeon in the practice of his profession when rendering dental relief in emergency cases, unless he undertakes to reproduce or reproduces lost parts of the human teeth, or to restore or replace lost or missing teeth in the human mouth.

2. Shall not apply to the construction, alteration, or repair of bridges, crowns, dentures, or other prosthetic or orthodontic appliances when the casts or impressions for such work have been made or taken by a licensed dentist: Provided, however, That a written authorization signed by a licensed dentist must accompany the order for such work or such work must be performed in the office of a licensed dentist under his direct and personal supervision: And provided further, That such prosthetic or orthodontic appliances shall not be advertised or sold, directly or indirectly, to the public by the dental technician or dental laboratory either as principal or agent. The burden of providing either such written authorization, or proof of direct and personal supervision, shall be upon the person charged with the violation of this act.

3. Shall not apply to students enrolled in and regularly attending any dental college recognized by the state board of dental examiners, provided their acts are done in said dental college and under the direct and personal supervision of their instructor.
(4) Shall not apply to licensed or registered dentists of another state temporarily operating a clinic under the auspices of a duly organized and reputable dental college or reputable dental society, or to one lecturing before a reputable society composed exclusively of dentists.

(5) Shall not apply to licensed dental hygienists in the performance of their duties as otherwise provided by law.

(6) Shall not apply to the practice of dentistry by dentists whose practice is confined exclusively to the service of the United States Army, the United States Navy, the United States Public Health Service, or the United States Veteran’s Bureau, or any other authorized United States government agency or bureau.

Sec 7. Refusal to Issue, Suspension or Revocation of License; Grounds. The state board of dental examiners may refuse to issue a license to practice dentistry or dental hygiene in this state, or after issuance may suspend or revoke the same, for any of the following causes:

(1) The presentation to the board of any diploma, license or certificate illegally or fraudulently obtained, or one obtained from an institution which is not reputable, or one obtained from an unrecognized or irregular institution or state board.

(2) Be guilty of gross ignorance or gross inefficiency in his profession.

(3) Conviction of a felony; and a certified copy of the record of the court of conviction shall be sufficient proof of such conviction.

(4) Be guilty of unprofessional conduct. The following acts or any of them shall be conclusively presumed to be unprofessional conduct:

(a) Be guilty of any fraud or deception.

(b) The commission of a criminal operation or conviction of a crime involving moral turpitude.

(c) Chronic or persistent inebriety or addiction to narcotics or drugs.

(d) Be guilty of the violation of any professional confidence or be guilty of disclosing any professional secret.

(e) Be grossly immoral.

(f) Be guilty of employing what are known as “cappers” or “steerers” to obtain business.
(g) The obtaining of any fee by fraud or misrepresentation.

(h) Employ directly or indirectly, or direct or permit any suspended or unlicensed person so employed, to perform operations of any kind or to treat lesions of the human teeth or jaws or correct malimposed formations thereof.

(i) Practice, or offer or undertake to practice, dentistry under any firm name or trade name or under any name other than his own true name: Provided, That any licensee may practice under a firm name or partnership name containing nothing but the surname of every member of such firm or partnership.

(j) Professional connection or association with, or lending his name to another, for the illegal practice of dentistry, or professional connection or association with any person, firm, or corporation, holding himself, themselves, or itself out in any manner contrary to this act.

(k) Make use of any advertising relating to the use of any drug or medicine of unknown formula.

(l) Advertise to practice dentistry or perform any operation thereunder without causing pain.

(m) Advertise professional superiority or the performance of professional services in a superior manner.

(n) Advertise prices charged for professional service.

(o) Advertise by means of large display, flickering, or glaring light signs, or contain as a part thereof the representation of a tooth, teeth, or bridge work, or any portion of the human head.

(p) Employ or make use of advertising solicitors or free publicity press agents.

(q) Advertise to guarantee any dental service.

(r) Advertise in any manner calculated to, or tending to, deceive or mislead the public: Provided, That such licensee may announce, by way of a professional card containing not more than his name, title, degree, office location, office hours, business telephone number, and residence address and telephone number, if desired, and if he limits his practice to a specialty he may announce it, but such card shall not be
greater in any case than sixteen inches by twenty-two inches in size, and such information may be inserted in public print when not more than eight newspaper columns in width and twenty-five inches in depth; and he may announce his change of place of business, absence from, or return to, business in the same manner, and issue appointment cards to his patients, when the information thereon is limited to matter pertaining to the time and place of appointment and that permitted on the professional card, and he may display his name, title, and degree upon the windows or doors of his office and by a door plate or name plate or office directory when the information is limited to not more than that contained on the professional card, but the name, title and degree of the licensee shall not be displayed on said doors, windows, door plates, and name plates or office directory in lettering greater in height than seven inches.

The term advertising, as used in this section, shall be construed to include the use of radio or any loud speaking device or any other similar method or agency.

This entire section is passed in the interest of the public health, safety and welfare and its provisions shall be liberally construed to carry out its object and purpose. Each and every provision of this section is hereby declared to be independent and severable, and should any portion or provision or provisions of this section be held unconstitutional or for any other reason invalid, the remaining portion or portions, or provision or provisions shall not be thereby affected.

Sec. 14. Prerequisites to Practice of Dental Hygiene. No person, who has not been licensed as a dental hygienist in this state on or before the first day of September, one thousand nine hundred thirty-seven, shall practice as a dental hygienist in this state until he has passed an examination given by the West Virginia Board of Dental Examiners under such rules and regulations as it may formulate. The fee for the examination shall be ten dollars and any applicant failing to pass it shall be entitled to one re-examination without further costs. The fee for every re-examination after the first
shall be five dollars. The board of dental examiners shall issue licenses to practice dental hygiene in this state to those who have passed such examination or re-examination, as the case may be: Provided, however, That no person shall be entitled to such dental license unless he be: (a) at least eighteen years of age, (b) of good moral character, (c) a graduate of a class "A" high school or its equivalent, and (d) be either a graduate of a training school for dental hygienists, which school requires for graduation or any degree the completion of a course of study covering a period of not less than two years of at least nine months each of actual continuous attendance and gives a suitable course covering the subject of dental hygiene, or be a graduate of any training school for dental hygienists approved by the American Dental Association.

CHAPTER 122
(Senate Bill No. 188—By Mr. Howard, by request)

AN ACT to amend and reenact section fourteen, article two, chapter fifty-four of the code of West Virginia, one thousand nine hundred thirty-one, relating to entry on land by corporate body politic.

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

Article 2. Procedure for Condemnation.

Section 14. Condemnation by state or its political subdivision.

Be it enacted by the Legislature of West Virginia:

That section fourteen, article two, chapter fifty-four of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:
Section 14. *Condemnation by State or its Political Subdivisions.* If the applicant be the state of West Virginia, or any political subdivision thereof, on filing its petition as authorized in this article, and if the court or judge is satisfied that the purpose for which the land or property is sought to be condemned is a public use for which private property may be appropriated on compensating the owner, the court or judge shall, at the request of the applicant, make an order permitting the applicant at once to enter upon, take possession, appropriate and use the land sought to be condemned for the purposes stated in the petition. The revenues applicable to the payment of any damages or compensation to which the owner is entitled, and which shall be awarded or assessed in his favor, shall be deemed sufficient security and to have been pledged for such payment, and no bond or further security shall be required of the applicant.

If the applicant shall enter upon or take possession of property under the authority of this section, and shall do any work thereon and injure such land or property, it shall not be entitled, without the consent of the defendant, to abandon the proceedings for the condemnation thereof, but such proceedings shall proceed to final award or judgment after a reasonable time has elapsed for completion of the work upon the particular property so entered upon and taken possession of, and the applicant shall pay to the owner of the land the amount of compensation and damages as finally determined in such proceedings.
CHAPTER 123

(House Bill No. 104—By Mr. Speaker, Mr. Thomas)

AN ACT to protect trade-mark owners, producers, distributors and the general public against injurious and uneconomic practices in the distribution of competitive commodities bearing a distinguishing trade-mark, brand or name, through the use of voluntary contracts establishing minimum resale prices and providing for refusal to sell unless such minimum resale prices are observed.

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

Section 1. Definition of terms.
2. Lawful contracts fixing minimum resale price.
4. Who may establish minimum resale price.
5. To what resales contract does not apply.
6. When offer of sale below fixed price actionable.
7. When act does not apply.
9. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. Definition of Terms. The following terms, as used in this act, are hereby defined as follows:

(a) "Commodity" means any subject of commerce.
(b) "Producer" means any grower, baker, maker, manufacturer, bottler, packer, converter or processor.
(c) "Wholesaler" means any person selling a commodity other than a producer or retailer.
(d) "Retailer" means any person selling a commodity to consumers for use.
(e) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a business trust or any unincorporated organization.

Sec. 2. Lawful Contracts Fixing Minimum Resale Price. No contract relating to the sale or resale of a commodity which bears, or the label or container of which bears, the trade-mark,
brand, or name of the producer or distributor of such commodity and which commodity is in free and open competition with commodities of the same general class produced or distributed by others shall be deemed in violation of any law of the state of West Virginia by reason of any of the following provisions which may be contained in such contract:

(a) That the buyer will not resell such commodity at less than the minimum price stipulated by the seller.

(b) That the buyer will require of any dealer to whom he may resell such commodity an agreement that he will not, in turn, resell at less than the minimum price stipulated by the seller.

(c) That the seller will not sell such commodity:

(1) to any wholesaler, unless such wholesaler will agree not to resell the same to any retailer unless the retailer will in turn agree not to resell the same except to consumers for use and at not less than the stipulated minimum price, and such wholesaler will likewise agree not to resell the same to any other wholesaler unless such other wholesaler will make the same agreement with any wholesaler or retailer to whom he may resell; or

(2) to any retailer, unless the retailer will agree not to resell the same except to consumers for use and at not less than the stipulated minimum price.

Sec. 3. Acts Violating Resale Price Restriction. For the purpose of preventing evasion of the resale price restrictions imposed in respect to any commodity, by any contract entered into pursuant to the provisions of this act (except to the extent authorized by the said contract):

(a) The offering or giving of any article of value in connection with the sale of such commodity;

(b) The offering or the making of any concession of any kind whatsoever (whether by the giving of coupons or otherwise) in connection with any such sale; or

(c) The sale or offering for sale of such commodity in combination with any other commodity, shall be deemed a violation of such resale price restriction, for which the remedies prescribed by section six of this act shall be available.

Sec. 4. Who May Establish Minimum Resale Price. No mini-
mum resale price shall be established for any commodity, under any contract entered into pursuant to the provisions of this act, by any person other than the owner of the trade-mark, brand or name used in connection with such commodity or by a distributor specifically authorized to establish said price by the owner of such trade-mark, brand or name.

Sec. 5. To What Resales Contract Does Not Apply. No contract containing any of the provisions enumerated in section two of this act shall be deemed to preclude the resale of any commodity covered thereby without reference to such contract in the following cases:

(a) In closing out the owner's stock for the bona fide purpose of discontinuing dealing in any such commodity and plain notice of the fact is given to the public: Provided, That the owner of such stock shall give to the producer or distributor of such commodity prompt and reasonable notice in writing of his intention to close out said stock, and an opportunity to purchase such stock at the original invoice price, plus any transportation, storage or other legitimate or regular costs.

(b) When the trade-mark, brand or name is removed or wholly obliterated from the commodity and is not used or directly or indirectly referred to in the advertisement or sale thereof;

(c) When the goods are altered, second-hand, damaged, defaced, or deteriorated and plain notice of the fact is given to the public in the advertisement and sale thereof, such notice to be conspicuously displayed in all advertisements and to be affixed to the commodity;

(d) But nothing contained in this article shall apply to sales by executors, administrators, receivers or assignees under a voluntary assignment for the benefit of creditors, trustees in bankruptcy or by any one acting under judicial process.

Sec. 6. When Offer of Sale Below Fixed Price Actionable. Wilfully and knowingly advertising, offering for sale or selling any commodity at less than the price stipulated in any contract entered into pursuant to the provisions of this act, whether the person so advertising, offering for sale or selling is or is not a party to such contract, is unfair competition and is actionable at the suit of any person damaged thereby.
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Sec. 7. When Act Does Not Apply. This act shall not apply to any contract or agreement between or among producers, except as provided in subdivision (c) of section two of this act, or between or among wholesalers or between or among retailers as to sale or resale prices.

Sec. 8. Provisions Severable. If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

Sec. 9. Inconsistent Acts Repealed. All acts or parts of acts inconsistent herewith are hereby repealed to the extent of such inconsistency.

Sec. 10. How Act Cited. This act may be known and cited as the "Fair Trade Act."

CHAPTER 124

(AN ACT to amend and reenact section six, article one, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to the issuance of licenses for marriage, and to provide for the filing and recordation of applications therefor, and making it a misdemeanor for any person to make a false entry as to the date of filing such applications.

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


Section 6. Application for and issuance of marriage license.

Be it enacted by the Legislature of West Virginia:

That section six, article one, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:
Section 6. Application for and Issuance of Marriage License. Every license for a marriage shall be issued by the clerk of the county court of the county in which the female to be married usually resides: Provided, however, That such license shall be issued not sooner than three days after the filing with said clerk of a written application therefor. The day upon which such application is filed shall be counted as the first day, but two full days shall elapse after the day of such filing before the license shall be issued: Provided further, That in cases of emergency or extraordinary circumstances a judge of the circuit court for the county in which such application is filed may direct the clerk, by order duly entered in the circuit court clerk's office of the said county, to issue such license at any time before the expiration of said three days. The entry of such order shall be conclusive evidence of such emergency, or extraordinary circumstances, and such order need not recite the existence, character or nature of such emergency, or extraordinary circumstances. In the absence or incapacity to act of the judge of the circuit court of the county in which said application is filed, such direction to the clerk may be by the judge of any judicial circuit adjoining the circuit in which such county is situate. Such application for a marriage license shall contain a statement of the full names of both parties, their respective ages and their places of birth and residence. It shall be signed by one or the other of the parties to the contemplated marriage and shall be verified by such party to be true to the best of his or her knowledge and belief, and shall be recorded in the register of marriages provided for in section eleven of this article, and the date of its filing shall be noted in said register, which notation or a certified copy thereof shall be legal evidence of the facts therein stated. Any person making a false entry as to the date of such filing shall be guilty of a misdemeanor and, upon conviction, shall be fined not to exceed one hundred dollars, and, in the discretion of the court trying the case, may, in addition thereto, be confined in the county jail for not exceeding three months.
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CHAPTER 125
(House Bill No. 196—By Mr. Erhard)

AN ACT to amend and reenact sections seven and eight, article eight, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, relating to the certificate to practice optometry, and to further amend said article and chapter by the addition of a new section thereto numbered section ten, relating to the prevention of the unlawful practice of optometry.

[Passed February 26, 1937; in effect ninety days from passage. Became a law without the approval of the Governor.]

Article 8. Optometrists.

Section 7. Annual renewal of registration; restoration of expired certificate.
8. Refusal to issue, suspension or revocation of certificate; false and deceptive advertising.
10. Unlawful practice of optometry; penalties.

Be it enacted by the Legislature of West Virginia:

That sections seven and eight, article eight, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted, and that said article and chapter be amended by the addition thereto of section ten, all to read as follows:

Section 7. Annual Renewal of Registration; Restoration of Expired Certificate. Every registered optometrist who desires to continue in active practice or service shall, annually, on or before the first day of August, of each year, renew his certificate of registration and pay an annual renewal fee of ten dollars. Every certificate of registration which has not been renewed during the month of August in any one year shall expire on the first day of September of that year. A registered optometrist whose certificate of registration has expired may have the same restored only upon payment of the required renewal fee. Any registered optometrist who retires from the practice of optometry for more
than five years may renew his certificate of registration upon payment of all lapsed renewal fees: Provided, That the renewal fees payable on or before the first day of August, one thousand nine hundred thirty-seven, shall be for one and one-fourth years.

Sec. 8. Refusal to Issue, Suspension or Revocation of Certificate; False and Deceptive Advertising. The board may either refuse to issue, or may refuse to renew, or may suspend or revoke any certificate of registration for any one, or any combination, of the following causes: Conviction of a felony, as shown by a certified copy of the record of the court wherein such conviction was had, the obtaining of, or the attempt to obtain, a certificate of registration, or practice in the profession of optometry, or money, or any other thing of value, by fraudulent misrepresentation, gross malpractice, continued practice by a person knowingly having an infectious disease, habitual drunkenness, or addiction to the use of morphine, cocaine, or other habit-forming drugs; advertising, practicing, or attempting to practice under a name other than one's own; advertising by means of knowingly false or deceptive statements. All advertising, whether by means of newspapers, or in any manner, whatsoever, of the following statements, or statements of similar import, that are "false and deceptive" within the meaning of this act, shall be prohibited. False and deceptive advertising shall be prohibited in the following: (a) Advertising of complete glasses, that is to say, lenses and frames or mountings, at a stated price, either alone or in conjunction with professional services; (b) advertising "free examination of eyes," or "free consultation," or "free advice," or words of similar import and meaning; (c) advertising frames or mountings for glasses, which advertisement does not accurately describe the same in all its component parts, (all such advertisements shall state clearly, in type equal in size to the price figures given, that such price does not include cost of lenses, or professional services in examining the eyes), and, (d) advertising a particular sum or sums of money required as a "down" or cash payment, or any definite amount or amounts of future payments, or when the same shall be paid: Provided, That nothing herein contained shall be construed so as to
prohibit the advertising of free examinations for school children or for any charitable organization.

Sec. 10. *Unlawful Practice of Optometry; Penalties.* Any corporation or voluntary association shall not practice, or assume to practice, or in any manner to hold itself out to the public as being entitled to practice the profession of optometry, or advertise the title of optometrist in such manner as to convey the impression to the public that it is entitled to practice optometry, or furnish optometric advice and services, or advertise that, either alone or together with or by or through any person, whether a duly registered and licensed optometrist or not, it has, owns, conducts or maintains an office or place for the practice of optometry. Any duly registered and licensed optometrist shall not associate himself with any corporation or voluntary association for the practice of optometry, or in any manner practice such profession, on a salary or commission basis, for any such corporation or voluntary association. Any corporation or voluntary association violating any of the provisions of this section, or any officer, trustee, director, agent, or employee of such corporation or voluntary association who, either directly or indirectly, engages in any of the acts herein prohibited, or assists such corporation or voluntary association to do such prohibited acts, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred nor more than one thousand dollars. The fact that any such officer, trustee, director, agent or employee shall be a duly registered and licensed optometrist shall not be held to permit or allow any such corporation or voluntary association to do the acts prohibited herein, nor shall such fact be a defense upon the trial of any of the persons hereinbefore mentioned for a violation of this section. Any duly registered and licensed optometrist who shall violate the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars nor more than twenty-five dollars, and each and every day such violation continues shall constitute a separate offense; and in addition to the foregoing penalties, such offending optometrist shall have his license to practice suspended for a period of one year, by the court in which such conviction is had:
39 Provided, That this section shall not apply to a partnership
40 of two or more duly registered and licensed optometrists who
41 practice under their own names.
42 No person, registered under this act, or any individual,
43 firm or corporation engaged in the sale of merchandise of any
44 description who maintains or operates, or who allows to be
45 maintained or operated in connection with said merchandise
46 business, an optometric department, or who rents or sub-
47 leases to any person or persons for the purpose of engaging
48 in the practice of optometry therein, any part of premises in
49 which such person, persons, firm or corporation is engaged
50 in mercantile business, shall publish or circulate, or print
51 or cause to be printed by any means whatsoever, any adver-
52 tisement or notice of the optometric department maintained,
53 operated or conducted in said establishment or place of busi-
54 ness, in which said advertisement or notice appears, any un-
55 truthful, or misleading statement, or anything calculated or
56 intended to mislead or deceive the public or any individual.
57 Any person violating this provision shall be guilty of a
58 misdemeanor, and, upon conviction thereof shall be fined not
59 less than fifty nor more than five hundred dollars, and each
60 and every day such violation continues shall constitute a
61 separate offense.

CHAPTER 126
(Senate Bill No. 91—By Mr. Fleming)

AN ACT to amend article three, chapter sixty-one of the code of
West Virginia, one thousand nine hundred thirty-one, by
adding thereto section forty-five-a, relating to breaking pipe
lines and stealing therefrom.

[Passed March 6, 1937; in effect from passage. Approved by the Governor.]

Article 3. Crimes Against Property.

Section
45-a. Unlawful opening of pipes or pipe lines; penalties.

Be it enacted by the Legislature of West Virginia:

That article three, chapter sixty-one of the code of West Vir-
Section 45-a. Unlawful Opening of Pipes or Pipe Lines; Penalties. Every person who, with intent to injure, or for the purpose of destroying, injuring, impairing, breaking, damaging or unlawfully opening, or of taking, stealing, and carrying away, or of permitting or causing to escape on the ground or into the air, any of the contents thereof, shall open, or cause to be opened, in any manner, any pipe or pipes or line of pipe or pipes or any tank, receptacle or container connected therewith, containing or used and useful in transporting or storing petroleum, crude or refined, gasoline, gas (natural, casinghead or manufactured), or any of the by-products of petroleum or gas, either liquid or gaseous, belonging to another, without such other's consent, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by confinement in the county jail not less than two nor more than twelve months, and in addition thereto, in the discretion of the court, may be fined not exceeding three hundred dollars. Every person, upon conviction for the second or any subsequent offense under this section shall be guilty of a felony and shall be confined in the penitentiary of this state not less than one nor more than three years. Justices of the peace shall have concurrent jurisdiction with the circuit, criminal or intermediate courts to enforce the misdemeanor penalties prescribed by this section.
CHAPTER 127

(Senate Bill No. 107—By Mr. Belknap)

AN ACT to regulate the business of buying, leasing, selling, and managing real estate for others; requiring a license and the payment of a fee to engage in such business; providing penalties for violation of such regulations; and creating the West Virginia real estate commission.

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

Section
1. The West Virginia real estate commission created; members; organization; expenditures.
2. Definitions.
3. Brokers and salesmen’s licenses.
4. Transactions not included in act.
5. Issuance, refusal or cancellation of license.
6. What application for license to show.
7. Bond of nonresident applicant; auditor to accept service of process.
8. License fees.
9. Expiration of license; revocation of broker’s license suspends salesman’s license.
10. Suspension or revocation of license.
11. Penalty for violation of act.
12. Inconsistent acts repealed; rights of municipalities not affected.

Be it enacted by the Legislature of West Virginia:

Section 1. The West Virginia Real Estate Commission Created; Members; Organization; Expenditures. There shall be a commission known as "The West Virginia Real Estate Commission," which shall be a corporation, and, as such, may sue and be sued, contract and be contracted with, and shall have a common seal. The commission shall consist of three members who shall be appointed by the governor by and with the advice and consent of the senate. Each member of the board shall be a citizen of the United States and a resident of this state and shall have been engaged in the real estate business for a period of at least five years immediately prior to his appointment. One member shall be appointed for a term of two years, and one for a term of three years, and one for a term of four years, and subsequent appointments shall be for terms of four years.
Any appointment to fill a vacancy shall be for the unexpired term. Members shall serve until their respective terms expire and until their successors have been appointed, unless sooner removed. Not more than two members of such commission shall belong to the same political party.

No member shall be a candidate for or hold any other public office or be a member of any political committee while acting as such commissioner. In case any commissioner be a candidate for or hold any other public office or be a member of any political committee, his office as a commissioner shall ipso facto be vacated.

The governor shall designate one member of the commission as the chairman thereof, and the members shall choose one of the members thereof as secretary. Two members of the commission shall constitute a quorum for the conduct of official business. The members of the commission shall not receive any salary, excepting that they shall be paid the sum of ten dollars for each day actually spent in the work of the commission, and they shall each receive their actual and necessary expenses incurred in such work. The commission may employ such clerical and other help as may be necessary for the conduct of the duties of the commission, which shall be paid for out of the fund hereby created. All fees and charges collected by the commission under the provisions of this act shall be paid into a special fund for the purpose of this act, and all expenditures of the commission shall be paid therefrom. The amount paid to or expended by the commission in any fiscal year shall not exceed the revenues derived under the provisions of this act as herein- after provided.

Sec. 2. Definitions. The term "real estate business" as used in this act shall mean the performing or attempting to perform or the holding out to perform any of the things usually done by a real estate broker or a real estate salesman as herein- after defined.

The term "person" as used in this act shall mean any individual, firm, partnership, association, or corporation.

The term "real estate broker" as used in this act shall mean a person who, for compensation or consideration, sells, buys, negotiates the purchase or sale, exchanges, leases,
rents, or manages any real estate or any improvement on real estate, or who offers, advertises, or holds himself out to do any of such things for another or others.

The term "real estate salesman" as used in this act shall mean any person who, for compensation or consideration, is employed either directly or indirectly by a real estate broker to engage in the real estate business or to do any of the things set out herein in the definition of the term "real estate broker".

Sec. 3. Broker's and Salesmen's Licenses. It shall be unlawful for any person to act as a real estate broker or as a real estate salesman or to engage in the real estate business without a license issued by the West Virginia real estate commission. No license shall be issued to a real estate broker unless every employee who acts for such broker as a salesman shall secure a license as a real estate salesman. However, if such broker be a partnership, association, or corporation, then every bona fide member of such partnership or association and every officer of such corporation shall be licensed as a real estate salesman when and after said broker shall have been granted a broker's license.

Sec. 4. Transactions Not Included in Act. The provisions of this act shall not apply to any person, or to the employees of any person, who as owner or lessor, shall engage in the real estate business with reference to property owned or leased by him, where such acts are performed in the regular course of, or as an incident to, the management of such property and improvements thereon; nor shall the provisions of this act apply to persons acting as attorney in fact, under a duly executed power of attorney from the owner authorizing the final consummation by performance of any contract for the selling, leasing or exchange of real estate, nor shall this act be construed to include in any way the services rendered by an attorney at law in the performance of his duties as such attorney at law; nor shall it be held to include, while acting as such, a receiver, trustee in bankruptcy, administrator or executor, or any person selling real estate under order of any court, nor to include a trustee acting under a trust agreement, deed of trust, or will, nor the regular salaried employees thereof.
Sec. 5. Issuance, Refusal or Cancellation of License. Licenses shall be issued by the commission, in such form as it may determine, to applicants who are found to be of good character and to be competent to carry on the business for which the license is sought.

Upon receipt of any application for a license in the form required by the commission and accompanied by the required fee, the commission shall consider the same as soon as practicable. If the commission shall consider it proper that an applicant be granted a license, the same shall be issued.

The commission is empowered to refuse to grant a license to any applicant, or to refuse to renew any license, or to cancel and withdraw any license issued by it, for violation of any provisions of this act, or for any reasonable cause appearing to the commission.

If the commission is of opinion to refuse to issue a license that has been applied for, or to refuse to renew a license, or to cancel and withdraw a license, it shall, before any such refusal or cancellation is finally acted upon, notify the applicant or licensee affected of its opinion and contemplated action, and shall give to him an opportunity to appear before the commission and be heard in connection therewith. Such hearings shall be held under such reasonable rules and regulations as the commission may make and provide.

The commission may make and enforce rules regarding transactions between licensees and the commission and require reports as to matters of employment of or by licensees and changes of address of licensees and kindred matters.

The commission may issue duplicate licenses under such rules as it may make with regard thereto and upon the payment of a fee of one dollar.

Sec. 6. What Application for License to Show. Every applicant for a real estate broker’s license shall apply therefor in writing upon blanks prepared or furnished by the commission. Such application shall be accompanied by the recommendation of at least two citizens who are real estate owners and who are not related to the applicant, who have owned real estate for a period of one year or more in the county or city in which said applicant resides, or has his place of business, which recommendation shall certify that the applicant bears a good
reputation for honesty, truthfulness, fair dealing and competency, and recommending that a license be granted to the applicant; but no recommendation shall be required for the renewal of a license after being once issued.

Every applicant for a broker's license shall state the name of the person with whom he will be associated in the real estate business, and the location of the place or places for which said license is desired, and set forth the period of time, if any, for which said applicant has been engaged in the real estate business.

Every applicant for a license shall furnish a sworn statement setting forth his present business and residential addresses, a complete list of all former places and firms where he may have resided or been engaged in business for a period of sixty days or more; during the last five years, accounting for such entire period, and the length of such residence, together with the name and address of at least one real estate owner in each of said counties or cities where he may have resided or have been engaged in business.

Every applicant for a salesman's license shall, in addition to the requirements of this section, also set forth the period of time, if any, during which he has been engaged in the real estate business, stating the name and address of his last employer, and the name and the place of business of the person then employing him, or into whose service he is about to enter. The application shall be accompanied by a written statement by the broker in whose service he is about to enter, stating that in his opinion the applicant is honest, truthful, and of good reputation, and recommending that the license be granted to the applicant.

Every application for a license, under the provisions of this act, shall be accompanied by the license fee herein prescribed. In the event that the commission does not issue the license, the fee shall be returned to the applicant.

The commission may require such other proof as shall be deemed desirable and in the public interest, regarding the honesty, truthfulness, integrity, and competency of the applicant. The commission is expressly vested with the power and authority to make and enforce any and all such reasonable rules and regulations connected with the application
for any license as shall be deemed necessary to administer
and enforce the provisions of this act.

Sec. 7. Bond of Nonresident Applicant; Auditor to Accept
Service of Process. Before a license as a real estate broker shall
be issued to any person who does not have his principal place
of business in the state of West Virginia, he shall file with the
commission a bond in the penalty of two thousand dollars, in
form and with security to be approved by the commission, and
conditioned so as to be for the benefit of and to indemnify any
person in the state who may have any cause of action against
the principal in such bond growing out of a real estate transac-
tion with such principal. And unless such nonresident appli-
cant shall be a corporation organized or domesticated in the
state, he shall file with the auditor of the state a power of at-
torney authorizing the auditor to accept service of legal pro-
cess for him in the same manner as service may be accepted
for West Virginia corporations.

Before a license as a real estate salesman shall be issued
to any person who is not a bona fide resident of the state,
whether he be an employee of a resident or a nonresident real
estate broker, such applicant shall file with the commission a
bond such as is herein required to be filed by a nonresident
broker, and he shall also file a power of attorney with the
auditor such as is herein required to be filed by a nonresident
broker.

Sec. 8. License Fees. The original fee and annual re-
newal fee for each real estate broker’s license shall be fifty
dollars, if such licensee’s place of business is located in a city
having a population of seven thousand five hundred or more.
The original fee and annual renewal fee for each real estate
broker’s license shall be ten dollars, if such licensee’s place
of business is located in a town having a population of less
than seven thousand five hundred.

The original fee and annual renewal fee for each real
estate salesman’s license shall be twenty-five dollars if such
licensee’s place of business is located in a city having a
population of seven thousand five hundred or more. The
original fee and annual renewal fee for each real estate
salesman’s license shall be five dollars, if such licensee’s place
of business is located in a town having a population of less than seven thousand five hundred.

Sec. 9. Expiration of License; Revocation of Broker’s License Suspends Salesman’s License. Every license shall expire on the thirty-first day of December of each year. The commission shall issue a new license for each ensuing year, in the absence of any reason which might warrant the refusal of the granting of a license, upon receipt of the annual fee therefor, as herein required. The revocation of a broker’s license shall automatically suspend every real estate salesman’s license granted to any person by virtue of his employment by the broker whose license has been revoked, pending a change of employer and the issuance of a new license. Such new license shall be issued without charge, if granted during the same year in which original license was granted.

Sec. 10. Suspension or Revocation of License. The commission may, upon its own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any real estate broker or real estate salesman, or any person who shall assume to act in either capacity within this state, and shall have the power to suspend or to revoke any license issued by the commission that has been fraudulently procured, or when the licensee, in the course of his licensed business, has done or is doing any one or more of the following things:

(a) Made any substantial misrepresentation;
(b) Made any false representation of a character likely to influence, persuade, or induce;
(c) Pursued a continued and flagrant course of misrepresentation, or made false representations through agents or salesmen or advertising or otherwise;
(d) Acted for more than one party in a transaction without the knowledge of all parties for whom he acts;
(e) Accepted a commission or valuable consideration as a real estate salesman for the performance of any of the acts specified in this act, from any person, except his employer, who must be a licensed real estate broker;
(f) Represented or attempted to represent a real estate broker other than the employer, without the express knowledge and consent of the employer;
(g) Failed, within a reasonable time, to account for or to remit any moneys coming into his possession which belong to others;

(h) Been unworthy or incompetent to act as a real estate broker or salesman in such manner as to safeguard the interest of the public;

(i) Paid a commission or valuable consideration to any persons for acts or services performed in violation of this act;

(j) Conducted himself in any manner constituting improper, fraudulent, or dishonest dealing.

Sec. 11. Penalty for Violation of Act. Any person who shall engage in the real estate business as defined by this act, without a license, or who shall violate any other provision of this act, shall be guilty of a misdemeanor, punishable upon conviction by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment for a term not to exceed six months, or both.

Sec. 12. Inconsistent Acts Repealed; Rights of Municipalities Not Affected. All acts or parts of acts, including licensing acts, inconsistent with this act are hereby repealed. But nothing herein contained shall affect any right that municipalities may now or hereafter have to tax, license, or regulate persons engaged in the real estate business.

Sec. 13. Provisions Severable. 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 unconstitutional, or for any other reason invalid, the remaining provisions shall not be affected thereby, and shall be and remain in full force and effect.
CHAPTER 128

(Senate Com. Sub. for Senate Bill No. 64—Originating in the Committee on Redistricting)

AN ACT to amend and reenact section one, article two, chapter one of the code of West Virginia, one thousand nine hundred thirty-one, apportioning the membership in the state senate of West Virginia.

[Passed March 11, 1937; in effect ninety days from passage. Approved by the Governor.]

Article 2. Apportionment of Representation.

Section 1. Senatorial districts.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Senatorial Districts. The state shall consist of sixteen senatorial districts as follows:

2. The counties of Brooke, Hancock and Ohio shall constitute the first senatorial district;
3. The counties of Marshall, Tyler and Wetzel shall constitute the second senatorial district;
4. The counties of Calhoun, Gilmer, 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;
10. The counties of Raleigh and Wyoming shall constitute the ninth senatorial district;
The counties of Mercer, Monroe and Summers shall constitute the tenth senatorial district;

The counties of Fayette and Greenbrier shall constitute the eleventh senatorial district;

The counties of Braxton, Nicholas, Pendleton, Pocahontas, Randolph and Webster shall constitute the twelfth senatorial district;

The counties of Doddridge, Harrison and Lewis shall constitute the thirteenth senatorial district;

The counties of Marion, Monongalia and Taylor shall constitute the fourteenth senatorial district;

The counties of Barbour, Grant, Preston, Tucker and Upshur shall constitute the fifteenth senatorial district;

The counties of Berkeley, Hampshire, Hardy, Jefferson, Mineral and Morgan shall constitute the sixteenth senatorial district.

Each of the said districts shall have two senators, and, regardless of the changes in district lines made by this act, the senators elected at the last general election shall continue to hold their seats as members of the senate for the term for which each thereof, respectively, was elected.

The first, second, third, fourth, fifth, tenth, eleventh, thirteenth, fourteenth, fifteenth and sixteenth districts as herein designated shall, at the general election to be held in the year one thousand nine hundred thirty-eight, and biennially thereafter, elect one senator for a term of four years.

At the general election to be held in the year one thousand nine hundred thirty-eight there shall be two senators elected in each of the sixth, eighth and ninth senatorial districts, as herein designated, one of whom from each district shall be nominated and elected for a term of two years and one of whom shall be elected for a term of four years and biennially thereafter, elect one senator for a term of four years.

There shall be held no election for senator in the seventh and twelfth senatorial districts as herein designated, until the general election held in the year one thousand nine hundred forty, at which time there shall be elected from the said seventh and twelfth senatorial districts, as herein designated, two senators, one of whom shall be nominated and elected for a term of two
CHAPTER 129

(House Bill No. 277—By Mr. Evans)

AN ACT to amend and reenact section four, article three, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to compulsory vaccination and providing for compulsory immunization for smallpox and diphtheria before entering school.

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

Article 3. Prevention and Control of Communicable and Infectious Diseases.

Section 4. Compulsory immunization of school children; offenses; penalties.

Be it enacted by the Legislature of West Virginia:

That, due to the increase of smallpox in the United States in the past few years and the large number of deaths from diphtheria and for the protection of the health of the people of this state, it is declared necessary that section four, article three, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 4. Compulsory Immunization of School Children; Offenses; Penalties. All children entering school for the first time in this state shall be or shall have been successfully immunized against smallpox and diphtheria. Any person who cannot give satisfactory proof of having been immunized previously or a certificate from a reputable physician showing that a successful immunization for either or both smallpox and diphtheria is impossible or improper or sufficient reason why
either or both immunizations should not be done, shall be im-
munized for both smallpox and diphtheria within the first
month of attendance at school. No child or person shall be ad-
mitted or received in any of the public schools of the state af-
fter the first month of attendance at school until he or she has
been successfully immunized as hereinafter provided, or pro-
duces a certificate from a reputable physician showing that a
successful immunization for both smallpox and diphtheria has
been done or is impossible or improper or other sufficient
reason why such immunizations have not been done. The
teacher of such pupils entering school for the first time shall
ascertain whether or not said pupils have been immunized
against both smallpox and diphtheria and shall report to the
county health officer all pupils who have not been immunized.
It shall be the duty of the health officer in counties having a
full-time health officer to see that children who have not been
immunized before entering school be immunized during the
first month.
In counties where there is no full-time health officer or dis-
trict health officer, the county court or municipal council
shall appoint competent physicians to do the immunizations
and fix their compensation. The expense incurred in carrying
into effect the provision of this section shall be deemed a part
of the expense of the county, city, town or village as the case
may be, and shall be charged and paid in the same manner
as other expenses. County health departments shall furnish
the biologicals for this immunization free of charge.
Health officers and physicians who shall do this immuni-
ization work shall give to all persons and children a certificate
free of charge showing that they have been successfully im-
munized against smallpox and diphtheria, or he may give the
certificate to any person or child whom he knows to have been successfully immunized against smallpox and diphtheria.
If any physician shall give any person a false certificate of
immunization against either smallpox or diphtheria, he shall
be guilty of a misdemeanor and upon conviction he shall be
fined not less than twenty-five nor more than one hundred
dollars.
Any parent or guardian who refuses to permit their child
to be immunized against smallpox or diphtheria, who cannot
give satisfactory proof that the child or person has been im-
munized against smallpox and diphtheria previously or a certificate from a reputable physician showing that a successful immunization for either or both is impossible or improper or sufficient reason why either or both immunizations should not be done, shall be guilty of a misdemeanor, and, except as herein otherwise provided, shall be punished by a fine of not less than ten nor more than fifty dollars for each offense.

CHAPTER 130
(House Bill No. 273—By Mr. Pyles)

AN ACT to amend article eleven, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter six, acts of the Legislature, regular session, one thousand nine hundred thirty-three, by adding thereto sections eleven, twelve, thirteen, fourteen and fifteen, relating to abatement of stream pollution by the state water commission.

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


Section
11. Compliance with final order of commission; methods of raising funds by a municipality.
12. How construction and operation of municipal plants, etc., governed.
13. When proceedings to comply must begin; penalty.
14. Extension of time for compliance; penalty for noncompliance.
15. Construction of act; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That article eleven, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter six, acts of the Legislature, regular session, one thousand nine hundred thirty-three, be amended by adding thereto new sections eleven, twelve, thirteen, fourteen and fifteen, to read as follows:
Section 11. Compliance With Final Order of Commission; Methods of Raising Funds by a Municipality. Any person, corporation, municipal corporation, partnership or legal entity, upon whom a final order of the state water commission as herein provided is served, which order shall not have been set aside by a court of competent jurisdiction upon complaint filed as herein provided or upon whom a final order is served as modified to conform with a judgment of such court directing modification, shall, within thirty days after receipt of such order, or after judgment affirming such order is entered, take steps for the acquisition or construction of such plants, machinery or works, or for such repair, alteration or extension of existing plants, machinery or works, as may be necessary for the disposition or treatment of the organic or inorganic matter which is causing or contributing to, or is about to cause or contribute to, a polluted condition of such water or waters, or shall take such other steps as may be necessary to comply with said final order of the state water commission. If the offender be a municipal corporation, the cost of acquisition, construction, repair, alteration or extension of the necessary plant, machinery or works, or taking such other steps as may be necessary to comply with said order, shall be paid out of funds on hand available for such purpose, or out of the general funds of such municipal corporation, not otherwise appropriated; or if there be not sufficient funds on hand or unappropriated, then the necessary funds shall be raised by issuance of bonds, such bond issue to be subject to the approval of the state sinking fund commission and the attorney general of the state of West Virginia.

If the estimated cost of the steps necessary to be taken by such municipal corporation to comply with such final order of the state water commission, is such that the bond issue necessary to finance such project would not raise the total outstanding bonded indebtedness of such municipal corporation, in excess of the constitutional limit imposed upon such indebtedness by the constitution of this state, then and in that event the necessary bonds may be issued as a direct obligation of such municipal corporation, and retired by a general tax levy to be levied against all property within the limit of such municipal corporation listed and assessed for taxation. If the amount of such bonds necessary to be issued
would raise the total outstanding bonded indebtedness of such municipal corporation above said constitutional limitation on such indebtedness, or if such municipal corporation by its governing body shall determine against the issuance of direct obligation bonds, then such municipal corporation shall issue revenue bonds and provide for the retirement thereof in the same manner and subject to the same conditions as provided for the issuance and retirement of bonds in chapter twenty-five, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, entitled "An act to authorize municipal corporations and/or sanitary districts to construct, own, equip, operate, maintain and approve works for the collection and/or treatment, purification and disposal of sewerage; to authorize charges against owners of premises for the use of such works and to provide for the collection of same; to authorize municipal corporations and/or sanitary districts to issue revenue bonds payable solely from the revenues of such works and to make such bonds exempt from taxation; to authorize contracts for the use of such works by other municipal corporations and political subdivisions, and charges against owners of premises therein served thereby and a lien against such premises": Provided, however, That the provisions of section six of the above-mentioned act, allowing objections to be filed with the governing body, and providing that a written protest of thirty per cent or more of the owners of real estate shall require a four-fifths vote of the governing body for issuance of said revenue bonds, shall not apply to bond issues proposed by any municipal corporation to comply with the final order issued by the state water commission, under the authority of this act, and such objections or submission of written protest shall not be authorized, nor shall the same, if had, operate to justify or excuse failure to comply with such final order of the state water commission.

The funds made available by the issuance of either direct obligation bonds or revenue bonds as herein provided, shall constitute a "sanitary fund", and shall be used for no other purpose than for carrying out such order or orders of the state water commission; no public money so raised shall be
expended by any municipal corporation for any purpose
enumerated in this act, unless such expenditure and the
amount thereof has been approved by the state water com-
mission.

Sec. 12. How Construction and Operation of Municipal
Plants, Etc., Governed. The construction, acquisition, improve-
ment, equipment, custody, operation, repair and maintenance
of any plants, machinery or works by any municipal corpor-
ation, in compliance with a final order of the state water com-
mission, as herein provided, other than the financing thereof,
and the rights, powers, and duties, of such municipal corpor-
ation and the respective officers and departments thereof,
whether the same shall be financed by the issuance of revenue
or direct obligation bonds, shall be governed by the provisions
of said chapter twenty-five, acts of the Legislature, first ex-
traordinary session, one thousand nine hundred thirty-three.

Sec. 13. When Proceedings to Comply Must Begin; Penalty.
It shall be the duty of each individual offender and of each
member of a partnership, and of each member of the govern-
ing body of a municipal corporation, and of each member of
the board of directors or other governing body of a private
corporation, association or other legal entity, against whom a
final order has been issued, as herein provided, to begin appro-
priate action or proceedings to comply with such order, with-
in thirty days from the receipt thereof, if no action has been
commenced in the circuit court of the county where such viola-
tion is alleged to exist to set aside or vacate such order, as
provided in this act, or, in case such action has been brought,
within thirty days from the date of judgment affirming such
order, or from the date of the receipt of such order, as modi-
fied in conformity with the judgment of such court. Failure of
the governing body in the case of a municipal corporation, or
of the board of directors or any other governing body of any
private corporation, association or other legal entity, to provide
for the financing and construction of such works as may be nec-
essary to carry out said order by appropriate ordinance or
resolution, shall constitute failure to begin appropriate action
or proceedings to comply with such order, as above provided.
Any individual offender, or member of a partnership, or any of-

ation, association, or other legal entity, or any mayor, council-
man or member of sanitary board as provided for in said chap-
ter twenty-five, acts of the Legislature, first extraordinary ses-
sion, one thousand nine hundred thirty-three, of any munici-
pal corporation, who fails or refuses to discharge any duty
imposed upon him by this act or by such final order of the
state water commission, or any duty imposed upon him by
reason of any ordinance of the governing body of any munici-
pal corporation, or resolution of the board of directors or
other governing body of any private corporation, association
or other legal entity, pursuant to this act or to such final or-
der, shall be deemed guilty of a misdemeanor, and upon con-
viction thereof shall be fined in any sum of not less than
twenty-five dollars, nor more than one hundred dollars, to
which may be added imprisonment in the county jail for any
period not to exceed ninety days. Each day that such fail-
ure or refusal to discharge such duties continues, shall be and
constitute a separate and additional offense for the purposes
of this section.

Sec. 14. Extension of Time for Compliance; Penalty for
Noncompliance. The state water commission shall have the au-
thority, in its discretion, to extend the time fixed in any final
order issued by it, within which any offender is ordered to
correct or abate a condition of pollution of any water or
waters, upon written petition filed with such commission not
less than thirty days prior to the time fixed in such order, when
it shall appear that a good faith effort to comply with said or-
der is being made, and that it shall be impossible for such of-
fender to complete the project of work undertaken within the
time so fixed. Any person, corporation, municipal corpor-
ation, partnership, association or other legal entity, who shall
fail or refuse to correct or abate such polluted condition in
compliance with such order within the time fixed or within
the time additionally granted as herein provided, shall be sub-
ject to a penalty of one hundred dollars for each day that such
polluted condition continues to exist after the time so fixed, or
additionally granted, which may be recovered in a civil suit
brought in the name of the state of West Virginia and which
penalty shall be in addition to the penalty provided in section
thirteen of this act. It shall be the duty of the attorney gen-
eral to prosecute all actions for penalties under this section,
and all penalties so recovered shall be paid into the common
government fund of the state. The penalties accruing for any two or
more days under the provisions of this section may be re-
covered in one complaint and may be joined in one paragraph
of said complaint.

Sec. 15. Construction of Act; Inconsistent Acts Repealed.
Being for the public health, safety and welfare, this act shall
be liberally construed to effectuate the purposes thereof, and
all existing laws or parts of laws of this state inconsistent with
this act are hereby repealed.

CHAPTER 131
(Senate Bill No. 15—By Mr. Barnhart)

AN ACT to amend and reenact section three, article five, chapter
twenty-one of the code of West Virginia, one thousand nine
hundred thirty-one, relating to assignment of wages.

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

Article 5. Wages.

Section
3. Payment of wages by employers, other than railroads; assignment
of wages.

Be it enacted by the Legislature of West Virginia:

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

Section 3. Payment of Wages by Employers, Other Than
Railroads; Assignment of Wages. Every person, firm or cor-
poration doing business in this state, except railroad companies as provided in section one of this article, shall settle with its employees at least once in every two weeks, unless otherwise provided by special agreement, and pay them the amount due them for their work or services in lawful money of the United States, or by the cash order as described and required in the next succeeding section of this article: Provided, however, That if, at any time of payment, any employee shall be absent from his regular place of labor and shall not receive his wages through a duly authorized representative, he shall be entitled to such payment at any time thereafter upon demand upon the proper paymaster at the place where such wages are usually paid and where the next pay is due.

Nothing herein contained shall affect the right of an employee to assign part of his claim against his employer except as hereafter provided.

No assignment of or order for future wages shall be valid for a period exceeding one year from the date of such assignment or order. Such assignment or order shall be acknowledged by the party making the same before a notary public or other officer authorized to take acknowledgements, and such order or assignment shall specify thereon the total amount due and collectible by virtue of the same and three-fourths of the periodical earnings or wages of the assignor shall at all times be exempt from such assignment or order and no assignment or order shall be valid which does not so state upon its face: And provided further, That no such order or assignment shall be valid unless the written acceptance of the employer of the assignor to the making thereof, is endorsed thereon: Provided further, That nothing herein contained shall be construed as affecting the right of employer and employee to agree between themselves as to deductions to be made from the payroll of employees.

The provisions of this section shall be construed as severable, and should any paragraph, sentence, or clause be held void or invalid, the remaining provisions shall not be affected thereby.
CHAPTER 132
(House Bill No. 108—By Mr. Döringer)

AN ACT to amend and reenact chapter ninety-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, relating to the rate of wages to be paid to workmen and mechanics employed in construction of public improvements.

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

Section 1. Definitions of words and phrases.
2. Fair minimum rate of wages on public improvements defined.
3. Contract to require contractor to pay not less than fixed minimum wage.
4. Wage rates to be kept posted.
5. Penalty for violations by contractor; action by employee paid less than minimum wage.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Definitions of Words and Phrases. The term "public authority," as used in this act, shall mean any officer, board or commission of the state of West Virginia, or any political subdivision thereof, authorized by law to enter into a contract for the construction of a public improvement. The term "construction," as used in this act, shall mean any construction, reconstruction, improvement, enlargement or repair of any public improvement. The term "public improvement," as used in this act, shall include all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or works constructed by the state of West Virginia or any political subdivision thereof. The term "locality," as used in this act, shall mean the county wherein the physical work upon any public improvement is being performed.
Sec. 2. **Fair Minimum Rate of Wages on Public Improvements Defined.** Any public authority authorized to contract for a public improvement, shall, before advertising for bids for the construction thereof, fix and determine a fair minimum rate of wages to be paid by the successful bidder to the employees in the various branches or classes of the work, to be performed. The "fair minimum rate of wages," for the intents and purposes of this act, shall be the rate of wage paid in the locality as hereinbefore defined to the majority of workmen, laborers or mechanics in the same trade or occupation. In the event that it be determined that there is not a majority in the same trade or occupation paid at the same rate, then the rate paid to the greater number in such trade or occupation shall be the minimum rate, provided such greater number constitutes at least forty per cent of the laborers, workmen or mechanics engaged in such trade or occupation; in the event that there is less than forty per cent of the laborers, workmen or mechanics engaged in the same trade or occupation in the same locality paid the same rate, then the average rate paid such laborers, workmen or mechanics in the same trade or occupation shall be the minimum rate. The minimum rate of wages so fixed shall be printed on the bidding blanks.

Sec. 3. **Contract to Require Contractor to Pay Not Less Than Fixed Minimum Wage.** In all cases where any public authority shall fix a fair minimum rate or rates of wages as herein provided, the contract executed between the public authority and the successful bidder shall contain a provision requiring the successful bidder and all his subcontractors to pay a rate or rates of wages which shall not be less than the minimum rate or rates of wages so fixed. It shall be the duty of the successful bidder and all his subcontractors to strictly comply with such provisions of the contract.

Sec. 4. **Wage Rates to be Kept Posted.** A clearly legible statement of all minimum wage rates to be paid the several classes of labor employed on the work shall be kept posted in a prominent and easily accessible place at the site of the work.
Sec. 5. Penalty for Violations of Act by Contractor; Action by Employee Paid Less than Minimum Wage. Any contractor or subcontractor who shall violate the wage provisions of such contract, or who shall suffer, permit or require any employee to work for less than the minimum rate of wages so fixed, shall be fined not less than fifty dollars nor more than five hundred dollars. Any employee upon any public improvement who is paid less than the fixed minimum rate of wages applicable thereto may recover from the contractor or subcontractor the difference between the fixed minimum rate of wages and the amount paid to him, and in addition thereto a penalty equal in amount to such difference.

Sec. 6. Provisions of Act Severable; Inconsistent Acts Repealed. Each section of this act and every part thereof is hereby declared to be an independent section or part of a section, and if any section, subsection, sentence, clause or phrase of this act shall for any reason be held unconstitutional, the validity of the remaining phrases, clauses, sentences, subsections, and sections of this act shall not be affected thereby.

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

CHAPTER 133
(Senate Bill No. 43—By Mr. Shahan)

AN ACT to provide compensation for Herman J. Poling for his services as prosecuting attorney of Barbour county for the period of March to November, inclusive, one thousand nine hundred thirty-five.

[Passed February 15, 1937; in effect from passage. Approved by the Governor.]

Section 1. Barbour county court authorized to pay Herman J. Poling for services as prosecuting attorney.

Be it enacted by the Legislature of West Virginia:

Section 1. Barbour County Court Authorized to Pay Her-
man J. Poling for Services as Prosecuting Attorney. The county court of Barbour county is authorized to pay the sum of twelve hundred dollars to Herman J. Poling for his services as prosecuting attorney of said county for the period from March to November, inclusive, one thousand nine hundred thirty-five.

CHAPTER 134
(Senate Bill No. 7—By Mr. Belknap)

AN ACT to permit the county court of Braxton County, with the consent of the holders of certificates of indebtedness, to postpone the payment of such certificates, and to employ and use the levy therefor along with any surplus in said fund, existing or arising, in the construction of additions, repairs and reconditioning of the county courthouse and jail.

Section 1. Braxton county court authorized to postpone payment of certificates of indebtedness.

Section 2. Expenditure of contractual debt levies on courthouse and jail.

Section 3. When levies to be laid for payment of certificates of indebtedness.

Be it enacted by the Legislature of West Virginia:

Section 1. Braxton County Court Authorized to Postpone Payment of Certificates of Indebtedness. The county court of Braxton county, by and with the consent of the holders of the certificates of indebtedness issued by said court, dated January first, one thousand nine hundred thirty-five, and payable June first, one thousand nine hundred thirty-seven, under the provisions of chapter sixty-four, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, is hereby authorized and empowered to postpone the payment of such certificates until the first of June, one thousand nine hundred forty, and interest shall be
12 paid thereon at the rate provided for therein from the due
date thereof until payment.

Sec. 2. *Expenditure of Contractual Debt Levies on Courthouse and Jail.* The said county court of Braxton county is
hereby authorized and empowered to expend the amount
levied by it for the fiscal year ending June thirty, one thou-
sand nine hundred thirty-seven, for contractual debt pur-
poses, together with any other moneys now in the contractual
debt fund derived from other sources, in providing for addi-
tions and repairs to the courthouse and jail of said county;
and such moneys may be so expended in conjunction with any
moneys allocated in aid of such purposes by the government
of the United States, or any agency established by it, or in-
dependently thereof.

Sec. 3. *When Levies to be Laid for Payment of Certificates of Indebtedness.* The said county court of Braxton county
shall make provision for the payment of the certificates of in-
debtendedness, the payment of which may be postponed under
the provisions of this act, by levies for the fiscal year ending
June thirty, one thousand nine hundred forty.

All acts or parts of acts in conflict herewith are hereby
repealed.

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**CHAPTER 135**

*(House Bill No. 220—By Mr. Bobbitt)*

AN ACT authorizing the county court of Clay County to pay
Wilma Pugh the sum of two hundred fifty dollars for services
rendered by her to the prosecuting attorney of Clay County.

[Passed March 6, 1937; in effect from passage. Became a law without the
approval of the Governor.]

**Section 1.** Clay county court authorized to pay Wilma Pugh for services to
prosecuting attorney.

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

Section 1. *Clay County Court Authorized to Pay Wilma*
payment of expense of J. B. Wheeler  [Ch. 136

2 Pugh for Services Rendered to Prosecuting Attorney. The county court of Clay County is hereby authorized to pay to Wilma Pugh the sum of two hundred fifty dollars for services rendered to the prosecuting attorney of Clay County, for two and one-half months' services, from September first, one thousand nine hundred thirty-six, to November fifteenth, one thousand nine hundred thirty-six, inclusive; at the rate of one hundred dollars per month.

CHAPTER 136
(House Bill No. 436—By Mr. Bobbitt)

AN ACT to authorize the county court of Clay County to pay to J. B. Wheeler, ex-sheriff of Clay County, extra expense authorized by a former county court of Clay County.

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

Section 1. Clay county court authorized to pay certain expenses of J. B. Wheeler, former sheriff.

Be it enacted by the Legislature of West Virginia:

Section 1. Clay County Court Authorized to Pay Certain Expenses of J. B. Wheeler, Former Sheriff. The county court of Clay County, West Virginia, is hereby authorized to pay to J. B. Wheeler of Clay, West Virginia, former sheriff of said Clay County for the term expiring January first, one thousand nine hundred thirty-three, the sum of three hundred dollars, to cover his extra expense while in office, authorized by the county court of Clay County then in office, but never paid to him.
CHAPTER 137
(Senate Bill No. 165—By Mr. Smith)

AN ACT to authorize and empower the city of Fairmont to sell and furnish water to corporations and persons within the county of Marion.

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

Section
1. City of Fairmont authorized to furnish water to users outside city.

Be it enacted by the Legislature of West Virginia:

Section 1. City of Fairmont Authorized to Furnish Water to Users Outside City. The city of Fairmont, Marion county, West Virginia, is hereby authorized and empowered to sell and furnish water, from its municipally owned water works system, to corporations and persons within the county of Marion: Provided, however, That in no event shall such power and authority be exercised in any town or city, outside the city of Fairmont, in Marion county, which owns or operates its own water works, unless with the consent of such town or city: Provided further, Such power and authority shall not be exercised outside the corporate limits of the city of Fairmont in any area which is adequately served by an existing water system, whether such be privately or municipally owned or operated.
CHAPTER 138

(House Bill No. 340—By Mr. Bush)

AN ACT authorizing the county court of Gilmer County, West Virginia, to transfer the balance in the contractual debt fund (not bonded) of said county, to the general county fund of said county.

[Passed March 8, 1937; in effect from passage. Became a law without the approval of the Governor.]

Section 1. Gilmer county court authorized to transfer contractual debt fund, not bonded.

Be it enacted by the Legislature of West Virginia:

Section 1. Gilmer County Court Authorized to Transfer Contractual Debt Fund, Not Bonded. The county court of Gilmer County, West Virginia, is hereby authorized and empowered to transfer the balance remaining in the contractual debt fund (not bonded) of said Gilmer County to the general county fund of said Gilmer County: Provided, however, that no such transfer shall be made unless and until the contractual debts for which such funds were raised by levy shall have been fully paid and discharged.

CHAPTER 139

(House Bill No. 244—By Mr. Hussion)

AN ACT authorizing the city of Grafton, West Virginia, a municipal corporation, to acquire and hold lands and buildings for a hospital; to lease with an option to purchase the same, and to borrow funds from the public works administration or other federal governmental agency authorized to make loans, or any bank or financial institution, or any individual or persons, for the purpose of constructing, equipping and maintaining a hos-

* Amended by chapter 140, acts of this session.
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hospital; to issue such bonds, or other evidences of indebtedness as may be required by such federal governmental agency, bank or financial institution, individual or persons making such loan; to pledge a sufficient amount of revenue, within the constitutional limitation, to pay the principal and interest on said bonds within a period not to exceed thirty years; to pledge such real estate and buildings for the payment of such bonds and interest, and to promulgate such ordinances as may be necessary for the construction, equipping and maintaining of such hospital.

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

Section
1. City of Grafton authorized to enter into contract, etc., for construction of hospital.
2. Option to purchase hospital; lease or rental.
3. Levy to pay rentals.
4. City may acquire real estate for and construct hospital; revenue bonds for cost.
5. Enforcement of statutory lien of bondholders.
6. Bonds; form; retirement; temporary.
7. Limitations as to debt.
8. Act additional and supplementary to other powers of city.
9. Act to be liberally construed.
10. Increased levies; election.

Be it enacted by the Legislature of West Virginia:

Section 1. City of Grafton Authorized to Enter Into Contract, Etc., for Construction of Hospital. The city of Grafton is hereby authorized and empowered to acquire real estate and to convey real estate and to enter into a contract, or lease, or both, with the United States government, through the public works administration, or any federal governmental agency authorized to make or enter into such contract, or lease, or with any bank or financial institution, or with any individual or persons, for the erection, construction, equipment, leasing and renting of a hospital.

Sec. 2. Option to Purchase Hospital; Lease or Rental. Said city of Grafton is also authorized and empowered to enter into an option to purchase such hospital and real estate and to provide for the payment of a yearly rental for such by said city; and to contract with the United States
government, through the public works administration, or any federal governmental agency, or any bank or financial institution, or any individual or persons, to the end that said government, or any of its agencies, or agents thereunto duly authorized, or bank or financial institution, or individual or persons, may for and on behalf of the city of Grafton, build, erect, construct, equip or furnish upon said property any such hospital; and to contract with said government, or any federal governmental agency, or bank or financial institution, or individual or persons, for the lease, or rental, of said building, or buildings, with the privilege and authority of renewing said lease from year to year, for any period of years, not exceeding thirty, with the right to purchase said building, or buildings, and real estate, on which the same is, or are, situated, and to apply toward the purchase price thereof any and all rentals paid to said government, or agency, or bank, or financial institution, or individual, or persons, under the provisions of this act; and the said city of Grafton shall pay to the said United States government, or any federal governmental agency, or bank or financial institution, or individual or persons, said yearly rental, or rentals, for the use and occupancy of said building, or buildings, if and when the same are constructed, which said yearly rental, or rentals, in the aggregate, shall not exceed the total amount and the interest thereon expended by said government, or federal governmental agency, or bank or financial institution, or individual or persons, on said project, or projects, and the said yearly rentals shall be paid out of levies laid within the constitutional debt limitations; and to do any and all other things lawfully required by said United States government, or any federal governmental agency, or bank or financial institution, or individual or persons, which are necessary and proper to effectuate the purpose of this act.

Sec. 3. Levy to Pay Rentals. The said city of Grafton shall levy and collect annually an amount sufficient to pay said rental, or rentals, for that particular year for the purposes aforesaid in the manner and form as is provided by law.

Sec. 4. City May Acquire Real Estate for and Construct Hospital; Revenue Bonds for Cost. The city of Grafton is
likewise authorized and empowered to acquire real estate for,
construct, equip, furnish and maintain a hospital, and to bor-
row funds from the United States government, through the
public works administration or other federal governmental
agency authorized to make loans, or any bank or financial in-
stitution authorized by law to make loans, or any individual or
persons, for the purpose of building, constructing, furnishing
and equipping said hospital, and for the purpose of acquiring
real estate therefor, and shall have the right to acquire by pur-
chase, condemnation, gift or otherwise, real estate on which to
build the same, within the discretion of the commission of the
city of Grafton. Said city is authorized and empowered to issue
bonds for the purpose of paying the cost of such real estate,
building, furnishing and equipment, and to pledge a sufficient
amount of revenue within the constitutional limitations and
within the limitations as provided by general law, to pay the
principal of said bonds and the interest thereon, within a
period not to exceed thirty years. Said city of Grafton is
further authorized and empowered to do and perform any
and all acts and make all contracts necessary to effectuate
the general purpose of this act, including the acquisition, by
original grant, gift, condemnation, or other lawful means of
real estate, and of all necessary permits, easements and other
rights in real estate, and title to and possession thereof, or to
make such purchase and acquisition with the money bor-
rowed, as provided in this act.

Said city shall have authority, and is empowered to make
such contracts, agreements and covenants between it and the
United States government, the public works administration,
or other federal governmental agency, or bank or financial
institution, or individual or persons, for the loan of such
funds to said city of Grafton, and securing payment thereof
as it may be able to effectuate, subject only to this limitation,
that the bonds issued, or given as security thereof, shall be
payable out of the levies now provided for by general law
and by this act; to be levied by said city of Grafton in and
for said city; to acquire needed real estate, to construct, equip,
furnish and maintain such hospital, and to make and enter
into such contracts, and to do and perform such acts as may
be necessary for the construction, equipment, operation and
maintenance of the same, subject to such burdens, restric-
tions and encumbrances as it may be necessary to incur and
bear, in securing such bonds and such real estate, construc-
tion, equipment and maintenance.

Bonds issued hereunder shall be exempt from taxation by
the state of West Virginia, or any county therein, or any
district or municipality thereof.

Sec. 5. Enforcement of Statutory Lien of Bondholders.  
There shall be and there is hereby created a statutory mort-
gage lien upon the said real estate, buildings and property so
acquired, constructed or built from the proceeds of bonds au-
alyzed to be issued under this act, which shall exist in favor
of the holder of said bonds, and each of them, and to and
in favor of the holder of the interest coupons attached to
said bonds, and such hospital, and the real estate so acquired
and used for and in connection therewith shall remain sub-
ject to such statutory mortgage lien until payment in full of
the principal and interest of said bonds. Any holder of bonds
issued under the provisions of this act, or the holder of any
coupons representing interest accrued thereon, may, either
at law or in equity, enforce the statutory mortgage lien here-
by created and conferred, and may, by proper suit, compel
the performance of the duties of the officials of the said city
set forth in this act. If there be default in the payment of
the principal of or interest upon any of said bonds, any court
having jurisdiction in any proper action may appoint a re-
ceiver to administer said property on behalf of the said city
with power to charge and collect rents or income sufficient
to provide for the payment of said bonds and interest there-
on, and for the payment of the operating expenses, and to
apply the income, rents or other revenue in conformity with
this act and the order providing for the issuance of said
bonds.

Sec. 6. Bonds; Form; Retirement; Temporary. The
said city, after issuing bonds under the provisions of this
act, shall thereafter, so long as any such bonds remain
outstanding, operate and maintain said hospital, so as to
provide revenues sufficient to pay all operating costs, provide
a sinking fund for and to retire the bonds and pay the in-
terest thereon as the same may become due. The amounts,
as and when so set apart by said city, shall be remitted to
the state sinking fund commission at least thirty days previous to the time interest or principal payments become due, to be retained and paid out by said commission consistent with the provisions of this act and with the order pursuant to which such bonds have been issued. The state sinking fund commission is hereby authorized to act as fiscal agent for the administration of such sinking fund under any order passed pursuant to the provisions of this act, and shall invest all sinking funds, as provided by general law. Bonds issued under the provisions of this act are hereby declared to be and to have all the qualities of negotiable instruments. Such bonds shall bear interest at not more than six per cent per annum, payable semi-annually, and shall mature at any time fixed by the city of Grafton, in not more than thirty years from their date, and may be made redeemable at the option of the said city, at such price and under such terms and conditions as said city may fix, by its order, prior to the issuance of such bonds. Bonds issued hereunder shall be payable at the office of the state treasurer, or some bank in the city of New York. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if they had remained in office until such delivery. The commission of the city of Grafton shall, by order entered prior to the issuance of said bonds, fix the denominations, times and places of payment of such bonds, the principal and interest of which shall be payable in lawful money of the United States of America. The proceeds of such bonds shall be used solely for the payment of the cost of land, buildings, furniture and equipment thereon, and shall be checked out by the said city under such restrictions as are contained in the order providing for the issuance of said bonds. If the proceeds of bonds issued for any hospital shall exceed the cost thereof, the surplus shall be paid into the fund herein provided for the payment of principal and interest upon such bonds. Such fund may be used for the purchase or redemption of any of the outstanding bonds payable from such fund at the market price, but at not exceeding the price at which any of such bonds shall in the same year be redeemable, as
fixed by the city of Grafton in its said order, and all bonds
redeemed or purchased shall forthwith be cancelled, and
shall not again be issued.

Prior to the preparation of definitive bonds, the said city
may, under like restrictions, issue temporary bonds, or in-
term certificates, with or without coupons, exchangeable for
definitive bonds upon the issuance of the latter. Such bonds
may be issued without any other proceedings or the hap-
pening of any other conditions or things than those proceed-
ings, conditions and things which are specified and required
by this act.

Sec. 7. Limitations as to Debt. Nothing in this act con-
tained shall be so construed or interpreted as to authorize
or permit said city of Grafton to incur a debt for and on
behalf of said city, of any kind or nature contrary to the
provisions of the constitution of the state in relation to debt.

Sec. 8. Act Additional and Supplementary to Other Powers
of City. This act shall be deemed to provide an additional and
alternative method for the doing of the things authorized
hereby, and shall be regarded as supplementary and additional
to powers conferred by other laws and by the charter of the
city of Grafton.

Sec. 9. Act to Be Liberally Construed. This act, being
necessary for the health, welfare and requirements of the
public of the city of Grafton, it shall be liberally construed
to effectuate the purpose thereof.

Sec. 10. Increased Levies; Election. Notwithstanding
the provisions of general law, the city of Grafton, authorized
by this act to issue bonds, may become indebted for the pur-
poses in this act authorized, to an amount, including all other
indebtedness, up to but not exceeding five per cent of the
value of the taxable property in such city, as shown by the
last assessment thereof for state and county purposes next
prior to the authorization of such bonds, subject to the levy
limitations as provided in the constitution. For the purpose of
effectuating the provisions and purposes of this act and for
the purpose of obtaining revenue to pay said bonds and their
interest, or for the purpose of redeeming said bonds in whole
or in part, the city of Grafton may, and is authorized to in-
crease the levies on each class of property, not to exceed fifty
per cent of the rates authorized in section ten, article eight,
chapter sixty-seven, acts of the Legislature, second extraor-
dinary session, one thousand nine hundred thirty-three, not
to exceed three years, and may submit to the voters of the
city the question of authorizing such increase, not to exceed
three years, at the same time and as a part of the scheme
to issue said bonds and provide for the payment thereof.
Such increase of levies shall not continue for more than three
years without resubmission to the voters, but the question
of future levy increases for such purposes may be again sub-
mitted to the voters.
Upon the questions of issuance of such bonds, providing
for the payment thereof, the increase of said levies, at least
sixty per cent of the votes cast shall be in favor thereof, as
provided by general law.

Sec. 11. Provisions of Act Severable. The provisions of
this act are separable and not matters of mutual essential in-
ducement, and it is the intention to confer the whole or any
part of the powers herein provided for, and if any of the sec-
tions, or provisions, or parts thereof, are for any reason
illegal, it is the intention that the remaining sections and pro-
visions, or parts thereof, shall remain in full force and effect,
and the provisions of this act shall be supplemental to pro-
visions of existing law.

CHAPTER 140
(House Bill No. 468—By Mr. Hussion)

AN ACT to amend and reenact section ten of an act of the Legis-
lature of West Virginia, regular session, one thousand nine
hundred thirty-seven, known and designated as house bill
number two hundred forty-four, relating to the city of Grafton

*Amending chapter 139, acts of this session.
issuing bonds and increasing levies for the purpose of constructing, equipping and maintaining a municipal hospital.

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

Section 10. Increased levies; election.

Be it enacted by the Legislature of West Virginia:

That section ten of an act of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-seven, known and designated as house bill number two hundred forty-four, be amended and reenacted to read as follows:

Section 10. Increased Levies; Election. Notwithstanding the provisions of general law, the city of Grafton, authorized by this act to issue bonds, may become indebted for the purposes of this act authorized, to an amount, including all other indebtedness, up to but not exceeding five per cent of the value of the taxable property in such city, as shown by the last assessment thereof for state and county purposes next prior to the authorization of such bonds, subject to the levy limitations as provided in the constitution. For the purpose of effectuating the provisions and purposes of this act and for the purpose of obtaining revenue to pay said bonds and their interest, or for the purpose of redeeming said bonds in whole or in part, the city of Grafton may, and is authorized to increase the levies on each class of property, not to exceed fifty per cent of the rates authorized in section fourteen, article eight, chapter sixty-seven, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, not to exceed three years, and may submit to the voters of the city the question of authorizing such increase, not to exceed three years, at the same time and as a part of the scheme to issue said bonds and provide for the payment thereof. Such increase of levies shall not continue for more than three years without resubmission to the voters, but the question of future levy increases for such purposes may be again submitted to the voters.

Upon the questions of issuance of such bonds, providing for the payment thereof, the increase of said levies, at least sixty per cent of the votes cast shall be in favor thereof, as provided by general law.
CHAPTER 141

(AN ACT to amend and reenact chapter sixty-seven, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-three, and to authorize the county court of Harrison County, West Virginia, to transfer all the unexpended balance of the special fund, known as the courthouse fund, to the general county fund of the said county, and providing for the use thereof.

(Passed March 4, 1937; in effect from passage. Became a law without the approval of the Governor.)

Section 1. Harrison county court authorized to transfer courthouse fund.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Harrison County Court Authorized to Transfer Courthouse Fund. The county court of Harrison County, West Virginia, is hereby authorized and empowered to transfer all the unexpended balance of the special fund, known as the courthouse fund, derived by levies authorized by chapter one hundred thirty, acts of the Legislature of West Virginia, regular session, one thousand nine hundred twenty-seven, as amended and reenacted by chapter one hundred twenty-seven, acts of the Legislature of West Virginia, regular session, one thousand nine hundred twenty-nine, to the general county fund of the said county, and to use the same for general county purposes.

CHAPTER 142

(AN ACT to authorize the county court of Harrison County, West
Virginia, to transfer all the unexpended balance of a fund known as the county contractual debt fund, derived by levies authorized by section ten, chapter sixty-nine, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, to the general county fund, and providing for the use thereof.

[Passed March 8, 1937; in effect from passage. Became a law without the approval of the Governor.]

Section
1. Harrison county court authorized to transfer and expend county contractual debt fund.

Be it enacted by the Legislature of West Virginia:

Section 1. Harrison County Court Authorized to Transfer and Expend County Contractual Debt Fund. The county court is hereby authorized and empowered to transfer all the unexpended balance of a fund known as the county contractual debt fund, derived by levies authorized by section ten, chapter sixty-nine, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, to the general county fund of the said county, and to use such money so transferred for general county purposes:

Provided, however, That if there are any outstanding obligations against the said county contractual debt fund, an amount sufficient to pay said outstanding obligations shall be retained in said county contractual debt fund and only the balance above such amount of said fund may be transferred to the general county fund.

CHAPTER 143

(Senate Bill No. 24—By Mr. Barnhart)

AN ACT to amend and reenact section eleven, chapter twenty-five, acts of the Legislature of West Virginia, one thousand
nine hundred seven, relating to the time for holding terms of the Intermediate Court of Kanawha County, West Virginia.

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

Section

11. Terms of intermediate court of Kanawha county.

Be it enacted by the Legislature of West Virginia:

That section eleven, chapter twenty-five, acts of the Legislature of West Virginia, one thousand nine hundred seven, be amended and reenacted to read as follows:

Section 11. Terms of Intermediate Court of Kanawha County. There shall be four terms of said court held in each year, commencing on the second Monday in January, the first Monday in April, the second Monday in June and the first Monday in September. Adjourned and special terms of said court may be called and held as provided for special and adjourned terms of the circuit court.

CHAPTER 144

(House Bill No. 31—By Mr. Stephens)

AN ACT to relieve M. H. Hix, clerk of the circuit, common pleas and intermediate courts of Kanawha county, West Virginia, from all personal liability for the payment of certain sums of money paid him, or his predecessor, as costs, and deposited by him, or his predecessor, in the Peoples Exchange Bank of Charleston, West Virginia.

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

Section

1. M. H. Hix, clerk of Kanawha county circuit court, relieved of liability for certain fees collected.

Be it enacted by the Legislature of West Virginia:

Section 1. M. H. Hix, Clerk of Kanawha County Circuit Court, Relieved of Liability for Certain Fees Collected. That
M. H. Hix, clerk of the circuit, common pleas and intermediate courts of Kanawha county, West Virginia, be and he is hereby relieved from all personal liability for the payment of any money advanced as costs of litigation now or heretofore pending in the circuit, common pleas and intermediate courts of Kanawha county, West Virginia, and by the said M. H. Hix, or his predecessor, deposited in the Peoples Exchange Bank, of Charleston, West Virginia, which said bank closed during the year one thousand nine hundred thirty-three.

CHAPTER 145
(House Bill No. 32—By Mr. Stephens)

AN ACT to relieve J. M. Slack, former clerk of the county court of Kanawha county, from all personal liability for the payment of certain sums of money paid him as costs and deposited by him in the Peoples Exchange Bank and the Security Bank and Trust Company, of Charleston, West Virginia.

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

Section 1. Relieving J. M. Slack of personal liability for certain fees collected by him as clerk of Kanawha county court.

Be it enacted by the Legislature of West Virginia:

Section 1. Relieving J. M. Slack of Personal Liability for Certain Fees Collected by Him as Clerk of Kanawha County Court. That J. M. Slack, former clerk of the county court of Kanawha county, West Virginia, be and he is hereby relieved from all personal liability for the payment of any money received by him as fees as clerk of the county court of Kanawha county, West Virginia, and by the said Slack deposited in the Peoples Exchange Bank and the Security Bank and Trust Company, of Charleston, West Virginia, which said banks closed during the year one thousand nine hundred thirty-three.
CHAPTER 146

(House Bill No. 131—By Mr. Stephens)

AN ACT authorizing the county court of Kanawha county to provide compensation for George Dudley, a former deputy sheriff of Kanawha county, wounded while in the performance of his duty as deputy sheriff.

[Passed March 6, 1937; in effect from passage. Became a law without the approval of the Governor.]

Section 1. Kanawha county court authorized to pay compensation to George Dudley.

Be it enacted by the Legislature of West Virginia:

Section 1. Kanawha County Court Authorized to Pay Compensation to George Dudley. That the county court of Kanawha county be authorized and empowered to pay to George Dudley, a former deputy sheriff of Kanawha county, the sum of two hundred fifty dollars in cash, and to make provision in its annual budget, each year, during the remainder of the life of said Dudley, beginning with the budget for the fiscal year one thousand nine hundred thirty-seven and thirty-eight, and to appropriate for each fiscal year thereafter, during the life of the said Dudley, the sum of nine hundred sixty dollars annually, to be paid monthly by the county court of Kanawha county, to the said George Dudley, in monthly installments of eighty dollars per month, as compensation to the said George Dudley for injuries sustained, while transporting a dangerous criminal from the Kanawha county jail to the West Virginia state penitentiary at Moundsville, when attacked and severely wounded by outlaws.
AN ACT to authorize the board of education of the county of Kanawha to settle the claim of Thomas C. Halstead.

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

Section 1. Kanawha county board of education authorized to make settlement with Thomas C. Halstead.

Be it enacted by the Legislature of West Virginia:

Section 1. Kanawha County Board of Education Authorized to Make Settlement With Thomas C. Halstead. The board of education of the county of Kanawha is hereby authorized and empowered, at its discretion, to compromise and settle the claim of Thomas C. Halstead for damages by reason of personal injuries alleged to have been sustained by him on account of the alleged negligent operation of a school bus in Cabin Creek district of Kanawha County, West Virginia.

CHAPTER 148
(House Bill No. 386—By Mr. Brotherton)

AN ACT to authorize the county court of Kanawha county to expend funds for the construction and maintenance of the Four-H camp in Kanawha County.

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

Section 1. Kanawha county court authorized to expend funds for Four-H camp.

Be it enacted by the Legislature of West Virginia:

Section 1. Kanawha County Court Authorized to Expend Funds for Four-H Camp. The county court of Kanawha
CHAPTER 149

(House Bill No. 341—By Mr. Issacs)

AN ACT to authorize the board of education of Lincoln County to set aside and expend a part of the levies which it is now authorized by law to lay for school purposes, to be used for the construction of foot-bridges across and over the rivers, creeks and other streams of the county, in aid of the transportation of, or in otherwise facilitating pupils in going to and from school.

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

Section 1. Lincoln county board of education authorized to use levies for construction of foot-bridges.

2. Board may expend funds for foot-bridges.

3. Board may acquire lands for bridges.

Be it enacted by the Legislature of West Virginia:

That the board of education of the county of Lincoln, may, in aid of its transportation of pupils to and from public schools, and in otherwise facilitating the attendance of pupils at any school, at which they are entitled to attend, do and perform acts and deeds as follows:

Section 1. Lincoln County Board of Education Authorized to Use Levies for Construction of Foot-Bridges. Whenever the board of education of the county of Lincoln shall determine that it is for the best interests of the pupils attending any school, and for the board of education in transporting pupils to and from any such school, said board shall have the right, if exercised at the time of making estimates and the laying of levies for school purposes as provided by law, to set aside and appropriate from the amount which may be raised from the whole of the levies which the board may be
now or hereafter authorized to lay for school purposes, an
amount equal to such sum as might be raised by a levy of
seven cents on each one hundred dollars' valuation of the tax-
able property of said county, for the purpose of constructing
foot-bridges across any river, creek or other stream.

Sec. 2. Board May Expend Funds for Foot-Bridges. When
funds are set aside as provided in section one of this act,
the board of education may expend same for the construction
of foot-bridges over and across rivers, creeks and other
streams, for the accommodation of pupils attending schools.

Sec. 3. Board May Acquire Lands for Bridges. The board
of education shall have the right to acquire, by gift, pur-
chase or other voluntary method, or by condemnation in the
manner prescribed by law, lands, easements, and all other
properties necessary for the construction of bridges and ap-
proaches thereto, as herein provided.

All acts and parts of acts inconsistent with the provisions
of this act are hereby repealed.

CHAPTER 150

(House Bill No. 130—By Mr. Wright)

AN ACT transferring to the credit of the building and main-
tenance fund of the board of education of the county of Mer-
cer all unused funds collected for the retirement of school
bonds for the several magisterial districts of said county.

[Passed February 23, 1937; in effect from passage. Became a law without the
approval of the Governor.]

Section
1. Transfer of Mercer county magisterial district school funds.

Be it enacted by the Legislature of West Virginia:

Section 1. Transfer of Mercer County Magisterial District
School Funds. The sheriff of Mercer county is authorized
and directed to transfer to the credit of the building and
maintenance fund of the board of education of the county of
Mercer all funds collected in any magisterial district of Mercer County for the retirement of school bonds of that district and remaining after all such bonds shall have been retired. Said fund shall be used in the same manner as other funds now to the credit of, or which may hereafter be placed to the credit of, the building and maintenance fund of the board of education of the county of Mercer, but such funds hereby authorized and directed to be transferred shall be expended in the respective magisterial districts from which such funds were collected.

CHAPTER 151
(House Bill No. 464—By Mr. Neal)

AN ACT providing financial relief for the county court of Nicholas County; enabling such court to lay a larger levy than the limits now prescribed for levies by county courts for current purposes in order to maintain the basic and indispensable functions of said county; prescribing further limits for such current county levy; finding as a matter of fact that such county cannot maintain the basic and indispensable functions of government within present limitations for current levies on the various classes of property; prescribing the method whereby such additional levies may be made, and authorizing the laying of the same, and prescribing further maximum limits on the various classes of property for the laying of such county levy for current purposes.

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

Section 1. Overdraft in general county fund of Nicholas county.
2. Finding of facts by county court; posting.
3. County court authorized to lay additional levy.

Be it enacted by the Legislature of West Virginia:

Section 1. Overdraft in General County Fund of Nicholas
County. It is hereby found and ascertained as a matter of fact that the county court of Nicholas County has been compelled to levy the maximum present authorized levy for current purposes on all classes of property in the fiscal year commencing on the first day of July, one thousand nine hundred thirty-three, the first day of July, one thousand nine hundred thirty-four, and the first day of July, one thousand nine hundred thirty-five, in order to maintain the basic and indispensable functions of government for which county courts have prior to such years imposed the levies; and has further been compelled to overdraft upon the general county fund of said county for which such levy was made, in order to maintain such basic and indispensable functions of government.

Sec. 2. Finding of Facts by County Court; Posting. The said county court of Nicholas County is therefore hereby authorized and empowered on or before the thirtieth day of June, one thousand nine hundred thirty-seven, to ascertain and find as a matter of fact the total amount of such overdrafts for each of said three fiscal years, and in such case the court shall further find by as accurate an estimate as can reasonably be made under the circumstances, the probable amount of overdraft for the fiscal year beginning the first day of July, one thousand nine hundred thirty-six; and such court shall also at such time further find the probable amount of additional funds required yearly for the proper carrying into effect of the recently enacted legislation known as the "Public Assistance Act"; and the court at such time shall also further find as a matter of fact that the minimum amount of levy for current county purposes, including the retirement of such overdraft during the three succeeding fiscal years, and the additional amount necessary for the proper carrying into effect of such "Public Assistance Act", shall be required in the future for the maintenance of the basic and indispensable functions of government; which findings shall be entered of record by said court and a copy of which findings shall be posted at the front door of said courthouse of said county within three days after the date thereof.

Sec. 3. County Court Authorized to Lay Additional Levy. Said county court of Nicholas County shall, at its session on the
first Tuesday in August of each fiscal year thereafter, change
and correct such finding of fact if they ascertain that the same
needs to be corrected in order to accord with facts at such
time ascertained and existing; and such court is hereby au-
thorized and empowered at such session to lay a levy for
current county purposes in the manner now provided by law.
And said court is hereby further authorized and empowered at
such session to lay an additional levy for current county pur-
poses, to be known as "additional county levy", which ad-
ditional county levy shall be supplemental to the county cur-
rent levy and the sum of the two levies shall not exceed the
respective amounts ascertained by such findings of fact for
the respective classes of property: Provided, however, That in
no case shall the sum of both levies on class I property ex-
ceed eleven and twenty-five one-hundredths; on class II prop-
erty exceed twenty-two and five-tenths cents; and on classes
III and IV property exceed forty-five cents.
The relief provided for in this act shall be cumulative, and
nothing in this act shall repeal any law now existing with
respect to laying and collecting tax levies.

CHAPTER 152
(House Bill No. 285—By Mr. Bibb, by request)

AN ACT providing financial relief for the county court of Raleigh
County; enabling such court to lay a larger levy than the
limits now prescribed for levies by county courts for current
purposes in order to maintain the basic and indispensable
functions of said county; prescribing further limits for such
current county levy; finding as a matter of fact that such
county cannot maintain the basic and indispensable functions
of government within present limitations for current levies
on the various classes of property; prescribing the method
whereby such additional levies may be made and authorizing
the laying of the same and prescribing further maximum
limits on the various classes of property for the laying of such county levy for current purposes.

[Passed March 3, 1937; in effect from passage. Became a law without the approval of the Governor.]

Section
1. Overdraft in general county fund of Raleigh county.
2. Finding of facts by county court; posting.
3. County court authorized to lay county levy.

Be it enacted by the Legislature of West Virginia:

Section 1. Overdraft in General County Fund of Raleigh County. It is hereby found and ascertained as a matter of fact that the county court of Raleigh County has been compelled to levy the maximum present authorized levy for current purposes on all classes of property in the fiscal years commencing on the first day of July, one thousand nine hundred thirty-three, the first day of July, one thousand ninety, the first day of July, one thousand thirty-four, and the first day of July, one thousand thirty-five, in order to maintain the basic and indispensable functions of government for which county courts have prior to such years imposed the levies; and has further been compelled to overdraft upon the general county fund of said county for which such levy was made, in order to maintain such basic and indispensable functions of government.

Sec. 2. Finding of Facts by County Court; Posting. The said county court of Raleigh County is therefore hereby authorized and empowered on or before the thirtieth day of June, one thousand nine hundred thirty-seven, to ascertain and find as a matter of fact the total amount of such overdrafts for each of said three fiscal years, and in such case the court shall further find by as accurate an estimate as can reasonably be made under the circumstances; the probable amount of overdraft for the fiscal year beginning the first day of July, one thousand nine hundred thirty-six; and such court shall also at such time further find the probable amount of additional funds required yearly for the proper
carrying into effect of the recently enacted legislation known
as the "Public Welfare Law of 1936"; and the court at such
time shall also further find as a matter of fact that the mini-
imum amount of levy for current county purposes, including
the retirement of such overdraft during the three succeeding
fiscal years, and the additional amount necessary for the
proper carrying into effect of such "Public Welfare Law of
1936”; shall be required in the future for the maintenance of
the basic and indispensable functions of government; which
findings shall be entered of record by said court and a copy of
which findings shall be posted at the front door of said court-
house of said county within three days after the date thereof.

Sec. 3. County Court Authorized to Lay Additional Levy.
Said county court of Raleigh county shall, after said find-
ings of fact have been made, at its session on the first Tues-
day in August of the fiscal years of one thousand nine hun-
derd thirty-seven, one thousand nine hundred thirty-eight and
one thousand nine hundred thirty-nine, change and correct
such finding of fact, if they ascertain that the same needs to
be corrected in order to accord with facts at such times ascer-
tained and existing; and such court, in addition to the levies
prescribed by section ten, article eight, chapter eleven of the
code of West Virginia, one thousand nine hundred thirty-
one, as amended by the acts of the Legislature of West Vir-
ginia, second extraordinary session, one thousand nine hun-
derd thirty three, is hereby further authorized and em-
powered, at the session and adjourned session prescribed by
said section of the code, and in the same manner set forth in
said section for the laying of the levies therein prescribed, to
lay an additional levy for current county purposes to be
known as "additional county levy" on each class of property
in the county or its sub-divisions, according to the last assess-
ment, which additional county levy shall be supplemental to
the current county levy authorized under said section ten, and
the sum of the two levies shall not exceed the respective
amounts ascertained by such finding of fact for the respect-
ive classes of property: Provided, however, That in no case
shall the sum of both levies per hundred dollars' assessed
valuation on Class I property exceed eleven and twenty-five
one hundredths cents; on Class II property exceed twenty-two
29 and five tenths cents; and on Classes III and IV property exceed forty-five cents.
30 The relief provided for in this act shall be cumulative and nothing in this act shall repeal any law now existing with respect to laying or collecting tax levies.

CHAPTER 153

(House Bill No. 433—By Mr. Bosworth)

AN ACT to authorize and empower the county court of Randolph County to transfer unexpended balances in the general county road fund to the general county fund of said county.

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

Section 1. Randolph county court authorized to transfer funds.

Be it enacted by the Legislature of West Virginia:

Section 1. Randolph County Court Authorized to Transfer Funds. The county court of Randolph County is hereby authorized and empowered to transfer the unexpended balances in the general county road fund of said county remaining and not needed for the payment and satisfaction of all claims and expenses against said fund, to the general county fund of said county.

All acts or parts of acts inconsistent herewith are hereby repealed, insofar as they may apply to Randolph County.

CHAPTER 154

(House Bill No. 325—By Mr. Morton)

AN ACT to permit the county court of Webster County, with the consent of the holders of certificates of indebtedness, to postpone the payment of such certificates; and to employ and use
the levy therefor, along with any surplus in said fund, existing or arising in the construction of additions, repairs and reconditioning of the county courthouse of Webster County.

[Passed March 5, 1937; in effect from passage. Became a law without the approval of the Governor.]

Section
1. Webster county court authorized to postpone payment of certificates of indebtedness.
2. Expenditure of contractual debt levies on courthouse and jail.
3. When levies laid for payment of certificates of indebtedness; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. Webster County Court Authorized to Postpone Payment of Certificates of Indebtedness. The county court of Webster County, by and with the consent of the holders of the certificates of indebtedness issued by said court, dated January first, one thousand nine hundred thirty-five, and payable June first, one thousand nine hundred thirty-seven, under the provisions of chapter sixty-four, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, is hereby authorized and empowered to postpone the payment of such certificates of indebtedness until the first day of June, one thousand nine hundred forty, and interest shall be paid thereon at the rate provided for therein from the date due thereof until payment.

Sec. 2. Expenditure of Contractual Debt Levies on Courthouse and Jail. The said county court of Webster County is hereby authorized and empowered to expend the amount levied by it for the fiscal year ending June thirty, one thousand nine hundred thirty-seven, for contractual debt purposes, together with any money and balances now in the contractual debt fund derived from other sources, in providing for additions, reconstruction and repairs to the courthouse of the said county; and such moneys may be so expended in conjunction with any moneys allocated in aid of such purposes by the government of the United States, or any agency established by it, or independently thereof.

Sec. 3. When Levies Laid for Payment of Certificates of Indebtedness; Inconsistent Acts Repealed. The said county court of Webster County shall make provision for the pay-
ment of the certificates of indebtedness, the payment of which may be postponed under the provisions of this act, by levies for the fiscal year ending June thirty, one thousand nine hundred forty.

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

CHAPTER 155

(House Bill No. 395—By Mr. Morton)

AN ACT providing financial relief for the county court of Webster County; enabling such court to lay a larger levy than the limits now prescribed for levies by county courts for current purposes in order to maintain the basic and indispensable functions of said county; prescribing further limits for such current county levy; finding as a matter of fact that such county cannot maintain the basic and indispensable functions of government within present limitations for current levies on the various classes of property; prescribing the method whereby such additional levies may be made, and authorizing the laying of the same and prescribing further maximum limits on the various classes of property for the laying of such county levy for current purposes.

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

Section

1. Overdraft in general county fund of Webster county.
2. Finding of facts by county court; posting.
3. County court authorized to lay additional levy.

Be it enacted by the Legislature of West Virginia:

Section 1. Overdraft in General County Fund of Webster County. It is hereby found and ascertained as a matter of fact that the county court of Webster County has been compelled to levy the maximum present authorized levy for current purposes on all classes of property in the fiscal year commencing on the first day of July, one thousand nine hundred thirty-three, the first day of July, one thousand nine hundred thirty-four, and the first day of July, one thousand nine hundred thirty-five, in order to maintain the basic and indispen-
sable functions of government for which county courts have
prior to such years imposed the levies; and has further been
compelled to overdraft upon the general county fund of said
county for which such levy was made, in order to maintain
such basic and indispensable functions of government.

Sec. 2. Finding of Facts by County Court; Posting.
The said county court of Webster County is therefore hereby
authorized and empowered on or before the thirtieth day of
June, one thousand nine hundred thirty-seven, to ascertain
and find as a matter of fact the total amount of such
overdrafts for each of said three fiscal years, and in such
case the court shall further find by as accurate an estimate
as can reasonably be made under the circumstances, the
probable amount of overdraft for the fiscal year beginning
the first day of July, one thousand nine hundred thirty-six;
and such court shall also at such time further find the prob-
able amount of additional funds required yearly for the
proper carrying into effect of the recently enacted legisla-
tion known as the ‘‘Public Assistance Act’’; and the court
at such time shall also further find as a matter of fact that
the minimum amount of levy for current county purposes,
including the retirement of such overdraft during the three
succeeding fiscal years, and the additional amount necessary
for the proper carrying into effect of such ‘‘Public Assistance
Act’’, shall be required in the future for the maintenance of
the basic and indispensable functions of government; which
findings shall be entered of record by said court and a copy
of which findings shall be posted at the front door of said
courthouse of said county within three days after the date
thereof.

Sec. 3. County Court Authorized to Lay Additional Levy.
Said county court of Webster County shall, at its session on
the first Tuesday in August of each fiscal year thereafter,
change and correct such finding of fact if they ascertain that
the same needs to be corrected in order to accord with facts at
such time ascertained and existing; and such court is hereby
authorized and empowered at such session to lay a levy for
current county purposes in the manner now provided by law.
And said court is hereby further authorized and empowered
at such session to lay an additional levy for current county
purposes, to be known as "additional county levy", which
additional county levy shall be supplemental to the county
current levy and the sum of the two levies shall not exceed
the respective amounts ascertained by such finding of fact
for the respective classes of property: Provided, however,
That in no case shall the sum of both levies on class I prop-
erty exceed eleven and twenty-five one-hundredths; on class
II property exceed twenty-two and five-tenths cents; and on
class III and IV property exceed forty-five cents.

The relief provided for in this act shall be cumulative, and
nothing in this act shall repeal any law now existing with
respect to laying and collecting tax levies.

CHAPTER 156

(Senate Bill No. 93—By Mr. Snyder, by request)

AN ACT to amend and reenact sections three, seven and ten,
chapter one hundred eleven, acts of the Legislature of West
Virginia, second extraordinary session, one thousand nine
hundred thirty-three, relating to the Wetzel county hospital.

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

Section
3. Revenue bonds to pay cost of Wetzel county hospital.
7. Lease of hospital.
10. Board of visitors.

Be it enacted by the Legislature of West Virginia:

That sections three, seven and ten, chapter one hundred eleven,
acts of the Legislature, second extraordinary session, one thou-
sand nine hundred thirty-three, be amended and reenacted to read
as follows:

Section 3. Revenue Bonds to Pay Cost of Wetzel County
Hospital. The county court of Wetzel county may pay the
cost as defined by sections one to eleven, inclusive, of this act,
of such hospital, out of the proceeds of such revenue bonds of
the county as are hereinafter set forth. The said county court of Wetzel county is authorized to issue revenue bonds of the county, by a resolution of the county court of such county which shall recite an estimate by said county court of such cost, the principal and interest of which bonds shall be payable solely from the special fund herein provided for such payment. All such bonds shall have and are hereby declared to have all the qualities of negotiable instruments under the law merchant. Such bonds shall bear interest, at not more than six per cent per annum, and shall mature in not more than thirty years from their date or dates, and may be made redeemable at the option of the county court, to be exercised by the county court at such price and under such terms and conditions as the county court may fix prior to the issuance of such bonds. The county court shall determine the form of such bonds, including coupons to be attached thereto to evidence the right of interest payments, which bonds shall be signed by the president of the county court, under the seal of the county court of Wetzel county attested by the clerk of the county court, and the coupons attached thereto shall bear the facsimile signature of the president of the county court. In case any of the officials whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. The county court shall fix the denominations of such bonds, the principal and interest of which shall be payable at the office of the clerk of the county court of Wetzel county, West Virginia, at New Martinsville, West Virginia, either in lawful money or in gold coin of the United States of America, of or equal to the then current standard of weight and fineness, as may be determined by said county court. Such bonds shall be exempt from taxation by the state of West Virginia, or any county, school district or municipality therein. The county court may provide for the registration of such bonds in the name of the owner as to principal alone and as to both principal and interest under such terms and conditions as the county court may determine. The county court of Wetzel county is authorized to enter into such agreements and/or contracts as it
may determine to be for the best interests of the county with the reconstruction finance corporation, the public works administration or other federal governmental agencies authorized to purchase said bonds or to make loans upon the same, for the purpose of selling and/or pledging said revenue bonds to secure and/or borrow funds from the said federal governmental agency, in any event not to exceed the sum of eighty thousand dollars, however. Said revenue bonds shall not be negotiated, pledged or sold at a price lower than a price which computed to maturity upon the standard tables of bond values will show a net return of not more than six per cent per annum to the holder or purchaser upon the amount paid, pledged or advanced therefor.

The proceeds of such bonds or the loan secured thereby shall be used solely for the payment of the costs of such hospital and the maintenance thereof, and shall be checked out by the president of the county court and the clerk of the county court and under such further restrictions, if any, as the county court or the federal governmental agency may provide. If the proceeds of such bonds, by error or otherwise, shall be less than the cost of such hospital, additional bonds may in like manner be issued to provide the amount of such deficit, and shall be deemed to be of the issue and shall be entitled to payment from the same fund, without preference or priority of the bonds first issued for the said hospital. If the proceeds of the bonds issued for such hospital shall exceed the cost thereof, the surplus shall be paid into the fund hereinafter provided for payment of the principal and interest of said bonds. Such fund may be used for the purchase of any of the outstanding bonds payable from such fund at the market price, but not exceeding the price, if any, at which such bonds shall in the same year be redeemable, and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued.

Prior to the preparation of definitive bonds, the county court may under like restrictions issue temporary bonds with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. Such revenue bonds may
be issued without any other proceedings or the happening
of any other conditions and things than those proceedings,
conditions and things which are specified and required by
this act or by the constitution of the state.

Sec. 7. Lease of Hospital. The county court of Wetzel county
shall have the power, unless otherwise so stipulated against by
any agreement or contract entered into with any federal gov-
ernmental agency which shall agree to buy or lend funds on
the revenue bonds herein provided for, to lease the said
hospital, property and equipment to any association for
hospital purposes, maintaining control, however, over the
operation of the same during the life of the revenue bonds,
and only, however, upon such terms as will be satisfactory
and sufficient to retire the revenue bonds, including both
principal and interest thereon, in manner and form as pro-
vided herein in this act.

Sec. 10. Board of Visitors. The county court of Wetzel
county is authorized and empowered to appoint a board of
visitors, which shall consist of nineteen members or less in its
discretion. This board of visitors shall be authorized and em-
powered to control, manage and operate the hospital, subject,
however, to the other provision of this act, and subject to the
authority of the county court, but shall not affect the man-
agement of said hospital by the board of visitors of the hospital
association to which said property is leased and may be
hereafter leased, except so far as may be necessary to
protect and preserve the legal rights of the county court
of Wetzel county in respect to said lease and said hospital.
The rights of the lessee of said hospital to its use, occupancy
and management shall not be affected in any particular unless
and until the said hospital association shall fail to comply
with its contract of lease in the payment of the rental
therein provided or that may be hereafter provided.
CHAPTER 157

(Senate Bill No. 313—By Mr. Galbraith)

AN ACT to amend and reenact chapter one hundred eighteen, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, relating to the appointment of a board of trustees of the Ohio county public library, and to the ownership, management and operation of the Ohio county public library.

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

Section 1. Board of trustees of Ohio county public library.
2. Prior appointments to board confirmed; appointment and removal of members.
3. Title and management vested in trustees.
4. Annual levy expended for use of library; disbursements; use of income.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred eighteen, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 1. Board of Trustees of Ohio County Public Library. Title to the public library of the city of Wheeling here­tofore owned and operated by the independent school district of said city, is hereby vested in a board of trustees to be known as the "Board of Trustees of the Ohio County Public Library," which board is hereby created. Said board is hereby made a body corporate and by that name may sue and be sued, plead and be impleaded, contract and be contracted with. Said board shall consist of five citizens of the county of Ohio, and shall be appointed in the manner hereinafter set out and shall serve without compensation, and shall hold no remunerative political office, either state, county or municipal; no member of the board shall be eligible to appointment to any remunerative office or position under the jurisdiction of said board, and not more than three of the members shall belong to the same political party, and at least two of the members shall be women.
Sec. 2. Prior Appointments to Board Confirmed; Appointment and Removal of Members. The appointment of members of the said board heretofore made under the provisions of section two, chapter one hundred eighteen, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, is hereby ratified, approved and confirmed, and the persons appointed as such members shall continue to hold office for the respective terms for which they were appointed. The acts of such board as such, heretofore made, are hereby ratified, approved and confirmed. The respective successors of said members shall be appointed by the clerk of the circuit court of Ohio county for a term of five years each, excepting that any person appointed to fill a vacancy occurring before the expiration of the term vacated, shall serve only for the unexpired term, and the members shall be eligible for reappointment: Provided, however, That any vacancy created, except by the expiration of a term, shall be filled by the said board of trustees. The said board shall annually elect from among its members a chairman and a secretary-treasurer, who shall hold office for one year and be eligible for reelection, and annually thereafter said board shall organize by the election of a chairman and secretary-treasurer. Members of the board may be removed from office in the same manner as provided for the removal of county officers under section seven, article six, chapter six of the code of West Virginia, one thousand nine hundred thirty-one.

Sec. 3. Title and Management Vested in Trustees. Title to said library property, including real estate, equipment, books, and all other property of whatsoever nature is hereby vested as of July first, one thousand nine hundred thirty-three, in said board of trustees and their successors. Said board shall have all and sole power necessary, convenient and advisable for the proper operation, equipment and management of said library, and any and all other public libraries or branch libraries established or acquired by the said board, either by gift or purchase, and shall make such rules and regulations as it shall deem expedient for the care and management thereof.

Sec. 4. Annual Levy Expended for Use of Library; Disbursements; Use of Income. In order to provide for the maintenance and operation of said public library and any and all
branches thereof, the board of education of Ohio county shall levy annually not to exceed three cents, upon request by the said board of trustees, on each one hundred dollars of the assessed valuation of property within the limits of Ohio county, according to the last assessment thereof for state and county purposes. The proceeds of this levy will be for the exclusive use of said public library or any branches thereof or any other public libraries acquired by purchase or otherwise by said board of trustees, and shall be disbursed only upon order of the said board of trustees, evidenced by warrants drawn on the sheriff of Ohio county, and signed by the chairman and secretary-treasurer of said board. Said levy shall be included within the limits and be a part of the levy or levies authorized by law to be laid by said board of education of Ohio county.

All income realized by the operation of said public library or other libraries or branches thereof, from the rental of books or otherwise, other than as proceeds of the levy hereinbefore mentioned, shall be paid directly to said board of trustees, and by it used in the purchase of new books for any public library or branch and for the maintenance and operation thereof in the discretion of said board.

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

HOUSE CONCURRENT RESOLUTION NO. 1
(By Mr. LaFon)
[Adopted January 13, 1937.]

Raising a joint committee to notify the Governor that the Legislature has assembled in regular session and has organized by the election of officers.

Resolved by the House of Delegates, the Senate concurring therein:

That a joint committee be appointed, three by the President of the Senate, and three by the Speaker of the House of Delegates, to wait upon His Excellency, the Governor, and inform him that the Legislature has assembled in regular session, has organized by the election of officers as required by the constitution, and is ready; with a quorum of each house present, to proceed with the business of the session, and is ready to receive any communication or message he may desire to present.

HOUSE CONCURRENT RESOLUTION NO. 2.
(By Mr. Speaker, Mr. Thomas)
[Adopted January 13, 1937.]

Concerning the great and unfortunate sorrow visited upon Governor H. G. Kump.

WHEREAS, His Excellency, the Governor of West Virginia, has silently borne a tremendous burden of sorrow throughout the past months, through the mortal and prolonged illness of his beloved daughter, Elizabeth, this personal grief adding greatly to the Executive's already strenuous task of an honest and fearless guidance of state affairs; and

WHEREAS, The agonizing strain of suspense and anxiety, in the
final days of his administration, came at a crucial time and marred a period that should have closed flawlessly and in happy recollection; and

WHEREAS, The final stroke of adversity, in the death of Miss Elizabeth last Saturday, January 9, made the hour of most intense grief practically coincide with the closing hours of his honored office; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature of West Virginia hereby extends its sincere and heartfelt sympathy to its respected Executive, Governor H. G. Kump, in his extreme misfortune and sorrow; and, be it

Further Resolved, That we hereby commend the Governor for his admirable courage and unselfish devotion to duty in the face of personal worry and grief; and, be it

Further Resolved, That a copy of this resolution be transmitted to Governor Kump, and the action of the Legislature be reported to the press.

HOUSE CONCURRENT RESOLUTION NO. 4

(By Mr. LaFon)

[Adopted January 14, 1937.]

Providing for a joint assembly.

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature meet in joint assembly in the chamber of the House of Delegates at 3:00 o’clock P. M., this day, to hear the biennial message of His Excellency, the Governor.

HOUSE CONCURRENT RESOLUTION NO. 5

(By Mr. LaFon)

[Adopted January 22, 1937.]

Extending the time allowed the Board of Public Works for submitting the budget for the ensuing fiscal years.
WHEREAS, Under subsection B, section fifty-one, article six of the state constitution, the Board of Public Works shall submit to the Legislature within ten days after the convening thereof, unless such time shall be extended by the Legislature for the sessions at which the budget is to be submitted, two budgets, one for each of the ensuing fiscal years; and

WHEREAS, The Governor and the Board of Public Works have requested the President of the Senate and the Speaker of the House of Delegates, to request their respective bodies for an extension of the time within which the biennial budget bill shall be submitted to the Legislature; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature hereby extends the time in which the Board of Public Works shall submit the budget until February 2, 1937.

HOUSE CONCURRENT RESOLUTION NO. 8

(By Mr. Oldham)

[Adopted January 29, 1937]

Concerning parking space on the capitol grounds for automobiles of the members of the Legislature.

WHEREAS, The State Capitol Building is located at such distance from the hotels in the city of Charleston that many members of the Legislature find it not only convenient but necessary that they keep and maintain their automobiles in Charleston during the session of the Legislature; and

WHEREAS, The problem of parking their cars when attending the sessions of the Legislature creates an unusual hardship and inconvenience; and

WHEREAS, There is sufficient parking space upon the north side of the capitol building, between the two units, and within the capitol grounds for the parking of cars of members of the Legislature; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:
That the parking space upon the capitol grounds situate on the north side of the state capitol building, between the two units, be and the same is hereby reserved for the parking of cars of members of the Legislature during this and all future sessions of the Legislature and the Superintendent of Capitol Buildings and Grounds is hereby directed to have erected proper signs reserving this space for parking of cars of members of the Legislature, and to take such steps as may be necessary to keep other cars from being parked upon the space so reserved; and, be it

Further Resolved, That the state road commission be requested to have made at its tag plant, proper tags to be attached to the cars of the members of the Legislature, and said tags shall be issued by the Clerks of the two houses to members of the Legislature only.

HOUSE CONCURRENT RESOLUTION NO. 9
(By Mr. Bibb)

[Adopted February 4, 1937.]

Providing for the appointment of a joint committee to consider the advisability and need for, and the cost of purchasing grounds and constructing a capitol office building.

Resolved by the House of Delegates, the Senate concurring therein:

That a joint committee of six members, to consist of three from the Senate, to be appointed by the President thereof, and three from the House of Delegates, to be appointed by the Speaker thereof, be raised to consider the advisability of the construction of an office building for the use of state departments, offices, boards and commissions, and the cost of construction and location of same. This committee shall report its findings together with its recommendations to the Legislature not later than February 20, 1937.

In obtaining the necessary facts and information to carry out the provisions of this resolution the committee is hereby authorized to use the services of such employees of the Senate and House of Delegates as may be assigned to it by the President and Speaker
of the respective houses. The committee is further empowered to call upon any of the departments of the state government for any information or service it may need: Provided, That the committee shall not incur any expense to the state or obligate the state or the Legislature in any manner whatsoever.

HOUSE CONCURRENT RESOLUTION NO. 13

(By Mr. Jones, of McDowell)

[Adopted February 8, 1937.]

Concerning the establishment of a Reserve Officers' Training Corps Unit at West Virginia State College.

Whereas, West Virginia State College at Institute, West Virginia, as a land-grant college, is required by law to offer military training as a part of its curriculum and is eligible for the establishment of a Reserve Officers' Training Corps unit at the college under the provisions of army regulations; and

Whereas, The aforesaid college has made formal application to the Adjutant General of the United States Army for the establishment of a senior unit of the Reserve Officers' Training Corps at the college; and

Whereas, The said application was made with the authorization and approval of the West Virginia State Board of Education, the official governing board of the college, as required by army regulations; and

Whereas, The aforesaid application is now on file in the office of the Adjutant General of the United States Army, pending available funds and personnel for the establishment of additional units; and

Whereas, The proposal to establish a Reserve Officers' Training Corps Unit at the aforesaid college has the support of civic organizations in the State of West Virginia; viz., the West Virginia State Congress of Parents and Teachers, the West Virginia High School Principals' Conference, and the American Legion, Department of West Virginia, as evidenced in each case by formal resolutions to that effect; and
WHEREAS, The establishment of the aforesaid Reserve Officers' Training Corps Unit at the aforesaid college will make available to Negro youth of the State of West Virginia a valuable type of civic training, for the benefit of the State and of the United States, not now available to them; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the application of West Virginia State College for the establishment of a senior unit of the Reserve Officers' Training Corps at said college be and is hereby heartily endorsed; and, be it

Further Resolved, That the Honorable Matthew M. Neely and the Honorable Rush D. Holt, United States Senators from West Virginia, and the Honorable Robert L. Ramsey, the Honorable Jennings Randolph, the Honorable Andrew Edmiston, the Honorable George W. Johnson, the Honorable John Kee, and the Honorable Joe L. Smith, our members of the House of Representatives, each be requested and urged to use every honorable means to secure the establishment of the aforesaid unit and to present this resolution in support of such establishment to the Adjutant General of the United States Army, to the Honorable Secretary of War, and to the Honorable Franklin D. Roosevelt, President of the United States.

HOUSE CONCURRENT RESOLUTION NO. 14

(By Mr. Russek)

(Adopted February 5, 1937.)

Inviting His Excellency, the Governor, to address a joint assembly of the Legislature.

Resolved by the House of Delegates, the Senate concurring therein:

That His Excellency, the Governor, be and he is hereby invited to address a joint assembly of the Legislature at 3:00 o'clock P. M., Monday, February 8, 1937.
HOUSE CONCURRENT RESOLUTION NO. 15

(BY MR. LAFON)

[Adopted February 8, 1937.]

Providing for a joint assembly.

WHEREAS, Under House Concurrent Resolution No. 14, adopted February 5, 1937, His Excellency, the Governor, was invited to address a joint assembly of the Legislature at 3:00 o'clock P. M. today; and

WHEREAS, His Excellency, the Governor, has informed the President of the Senate and the Speaker of the House of Delegates that he desires to address a joint assembly at 3:00 o'clock P. M. today; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature meet in joint assembly in the hall of the House of Delegates at 3:00 o'clock P. M. today to hear the address of His Excellency, the Governor; and, be it

Further Resolved, That the President of the Senate appoint three members of that body and that the Speaker of the House of Delegates appoint three members of that body as a committee to wait upon His Excellency, the Governor, and escort him to the hall of the House of Delegates at 3:00 o'clock P. M. this day.

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HOUSE CONCURRENT RESOLUTION NO. 18

(BY MR. SPEAKER, MR. THOMAS)

[Adopted February 12, 1937.]

Deploring the death of the Honorable Ben H. Butcher, a member of the House of Delegates.

WHEREAS, This body has learned with unfeigned sorrow of the death of the Honorable Ben H. Butcher, late a Delegate from the County of Wood, which occurred this afternoon, February 12, 1937, at a Charleston hospital, resulting from pneumonia; and

WHEREAS, The deceased was an eminent lawyer, statesman, fra-
ternalist and a learned, conscientious and worthy public official; and

WHEREAS, This former distinguished Delegate enjoyed the distinction of being the oldest member of this Legislature, and furthermore, as a member of the Fourteenth Legislature, he had the further distinction of being the youngest member; and

WHEREAS, This distinguished West Virginian, in addition to serving as a member of the Fourteenth, Fortieth, Forty-first, Forty-second and Forty-third Legislatures of this state, also served as a member of both houses of the Colorado Legislature, and as District Attorney for the Ninth Judicial District of that state; and

WHEREAS, Due to his rare knowledge and sympathy with mankind, together with his ability for leadership, and due to his tolerance, tactfulness, fairness and honesty, the deceased was loved by all who knew him, and was an outstanding and valuable public official; and

WHEREAS, Because of the ability and loyalty with which the deceased discharged the duties of public office, as well as his natural desire to do all the good he could for others, the people of this state have suffered the loss of a true friend; and

WHEREAS, He was an outstanding leader of the Democratic party, and loved and respected by members of all political groups; therefore, be it

**Resolved by the Legislature of West Virginia:**

That the members of the Legislature of West Virginia here assembled, realizing the great and irreparable loss sustained in the passing of this distinguished member of the House of Delegates, hereby extend the deepest and most profound sympathy of the Legislature to the members of the family of the deceased in their bereavement; and, be it

**Further Resolved,** That out of respect to the memory of the deceased that the Sergeants-at-Arms of the two houses have the flags lowered to half-mast until after the funeral; and, be it

**Further Resolved,** That the President of the Senate appoint a committee of five and the Speaker of the House of Delegates appoint a committee of ten to attend the funeral, and that appro-
priate floral emblems be procured by the Clerks of the two houses, in the usual manner, and sent to the late home of the deceased; and, be it

Further Resolved, That during this session of the Legislature the presiding officers of the two houses shall fix a time and place for holding of joint memorial services, at which time members will be permitted to pay further tribute to the memory of the deceased; and, be it

Further Resolved, That as a further mark of respect upon the adoption of this resolution, the Legislature adjourn until 2:00 o'clock P. M. Monday, February 15, 1937.

HOUSE CONCURRENT RESOLUTION NO. 20

(By Mr. Skinner)

[Adopted February 15, 1937.]

Concerning the death of the Honorable John L. Wever, the Delegate from the County of Berkeley.

WHEREAS, Again the Legislature learns with genuine and profound sorrow of the death of another of its members, the Honorable John L. Wever, late a Delegate from the County of Berkeley, who departed this life on Sunday, February 14, 1937; and

WHEREAS, The deceased, a son of the late C. A. Wever, a former member of the House of Delegates, was serving his first term as a member of the Legislature, and had during this session demonstrated his desire and ability to conscientiously and faithfully serve the people of the state as a worthy and capable legislator; and

WHEREAS, This late member has always been active and interested in political and public affairs; and

WHEREAS, As a clerk in the Martinsburg post office for a number of years he rendered efficient and courteous service, and for a number of years had been a valuable and skillful machinist in the Baltimore and Ohio railroad shops at Martinsburg; and

WHEREAS, During the short time that the deceased had served as a member of the House of Delegates he had made many warm friends; therefore, be it
Resolved by the Legislature of West Virginia:

That the members of the Legislature here assembled hereby express their deepest sorrow for the loss of this fellow member, and extend to his widow and family the heartfelt sympathy of the members of this Legislature in their bereavement; and, be it

Further Resolved, That out of respect to the memory of the deceased that the flags over the capitol be lowered to half-mast until after the funeral; and, be it

Further Resolved, That the President of the Senate appoint a committee of five members of that body, and that the Speaker of the House of Delegates appoint a committee of ten, which shall include himself, to attend the funeral of the deceased, and that appropriate floral emblems be procured by the Clerks of the two Houses, in the usual manner, and sent to the late home of the deceased; and, be it

Further Resolved, That during this session of the Legislature the presiding officers of the two Houses fix a time for holding joint memorial services, at which time further tribute may be paid to the memory of the deceased Delegate; and, be it

Further Resolved, That as a further mark of respect upon the adoption of this resolution the two Houses recess for fifteen minutes, and that when the two Houses adjourn on Tuesday, February 16th, they adjourn until 2:00 o'clock P. M., Thursday, February 18th.

HOUSE CONCURRENT RESOLUTION NO. 21

(By Mr. Taylor, of Fayette, and Mr. Brice)

[Adopted February 15, 1937.]

Relating to the death of Mr. Robert H. Horner.

WHEREAS, Death on Monday morning, February 15, 1937, ended the earthly career of Mr. Robert H. Horner, late a reporter and political writer for the Charleston Daily Mail; and

WHEREAS, The newspaper career of the deceased has been worthy and illustrious, and in all his reporting and writing he has always been painstaking and cautious in presenting only true facts, always
displaying a high degree of professional ethics, and always holding the public good foremost; and

WHEREAS, For many years Mr. Horner has been an accredited member of the press, reporting the proceedings in both the Senate and House of Delegates in this state for the past sixteen years; and

WHEREAS, Mr. Horner was fair and impartial in chronicling the proceedings of these bodies, a man of high honor and standing in the newspaper profession, loved and admired for the manly manner in which he portrayed men and measures; and

WHEREAS, The newspaper profession has lost a man of high ideals and splendid character in his death and the members of the Senate and House of Delegates have lost a friend and confidant; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That we receive the news of the death of Mr. Horner with unfeigned sorrow and that our deep sympathies be extended to his widow and children; and, be it

Further Resolved, That appropriate floral emblems be procured by the Clerks of the two Houses, in the usual manner, and sent to the late home of the deceased; and, be it

Further Resolved, That a copy of this resolution, duly attested by the presiding officers of each House and the clerks thereof, be transmitted to Mrs. Horner and the four sons who are left to mourn their loss.

HOUSE CONCURRENT RESOLUTION NO. 22

(BY MR. VAN SICKLER)

[Adopted February 28, 1937.]

Relating to the one hundred sixtieth anniversary of the organization of Greenbrier County.

WHEREAS, It has come to the attention of the Legislature that plans are under way for a suitable and appropriate celebration in the year one thousand nine hundred thirty-eight, of the one hundred sixtieth anniversary of the organization of Greenbrier...
County, which, at the time of its establishment by law in 1778, comprised in whole or in part the present counties of Braxton, Calhoun, Clay, Fayette, Jackson, Kanawha, Mason, Monroe, Nicholas, Pocahontas, Putnam, Roane, Summers, Webster, Wirt and Wood; and

WHEREAS, Said celebration is being promoted and sponsored by a patriotic and responsible group of citizens of said Greenbrier County, in association with others from the vast territory embraced in its original boundary; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the laudable and praiseworthy undertaking referred to in the preamble hereof be, and the same is hereby given the approval of this Legislature; that official recognition of said anniversary by the state is hereby granted; and that the citizens generally be requested to participate in such commemoration of the founding of one of the country’s most important subdivisions of early history.

HOUSE CONCURRENT RESOLUTION NO. 23

(By Mr. Righter)

[Adopted March 1, 1937.]

Requesting editors of National Geographic Magazine to give story and picturization of natural beauty and resources of West Virginia.

WHEREAS, A publication known as the National Geographic Magazine is devoted to the description in words and pictures of places of beauty and distinction throughout the world; and

WHEREAS, The state of West Virginia yields to no section in its boast of scenic beauty; and

WHEREAS, It is growing in its industrial importance and has many fine plants; and

WHEREAS, It leads all states in the production of bituminous coal; and

WHEREAS, It is important from a standpoint of information as
well as economics that the state become better known to industrial leaders and the traveling public; and

WHEREAS, The aforementioned publication has a wide circulation throughout the nation; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the editors of the National Geographic Magazine be asked to send descriptive writers and cameramen to West Virginia for a detailed story and picturization of our state’s natural beauty and resources to be given to the nation at large; and, be it

Further Resolved, That the Governor appoint a committee to confer with the Honorable Gilbert Grosvenor, editor of the National Geographic, as to the edition on West Virginia, said committee to serve without compensation.

HOUSE CONCURRENT RESOLUTION NO. 25
(BY MR. HODSON)
[Adopted March 4, 1937.]
Concerning state printing.

WHEREAS, The International Allied Printing Trades Association and its subsidiary councils in the state of West Virginia have been recognized as a conservative and stabilizing influence in this state; and

WHEREAS, The Legislature of the state of West Virginia recognizes that the above-named organizations have in the past provided competent and efficient men and women to carry out the state printing without the loss of time and its resultant loss of money to the state; and

WHEREAS, The ideals of the above organizations are above reproach and have in the past shown themselves to be worthy of merit; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:
That the Board of Public Works, or other officers of the state empowered by law to let contracts for printing, are urged by the Legislature to have placed on such printing the label of the “International Allied Printing Trades Association”, or its subordinate councils.

HOUSE CONCURRENT RESOLUTION NO. 28
(By Messrs. Shinn, Righter, James and Jennings)
[Adopted March 4, 1937.]

Concerning the death of the Honorable Roy R. Hornor, a member of the advisory board of the State Road Commission.

WHEREAS, The Legislature has today received the sad news of the death of the Honorable Roy R. Hornor, of Clarksburg, West Virginia; and

WHEREAS, He was a distinguished citizen of our state, an engineer and metallurgist of outstanding ability; was well known as a capable and active head in many progressive movements, with which he was identified; and

WHEREAS, He served his state faithfully and ably, as a member of the advisory board of the State Road Commission; and

WHEREAS, By reason of his rare knowledge, he was called upon to serve in many other important posts, including projects in South Africa, Central America, Mexico and British Columbia; and

WHEREAS, Since June, 1935, he has served as president of the Upper Monongahela Valley Association, a group formed to develop the area embraced in the valley; and

WHEREAS, During the World War he served his country with distinction as an officer in the U. S. Engineers; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That this Legislature deplores the death of this distinguished citizen and recognizes his passing as a distinct loss to the entire state; and, be it
Further Resolved. That the sympathy of the two houses of the Legislature is extended to his surviving relatives, to whom the clerks of the two houses are directed to send copies of this resolution.

HOUSE CONCURRENT RESOLUTION NO. 30

(BY MR. BIBB)

[Adopted March 9, 1937.]

Relating to the one hundredth anniversary of the incorporation of the City of Beckley, Raleigh County, West Virginia.

WHEREAS, It has come to the attention of the Legislature that plans are under way for a suitable and appropriate celebration in the year one thousand nine hundred thirty-eight, of the one hundredth anniversary of the incorporation of the City of Beckley, Raleigh County, West Virginia; and

WHEREAS, Said celebration is being promoted and sponsored by the Beckley Chamber of Commerce and the citizens of the City of Beckley with others from the surrounding territory; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the laudable and praiseworthy undertaking referred to in the preamble hereof be, and the same is hereby given the approval of this Legislature; that official recognition of said anniversary by the state is hereby granted; and that the citizens generally be requested to participate in such commemoration of the founding of one of the state’s oldest and fastest-growing cities in the heart of one of the greatest soft coal sections of the United States.

HOUSE CONCURRENT RESOLUTION NO. 31

(BY MR. HUSSON)

[Adopted March 8, 1937.]

Granting permission to introduce a bill relating to the city of Grafton issuing bonds and increasing levies for the purpose of construction, equipping and maintaining a municipal hospital.
Resolved by the Legislature of West Virginia, two-thirds of all the members of each House present and voting concuring therein:

That permission is hereby granted to introduce a bill with the following title:

"A Bill to amend and reenact section ten of an act of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-seven, known and designated as house bill number two hundred forty-four, relating to the city of Grafton issuing bonds and increasing levies for the purpose of constructing, equipping and maintaining a municipal hospital."

HOUSE CONCURRENT RESOLUTION NO. 32

(By Mr. LaFon)

[Adopted March 8, 1937.]

Granting permission to introduce a bill relating to funds of the public service commission.

Resolved by the Legislature of West Virginia, two-thirds of all the members of each House present and voting concurring therein:

That permission is hereby granted to introduce a bill with the following title:

"A Bill to amend and reenact section three of an act of the Legislature, regular session, one thousand nine hundred thirty-seven, known and designated as house bill number one hundred eighty-two, relating to the use and disposition of certain funds of the public service commission."

HOUSE CONCURRENT RESOLUTION NO. 34

(By Mr. Shores)

[Adopted March 10, 1937.]

Granting permission to introduce a bill relating to bridges.

Resolved by the Legislature of West Virginia, two-thirds of all the members of each House present and voting concurring therein:
That permission is hereby granted to introduce a bill with the following title:

"A Bill to amend and reenact section twenty-six, article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter forty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, relating to bridges."

HOUSE CONCURRENT RESOLUTION NO. 35
(BY MESSRS. JENNINGS AND SHINN)
[Adopted March 13, 1937.]

Extending the appreciation of the Legislature to Colonel P. D. Shingleton for his services as Superintendent of the Department of Public Safety.

WHEREAS, It has come to the attention of the Legislature that the Honorable P. D. Shingleton has resigned as Superintendent of the Department of Public Safety; and

WHEREAS, It is the belief of the Legislature that the said Colonel P. D. Shingleton has been an exceptionally able, trustworthy and honest public servant, especially fitted for the post which he has recently relinquished; and

WHEREAS, The Legislature realizes that His Excellency, the Governor, does not have an easy task in selecting a successor to the said Colonel P. D. Shingleton as Superintendent of the Department of Public Safety; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature of West Virginia hereby expresses its appreciation for the outstanding administration of the said Colonel P. D. Shingleton; and, be it

Further Resolved, That the Legislature feels that it is the consensus of opinion of the Legislature that the resignation of Colonel P. D. Shingleton is a distinct and irreparable loss to the state of West Virginia; and, be it
Further Resolved, That in appreciation for the splendid services rendered as Superintendent of the Department of Public Safety, and of the high esteem in which Colonel Shingleton has been held by the public, that the Legislature of West Virginia hereby regrets the loss of the services of this distinguished public servant; and, be it

Further Resolved, That a copy of this resolution be transmitted by the Clerk of the House of Delegates to the Honorable P. D. Shingleton with the request that he reconsider his action in resigning as Superintendent of the Department of Public Safety and remain in the service of the state of West Virginia.

HOUSE CONCURRENT RESOLUTION NO. 37
(By Mr. Strouss)
(Originating in the Committee on Rules)
[Adopted March 13, 1937.]

Resolved by the House of Delegates, the Senate concurring therein:

That under authority of section thirteen, article one, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, the Clerk of the House of Delegates is hereby directed to have printed by the public printer four thousand advanced copies of the acts of this session of the Legislature, headnoted in accordance with the form and style of headnoting used in the code of West Virginia, one thousand nine hundred thirty-one, and with a full table of contents, and in paper binding, for distribution among the members of the Legislature, judges of the Supreme Court of Appeals, circuit, criminal and intermediate courts, and the county officials.

The public printer shall print and deliver said advance copies as soon as possible after the adjournment of this session. The Clerk of the Senate shall be furnished sufficient copies to forward by mail or express ten of said copies to each member of the State
Senate, and the Clerk of the House of Delegates shall forward by mail or express ten copies of said acts to each member of the House of Delegates as soon as the same are printed and available for distribution. The Clerk of the House of Delegates shall also furnish one copy to each of the state officials, judges of the Supreme Court of Appeals, circuit, criminal, common pleas and intermediate courts of this state, and shall forward to the county clerk of each county sufficient copies to furnish one copy to each county office; the remainder, if any, shall be delivered to the superintendent of public printing for distribution by him.

The Clerks of the two Houses are also authorized and directed to have printed in signature form for advance sheets, any general law which they may deem to be of sufficient importance to be issued and distributed in this form.

To pay postage or expressage on said advance copies, the sum of three hundred dollars is hereby directed to be paid by the Auditor from the Contingent Fund of the House of Delegates upon proper warrants of the Clerk of the House of Delegates, and the sum of one hundred fifty dollars out of the Contingent Fund of the Senate upon proper warrants of the Clerk of the Senate.

For the work required in printing and distributing advanced copies of the acts and for the proofreading, indexing and printing the bound volumes of the acts of this session of the Legislature, the time of the Clerk of the House of Delegates and the following assistants is extended for the time herein set out, at the same per diem as paid during this regular session of the Legislature; to-wit:

The Clerk, stenographer to the Clerk, one senior and two assistant clerks, the Journal clerk, the Journal stenographer, the supervisor of printing, seven clerks, four proofreaders and one stenographer is extended for sixty days.

The Clerk of the House of Delegates shall draw his warrants upon the Auditor in favor of the persons appointed under authority of the foregoing provisions of this resolution, and entitled to per diem, for consecutive days until such time as their services cease, and the Auditor shall honor and pay such warrants when presented and charge same to the Contingent Fund of the House of Delegates.
For assisting in the preparation and printing of said acts, the time of the Clerk of the Senate at twenty dollars per diem, two assistant clerks at twelve dollars per diem each, one Journal stenographer at nine dollars per diem, and four printing clerks at eight dollars per diem each, respectively, is extended for sixty days, and the time of two printing clerks at eight dollars per diem each, respectively, is extended for thirty days.

The Clerk of the Senate shall draw his warrants in favor of the persons appointed under authority of this resolution on the part of the Senate, for consecutive days until such time as their services cease, and the Auditor shall honor and pay such warrants when presented and charge same to the Contingent Fund of the Senate.

The President of the Senate and the Speaker of the House of Delegates shall have authority to remove any person given an extension of per diem under authority of this resolution, except elective officers of the Senate and the House of Delegates, on the part of their respective bodies, and to appoint another in his place, or to fill any vacancy that may occur.

HOUSE CONCURRENT RESOLUTION NO. 38

(BY MR. STROUSS)

[Adopted March 13, 1937.]

Raising a joint committee to notify His Excellency, the Governor, that the Legislature is ready to adjourn sine die.

Resolved by the House of Delegates, the Senate concurring therein:

That a joint committee of six, consisting of three on the part of the Senate, to be appointed by the President thereof, and three on the part of the House of Delegates, to be appointed by the Speaker thereof, be appointed to notify His Excellency, the Governor, that the Legislature has completed its labors, is ready to adjourn sine die, and inquire of him if he has any further communication to make to the Legislature.
HOUSE JOINT RESOLUTION NO. 3

(By Mr. Speaker, Mr. Thomas)
[Adopted February 10, 1937.]

Proposing an amendment to the constitution of the state, amending section six, article eleven thereof, relating to the creation, organization, and regulation of banking institutions.

Resolved by the Legislature of West Virginia, two-thirds of all the members elected to each house agreeing thereto:

That the following be and the same is hereby proposed as an amendment to the constitution of the state:

That section six, article eleven of the constitution of the state be amended to read as follows:

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

HOUSE RESOLUTION NO. 1

(By Mr. Paul)

(Originating in the Committee on Rules)
[Adopted January 13, 1937.]

Adopting rules for the House of Delegates.

Resolved by the House of Delegates:

That the rules of the House of Delegates for the extraordinary session beginning December 14 and ending December 16, 1936, are hereby adopted as the rules to govern proceedings of this session of the Legislature.

HOUSE RESOLUTION NO. 2

(By Mr. Taylor, of Fayette)
[Adopted January 13, 1937.]

Election of Speaker and other officers of the House of Delegates.

Whereas, On December 14, 1936, His Excellency, the Governor, by proclamation convened the Legislature of West Virginia in ex-
traordinary session at the Capitol in the City of Charleston, to enter upon and consider the matters set forth in said proclamation; and

WHEREAS, In pursuance to such proclamation members of the House of Delegates assembled in the hall of the House of Delegates at the Capitol in the City of Charleston on Monday, December 14, 1936; and

WHEREAS, The House of Delegates was called to order at 2:00 o’clock P. M. on Monday, December 14, 1936, by John S. Hall, Clerk of the House of Delegates; and

WHEREAS, Said John S. Hall called the Honorable Ben H. Butcher of the county of Wood, the oldest member present, to preside until the election of a Speaker; and

WHEREAS, The Secretary of the State transmitted and delivered to the Clerk of the House of Delegates a list of persons appearing to have been elected as members of the House of Delegates on the 3rd day of November, 1936; and

WHEREAS, All the persons whose names appear on such list transmitted by the Secretary of the State appeared on said 14th day of December, 1936, in the hall of the House of Delegates, and qualified by taking and subscribing to the several oaths of office prescribed by section sixteen, article six of the Constitution, except Lee L. Foster, a Delegate-elect from the county of McDowell, and Robert Morris, the Delegate-elect from the county of Ritchie; and

WHEREAS, Upon a call of the roll on said 14th day of December, 1936, ninety-two members answered to their names; and

WHEREAS, There being a quorum present, the presiding officer announced the next order of business being the election of a Speaker, whereupon, W. T. Brotherton nominated James Kay Thomas of the County of Kanawha, and Orren L. Jones nominated Kenneth S. Kurtz of the County of Lewis; and

WHEREAS, On motion of Mr. Kurtz, James Kay Thomas was elected Speaker by the unanimous vote of all the members present, and was declared elected Speaker by the presiding officer; and

WHEREAS, Said James Kay Thomas on the 14th day of December, 1936, in the hall of the House of Delegates, took the oath of
office prescribed by law to be taken by the Speaker, and was
escorted to the chair and entered upon his duties as Speaker; and

WHEREAS, The House of Delegates at said session on the 14th
day of December, 1936, proceeded to complete its organization by
the election of John S. Hall as Clerk; Harry Holswade as Sergeant-
at-Arms, and Clark Neal as Doorkeeper; therefore, be it

Resolved by the House of Delegates:

That James Kay Thomas of the County of Kanawha, be, and he
is hereby elected and declared to be the Speaker of the House of
Delegates; and, be it

Further Resolved, That John S. Hall, be, and he is hereby
elected and declared to be the Clerk of the House of Delegates;
and. be it

Further Resolved, That Harry Holswade and Clark Neal, be,
and they are hereby elected and declared to be Sergeant-at-Arms
and Doorkeeper, respectively, of the House of Delegates.

HOUSE RESOLUTION NO. 3

(BY MR. MORTON)

[Adopted January 13, 1937.]

Raising a committee to inform the Senate that the House of
Delegates is organized.

Resolved by the House of Delegates:

That the Speaker appoint a committee of three to inform the
Senate that the House of Delegates has assembled, with a quorum
present, has organized by the election of the Honorable James Kay
Thomas as Speaker, and the Honorable John S. Hall as Clerk, and
is ready to proceed with the business of the session.

HOUSE RESOLUTION NO. 4

(BY MR. BROTHERTON)

[Adopted January 13, 1937.]

Providing for the appointment of a delegation to attend the
Third General Assembly at Washington, D. C.

WHEREAS, The Third General Assembly will be held at the May-
Whereas, To such Third General Assembly will report the following Interstate Commissions and National Associations:


Whereas, The aforesaid affiliates of the Council of State Governments are ready to present tangible recommendations, some in the form of model legislative measures, based on their studies during the interim since the Assembly of 1935; and

Whereas, The Third General Assembly offers an opportunity through section meetings for the consideration by the delegates of other matters requiring cooperative action; and

Whereas, It is believed that substantial benefits would result from this state's representation at the Third General Assembly, and that such Assembly offers a means of surmounting obvious difficulties arising in governmental activities due to the absence of facilities for conference between governmental units; and

Whereas, The House of Delegates of this state is invited to send delegates to this Assembly, which delegation shall be entitled to one vote; therefore, be it

Resolved by the House of Delegates:

That the Speaker is hereby authorized and instructed to appoint three members of the House of Delegates as a delegation to the Third General Assembly, which convenes in Washington, D. C., on January 21, 1937. Such delegation shall be and is hereby instructed to return to this body and report the definite recommendations of the Third General Assembly. Such delegation shall be without power to commit the House of Delegates to action; and, be it
Further Resolved, That the said delegation be entitled to reimbursement for its reasonable expenses out of the contingent fund of the House of Delegates upon proper warrants of the Clerk; and, be it

Further Resolved, That the Clerk of the House of Delegates immediately notify the Council of State Governments, Drexel Avenue and Fifty-Eighth Street, Chicago, Illinois, of the appointment of such delegation.

HOUSE RESOLUTION NO. 5
(BY MR. OLDHAM)
[Adopted January 13, 1937.]
Authorizing the Clerk to compile and publish a Legislative Manual.

Resolved by the House of Delegates:
That the Clerk is hereby authorized to compile and have printed, without delay, a Legislative Manual containing the rules of the Senate and the House of Delegates, the joint rules of the Senate and the House of Delegates, and such other matter and material as he may deem to be useful and convenient for members of the Legislature.

HOUSE RESOLUTION NO. 6
(BY MR. PORTER)
[Adopted January 14, 1937.]
Authorizing the Clerk to draw his warrants upon the Auditor for mileage for members of the House of Delegates.

Resolved by the House of Delegates:
That the Clerk is hereby authorized and directed to draw his warrants upon the Auditor for mileage of members for this session of the Legislature in the amounts herein set out:

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Provided further, That the Auditor shall honor said warrants for mileage and charge same to the "mileage for members’ fund" of the House of Delegates in advance of the appropriation for the purposes.

HOUSE RESOLUTION NO. 7

(By Mr. Neal)

[Adopted January 14, 1937.]

Providing for a mailing list for House Journals.

Resolved by the House of Delegates:

That the Clerk of the House of Delegates is authorized to have mailed from the House document room, copies of the daily Journals of the House to lists of persons to be furnished to the Clerk by the members of the House of Delegates; ten names may be submitted by each member of the House of Delegates, and the expense of such mailing, including postage, shall be paid by the Auditor out of the contingent fund of the House of Delegates, in advance of the appropriation therefor, upon proper warrants of the Clerk; and, be it

Further Resolved, That the Clerk is authorized to mail copies of bills to persons requesting same.

HOUSE RESOLUTION NO. 8

(By Mr. Paul)

[Adopted January 15, 1937.]

Authorizing payment for services rendered preliminary to the opening of this session.
Resolved by the House of Delegates:

That the Clerk is hereby directed to draw his warrants upon the Auditor in favor of the following persons in the amounts herein set out, for services rendered the House of Delegates, preliminary to the convening of the Legislature:

Roy Chambers ............................................................... $30.00
Homer Burley ............................................................... 30.00
Alexander Garred ......................................................... 20.00
Joe Canterbury ............................................................. 40.00
Dennis Gilmore .............................................................. 40.00
Jack Thomas ................................................................. 50.00

All of said amounts to be paid out of the "per diem of officers and attaches fund of the House of Delegates."

HOUSE RESOLUTION NO. 9

(By Mr. Muntzing)

[Adopted January 21, 1937.]

Authorizing the Clerk to obtain a copy of the code of West Virginia for each member of the House of Delegates.

Resolved by the House of Delegates:

That the Clerk is hereby authorized and directed to obtain a copy of the code of West Virginia for each member of the House of Delegates, said codes to be paid for from the contingent fund of the House of Delegates, in advance of the appropriation for the purpose.

HOUSE RESOLUTION NO. 10

(By Mr. Jimison)

[Adopted January 21, 1937.]

Concerning the honesty, integrity and ability of the Honorable D. Homer Stephenson as a citizen and public official.

Whereas, The Honorable D. Homer Stephenson, a native of the state of West Virginia, has, since youth been an industrious, thrifty
and public-spirited citizen, whose reputation for honesty and integrity is well known throughout West Virginia; and

WHEREAS, He has served as Sheriff of the Counties of Clay and Kanawha, and as a member of the House of Delegates from Clay County; and

WHEREAS, In all these public offices he established an enviable record for honesty and efficiency as a public official; and

WHEREAS, As Sheriff of Kanawha County he so capably administered the affairs of that office that his administration is considered one of the most outstanding in the history of the county, and he has been praised by members of both political parties for the fair and capable handling of the affairs of this office; and

WHEREAS, He has served his party with honor and distinction, always contributing liberally of his time and means; and

WHEREAS, When the West Virginia Liquor Control Commission was created he was appointed its first Chairman, and worked hard and conscientiously in inaugurating and establishing the new system; and

WHEREAS, For reasons which have never been made public, the Governor of West Virginia removed the said D. Homer Stephenson as Chairman of the Liquor Control Commission; and

WHEREAS, Since the removal of the said D. Homer Stephenson as Chairman of the Liquor Control Commission, a thorough audit of the Commission’s funds has been made by the Tax Commissioner, and a complete inventory taken of all its stock and property, and the affairs of the Commission were found to be in excellent condition; therefore, be it

Resolved by the House of Delegates:

That due to the splendid public record of the said D. Homer Stephenson, as well as to his reputation for honesty and good character, this body hereby expresses its complete confidence in the honesty, integrity and character of the Honorable D. Homer Stephenson.
HOUSE RESOLUTION NO. 11
(BY MRS. WALKER)
[Adopted January 25, 1937.]

Requesting members, officers and employees of the House of Delegates to contribute to the American Red Cross.

WHEREAS, Due to the devastating flood in this and other states, property and life are being endangered and many West Virginia families are now homeless, cold and destitute; and

WHEREAS, The American Red Cross is making every effort to relieve suffering in the flooded regions and in so doing is seriously in need of funds to carry on its relief work; therefore, be it

Resolved by the House of Delegates:

That unless they have already contributed to the American Red Cross, each member contribute the sum of five dollars and that each officer and employee contribute the sum of one dollar to the Charleston chapter of the American Red Cross; and, be it

Further Resolved, That the Speaker designate some member of the House of Delegates as a committee to contact the members, officers and employees, and receive their contributions.

HOUSE RESOLUTION NO. 12
(BY MR. JIMISON)
[Adopted January 25, 1937.]

Concerning the death of Mr. J. W. Calvert.

WHEREAS, Mr. J. W. Calvert, of Cheltyan, Kanawha County, father of the Honorable Carl C. Calvert, a member of this body, has recently departed this life; and

WHEREAS, The late J. W. Calvert was one of the pioneer settlers of Cabin Creek District; and

WHEREAS, He was always interested in public affairs and was a useful, public-spirited citizen; and

WHEREAS, For a number of years the late Mr. Calvert served as
a member of the Board of Education of Cabin Creek District and
diligently and conscientiously strived for the improvement of the
schools of Kanawha County; therefore, be it

Resolved by the House of Delegates:

That this body regrets the passing of this valuable and public-
spirited citizen and hereby extends its sympathies to the bereaved
family and friends; and be it

Further Resolved, That the Clerk send a copy of this resolution
to the widow of the deceased.

HOUSE RESOLUTION NO. 13

(By Mr. Russek)

[Adopted January 25, 1937.]

Authorizing the payment of expenses of the committee to attend
the funeral of Miss Elizabeth Kump.

WHEREAS, Prior to the convening of this session, Miss Elizabeth
Kump, daughter of former Governor H. G. Kump, died, and the
Speaker appointed Messrs. Strouss, Russek, Martin and Beeler as
members of a committee from the House of Delegates to attend the
funeral services; and

WHEREAS, Messrs. Russek, Strouss and Beeler attended the
funeral services at Elkins and incurred certain expenses in so do-
ing; therefore, be it

Resolved by the House of Delegates:

That the Clerk is hereby authorized to draw his warrants upon
the Auditor, payable from the Contingent Fund of the House of
Delegates, in advance of the appropriation for the purpose, in the
following amounts to the members of the committee who attended
said funeral:

Stephen J. Russek .............................................. $38.60
Junius M. Strouss ............................................. 20.61
Harvey D. Beeler ............................................. 34.20
HOUSE RESOLUTION NO. 14

(BY MR. RUSSEK)

[Adopted January 25, 1937.]

Concerning the honesty, integrity and ability of the Honorable John B. Wilson as a citizen and public official.

WHEREAS, The Honorable John B. Wilson, a native of the state of West Virginia, has, since youth, been an industrious, thrifty and public-spirited citizen, whose reputation for honesty and integrity is well known throughout West Virginia; and

WHEREAS, He has served as a member of the House of Delegates from Ohio County; and

WHEREAS, He has established an enviable record for honesty and efficiency as a public official; and

WHEREAS, He has served his party with honor and distinction; and

WHEREAS, When the West Virginia Liquor Control Commission was created, he was appointed as a member thereof and worked hard and conscientiously in inaugurating and establishing a new system; and

WHEREAS, For reasons which have never been made public, the Governor of West Virginia removed the said John B. Wilson as a member of the Liquor Control Commission; and

WHEREAS, Since the removal of the said John B. Wilson as a member of the Liquor Commission, a thorough audit of the Commission’s funds has been made by the Tax Commissioner, and a complete inventory taken of all its stock and property, and the affairs of the Commission were found to be in excellent condition; therefore, be it

Resolved by the House of Delegates:

That due to the splendid record of said John B. Wilson, as well as his reputation for honesty and good character, this body hereby expresses its complete confidence in the honesty, integrity and character of the said Honorable John B. Wilson.
Memorializing Congress to appropriate funds for a survey in connection with flood conditions of the Ohio Valley.

WHEREAS, The Ohio Valley is now being visited by another flood disaster, which might have been averted to a marked degree by the completion of a comprehensive system of source stream control reservoirs, as has been previously proposed by various organizations in the Ohio Valley; and

WHEREAS, The present flow has caused damage to the extent of at least two hundred million dollars in the Ohio Valley; and

WHEREAS, About two hundred lives were lost in the flood of one thousand nine hundred thirty-six, thousands upon thousands were rendered homeless; and sickness, suffering, disease tell a more powerful story than any that might be calculated in terms of the dollar mark; and

WHEREAS, A comprehensive system of source stream control reservoirs could have been built for a sum not to exceed two hundred million dollars; therefore, be it

Resolved by the House of Delegates:

That the members of this West Virginia legislative body, request that without further delay the following measures be carried out by proper action, and appropriations by the Congress of the United States, to-wit:

That an appropriation of sufficient funds be made by Congress to permit the board of army engineers to make a comprehensive and detailed survey of the thirty-nine reservoirs, their equivalent, or such a number of these reservoirs as have not been previously surveyed by the board; which reservoirs were included in survey report number 308, plan number four, eighteenth Congress, second session, as the plan for the ultimate development in the Ohio Valley east of Cincinnati; and, be it

Further Resolved, That it is the estimate of this membership that should these thirty-nine reservoirs, their equivalent or a major
portion of them be constructed, material damage and loss of life resulting from future floods in the Ohio Valley would be greatly reduced; and, be it

Further Resolved, That copies of this resolution be transmitted, respectively, to President Franklin D. Roosevelt, the two West Virginia members of the United States Senate, the six members of the House of Representatives from West Virginia, and the President of the Senate of West Virginia.

HOUSE RESOLUTION NO. 16
(By Mr. Strouss)
(Originating in the Committee on Rules)
[Adopted January 26, 1937.]

Authorizing the appointment of attaches for the House of Delegates for this session of the Legislature.

Resolved by the House of Delegates:

That the Speaker of the House of Delegates be, and he is hereby authorized to appoint for the House of Delegates, the following attaches and other employees to receive the per diems as herein provided, during this session of the Legislature:

(1) For the Clerk’s office the following:

Two record clerks at seven dollars per day;
Two roll call clerks at seven dollars per day;
Ten proofreaders at eight dollars per day;
Eight copyholders at seven dollars per day;
One supervisor of printing at ten dollars per day;
One assistant clerk at ten dollars per day;
One clerk and one assistant clerk to the Committee on Enrolled Bills at eight and seven dollars per day, respectively;
One messenger at six dollars per day;
Two stenographers at eight dollars per day;
One Journal clerk at twelve dollars per day;
One Journal stenographer at ten dollars per day.

(2) For other offices and positions, the following:

One Chaplain at seven dollars per day;
One clerk, one assistant clerk and one stenographer to the Committee on Taxation and Finance at twelve, nine and eight dollars per day, respectively;
One clerk, one assistant clerk and one stenographer to the Committee on the Judiciary at twelve, nine and eight dollars per day, respectively;
One clerk at ten dollars per day, and one assistant clerk and one stenographer at eight dollars each per day, to the Committee on Education;
One clerk at ten dollars per day, one assistant clerk and one stenographer at eight dollars each per day, to the Committee on Roads;
Ten committee clerks, to be assigned by the Speaker, at eight dollars per day each;
One clerk to the minority at ten dollars per day;
One supervisor of stenographers at ten dollars per day;
Twenty-five stenographers at eight dollars per day;
Five typists at seven dollars per day;
One chief Journal room clerk at eight dollars per day;
Twelve assistant Journal room clerks at seven dollars per day;
One chief mailing clerk at eight dollars per day;
Eight assistant mailing clerks at seven dollars per day;
Five pages at six dollars per day;
One messenger to the Speaker at six dollars per day;
Six assistants to the Sergeant-at-Arms at seven dollars per day:

One clerk to the Sergeant-at-Arms at ten dollars per day;

One stenographer to the Sergeant-at-Arms at eight dollars per day;

Eight assistant doorkeepers at seven dollars per day each;

One mimeograph supervisor at eight dollars per day;

Two assistants to the mimeograph supervisor at seven dollars per day;

One custodian of offices and property at six dollars per day;

One chief men's cloak room attendant at six dollars per day;

Two men's cloak room attendants at five dollars per day each;

One night watchman at seven dollars per day; and, be it

Further Resolved, That the secretary and stenographer to the Speaker, as provided for by the rules of the House, shall receive twelve and ten dollars, respectively; and that the secretary and stenographer to the Clerk as provided for by the rules, shall receive ten and twelve dollars, respectively; and, be it

Further Resolved, That the Clerk of the House shall receive twenty dollars per day; that the Sergeant-at-Arms and Doorkeeper shall each receive ten dollars per day; and that of the three assistant clerks provided for by section nine, article one, chapter four of the code, one senior assistant shall receive twelve dollars per day and the other two assistants shall receive ten dollars each per day; and, be it

Further Resolved, That all of the appointments made under authority of this resolution shall be certified to the Auditor and Treasurer by the Clerk, and the Clerk is hereby authorized to draw his warrants or requisitions upon the Auditor in favor of the persons so appointed and the Auditor shall honor and pay such warrants when presented and charge same to the "per diem of officers
and attaches' fund of the House of Delegates. The Clerk shall draw his warrants in favor of officers, attaches and other employees, for consecutive days from the date of the opening of this session, at the per diems herein set out, until such time as their services shall cease. The Speaker may remove any attache or employee and appoint another in his or her place, and he shall require each of said attaches or employees to perform such duties as shall be assigned him or her, and is hereby given authority to dispense with the service of any attache or attaches for any such time or number of days as their services shall not be needed during the session and they shall not be paid for such time, nor shall other persons be appointed in their places for any such time as they may be suspended when not needed; and, be it

Further Resolved, That the Speaker is hereby authorized to assign attaches and employees to such positions and duties as he may deem proper to secure the most efficient and expeditious work during the session of the Legislature.

HOUSE RESOLUTION NO. 17
(By Mr. LaFon)
(Originating in the Committee on Rules)
[Adopted January 26, 1937.]
Relating to the appointment of assistant janitors.

Whereas, Lawrence M. Cunningham, Superintendent of Capitol Building and Grounds, under authority of section twenty-two, article one, chapter four of the code of West Virginia, has designated nine assistant janitors for the janitor work of the House of Delegates during this session of the Legislature; therefore, be it

Resolved by the House of Delegates:

That the per diem of said assistant janitors is fixed at five dollars, and that of the said Lawrence M. Cunningham is fixed at two dollars, as the House of Delegates' one-half of his per diem. Said per diem shall be paid from the Contingent Fund of the House of Delegates, in advance of the appropriation for the purpose, upon proper warrants.
HOUSE RESOLUTION NO. 19  
(By Mr. Doringer)  
[Adopted January 29, 1937.]  

Authorizing payment of expenses of delegate to Interstate Commission on Crime.  

WHEREAS, The Interstate Commission on Crime held its annual meeting at Boston, Massachusetts, August 21 and 22, 1936; and  

WHEREAS, The Honorable Fred L. Doringer, a member of the Interstate Commission, attended said meeting and incurred certain expenses; therefore, be it  

Resolved by the House of Delegates:  

That the Clerk is hereby authorized to draw his warrant upon the Auditor in favor of Mr. Doringer in the amount of ninety-one dollars and eighty-one cents, payable from the contingent fund of the House of Delegates, in advance of the appropriation for the purpose, for necessary traveling expenses in attending said meeting of the Interstate Commission on Crime.

HOUSE RESOLUTION NO. 21  
(By Messrs. Russek and Brotherton)  
[Adopted February 4, 1937.]  

Authorizing payment of expenses of two delegates to Third General Assembly at Washington, D. C.  

WHEREAS, The Third General Assembly held its conference January 21-24, 1937, at the Mayflower Hotel in Washington, D. C., to deliberate on important interstate problems requiring cooperative action by the states with each other, and with the federal government; and  

WHEREAS, The Honorable W. T. Brotherton and the Honorable Stephen J. Russek were appointed as a delegation from the West Virginia House of Delegates to the Third General Assembly, attended said meeting and incurred certain expenses; therefore, be it  

Resolved by the House of Delegates:  

That the Clerk is hereby authorized to draw his warrants upon
the Auditor in favor of Mr. Brotherton and Mr. Russek in the amount of seventy-five dollars each, payable from the contingent fund of the House of Delegates, in advance of the appropriation for the purpose, for necessary traveling expenses in attending said meeting of the Third General Assembly.

HOUSE RESOLUTION NO. 23

(By Mr. LaFon)

(Originating in the Committee on Rules)

[Adopted February 3, 1937.]

Amending the rules of the House of Delegates.

Resolved by the House of Delegates:

That Rule No. 69 of the House of Delegates be amended to read as follows:

69. Local bills shall be placed upon a special calendar to be known as the Local Bill Calendar, and on Friday of each week, after the ninth order of business is passed, shall be taken up and disposed of before any other business is acted upon: Provided, That this rule shall not prohibit the consideration of local bills at such times as the House may determine after the last Friday within the constitutional duration of regular sessions of the Legislature.

HOUSE RESOLUTION NO. 24

(By Mr. Russek)

[Adopted February 8, 1937.]

Deploring the illness of the Honorable Ben H. Butcher, and instructing the dispatch of a floral tribute.

Whereas, The Honorable Ben H. Butcher, a Delegate from the County of Wood, the oldest member of the House of Delegates at this session of the Legislature, and who has the distinction of having been the youngest member of the fourteenth Legislature of this state; and

Whereas, This venerable Delegate has the further distinction of
having served in both the House and Senate of the Legislature of Colorado, having served that state capably, as well as extending long and able service to his home state of West Virginia; and

WHEREAS, This distinguished member from Wood County now lies stricken ill in the McMillan Hospital in the city of Charleston, where he is a pneumonia victim at this hour; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates hereby extends its sincere sympathy and regards to this beloved member, with the hope that he may speedily recover from his illness; and, be it

Further Resolved, That a floral tribute, selected by a committee of three, to be designated by the Speaker of the House of Delegates, be sent to Mr. Butcher at his bedside; and, be it

Further Resolved, That a copy of this resolution be transmitted to Delegate Ben H. Butcher.

HOUSE RESOLUTION NO. 25

(By Mr. Wright)

[ Adopted February 8, 1937. ]

Deploring the illness of the Honorable W. A. Light, and instructing the dispatch of a floral tribute.

WHEREAS, The Honorable W. A. Light, Mayor of the City of Bluefield, West Virginia, and a Delegate from the County of Mercer, is ill and confined to his hotel room, a victim of pneumonia; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates hereby extends its sincere sympathy and regrets to the Honorable W. A. Light, in his illness; and, be it

Further Resolved, That a floral tribute, selected by a committee of three designated by the Speaker of the House of Delegates, be sent to Mr. Light at his bedside; and, be it

Further Resolved, That a copy of this resolution be transmitted to Delegate W. A. Light.
HOUSE RESOLUTION NO. 28

(By Mr. Speaker, Mr. Thomas)

(Originating in the Committee on Rules)

[Adopted February 10, 1937.]

Authorizing the Committee on Rules to arrange a special calendar.

Resolved by the House of Delegates:

That effective Monday, March 1, 1937, the Committee on Rules shall arrange a special daily calendar, to be known as the special calendar, and until the calendar so arranged is disposed of, nothing on the regular House calendar shall be considered or take precedence over said special calendar: Provided, That the special calendar shall not interfere with consideration of the local calendar on Friday of each week.

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HOUSE RESOLUTION NO. 29

(By Mr. Browning)

[Adopted February 24, 1937.]

Raising a special committee to investigate the advisability and cost of installing a loud speaker system in the House of Delegates.

Resolved by the House of Delegates:

That the Speaker be and is hereby authorized to appoint a special committee of three to investigate the advisability and cost of installing a voice amplifying system in the chamber of the House of Delegates,

And the Speaker shall be further empowered to assign to such committee, upon request, a clerk from among the attaches of the House of Delegates.

Said committee shall make its investigation and report to this body as soon as practicable, but not later than the first day of March, 1937.
HOUSE RESOLUTION NO. 30

(BY MR. LaFON)

[Adopted February 18, 1937.]

Authorizing payment of expenses of House members of the committee raised under H. C. R. No. 20.

Resolved by the House of Delegates:

That the Clerk of the House of Delegates is hereby authorized to draw his warrants upon the Auditor for the actual expenses of the members of the committee raised under H. C. R. No. 20, payable out of the Contingent Fund of the House of Delegates, in advance of the appropriation for the purpose.

HOUSE RESOLUTION NO. 31

(BY MR. SPEAKER, MR. THOMAS)

[Adopted February 23, 1937.]

Deploring the death of Major Joseph E. Chilton.

Resolved by the House of Delegates:

That in the death of Major Joseph E. Chilton, which occurred at his home at St. Albans, Kanawha County, on February 21, the State of West Virginia has suffered the loss of one of her most distinguished citizens; one who stood in the very front rank of the legal profession for the many years during which he was actively engaged in the practice of the profession; who contributed largely to the development of the natural resources of this state and to her material advancement and up-building; who for half a century, as a mere private citizen and without official obligation or connection, gave freely and in generous measure of his time and talents in counseling and advising in the structure and stabilizing of our state laws, and in keeping them abreast with the growing demands incident to the progress and development he had aided to launch; one whose daily walk and conversation was such as to endear him to all with whom he came in contact; gracious in his demeanor, strong in his own convictions, but most tolerant of the views of others; ever considerate and self-effacing; generous almost to the extent of criminal self-neglect; of whom it was often
said he never felt happy with a dollar in his pocket when his friend needed it, or there was distress to be alleviated within the length of his cable-tow; one of nature's true noblemen—loved, honored and respected by all—it is with sincere sorrow and regret that we note his passing and contemplate the distinct and irreparable loss thus sustained by his state, his county and community, and by the many individual members of this House who knew and loved him; and, be it

*Further Resolved,* That as a further tribute to his memory this House now stand in recess for five minutes.

**HOUSE RESOLUTION NO. 32**

*(BY MR. BROTHERTON)*

*[Adopted February 24, 1937.]*

Concerning a banquet in honor of the Speaker.

*WHEREAS,* The House of Delegates is presided over by a fair, able and courteous Speaker; and

*WHEREAS,* During this session of the Legislature, the Speaker has been most accommodating and has extended to the members of the House every consideration and favor in his power; and

*WHEREAS,* Tuesday, February 23, 1937, was the birthday of the Speaker; and

*WHEREAS,* As an indication of the high regard the members of the House have for the Speaker and as a token of their appreciation of his many acts of kindness, as well as in celebration of his birthday, the members of the House of Delegates have arranged a banquet in honor of the distinguished and capable Speaker, which banquet will be held at the Kanawha Hotel at 6:30 o'clock P. M., Thursday evening, February 25; and

*WHEREAS,* The Governor, the United States Senators and members of the House of Representatives from this state, and other distinguished guests have been invited to attend this banquet; therefore, be it

*Resolved by the House of Delegates:*

That the Honorable Speaker is hereby notified of this event in
his honor and respectfully invited to attend the banquet on Thursday night of this week.

HOUSE RESOLUTION NO. 34

(By Mr. Doringer)

[Adopted February 25, 1937.]

Authorizing the Auditor and Treasurer to pay salaries of certain members of the House of Delegates.

WHEREAS, The Governor has appointed Joseph D. Fry, Hedgesville, Berkeley County, West Virginia, to fill the vacancy caused by the death of the Honorable John L. Wever; and

WHEREAS, The Governor has appointed A. D. Prunty, Parkersburg, Wood County, West Virginia, to fill the vacancy caused by the death of the Honorable Ben H. Butcher; and

WHEREAS, Messrs. Fry and Prunty have qualified as members of the House of Delegates, by taking and subscribing to the several oaths of office prescribed by section sixteen, article six of the Constitution of this State; therefore, be it

Resolved by the House of Delegates:

That upon the warrants of the Clerk the Auditor and Treasurer are hereby authorized to pay the Honorable Joseph D. Fry and the Honorable A. D. Prunty, the sum of five hundred dollars each, as salary for the year one thousand nine hundred thirty-seven, in advance of the appropriation for the purpose.

HOUSE RESOLUTION NO. 35

(By Mr. Doringer)

[Adopted February 25, 1937.]

Authorizing the Clerk to draw warrants upon the Auditor for mileage of the Honorable Joseph D. Fry and for the Doorkeeper.

Resolved by the House of Delegates:

That the Clerk is hereby authorized and directed to draw his
warrant upon the Auditor in the amount of ninety-two dollars and eighty cents for mileage of the Honorable Joseph D. Fry, a member of the House of Delegates, appointed to fill the vacancy caused by the death of the Honorable John L. Wever; and, be it

Further Resolved, That the Clerk is also authorized and directed to draw his warrant upon the Auditor in the amount of twenty-one dollars and twenty cents for mileage of Clark Neal, Doorkeeper of the House of Delegates.

HOUSE RESOLUTION NO. 37
(By Mr. Doringer)
[Adopted March 2, 1937.]

Raising a committee to investigate and report upon certain phases of the administration of the Department of Public Assistance.

WHEREAS, Since the establishment of the Department of Public Assistance there have been considerable dissension and complaint with reference to the appointment of county directors; and

WHEREAS, There have been numerous unsatisfactory reports from various counties relative to investigations and action upon applications for old age pensions; and

WHEREAS, The Department of Public Assistance has employed a number of out of state residents; and

WHEREAS, Many persons believe that unusual and unreasonable qualifications were required of applicants for positions with the department; therefore, be it

Resolved by the House of Delegates:

That the Speaker appoint a committee of five members of this body to investigate the charges herein contained and such other matters pertaining to the administration and operation of the Department of Public Assistance as the committee may deem pertinent, said committee to report its findings and recommendations to the House of Delegates before the adjournment of this regular session of the Legislature.
HOUSE RESOLUTION NO. 38

(By Mr. Storm)

[Adopted March 8, 1937.]

Providing for markers on state route number two, showing location of the mound in Marshall County.

WHEREAS, The largest and most noted prehistoric mound in North America is located in Marshall County, this state; and

WHEREAS, Said mound is located within two hundred feet of state route No. 2; and

WHEREAS, It is one of the wonders of North America, and of great historical value and significance, and should be properly marked and easily found by the traveling public; therefore, be it

Resolved by the House of Delegates:

That the State Road Commission shall provide and furnish not less than forty proper and suitable markers on and along state route No. 2, in said county of Marshall, clearly and plainly showing the location of said mound.

HOUSE RESOLUTION NO. 40

(By Mr. LaFon)

(Originating in the Committee on Rules)

[Adopted March 9, 1937.]

Amending the rules of the House of Delegates, relating to the introduction of a bill.

Resolved by the House of Delegates:

That a new rule to be numbered ninety-four-a be adopted, to read as follows:

94-a. A bill may be introduced bearing the names of not more than two members, as joint sponsors of the bill.
HOUSE RESOLUTION NO. 41

(By Mr. Doringer)

(Originating in the Committee on Rules)

[Adopted March 13, 1937.]

Providing for the printing of corrected Journals and Bills of the House of Delegates for this session of the Legislature and for the completion of the work of the session.

Resolved by the House of Delegates:

That for the purpose of completing the work of this session in arranging and filing of all bills, resolutions and other official papers in the Clerk’s office, and for indexing and proofreading of the corrected Journals and Bills of the House of Delegates and printing thereof, the time of the Clerk, stenographer to the Clerk, Journal clerk, Journal stenographer, one senior and three assistant clerks, one supervisor of printing, two clerks, one stenographer, and three proofreaders is extended for ninety days; the time of the clerk and stenographer to the Committee on the Judiciary is extended for ten days; the time of the clerk and stenographer to the Committee on Taxation and Finance is extended for ten days; the time of the clerk to the Committee on Enrolled Bills is extended for ten days; the time of six stenographers is extended for ten days; the time of four janitors is extended for five days; the time of two janitors is extended for thirty days; the time of the chief Journal room clerk is extended for thirty days, and three assistant Journal room clerks is extended for ten days; the time of one mailing clerk and three assistant mailing clerks is extended for ten days; the time of the supervisor of stenographers is extended for ten days; the time of the secretary and stenographer to the Speaker is extended for ninety days; and, be it

Further Resolved, That for the purpose of arranging the offices and committee rooms and performing the other duties of his office the time of the Sergeant-at-Arms is extended for thirty days, four assistant Sergeants-at-Arms is extended for seven days, one assistant Sergeant-at-Arms is extended for ten days, and the clerk to the Sergeant-at-Arms is extended for thirty days; and, be it

Further Resolved, That the per diem of the persons given ex-
tensions in this resolution, shall be the same as that paid for the same positions during this regular session of the Legislature.

The Clerk shall draw his warrants upon the Auditor in favor of the persons entitled to per diems under this resolution, for consecutive days until such time as their services cease, and the Auditor shall honor and pay such warrants when presented and charge same to the Contingent Fund of the House of Delegates.

The Speaker shall have authority to remove any person given an extension of per diem under authority of this resolution, except elective officers of the House of Delegates, and to appoint another in his place or to fill any vacancy that may occur.

HOUSE RESOLUTION NO. 42

(By Mr. Hunter)

[Adopted March 13, 1937.]

Notifying the Senate that the House of Delegates is ready to adjourn sine die.

Resolved by the House of Delegates:

That a committee of three be appointed by the Speaker to notify the Senate that the House of Delegates has completed its labors and is ready to adjourn sine die.
SENATE CONCURRENT RESOLUTION NO. 1

(By Mr. Howard)

[Adopted January 13, 1937.]

Concerning the death of the mother of Senator Dan B. Fleming.

Whereas, the Senate has learned with genuine regret of the death of the mother of Senator Dan B. Fleming of the Third District; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the sympathy of the members of the House of Delegates and the Senate, and their respective staffs, is extended to Senator Fleming and to the other members of the family; and

That a suitable floral tribute be sent to the family as a token of this sentiment; and

That a copy of this resolution be sent by the Clerk of the Senate to the family.

SENATE CONCURRENT RESOLUTION NO. 2

(By Mr. Moler)

[Adopted January 13, 1937.]

Concerning the death of the Honorable M. O. Rouss.

Whereas, on the seventh day of January, one thousand nine hundred thirty-seven, the Honorable M. O. Rouss, a member of the Senate of West Virginia from the Fifteenth Senatorial District, died at his home in Jefferson County; and

Whereas, Senator Rouss, in his service to his county as a member of the House of Delegates and his district as Senator, had shown himself to be a wise statesman and counsellor and by his unassuming manner, courtesy, geniality and consideration of the views of others had endeared himself to his colleagues in both legislative bodies; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:
That the state of West Virginia, in the death of Senator Rouss, has lost a public servant of proved ability and unquestioned probity and, be it

Further Resolved, That the Legislature deplores the death of Senator Rouss and extends its deepest sympathy to the members of his family in their bereavement; and, be it

Further Resolved, That the Clerk of the Senate is directed to send a copy of this resolution to the family of Senator Rouss.

SENATE CONCURRENT RESOLUTION NO. 3
(By Mr. Canterbury)
[Adopted January 13, 1937.]
Relating to joint rules of the Senate and House of Delegates.

Resolved by the Senate, the House of Delegates concurring therein:

That the joint rules of the Senate and House of Delegates for the regular session of the Legislature, one thousand nine hundred thirty-five, are hereby adopted and shall govern the proceedings of this session.

SENATE CONCURRENT RESOLUTION NO. 4
(By Mr. Belknap)
[Adopted January 13, 1937.]
Relating to the payment by the Auditor of mileage and contingent and other expenses of this session of the Legislature.

Resolved by the Senate, the House of Delegates concurring therein:

That the Auditor, in advance of the appropriation for the purpose, is hereby authorized, upon proper warrants of the Clerk of the Senate and the Clerk of the House of Delegates, to pay the mileage of the members of the Senate and the House of Delegates; bills incurred and services furnished to the Legislature for this session, including contingent expenses; the per diem of the officers and attaches of the Senate and House of Delegates; and for the legislative printing of this session; as the accounts for same may become due.
SENATE CONCURRENT RESOLUTION NO. 6
(By Mr. Barnhart)
[Adopted January 15, 1937.]

Relating to legislative recess.

Resolved by the Senate, the House of Delegates concurring therein:

That when adjournment is taken by the respective houses of the Legislature at the close of this day's session, such adjournment shall be until Thursday, January twenty-first, one thousand nine hundred thirty-seven, at two o'clock, P. M.

SENATE CONCURRENT RESOLUTION NO. 7
(By Mr. Paull)
[Adopted January 15, 1937.]

Postponing the date for the commencement of public legislative hearings on the subject of unemployment compensation.

Whereas, The date of January twenty, one thousand nine hundred thirty-seven, was fixed in Senate Concurrent Resolution Number four, extraordinary session of the Forty-third Legislature, December fourteen to sixteen, one thousand nine hundred thirty-six, as the time for the commencement of public legislative hearings on the subject of unemployment compensation; and

Whereas, Legislative recess is being taken on account of state and national inauguration dates; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That such date for the commencement of public legislative hearings on the subject of unemployment compensation is fixed for January twenty-fifth, one thousand nine hundred thirty-seven.
SENATE CONCURRENT RESOLUTION NO. 8
(By Mr. Paull)
[Adopted January 21, 1937.]

Relating to public legislative hearings on Unemployment Compensation Act.

Resolved by the Senate, the House of Delegates concurring therein:

That the public legislative hearings on the subject of unemployment compensation as provided in Senate Concurrent Resolution No. 4, extraordinary session of the Forty-third Legislature and Senate Concurrent Resolution No. 7, regular session of the Forty-third Legislature, shall be held before a joint meeting of the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Delegates, in the Chamber of the House of Delegates, commencing January 25, 1937, at 7:30 o'clock, P. M.

SENATE CONCURRENT RESOLUTION NO. 9
(By Mr. Beacom)
[Adopted January 27, 1937.]

Memorializing Congress to appropriate funds for a survey in connection with flood conditions in the Ohio Valley.

WHEREAS, The Ohio Valley is now being visited by another major flood disaster, the second of its proportions within a period of ten months; and

WHEREAS, These recent floods have caused damage to the extent of hundreds of millions of dollars in the Ohio Valley; and

WHEREAS, Scores of lives have been lost in these flood disasters, thousands have been rendered homeless, and widespread illness, suffering and disease have followed in their wake; and

WHEREAS, It is believed that a comprehensive system of source stream control can reduce, if not entirely eliminate, the major proportions of these disasters; and

WHEREAS, Such remedial steps, being of interstate nature and
SENATE CONCURRENT RESOLUTIONS

requiring interstate cooperation, constitute a proper subject for primary action by the federal government; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Congress of the United States is requested, without further delay, to take such steps by appropriate legislation as will lead to the immediate projection and execution of a comprehensive plan to prevent a repetition of such major disasters, and that the attention of the Congress be called to report number three hundred and eight, plan number four, seventy-fourth Congress, second session, relating to this subject of source stream control; and, be it

Further Resolved, That copies of this resolution be transmitted, respectively, to Honorable Franklin D. Roosevelt, President of the United States, and to the members representing West Virginia in the Senate and in the House of Representatives of the Congress.

SENATE CONCURRENT RESOLUTION NO. 11

(By Mr. Smith)

(Originating in the Committee on Education)

[Adopted February 9, 1937.]

Requesting the state department of education to make an immediate survey of the flood-stricken area to ascertain the damage caused to school property and the personal property of teachers and students utilized in school activities.

WHEREAS, The recent flood has devastated many communities in the Ohio River valley areas of this state; and

WHEREAS, It is reported that school buildings and appurtenances, including the personal belongings of students and teachers in the form of books and other school supplies, have suffered damage or loss in an amount which cannot be ascertained on the basis of information now available; and

WHEREAS, The state and all its citizens are deeply sympathetic with the unprecedented situation which has prevailed in our flood-stricken areas; therefore, be it
Resolved by the Senate, the House of Delegates concurring therein:

That the state department of education is hereby requested to make a survey of the recent flood-stricken area for the purpose of making an estimate of the loss to school properties, including the property of teachers and students utilized in school activities, and make a report as expeditiously as possible to the Senate and House Committees on Education.

SENATE CONCURRENT RESOLUTION NO. 13

(By Mr. Fleming)

[Adopted March 10, 1937.]

Creating a New York World Fair Commission of the State of West Virginia.

WHEREAS, The City of New York plans to hold a World Fair in the year one thousand nine hundred thirty-nine, to be called "New York World Fair," in which a majority of the nations of the world and of the states of the United States will participate; and

WHEREAS, It is very desirable that this state participate in said fair and exhibit to the world and the other states of the Union its advantages and natural resources; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That a commission is hereby created, to be known as the "New York World Fair Commission of the State of West Virginia," to be composed of the Governor of West Virginia, chairman ex officio, the Commissioner of Agriculture, the President of the Senate, and the Speaker of the House of Delegates, with two members of the Senate to be designated by the President thereof, and three members of the House of Delegates, to be designated by the Speaker thereof, and two citizens of the State of West Virginia, to be designated by the Governor. Said commission shall elect a chairman and a secretary, and may employ such clerical help as it deems necessary and such commission is fully empowered to arrange for the appropriate participation of the State of West Virginia in said fair; and, be it
Further Resolved, That the commission shall assemble, erect at said fair, maintain and return to the state after said fair closes, a suitable exhibit portraying the advantages of the state, its natural resources, scenic and recreational advantages, its agricultural, industrial, educational and historical features, displaying the highways of the state in order to encourage tourists to travel to and through the state. The various departments of the state shall furnish materials, labor and such other assistance as the commission may request; and, be it

Further Resolved, That all expenditures in reference hereto shall be made on the approval of the Governor, chairman ex officio, and that a complete accounting of the expenditures under the appropriation be made to the Legislature at its first meeting after the close of said fair; and, be it

Further Resolved, That there shall be appropriated by a supplemental budget bill, or by an amendment and supplement to the Budget Bill, out of any funds not otherwise appropriated, the sum of thirty-five thousand dollars, to cover the expenses of said commission in connection with said fair, but it is hereby specifically provided that no part of any fund so appropriated shall be paid to any member of the commission as compensation for his services.

SENATE CONCURRENT RESOLUTION NO. 15
(By Mr. Smith)
(Originating in the Committee on Education)
[Adopted February 26, 1937.]

Requesting the two United States Senators and the members of the House of Representatives from West Virginia to secure federal funds to replace school property damaged in West Virginia by the recent floods in the Ohio Valley.

Whereas, In compliance with Senate Concurrent Resolution No. 11, the state board of education, in cooperation with the various county boards of education and county superintendents, has made a thorough survey and estimate of the damage done to school property and equipment of schools in the counties in the Ohio Valley of the State of West Virginia; and
WHEREAS, The state department of education has transmitted to the Legislature an itemized statement covering its investigation and survey, which shows the damages done to school property and equipment in the aforesaid region; and

WHEREAS, The total amount estimated by the state department of education and the various county boards and county superintendents of schools in the thirteen counties affected by the recent flood totals one hundred fifty-seven thousand, six hundred fifty-four dollars; and

WHEREAS, This amount of damage covers damages to library books, children’s books, furniture and equipment, teachers’ books and grounds and buildings; and

WHEREAS, The state and the various county boards of education do not have available funds to repair grounds and buildings and to replace equipment damaged and destroyed; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the two United States Senators and the six members of the House of Representatives from West Virginia, in cooperation with the Governor of this state, are hereby respectfully requested to contact the proper federal agencies and make every effort to secure sufficient federal funds to replace school equipment destroyed, and to repair school buildings and grounds damaged in West Virginia by the recent flood in the Ohio Valley.

SENATE CONCURRENT RESOLUTION NO. 16

(By Mr. Hodges, Mr. President)

[Adopted February 26, 1937.]

Expressing assent of the Legislature of the State of West Virginia to the provisions and purposes of the Bankhead-Jones Act of June twenty-nine, one thousand nine hundred thirty-five, (Public-No. 182-74th Congress).

WHEREAS, There has been enacted by the Senate and House of Representatives of the United States of America in Congress assembled, an act to provide for research into basic laws and princi-
ples relating to agriculture and to provide for the further development of cooperative agricultural extension work and the more complete endowment and support of land-grant colleges, approved June twenty-nine, one thousand nine hundred thirty-five (Public-No. 182-74th Congress); and

WHEREAS, The provisions of the act and the purpose of the grants of money authorized by the act are made subject to the legislative assent of the several states and territories; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the assent of the Legislature of the State of West Virginia, required by the said act, be and the same is hereby given.

SENATE CONCURRENT RESOLUTION NO. 17
(By Mr. Hodges, Mr. President)
( Adopted February 26, 1937.)

Raising a joint committee of the Senate and House of Delegates to study and report upon an enabling act to carry into effect the home rule amendment of the state constitution.

WHEREAS, An amendment to the state constitution, known as the home rule amendment, was approved by the voters of the state at the general election held on November six, one thousand nine hundred thirty-six, and

WHEREAS, Studies under legislative and executive direction have been in progress for some weeks looking to the preparation and submission to the Legislature of an act to give effect to the purposes of this amendment; and

WHEREAS, The broad scope of such bill and the large volume of legislative business now pending before the Legislature will not permit, within the time remaining during the regular session, proper consideration of this subject by any regular legislative committee; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That there is hereby raised a joint legislative committee con-
sisting of ten members, to be composed of the President of the Senate and four other members of the Senate, to be appointed by the President, and the Speaker of the House and four other members of the House, to be appointed by the Speaker, which said joint committee shall consider all studies made upon this subject and report a bill thereupon to the Legislature at the earliest possible moment prior to adjournment.

SENATE CONCURRENT RESOLUTION NO. 18
(By Mr. Barnhart).
[Adopted March 3, 1937.]
Concerning the program of President Franklin D. Roosevelt for the reorganization of the federal judiciary.

WHEREAS, The Honorable Franklin D. Roosevelt, President of the United States, has submitted to the national congress a proposal for the reorganization of the federal judiciary; and

WHEREAS, Said proposal is to provide assistance to the federal courts and prevent delay in the administration of justice, therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Legislature of West Virginia, hereby endorses and approves the efforts of the President of the United States to improve and strengthen the federal judiciary; and, be it

Resolved Further, That a copy of this resolution be forwarded to the President of the United States, and to each of the representatives in Congress from the State of West Virginia.

SENATE CONCURRENT RESOLUTION NO. 19
(By Mr. Pelter)
[Adopted March 12, 1937]
Creating an interim legislative committee for the purpose of studying and reporting to the Governor and to the Legislature its findings and recommendations relative to the legislative problems herein set forth.
WHEREAS, This regular session of the Legislature is now drawing to a close and for the lack of time there are a number of important legislative matters that will not be considered at this session; and

WHEREAS, His Excellency, the Governor, in his message to the Legislature on February 8, 1937, in discussing legislative problems said:

"... there are several additional matters of great importance that I believe can be handled best by careful interim study and preparation of legislation. Among these items are our election laws, including methods of remove our schools from partisan political influences; our judicial system, particularly as relating to inferior tribunals; a more modern system of parole and probation; an improved plan of state aid to schools looking to the more effective utilization of state and local revenues; tenure laws for public employees; a study of the needs and means of more effectively coordinating our state departments, particularly those relating to fiscal matters. In addition to these important subjects, our unemployment insurance and public assistance laws require study for improvement as to details. These laws are in their infancy and should be given an opportunity for thorough trial before any basic structural changes are made;" and

WHEREAS, There is need for more comprehensive study to provide text books for the public schools from public revenues; and

WHEREAS, It is apparent that the state of West Virginia must have additional office space for use of state departments, offices, boards and commissions; and

WHEREAS, There is a pressing need for legislation to provide for uniform assessment of property, real and personal in the state of West Virginia and

WHEREAS, There are many claims against the state of West Virginia and various governmental departments thereof, regularly submitted to the Committees on Claims and Grievances in both Houses of the Legislature, which involve unliquidated damages and which such committees have neither the time nor the proper facilities to consider and properly determine; and

WHEREAS, The establishment of a permanent Claims Commission
may be the best method of providing for a fair and just consideration of claims against the state; and

WHEREAS, Since the adoption of the Tax Limitation Amendment no legislation has been enacted to provide adequate revenue for the operation of municipal governments; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That an Interim Legislative Committee, to consist of twelve members of the Legislature, including the President of the Senate and five members of the Senate, to be appointed by the President thereof, and including the Speaker and five members of the House of Delegates, to be appointed by the Speaker thereof, is hereby created to study the subjects and questions set forth in the preamble of this resolution, including those subjects and matters mentioned by His Excellency, the Governor, in his address to the Legislature on February 8, 1937, and to make a report or reports to the Governor and to the Legislature prior to the convening of the next regular session of the Legislature, or at such times as in the opinion of the Governor may be best; and, be it

Further Resolved, That said interim committee is authorized and empowered to study and to investigate such other legislative subjects as the Governor shall recommend or as the committee may find necessary or desirable, and to report thereon in the manner above provided; and, be it

Further Resolved, That the committee shall have the power and is hereby authorized in making its report or reports to investigate and ascertain;

What state government activities could be consolidated, and under what department or state official they could be placed, to the end that economy and efficiency would result, both in the employment of personnel and in the occupancy of office space; and, be it

Further Resolved, That in obtaining the necessary information to carry out the spirit and intent of this resolution, the committee is empowered to call upon any of the departments of state government for any information or service it may need, to summon witnesses and to take testimony and to compel the production of such
papers, documents, etc., as the committee shall deem pertinent; and be it

Further Resolved, That the committee is authorized and empowered to employ such clerical, advisory and stenographic assistance as it may deem necessary and advisable; and, be it

Further Resolved, That said committee is hereby authorized to meet in the city of Charleston or elsewhere, as it may determine, the expenses of the members of the committee, and the per diem of such clerical, advisory and stenographic assistance as the committee may employ, to be fixed by the committee and paid equally from the contingent fund of the Senate and House of Delegates upon certificate of the chairman of said committee.

SENATE CONCURRENT RESOLUTION NO. 20

(By Mr. Haines)

[Adopted March 9, 1937]

Granting permission to introduce a bill relating to deeds of trust for agricultural loans.

Resolved by the Legislature of West Virginia, two-thirds of all the members of each House present and voting concurring therein:

That permission is hereby granted to introduce a bill with the following title:

"A Bill to amend and reenact sections one, four and seven, chapter one, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, and section one, chapter three of said acts, relating to deeds of trust for agricultural loans."

SENATE CONCURRENT RESOLUTION NO. 21

(By Mr. Johnston)

[Adopted March 10, 1937]

Concerning the one hundredth anniversary of the foundation of Mercer County, West Virginia.
WHEREAS, The County of Mercer has planned a county-wide celebration of the one hundredth anniversary of its formation as a county, which occurred on March 17, 1837; and

WHEREAS, The governmental, civic, and business bodies and all other organizations of the county, and its citizenship as a whole, are whole-heartedly supporting this movement; and

WHEREAS, It is well to take note of past historical events of importance; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Legislature approve of this celebration and urges upon the citizens of the surrounding counties and of the state as a whole that they join with the citizenry of Mercer County in making the event a notable success.

SENATE CONCURRENT RESOLUTION NO. 22

(By Mr. Haines)

[Adopted March 12, 1937]

Endorsing the Sesqui-Centennial celebration of the invention of the steamboat by James Rumsey.

WHEREAS, on December 3, 1787, James Rumsey gave a public exhibition and successful demonstration of his steamboat on the Potomac at Shepherdstown in this state, before which time he had made experiments at the mouth of Sir John’s Run in the present Morgan County, near Berkeley Springs, where he invented the steamboat; and

WHEREAS, George Washington gave James Rumsey priority in the invention of the steamboat, and James Madison and other men of prominence in the early history of the nation attested to the genius of Rumsey and the promise of his experiments; and

WHEREAS, The West Virginia Rumseyan Society, through its president, the Rt. Reverend W. L. Gravatt, and its executive secretary, Mrs. Anita Buchanan Speer, The Rumseyan Society of Jefferson County, and The Town of Bath Rumseyan Society of Morgan County, collaborating with other historical and patriotic or-
organizations, are proposing further to commemorate the name and fame of James Rumsey by arranging a sesqui-centennial celebration of the success of his invention; and

WHEREAS, The seventy-fifth birthday of the State of West Virginia will be on the twentieth day of June, one thousand nine hundred thirty-eight, and it is appropriate that special significance be given to that date; therefore, it is

Resolved by the Senate, the House of Delegates concurring therein:

That the Legislature of West Virginia hereby endorses the object and purposes of this celebration and it is the sense of the Legislature that it be given hearty public support.

SENATE CONCURRENT RESOLUTION NO 23
(By Mr. Hodges, Mr. President)
[Adopted March 11, 1937.]

Providing for a joint session of the Senate and House of Delegates for the purpose of a memorial service for Honorable Milton O. Rouss, deceased, former member of the State Senate from the Fifteenth District, and Honorable Ben H. Butcher, deceased, former Delegate from Wood County, and Honorable John L. Wever, deceased, former Delegate from Berkeley County.

Resolved by the Senate, the House of Delegates concurring therein:

That when adjournment is taken on this legislative day, it shall be until one o'clock P. M. on Friday, March twelfth, nineteen hundred thirty-seven, and

That the House and Senate shall convene in joint assembly at one-fifteen o'clock in the House of Delegates chamber on Friday, March twelfth, one thousand nine hundred thirty-seven, for the purpose of holding a service honoring the memories of Honorable Milton O. Rouss, deceased, former member of the Senate from the Fifteenth District, and Honorable Ben H. Butcher, deceased, former Delegate from Wood County, and Honorable John L. Wever, deceased, former delegate from Berkeley County, all mem-
members of the Forty-third West Virginia Legislature, who have died since the first convening of the Legislature, and that the Speaker of the House of Delegates and the President of the Senate be appointed a joint committee of two to complete all arrangements for such service.

SENATE CONCURRENT RESOLUTION NO. 24
(By Mr. Hodges, Mr. President)

[Adopted March 12, 1937]

Granting permission to introduce a bill authorizing the board of public works to provide for and maintain developments to the grounds of the state capitol.

Resolved by the Legislature of West Virginia, two-thirds of all the members of each House present and voting concurring therein:

That permission is hereby granted to introduce a bill with the following title:

“A Bill to authorize the board of public works to provide for and maintain developments upon and adjacent to the grounds of the state capitol, to the extent that moneys for the purpose may be appropriated; and to authorize the appointment of an advisory committee to advise with and assist the board in the preparation of plans for such development.”

SENATE CONCURRENT RESOLUTION NO. 25
(By Mr. Paull)

[Adopted March 13, 1937]

Commending members of the press who have reported the proceedings of this session of the Legislature.

WHEREAS, The West Virginia Legislature, in regular session, has enacted numerous laws of great moment and importance to the citizens of this state; and

WHEREAS, It is necessary that the citizenry receive accurate and comprehensive information of the acts of the Legislature; and

WHEREAS, The members of the press galleries of both houses have
been in constant attendance at all sessions, preparing information on the acts of the Legislature for the benefit of the people of West Virginia; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Legislature commends the members of the press for their untiring efforts to disseminate all proceedings of this body, their courteous and wholehearted cooperation with officers and members of the Legislature and the fair and comprehensive manner in which said proceedings have been presented to the public.

SENATE CONCURRENT RESOLUTION NO. 26
(By Mr. Fleming)
(Originating in the Committee on Rules)
[Adopted March 13, 1937.]

Authorizing the payment of expenses for services and supplies after the close of this session of the Legislature.

Resolved by the Senate, the House of Delegates concurring therein:

That the Legislature of West Virginia hereby authorizes the payment of expenses for services and supplies incurred after the close of this regular session of the Legislature, in completing the work of the session, and that the Auditor is hereby authorized and directed to honor and pay the warrants of the Clerk of the Senate and the Clerk of the House of Delegates, drawn in favor of persons for services performed or supplies furnished, as authorized by either separate or concurrent action of the two houses; and, be it

Further Resolved, That all extensions of per diem authorized by Senate Resolution No. 20 and Senate Resolution No. 21, and by House Resolution No. 41 for similar purposes, are hereby declared to be authorized by the Legislature and shall have the same force and effect as if they were incorporated herein.
SENATE RESOLUTION NO. 1
(By Mr. Smith)
[Adopted January 13, 1937.]
Appointment of a committee to notify the House of Delegates that the Senate is organized.

Resolved by the Senate:

That the President of the Senate be and he is hereby authorized to appoint a committee of three to inform the House of Delegates that the Senate is organized by the election of Honorable Charles E. Hodges as President and Charles Lively as Clerk, and is ready to proceed with the business of the session.

SENATE RESOLUTION NO. 2
(By Mr. Barnhart)
[Adopted January 13, 1937.]
Adopting rules of the Senate.

Resolved by the Senate:

That the rules of the Senate, regular session, one thousand nine hundred thirty-five, be adopted as the rules of the Senate for this session.

SENATE RESOLUTION NO. 3
(By Mr. Beacom)
[Adopted January 13, 1937.]
Relating to the mailing of journals and bills.

Resolved by the Senate:

That the Clerk of the Senate is authorized to have mailed from the Senate document room, copies of the bills and daily journals of the Senate to addresses to be furnished to the Clerk by the members of the Senate, twenty of which such addresses may be submitted by each member of the Senate, and that the expense of such mailing, including postage, be paid out of the contingent fund of the Senate by the Auditor, in advance of the appropriation therefor, under proper requisition drawn by the Clerk of the Senate.
SENATE RESOLUTION NO. 4

(By MR. RANDOLPH)

[Adopted January 14, 1937.]

Providing for the appointment of a committee to represent the Senate of West Virginia on the Council of State Governments and to attend the Third Interstate Assembly of the Council of State Governments and the American Legislators' Association, at Washington, D. C.

WHEREAS, The Third Interstate Assembly has been called by the Council of State Governments and the American Legislators' Association to meet at Washington, D. C. on January 21, 22, and 23, 1937, to deliberate upon important interstate problems requiring co-operative action by the states with each other, and with the federal government; and

WHEREAS, Many governmental difficulties are aggravated by the lack of adequate facilities for conferences concerning them and it is apparent that substantial benefits will result from closer contacts between the legislative and administrative divisions of the federal government and the various state governments; and

WHEREAS, The Senate of West Virginia has been invited to send its delegates to this conference; therefore, be it

Resolved by the Senate:

That the President of the Senate is hereby authorized to appoint a committee of three of its members as a delegation to attend the Third Interstate Assembly, which convenes in Washington, D. C. on January 21, 1937, such delegation being without authority to commit the Senate to any action on the matters considered by the Assembly. The Clerk of the Senate is directed to notify the Secretary of the American Legislators' Association of the appointment of such committee.

The Clerk of the Senate upon certification to him by said delegation, through its chairman, shall draw his warrant upon the auditor, payable out of the contingent fund of the Senate, in an amount not to exceed the sum of two hundred twenty-five dollars for the expenses of said delegation in attending said Assembly.
SENATE RESOLUTION NO. 5
(By Mr. Hodges, Mr. President)
(Originating in the Committee on Rules)
[Adopted January 22, 1937.]

Authorizing the appointment of attaches.

Resolved by the Senate:

That the President of the Senate is authorized to make the following appointments, viz:

Seventeen Stenographers, at seven dollars per day each;
One Clerk to the Committee on the Judiciary, at ten dollars per day;
One Clerk to the Committee on Finance, at ten dollars per day;
Two Committee Clerks-at-Large, at ten dollars per day each;
One Secretary to the Minority, at twelve dollars per day;
One Secretary to the President, at twelve dollars per day;
One Clerk to the Minority Leader, at nine dollars per day;
One Clerk to the Sergeant-at-Arms, at eight dollars per day;
One Journal Room Supervisor, at eight dollars per day;
One Mail Clerk, at seven dollars per day;
One Addressograph Clerk, at seven dollars per day;
One Clerk on Enrolled Bills, at seven dollars per day;
Five Assistant Doorkeepers, at seven dollars per day each;
Two Assistant Sergeants-at-Arms, at seven dollars per day each;
One Bill Editor, at nine dollars per day;
One Chaplain, at five dollars per day;
Five Pages, at four dollars per day each.
Resolved Further, That the Clerk of the Senate is authorized to make the following appointments, viz:

Five Document Room Clerks, at seven dollars per day each;
Five Journal Room Clerks, at seven dollars per day each;
One Assistant and Secretary to Clerk, at twelve dollars per
day;
One Journal Stenographer, at nine dollars per day;
Five Assistant Clerks, at seven dollars per day each;
Two Copyholders, at eight dollars per day each;
Four Proofreaders, at eight dollars per day each.

Resolved Further, That the Sergeants-at-Arms shall receive ten
dollars per day; the Doorkeeper ten dollars per day; and the Clerk
twenty dollars per day.

The Clerk shall draw his warrants upon the Auditor in favor
of the Officers and attaches herein appointed for consecutive days
from the date of the opening of this session at the per diem herein
set out, and the Auditor shall honor and pay such warrants in ad­
vance of the appropriation for the purpose, when presented, and
charge same to the "per diem of the officers and attaches" fund of
the Senate.

The President and the Clerk shall require said employees to
perform the duties assigned to them, and they are authorized and
directed to remove any of such employees whose work is not satis­
factory and to appoint another in his place.

SENATE RESOLUTION NO. 6

(By MR. Hodges, Mr. President)

(Originating in the Committee on Rules)

[Adopted January 22, 1937.]

Relating to the payment for services of attaches preparatory to
convening of session.

Resolved by the Senate:

That the Clerk of the Senate is authorized to draw his warrants
upon the Auditor in favor of the following named persons for the
amounts set opposite their names for services rendered preparatory to the convening of this regular session of the Legislature:

Fred D. Wolf, Sergeant-at-Arms ............................................ $80.00
Bernard White, Janitor ............................................................ 20.00
Lindsey Fuller, Journal Room Clerk .................................. 7.00

SENATE RESOLUTION NO. 7
(By Mr. Hodges, Mr. President)
(Originating in the Committee on Rules)
[Adopted January 22, 1937.]
Relating to the appointment of assistant janitors.

WHEREAS, Lawrence M. Cunningham, Superintendent of Capitol building and grounds, under authority of section twenty-two, article one, chapter five of the code, has designated ten assistants for the janitor work of the Senate for this session; therefore, be it

Resolved by the Senate:

That the per diem of said assistant janitors is fixed at four dollars, and that of the said Lawrence M. Cunningham, is fixed at two dollars, as the Senate’s one-half of his per diem.

SENATE RESOLUTION NO. 8
(By Mr. Barnhart)
[Adopted January 22, 1937.]
Concerning the honesty, integrity and ability of the Honorable D. Homer Stephenson as a citizen and public official.

WHEREAS, The Honorable D. Homer Stephenson, a native of the state of West Virginia, has, since youth been an industrious, thrifty and public spirited citizen, whose reputation for honesty and integrity is well known throughout West Virginia; and

WHEREAS, He has served as sheriff of the counties of Clay and Kanawha, and as a member of the House of Delegates from Clay County; and
WHEREAS, In all these public offices he established an enviable record for honesty and efficiency as a public official; and

WHEREAS, As sheriff of Kanawha County he so capably administered the affairs of that office that his administration is considered one of the most outstanding in the history of the county, and he has been praised by members of both political parties for the fair and capable handling of the affairs of this office; and

WHEREAS, He has served his party with honor and distinction, always contributing liberally of his time and means; and

WHEREAS, When the West Virginia Liquor Control Commission was created he was appointed its first Chairman, and worked hard and conscientiously in inaugurating and establishing the new system; and

WHEREAS, For reasons which have never been made public, the Governor of West Virginia removed the said D. Homer Stephenson as Chairman of the Liquor Control Commission; and

WHEREAS, Since the removal of the said D. Homer Stephenson as Chairman of the Liquor Control Commission, a thorough audit of the Commission's funds has been made by the Tax Commissioner, and a complete inventory taken of all its stock and property, and the affairs of the Commission were found to be in excellent condition; therefore, be it

Resolved by the Senate:

That due to the splendid public record of the said D. Homer Stephenson, as well as to his reputation for honesty and good character, this body hereby expresses its complete confidence in the honesty, integrity and character of the Honorable D. Homer Stephenson.

SENATE RESOLUTION NO. 9

(By Mr. Paull)

[Adopted January 22, 1037.]

Concerning the honesty, integrity and ability of the Honorable John B. Wilson as a citizen and public official.

WHEREAS, The Honorable John B. Wilson, a native of the State of West Virginia, has, since youth, been an industrious, thrifty
and public spirited citizen, whose reputation for honesty and integrity is well known throughout West Virginia; and

WHEREAS, He has served as a member of the House of Delegates from Ohio County; and

WHEREAS, He has established an enviable record for honesty and efficiency as a public official; and

WHEREAS, He has served his party with honor and distinction; and

WHEREAS, When the West Virginia Liquor Control Commission was created, he was appointed as a member thereof and worked hard and conscientiously in inaugurating and establishing a new system; and

WHEREAS, For reasons which have never been made public, the Governor of West Virginia removed the said John B. Wilson as a member of the Liquor Control Commission; and

WHEREAS, Since the removal of the said John B. Wilson as a member of the Liquor Commission, a thorough audit of the Commission's funds has been made by the Tax Commissioner, and a complete inventory taken of all its stock and property, and the affairs of the Commission were found to be in excellent condition; therefore, be it

Resolved by the Senate:

That due to the splendid record of said John B. Wilson as well as his reputation for honesty and good character, this body hereby expresses its complete confidence in the honesty, integrity, and character of the said Honorable John B. Wilson.

SENATE RESOLUTION NO. 10
(By Mr. Hodges, Mr. President)
(Originating in the Committee on Rules)
[Adopted February 2, 1937.]

Providing for the payment of expenses of members attending funerals.

Resolved by the Senate:

That the Clerk of the Senate is hereby authorized to draw his warrants in the following amounts upon the Auditor, payable from
the contingent fund of the Senate, in favor of the following members who were appointed by the President to represent this body at the funeral services for Miss Elizabeth Kump and Senator M. O. Rouss:

A. L. Helmick .......................................................... $23.00
Byron B. Randolph .............................................. 25.00
J. P. Beacom .......................................................... 15.00
D. Grove Moler ...................................................... 5.00
George W. Jackson ............................................. 10.00
Fred C. Allen .......................................................... 15.00
E. Bunker Reynolds ............................................. 18.00
G. O. Young .......................................................... 7.00

SENATE RESOLUTION NO. 11
(By Mr. Hodges, Mr. President)
(Originating in the Committee on Rules)
[Adopted February 2, 1937.]

Relating to the payment for services performed at the beginning of the session.

Resolved by the Senate:

That the Clerk of the Senate is authorized to draw his warrant upon the Auditor in favor of G. B. Heare for $105.00, for services rendered at the beginning of this regular session of the Legislature.

SENATE RESOLUTION NO. 14
(By Mr. Paull)
(Originating in the Committee on the Judiciary)
[Adopted February 25, 1937.]

Requesting the banking commissioner to make a study of the licensed small loan companies and business conducted by them and report to the Legislature.
WHEREAS, The regulation of the maximum charges allowed under loans made by licensees under article seven-a, chapter forty-seven of the code of West Virginia is a question of public importance; and

WHEREAS, The Legislature does not now have available sufficient data concerning the details of the business and earnings of licensees now doing business in the state to enable a proper study and consideration of the question; and

WHEREAS, The Legislature desires to have full and complete information concerning the number of borrowers and number of loans made annually by such licensees; therefore be it

Resolved by the Senate:

That the banking commissioner be requested to make exhaustive investigations and examinations of the business of each licensee under said article seven-a, chapter forty-seven of the code and report to the Legislature at its next session the results thereof; and be it

Resolved Further, That the banking commissioner be directed to include in his report to the Legislature detailed data concerning the capital, gross earnings, expenses, net income and costs of operation including the amount expended for advertising, the cost of business promotion and interest paid on borrowed funds of each of the licensees, the increase or decrease of said licensees during the past four years and such other information as he may deem relevant; and

Resolved Further, That the banking commissioner be directed to study the growth of the small loan business in the state of West Virginia and in his report to include information concerning the number of borrowers and the average amount of the loans made to the individual borrowers by each of said licensees; and

Resolved Further, That for the purpose of conducting such investigations and examinations the banking commissioner be authorized to exercise all of the powers invested in him under section ten, article seven-a, chapter forty-seven of the code as amended by acts of one thousand nine hundred thirty-three, chapter thirteen.
SENATE RESOLUTION NO. 16
(By MR. HODGES, Mr. President)
(Originating in the Committee on Rules)
[Adopted February 26, 1937.]

Authorizing the Committee on Rules to arrange a special calendar.

Resolved by the Senate:

That from and after this legislative day, and for each legisla­tive day until the end of the regular session of the Legislature, the Committee on Rules is hereby authorized to arrange a "special calendar" and, until the business of such special calendar is dis­posed of each day, no item on the regular calendar shall be con­sidered or take precedence over any item on said special calendar, subject to the provisions of Senate Rule number sixty-seven.

SENATE RESOLUTION NO. 17
(By MR. HODGES, Mr. President)
(Originating in the Committee on Rules)
[Adopted March 5, 1937.]

Providing for the payment of expenses of members attending funeral.

Resolved by the Senate:

That the Clerk of the Senate is hereby authorized to draw his warrants in the following amounts upon the Auditor, payable from the contingent fund of the Senate, in favor of the following members who were appointed by the President to represent this body at funeral services conducted for Honorable John L. Wever, member of the House of Delegates, at Martinsburg:

Clayton L. Haines ........................................................................ $48.00
Frank A. Young ........................................................................ 48.00
W. Broughton Johnston ............................................................ 48.00
D. Grover Moler ........................................................................ 48.00
L. B. Snyder ................................................................................ 48.00
SENATE RESOLUTION NO. 18
(By Mr. Fleming)
[Adopted March 9, 1937.]

Relating to the privileges of the floor.

Resolved by the Senate:

That from and after this date and until the close of the regular session of the Legislature, no person shall be allowed the privilege of the Senate floor while the Senate is in session except members of the House of Delegates and members of the Senate, officers and attaches of the House and Senate staffs, accredited members of the press, the governor, and the governor’s private secretary.

SENATE RESOLUTION NO. 19
(By Mr. Paull)
(Originating in the Committee on Rules)
[Adopted March 13, 1937.]

Providing for the payment of expenses of members attending funeral.

Resolved by the Senate:

That the Clerk of the Senate is hereby authorized to draw his warrants in the following amounts upon the Auditor, payable from the contingent fund of the Senate, in favor of the following members who were appointed by the President to represent this body at the funeral services conducted for Honorable Ben H. Butcher, member of the House of Delegates, at Parkersburg:

Calvin N. Hall .......................................................... $20.00
Dan B. Fleming ...................................................... 20.00
John J. Pelter .......................................................... 20.00
Frank A. Young ..................................................... 20.00
SENATE RESOLUTION NO. 20
(By Mr. Hodges, Mr. President)
(Originating in the Committee on Rules)
[Adopted March 13, 1937.]

Resolved by the Senate:

That, in order that the work incident to the proper cleaning of the Senate part of the capitol preparatory to closing between sessions may be taken care of, the time of the assistant superintendent of capitol building and grounds, at a per diem of two dollars, and ten assistant janitors heretofore appointed at a per diem of four dollars, is hereby extended for five days each.

SENATE RESOLUTION NO. 21
(By Mr. Hodges, Mr. President)
(Originating in the Committee on Rules)
[Adopted March 13, 1937.]

Resolved by the Senate:

That in order to complete the work of the session in arranging and filing of all bills, resolutions, petitions and other official papers in the Clerk’s office and document room, and to allow time for proofreading, printing and indexing the corrected Journal and arranging and printing its several appendices, and in printing and indexing the volume of Senate Bills, and in completing the work in the document and mailing rooms and in performing other services incident to the closing of this session of the Legislature, the per diem of the Clerk at twenty dollars and two assistant clerks at twelve dollars each, respectively, is extended for one hundred and twenty days; the journal stenographer at nine dollars per diem for ninety days; the secretary to the President at twelve dollars per diem for ninety days; the clerk to the Minority Leader at nine dollars per diem for thirty days; the clerk to the Sergeant-at-Arms at eight dollars per diem for ten days; one stenographer at
seven dollars per diem for ten days; one clerk at seven dollars per diem for fifteen days; one clerk at eight dollars per diem for ten days; one clerk on enrolled bills at seven dollars per diem for five days; sixteen stenographers at seven dollars per diem for five days each; the clerk of the Committee on the Judiciary, the clerk to the Committee on Finance, and two committee clerks-at-large at ten dollars per diem each for five days; one mail clerk, one addressograph clerk, five document room clerks and four journal room clerks at seven dollars per diem each, respectively, for five days; five assistant doorkeepers, two assistant sergeants-at-arms, and four assistant clerks at seven dollars per diem each, respectively, for five days; bill editor, at nine dollars per diem, for five days; five pages at four dollars per diem for five days each; one printing clerk at eight dollars per diem for ninety days, and three printing clerks at eight dollars per diem for ninety days each; the Sergeant-at-Arms at ten dollars per diem for ten days, and the Doorkeeper at ten dollars per diem for five days.

All extensions provided for herein shall begin at the end of this session of the Legislature.

The compensation of those designated hereunder shall be paid out of the contingent fund of the Senate for consecutive days upon proper requisition drawn by the Clerk of the Senate upon the Auditor.

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**SENATE RESOLUTION NO. 22**

*(By Mr. Barnhart)*

*(Originating in the Committee on Rules)*

*[Adopted March 13, 1937]*

Payment for stenographic services.

*Resolved by the Senate:*  
That the Clerk of the Senate is authorized to draw his warrant upon the Auditor in favor of Grayce Cunningham, for stenographic services rendered the President of the Senate, in his official capacity, from January 1, 1937, to March 13, 1937, for one hundred and forty dollars, payable out of the contingent fund of the Senate.
SENATE RESOLUTION NO 23

(By Mr. Helmick)

[Adopted March 13, 1937.]

Committee to notify House of Delegates.

Resolved by the Senate:

That a committee of three be appointed by the President of the Senate to notify the House of Delegates that the Senate is ready to adjourn sine die.
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OF THE
FORTY-SECOND
LEGISLATURE
FIRST EXTRAORDINARY SESSION
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1936
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# LIST OF MEMBERS AND OFFICERS OF THE LEGISLATURE OF WEST VIRGINIA

First Extraordinary Session, June 15 to June 20, 1936

## SENATE

### OFFICERS

**President**—Charles E. Hodges, Morgantown  
**Clerk**—Charles Lively, Weston  
**Sergeant-at-Arms**—Fred D. Wolfe, Ripley  
**Doorkeeper**—G. W. Triplett, Huntington

### DISTRICT OFFICERS

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STANDING COMMITTEES OF THE SENATE

ON RULES

Messrs. Hodges (Mr. President) (Chairman ex officio), Jones, Fleming, Paull and Helmick.

ON PRIVILEGES AND ELECTIONS

Messrs. Jones (Chairman), Sandridge, Howard, Garrett, Paull, Tuckwiller, Marsh, Reynolds and Young (of Upshur).

ON THE JUDICIARY

Messrs. Paull (Chairman), Barnhart, Helsley, Spillers, Fleming, Beacom, Canterbury, Greene, Jones, Smith, Henderson, Belknap, Randolph, Marsh, Reynolds, Young (of Tyler), Curtis and Ritchie.

ON FINANCE


ON EDUCATION

Messrs. Smith (Chairman), Paull, Elbin, Fleming, Wiseman, Barnhart, Garrett, Reynolds and Ritchie.

ON COUNTIES AND MUNICIPAL CORPORATIONS

Messrs. Sandridge (Chairman), Jones, Spillers, Howard, Randolph, Greene, Marsh, Helmick and Young (of Tyler).

ON ROADS AND NAVIGATION


ON BANKS AND CORPORATIONS

Messrs. Wiseman (Chairman), Paull, Elbin, Howard, Greene, Henderson, Marsh, Young (of Tyler) and Young (of Upshur).
ON PUBLIC BUILDINGS AND HUMANE INSTITUTIONS
Messrs. Tuckwiller (Chairman), Henderson, Elbin, Beacom, Millender, Mitchell, Barnhart, Belknap, Rouss, Helmick and Ritchie.

ON THE PENITENTIARY
Messrs. Millender (Chairman), Spillers, Elbin, Belknap, Smith, Henderson, Jones, Helmick and Ritchie.

ON RAILROADS
Messrs. Rouss (Chairman), Sandridge, Spillers, Howard, Garrett, Canterbury, Jones, Reynolds and Helmick.

ON MILITIA
Messrs. Beacom (Chairman), Randolph, Tuckwiller, Smith, Canterbury, Helsley, Millender, Ritchie and Young (of Tyler).

ON FEDERAL RELATIONS
Messrs. Belknap (Chairman), Millender, Barnhart, Wiseman, Sandridge, Rouss, Beacom, Curtis and Ritchie.

ON INSURANCE
Messrs. Garrett (Chairman), Helsley, Mitchell, Barnhart, Henderson, Paull, Marsh, Ritchie and Young (of Upshur).

ON AGRICULTURE
Messrs. Mitchell (Chairman), Tuckwiller, Millender, Garrett, Belknap, Rouss, Sandridge, Helmick and Curtis.

ON MINES AND MINING
Messrs. Sandridge (Chairman), Canterbury, Smith, Wiseman, Jones, Millender, Beacom, Reynolds and Young (of Upshur).

ON MEDICINE AND SANITATION
Messrs. Spillers (Chairman), Belknap, Elbin, Garrett, Canterbury, Henderson, Rouss, Reynolds and Young (of Upshur).

ON LABOR
Messrs. Greene (Chairman), Jones, Spillers, Fleming, Garrett, Wiseman, Randolph, Reynolds and Curtis.

ON CLAIMS AND GRIEVANCES
Messrs. Randolph (Chairman), Barnhart, Rouss, Paull, Fleming, Beacon, Millender, Helmick and Young (of Tyler).
ON FORFEITED, DELINQUENT AND UNAPPROPRIATED LANDS

Messrs. Elbin (Chairman), Howard, Greene, Barnhart, Belknap, Smith, Henderson, Reynolds and Young (of Upshur).

ON PUBLIC PRINTING

Messrs. Canterbury (Chairman), Beacom, Spillers, Fleming, Jones, Helsley, Smith, Young (of Tyler) and Curtis.

ON PUBLIC LIBRARY

Messrs. Helsley (Chairman), Sandridge, Smith, Tuckwiller, Canterbury, Greene, Howard, Reynolds and Young (of Upshur).

TO EXAMINE THE CLERK'S OFFICE

Messrs. Randolph (Chairman), Rouss and Garrett.

ON TEMPERANCE

Messrs. Garrett (Chairman), Fleming, Greene, Wiseman, Randolph, Helsley, Marsh, Reynolds and Curtis.

ON FORESTRY AND CONSERVATION

Messrs. Barnhart (Chairman), Mitchell, Paull, Beacom, Mil lender, Tuckwiller, Randolph, Helsley, Reynolds and Young (of Upshur).

ON REDISTRICTING

Messrs. Fleming (Chairman), Jones, Spillers, Greene, Smith, Randolph, Sandridge, Helmick and Curtis.

JOINT COMMITTEE ON ENROLLED BILLS ON THE PART OF THE SENATE

Messrs. Howard (Chairman), Wiseman, Rouss, Greene and Reynolds.

JOINT COMMITTEE ON JOINT RULES ON THE PART OF THE SENATE

Messrs. Hodges (President), Jones and Helmick.
# House Of Delegates

## OFFICERS

**Speaker**—JOHN J. PELTER, Dehue  
**Clerk**—JOHN S. HALL, Williamson  
**Sergeant-at-Arms**—HAL DEPUE, Charleston  
**Doorkeeper**—J. N. FINLEY, Chester

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(D) — Democrats .................................. 72
(R) — Republicans ................................ 22

Total ........................................... 94
Standing Committees of the House of Delegates

AGRICULTURE

Messrs. Chipley (Chairman), Brotherton (Vice Chairman), Bailey, Butler, Davis, Gum, Holswade, Keister, Kidd, Lester, Martin (of Jefferson), Neal, Mrs. Price, Messrs. Righter, Bayer, Crow, Hall and Ong.

ARTS, SCIENCE, AND GENERAL IMPROVEMENTS

Messrs. Martin (of Cabell), (Chairman), Preston (Vice Chairman), Anderson, Chipley, Doringter, Gilmore, Gum, Jimison, Kidd, Righter, Shahan, Vickers, White, Watts, Beall, Butler, Ong and Simmons.

BANKS AND CORPORATIONS

Messrs. Lantz (Chairman), McCoy (Vice Chairman), Amos, Anderson, Dotson, Galbraith, Hiner, James, LaFon, Martin (of Jefferson), Paul, Preston, Snider, White, Wright, Wysong, Beeler, Crow, Hertnick, Janes and Reed.

CLAIMS AND GRIEVANCES

Messrs. Roberts (Chairman), Lester (Vice Chairman), Adkins, Brotherton, Doringter, Fite, Gaylord, Gum, Jimison, Linger, Martin (of Jefferson), McCutcheon, Morris, Phillips, Saville, Wallace, Wright, Beall, Bishoff, Lawson and Shedan.

COUNTRIES, DISTRICTS AND MUNICIPAL CORPORATIONS

Messrs. Johnston (Chairman), Russek (Vice Chairman), Bailey, Brotherton, Dickerson, Doringter, Jimison, Martin (of Cabell), McCoy, Righter, Snider, Strouss, Van Sickler, Vickers, Wallace, Winters, Wiseman, Beard, Hall, Simmons and Underwood.

EDUCATION

Messrs. Strouss (Chairman), Butler (Vice Chairman), Adkins, Amos, Anderson, Bailey, Calvert, Galbraith, Jones (of McDowell), Kidd, Lester, Linger, Martin (of Cabell), McCutcheon, Mrs. Price, Messrs. Shahan, Shores, Winter, Wiseman, Rairden, Rexrode, Simmons, Vandall and Wolfe.
ELECTIONS AND PRIVILEGES
Messrs. Galbraith (Chairman), Hiehle (Vice Chairman), Bailey, Bibb. Dickerson, Erhard, Fite, Haythe, James, Keister, Morford, Oldham, Snider, White, Bishoff, Janes and Welton.

EXECUTIVE OFFICES AND LIBRARY
Messrs. Martin (of Jefferson) (Chairman), Adkins (Vice Chairman), Butcher, Calvert, Doringer, Dotson, Erhard, Fite, Gilmore, Haythe, Holswade, Inscore, Kuhn, McCutcheon, White, Beard and Crow.

FEDERAL RELATIONS
Messrs. Butcher (Chairman), Fite (Vice Chairman), Johnston, Jones (of McDowell), Lester, Linger, Martin (of Cabell), Morris, Neal, Paul, Preston, Russell and Snider.

FORESTRY AND CONSERVATION
Messrs. Gaylord (Chairman), Erhard (Vice Chairman), Adkins, Bailey, Butcher, Gilmore, Hiehle, Linger, McCutcheon, Righter, Russell, Shahan, Wiseman, Beall, Rexrode, Simmons and Wolfe.

FORFEITED, DELINQUENT AND UNAPPROPRIATED LANDS
Messrs. Wysong (Chairman), Amos (Vice Chairman), Gum, Hiner, Kidd, Kuhn, Oldham, Paul, Roberts, Saville, Shores, Watts, Woodward, Rairden, Reed, Shedan and Vandall.

GAME AND FISH

HUMANE INSTITUTIONS AND PUBLIC BUILDINGS
Mrs. Price (Chairman), Messrs. Phillips (Vice Chairman), Dotson, Gaylord, Hiehle, Holswade, Keister, Linger, Preston, Righter, Roberts, Russek, Wylie, Bayer, Bishoff, Hall and Wade.
HOUSE COMMITTEES

INSURANCE

Messrs. Davis (Chairman), Keister (Vice Chairman), Amos, Galbraith, Gaylord, Inscore, Martin (of Cabell), McCoy, Shores, Snider, White, Woodward, Wylie, Hertnick, Jones (of Doddridge), Lawson and Underwood.

JUDICIARY

Messrs. LaFon (Chairman), Wysong (Vice Chairman), Amos, Butcher, Davis, Galbraith, Haythe, Hiner, James, Johnston, Jones (of McDowell), Kidd, Preston, Roberts, Russell, Shores, Snider, Van Sickler, Vickers, Wallace, Woodward, Bayer, Janes, Shedan and Underwood.

LABOR


MEDICINE AND SANITATION

Messrs. Wylie (Chairman), Morford (Vice Chairman), Butler, Chipley, Haythe, James, Jones (of McDowell), Kuhn, Morris, Mrs. Price, Messrs. Wiseman, Woodward, Wysong, Crow, Hertnick, Jones (of Doddridge) and Underwood.

MILITARY AFFAIRS

Messrs. Holswade (Chairman), Doringer (Vice Chairman), Anderson, Bailey, Calvert, Gentry, Inscore, Jones (of McDowell), McCutcheon, Preston, Wallace, Woodward, Wylie, Beall, Hertnick, Jones (of Doddridge), Ong, Simmons and Wolfe.

MINES AND MINING

Messrs. Bibb (Chairman), Paul (Vice Chairman), Dickerson, Erhard, Fite, Gilmore, Jimison, Kuhn, Morris, Phillips, Mrs. Proctor, Messrs, Shahan, Strouss, Thomas, Wallace, White, Winter, Wiseman, Woodward, Wright, Wylie, Beard, Reed and Simmons.
PENITENTIARY

Messrs. Preston (Chairman), Fite (Vice Chairman), Bibb, Butler, Davis, Gentry, Hiehle, Hiner, Lester, Phillips, Russek, Wallace, Wylie, Beeler, Bishoff, Crow and Underwood.

PRINTING AND CONTINGENT EXPENSES

Messrs. Gentry (Chairman), Anderson (Vice Chairman), Inscore, Russek, Van Sickler, Vickers, Watts, Janes, Jones (of Doddridge), Vandall and Welton.

RAILROADS

Messrs. Jimison (Chairman), Haythe (Vice Chairman), Adkins, Butler, Calvert, Gentry, Hiner, McCoy, McCutcheon, Morris, Oldham, Paul, Mrs. Proctor, Messrs. Russell, Shores, Watts, Beard, Crow, Ong and Rairden.

REDISTRICTING

Messrs. Doringer (Chairman), Russell (Vice Chairman), Adkins, Calvert, Chipley, Davis, Hiner, Inscore, Johnston, Keister, Kidd, Lester, Oldham, Saville, Shores, Van Sickler, Winter, Beeler, Hall, Lawson and Rairden.

ROADS

Messrs. Van Sickler (Chairman), Bibb (Vice Chairman), Adkins, Chipley, Davis, Dickerson, Dotson, Erhard, Gaylord, Johnston, Lantz, Linger, Martin (of Jefferson), Morford, Phillips, Mrs. Proctor, Messrs. Russek, Saville, Winter, Bishoff, Lawson, Rexrode and Wade.

RULES

Messrs. Speaker (Chairman ex officio), Gentry, Hiner, James, LaFon, Strouss, Underwood and Welton.

STATE BOUNDARIES

Messrs. Neal (Chairman), Keister (Vice Chairman), Butcher, Dotson, Gum, Haythe, Hiehle, Holswade, Inscore, Jones (of McDowell), Kuhn, Mrs. Price, Messrs. Shahan, Strouss, Vickers, Shedian, Vandall and Welton.
TAXATION AND FINANCE

Messrs. Thomas (Chairman), Righter, (Vice Chairman), Anderson, Bibb, Brotherton, Dotson, Gaylord, Gentry, Hiehle, Holswade, James, Lantz, McCoy, Morford, Oldham, Paul, Mrs. Proctor, Messrs. Russek, Shores, Strouss, White, Wylie, Hall, Rairden, Reed and Welton.

TEMPERANCE

Messrs. Saville (Chairman), Gum (Vice Chairman), Brotherton, Dickerson, Fite, Lantz, McCoy, McCutcheon, Neal, Mrs. Proctor, Messrs. Russek, Shores, Winter, Hertnick, Jones (of Doddridge), Rexrode and Wade.

JOINT COMMITTEE ON ENROLLED BILLS ON THE PART OF THE HOUSE

Messrs. Vickers (Chairman), Hiehle, Shahan, Winter and Beeler.

JOINT COMMITTEE ON JOINT RULES ON THE PART OF THE HOUSE

Messrs. Speaker (Mr. Pelter), Hiner and Underwood.
I, H. G. Kump, Governor of the State of West Virginia, by virtue of the authority conferred on me by section seven, article seven of the Constitution of this State, do hereby call the Legislature of West Virginia to convene in extraordinary session at two o'clock on the afternoon of the fifteenth day of June, one thousand nine hundred thirty-six, for the following purposes:

First: To enact legislation revising the law relating to the care of indigent persons, reorganizing the public welfare services of the state and its subdivisions, and providing public assistance services which shall conform to the requirements of the Federal "Social Security Act."

Second: To consider plans and enact legislation for a system of unemployment compensation in the state.

Third: To provide any adjustment in state and local finance which may be necessary for the support of public assistance and relief.

Fourth: To enact legislation extending the time and adjusting the procedure for the redemption of real estate upon which taxes have become delinquent.

Fifth: To enact permissive legislation to allow local governmental units and communities to receive Federal aid for the purpose of capital additions and improvements pertaining to schools, hospitals and other public works.

Sixth: To place the State Planning Board on a permanent statutory basis.

Seventh: To make appropriation of public funds for necessary construction, maintenance and repair of public highways and bridges.
Eighth: To make appropriations of public funds necessary to procure Federal funds as grants-in-aid of state services.

Ninth: To make the necessary appropriations of public funds to pay the expenses of this extraordinary session and appropriate funds, where necessary, for the administration of the laws enacted.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State to be affixed.

Done at the Capitol in the City of Charleston, this sixth day of June, in the year of our Lord, One Thousand Nine Hundred Thirty-six, and of the State the Seventy-third.

By the Governor: H. G. KUMP.

W. S. O'BRIEN,
Secretary of State.

STATE OF WEST VIRGINIA
EXECUTIVE DEPARTMENT
CHARLESTON

June 6, 1936.

To the Members of the Senate and House of Delegates:

An extraordinary session of the Legislature will convene in the Capitol at Charleston on the afternoon of June 15, 1936. There have been many requests to include subjects in the call for the session, which, while worthy of the most serious consideration of the Legislature, have little relation to the pressing problems of the moment. It has been necessary to exclude the subjects of these requests from the call in order that the Legislature may bring all of its powers to bear on the primary questions before us, and also to avoid controversial questions which are more properly for consideration in a regular session.

The vital subjects making this extraordinary session of the Legislature necessary are embraced within Federal-State relations known as the "Social Security Program."
Of singular importance is

Item "First" of the call: Legislation pertaining to the care and security of our citizens, who, through no fault of their own, are in need of public assistance. It has been no easy task to provide for this. Your Interim Joint Legislative Committee on Social Security has worked over a period of a year to perfect a bill which will answer, as far as such questions can be answered, the perplexing problems of public welfare as they exist within the borders of our state.

This bill—the "Public Welfare Act of 1936"—will be submitted to you with the report of the Interim Joint Committee. Notwithstanding misgivings as to its sufficiency, or the sufficiency of any bill that might be drawn at this time, I commend it to your consideration as the result of long study and thought. It is much more than a bill—it is rather a revision, amendment and codification of a large part of our public welfare laws. It is based upon what seems to me to be a sound principle: The permanent protection of our citizens against the recurring misfortunes of life.

In providing such protection, it is the purpose of the Bill:

(1) To assemble the public welfare services of the State into a single integrated system.

(2) To modernize the statutory provisions pertaining to welfare activities and to promote more effective services.

(3) To provide certain public assistance to the aged, the blind and to dependent children which will conform to the requirements of the Federal "Social Security Act."

The bill does not answer all the questions that can be raised under it. But it is based upon every available item of known experience; and, every facility and opportunity offered by the national government to assist the State in discharging this important obligation, has been studied and used to the fullest extent. Its refinement and adjustments must await further experience and the test of trial.

Closely associated with the problem of public assistance is Item "Second"—the urgent question of unemployment compensation. This question involves the most complicated technical departures. Its purpose is most worthy and rises to highest ground for con-
STATEMENT OF GOVERNOR

sideration in our social and economic structure. Your Committee has made no recommendation for action concerning it at this time. The report suggests further "investigation of the intricate fiscal, legal and administrative questions which surround this difficult problem of unemployment compensation." The Executive Department stands ready to assist you to the utmost in this behalf.

The matter of public welfare, which forms the basis of this call, presents a grave problem; at once most far-reaching in its implications and most appealing in its promise of benevolent solution. As we approach it we face the very plain fact that a social security "program," alone, cannot solve this problem.

Throughout the life of our State it has been our devoted purpose and fixed policy to care for those citizens who are in distress because of limited opportunities or impaired resources. The vicissitudes of recent years have emphasized this responsibility beyond all prior experience, but, while we gladly make provision for the conditions which confront us, we cannot avoid the stern, imperative, duty to maintain other essential functions of government that are the very warp and woof of our Statehood.

The resources of our State are for the citizens of our State and those most in need shall have first consideration. But we must temper our aid in wisdom and justice. For those who receive others must give. We cannot bring abundance into lives not fitted by nature, nor practice, to use such abundance wisely and well. We should not create false standards of living at public expense which place a premium upon indolence and a penalty upon industry.

We must foster among our citizens that civic virtue, just pride and nobility of character, which proceed from self-reliance and a consciousness of self-sustained competence.

For those who are in need we can provide subsistence; for those who suffer, we can provide care; for those who live in insecurity, we can provide protection. These things we should and will do—they reside within the second great commandment, "Thou shalt love thy neighbor as thyself." But, in this sacred mandate, we are not required to obligate the State to provide standards of living beyond its own fiscal capacity and in excess of the ability of recipients to live efficiently within such standards. This seems to me to be the viewpoint from which we should direct our welfare policy.
The purpose of Item "Third" is obvious.

The remaining articles in the call are, for the most part, of a routine character:

Item "Fourth" looks toward additional aid to our citizens in reclaiming their farms, homes and business properties which have been threatened by the adversities of the past few years.

Item "Fifth" is self-explanatory. While the policy of the Federal government toward work programs for the unemployed over the coming year is still unsettled, our local governmental units should be placed in a position to take advantage of every opportunity to participate in Federal grants for capital purposes.

Item "Sixth" proposes to make the State Planning Board a permanent part of state government in accordance with plans agreed to by the National Resources Board.

Items "Seventh," "Eighth" and "Ninth" are purposed to meet emergency highway requirements, procure Federal grants-in-aid and to secure the fiscal competence of the extraordinary session.

The call makes no provision for imposing new nor additional taxes. This subject is not eliminated with any thought that no new revenue will be required to carry out the purposes of the measures that you will consider and doubtless enact into law, but it is hoped that there will be available from the general treasury during the current calendar year, sufficient funds to carry through the next few months, which will necessarily be an experimental period, and until the next regular session of the Legislature convenes.

This extraordinary session may well offer an opportunity for achievement comparable with your distinguished work of the past three years. It is my hope that preparation has been so carefully made, that you will be able to dispose of these important questions within a few days, and return to your homes secure in the confidence of another great service to our beloved State.

H. G. KUMP,
Governor.
AN ACT relating to the public welfare services of the state and its subdivisions, providing, among other things, for public assistance to the aged, to the blind, to physically handicapped adult persons, and to dependent children, transferring the state veterans' service officer to the state department herein established, providing for general relief of needy persons in the several counties of the state; providing for crippled, neglected, and delinquent children, and repealing chapters nine and forty-nine and article six, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, chapters two and thirty-two, acts of the Legislature of West Virginia, one thousand nine hundred thirty-one, and chapters seventy-four and seventy-five, acts of the Legislature of West Virginia, one thousand nine hundred thirty-five; and enacting
in lieu thereof new chapters nine and forty-nine and providing penalties for the violation thereof.

[Passed June 20, 1936; in effect July 1, 1936. Approved by the Governor.]

Section
1. General purposes of act.
3. Succession of offices and property.
5. Acts repealed.
6. Termination of West Virginia Relief Administration.

Be it enacted by the Legislature of West Virginia:

That chapters nine and forty-nine and article six of chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, chapters two and thirty-two, acts of the Legislature of West Virginia, one thousand nine hundred thirty-one, and chapters seventy-four and seventy-five, acts of the legislature of West Virginia, one thousand nine hundred thirty-five, are hereby repealed, and new chapters nine and forty-nine are hereby enacted to read as follows:

Section 1. General Purposes. From the first day of its statehood the state of West Virginia has extended public assistance to those citizens who, for reasons beyond their control, were unable to care for themselves. The great economic disturbances of the past few years have emphasized this responsibility beyond all previous experience. The legislature, therefore, declares itself eager to provide, so far as it is possible to do so, for the permanent protection of its citizens against the recurring misfortunes of life. To this end, it is the purpose of this act:

(1) To assemble the public welfare services of the state into a single integrated system.
(2) To modernize the statutory provisions pertaining to the welfare services to promote more effective activity.
(3) To add to this system certain public assistance services which shall conform to the requirements of the federal "Social Security Act."

Sec. 2. How Act Cited. This act may be cited as the "Public Welfare Law of 1936."
Sec. 3. Succession of Offices and Property. Persons holding office under provisions of law repealed by this act shall continue in office until the appointment and qualification of the successors to their duties under the provisions of this act, or until their duties are terminated by order of the state director, because of the adoption and operation of this act.

Upon the taking effect of this act, the state department shall have possession of the property, equipment, records and any unexpended funds of the state agencies repealed by or transferred to the state department by this act. The county council for a county shall have possession of the property, equipment, and records of county agencies repealed by or transferred to the county council by this act.

Sec. 4. Provisions Severable. The provisions of this act shall be construed as severable, and should any be held unconstitutional, or for any other reason invalid, the remaining provisions shall not be affected thereby.

Sec. 5. Acts Repealed. Acts or parts of acts general or special in conflict with or superseded by, the provisions of this act are hereby repealed. But the enactment of this act shall not affect the operation of executive orders relating to the West Virginia Relief Administration dated April twenty-fifth, one thousand nine hundred and thirty-four and February thirteenth, one thousand nine hundred and thirty-five.

Sec. 6. Relief Administration. The West Virginia Relief Administration shall continue in effect until its operations are terminated by order of the governor. When the governor finds that the state department and county councils are prepared to discharge the duties of the relief administration, or any of them, or to discharge such duties in a particular county of the state, he shall transfer such duties and activities from the relief administration to the state department or county council, or both, as the case may be. He shall at the same time, transfer so much of the appropriation made by the legislature for emergency relief and applicable to the transferred activity, as may be necessary, to the state department to be administered for the purposes of the transferred activity in accordance with the provisions of this chapter.
Chapter 9. PUBLIC ASSISTANCE AND RELIEF

Article
1. State Department of Public Assistance.
2. State Advisory Board.
3. The Director of Public Assistance.
5. Public Assistance.
6. General Relief.
7. County Infirmaries.
8. State Veterans’ Service Office.

Article I. State Department of Public Assistance.

Section
1. Purposes of chapter.
2. State department of public assistance created.
3. Acceptance of federal legislation.
4. When article five to become inoperative.
5. Definitions.

Section 1. Purpose. The intent of the legislature is to
provide a permanent system of public assistance for the state
of West Virginia, to the end that its citizens who are subject
to the recurring misfortunes of life may have such aid and
encouragement as the state is able to extend. The purpose of
this chapter is, therefore:
(1) To create a state department of public assistance to
administer the public welfare services of the state.
(2) To revise the laws relating to the care and treatment
of indigent persons.
(3) To provide public assistance for the indigent aged.
indigent blind, and dependent children, which shall conform
to the requirements of the federal “Social Security Act.”
(4) To provide for physical rehabilitation of physically
handicapped adult persons who qualify to receive public as-
sistance or general relief under the provisions of this chapter.

Sec. 2. The State Department of Public Assistance. To
accomplish the purpose of this chapter, there is hereby created
the State Department of Public Assistance.

Sec. 3. Acceptance of Federal Legislation. The state of
West Virginia assents to the purposes of the act of the Congress
of the United States, entitled the “Social Security Act,”
approved August fourteenth, one thousand nine hundred and
thirty-five, and assents to such additional federal legislation
as is not inconsistent with the purposes of this chapter.
The state of West Virginia further accepts the appropriations of money by Congress in pursuance of the "Social Security Act" and authorizes the receipt of such money into the state treasury for the use of the State Department of Public Assistance in accordance with this chapter and the conditions imposed by the "Social Security Act."

Sec. 4. To Become Inoperative. The provisions of article five of this chapter, relating to public assistance for the indigent aged, shall become inoperative in the event TITLE I—GRANTS TO STATES FOR OLD-AGE ASSISTANCE, of the "Social Security Act," is held unconstitutional, or for any reason becomes void or inoperative.

Sec. 5. Definitions. For the purposes of this chapter:

"State department" means the State Department of Public Assistance.

"State board" means the State Advisory Board.

"Director" means the Director of the State Department of Public Assistance.

"County council" means a county public assistance council.

"County director" means a director appointed by a county council.

Article II. State Advisory Board.

Section 1. The state advisory board.

Section 2. Political affiliation of members.

Section 3. Term of office.

Section 4. Qualifications of members.

Section 5. Disqualification of members.

Section 6. Oath of office.

Section 7. Honorarium and traveling expenses.

Section 8. Offices.

Section 9. Meetings.

Section 10. Quorum.

Section 11. Advisory powers and duties.

Section 12. Powers and duties of state board.

Section 13. Appointment of county councils.

Section 14. Classification of services and compensation.

Section 15. Certification of qualified county directors.

Section 1. The State Advisory Board. There is hereby created in the Department of Public Assistance, a "State Advisory Board" composed of five members.

The members and the director shall be appointed by the governor, by and with the advice and consent of the Senate.

The board shall select one of its members as chairman.
Sec. 2. Political Affiliations of Members. Not more than three of the members of the state board other than the director shall belong to the same political party.

Sec. 3. Term of Office. The term of office of the members of the state board shall be six years, except that the governor, upon the adoption of this chapter, shall appoint the members upon the following basis: Two members for a term of six years; two members for a term of four years; and one member for a term of two years. As these appointments expire, all appointments shall be for six year terms. In case of a vacancy in the state board, the appointment shall be for the remainder of the unexpired term. An appointee shall be subject to removal at the will and pleasure of the governor.

Sec. 4. Qualifications of Members. The members of the state board shall be selected with special reference to their ability and fitness to effectuate the purposes of this chapter.

Sec. 5. Disqualification. No member shall be a candidate for, or hold, any other public office or trust, nor shall he be a member of any political committee, nor shall he serve as an election official, nor shall he engage in any political activity, other than to vote, in behalf of, or in opposition to, any candidate, political party or public issue involved in any election. Any violation by a member of the provisions of this section shall automatically vacate his membership on the state board.

Sec. 6. Oath of Office. Members of the state board shall take and subscribe to the oath prescribed by article four, section five, of the state constitution before entering upon their duties. Their oaths shall be filed with the secretary of state.

Sec. 7. Honorarium and Traveling Expenses. Each member of the state board shall receive an honorarium of ten dollars for each day actually served in attendance at meetings of the board, and actual expenses incurred in the performance of his duties under the provisions of this chapter. Requisition for 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.
Sec. 8. **Offices.** The offices and meeting place of the board shall be in the offices of the director.

Sec. 9. **Meetings.** The state board shall hold four regular meetings each year, as follows: On the first Monday in July, October, January, and April. Special meetings may be convened on the call of the director, the governor or a majority of the members.

Sec. 10. **Quorum.** A majority of the members of the state board shall constitute a quorum for the conduct of official business.

Sec. 11. **Advisory Powers and Duties.** The state board shall be an advisory body to the director, and as such shall have the following advisory powers and duties; to:

1. Study and consider the entire field of legislation and administration concerning public assistance.
2. Advise the director concerning the organization and administration of the state department.
3. Recommend to the director policies and practices relative to his duties.
4. Advise and make recommendations to the governor or legislature relative to the public assistance policy of the state.
5. Advise the director with respect to the special problems of different regions of the state and different economic groups.
6. Advise the director with respect to the preparation and amendment of rules and regulations to give effect to the provisions of this chapter.
7. Exercise any other advisory powers necessary or reasonably implied within the provisions and purposes of this chapter.

Sec. 12. **Powers and Duties.** The state board shall, in addition to its functions as an advisory body, have the following powers and duties; to:

1. Recommend to the governor persons to be appointed members of the county councils.
2. Prescribe the qualifications for county directors and their assistants.
3. Certify persons approved for appointment as county directors.
4. Promulgate reasonable regulations for the filing and
consideration of applications for certification as approved county directors.

(5) Prescribe a salary scale to govern compensation paid to appointees and employees in the state department and to county directors and their assistants and employees.

(6) Keep minutes of the transactions of each session, regular or special, which shall be public records and filed with the state department.

Sec. 13. Appointment of County Councils. Immediately after the organization of the state board, the board shall prepare and submit to the governor a list of persons recommended for appointment to the county public assistance councils. The state board shall submit the names of not less than seven nor more than ten persons, for each county council.

As soon as possible after the receipt of the recommendations, the governor shall appoint four of the persons recommended for each county to the county council, two members for a three year term, one member for a two year term, and one member for a one year term. He shall certify the appointment of the members of the county council to the state director.

As soon as a vacancy occurs in a county council, the state board shall recommend to the governor a list of persons to fill the vacancy. At least two persons shall be recommended for each vacancy.

The governor shall designate a person to fill the vacancy and shall certify the appointment to the state director.

Sec. 14. Classification of Services and Compensation. The state board shall promulgate regulations prescribing the qualifications and compensation of appointees and employees in the state department and of county directors and their assistants. The board shall:

(1) Classify the different types of services to be performed.

(2) Prescribe the qualifications of education, training and experience for each class.

(3) Fix a salary scale for each class. The salary scale shall establish a maximum and minimum salary for each class.

Except for county directors, the difference between the
13 maximum and minimum shall not exceed one thousand dollars.

Sec. 15. Certification of Qualified County Directors. For the purpose of certifying persons as qualified for appointment as county directors, the state board shall:
1 (1) Prescribe required qualifications of education, training and experience.
2 (2) Prepare and distribute application forms.
3 (3) Examine by written or oral examination, or both, as the board may determine, persons applying for certification.
4 (4) Determine whether the applicant possesses the necessary qualifications.
5 (5) Issue to each approved applicant a certificate of qualification.
6 (6) Certify to the county councils a list of qualified persons for appointment as county directors.
7 (7) Promulgate regulations prescribing the qualifications for county directors and the procedure of application, examination and certification.

Article III. The Director of Public Assistance.

Section 1. Appointment and term of office of director.
2 Qualifications of director.
3 Oath and bond.
4 Offices.
5 Compensation.
6 Powers and duties.
7 Organization of department.
8 Assistants and employees.
9 Compliance with Federal methods and standards of administration.
10 Supervision of county councils and county directors.
11 Training periods.
12 Appeals from county councils.
13 Delegation of duties.
14 Legal assistance.

Section 1. The governor, with the advice and consent of the senate, shall appoint a state director of public assistance. The director shall hold office for a term of six years unless sooner removed at the will and pleasure of the governor. He shall devote his entire time to the duties of his office.

Sec. 2. Qualifications. The director shall be selected with special reference to his training, experience, capacity, and interest in the activities embraced within this chapter.
The state director shall not be a candidate for, or hold, any other public office or trust, nor shall he be a member of any political committee, nor shall he serve as an election official. nor shall he engage in any political activity, other than to vote, in behalf of, or in opposition to, any candidate, political party or public issue involved in any election. Any violation by the director of the foregoing provisions shall automatically vacate his appointment as director.

The state director shall not, for a period of two years after he ceases to act as director, be a candidate for, or hold, any state or county elective office.

Sec. 3. Oath and Bond. The director, before entering upon the duties of his office, shall take and subscribe to the oath prescribed by article four, section five of the state constitution. He shall execute a corporate surety bond in the sum of fifteen thousand dollars for the faithful performance of his duties. The bond shall be in a form prescribed by the attorney general and approved by the governor. The premiums upon the bond shall be paid out of the funds of the department.

The bond and oath shall be filed with the secretary of state.

Sec. 4. Offices. The offices of the director shall be located at the state capitol. The director shall keep his offices open at all reasonable times for the transaction of public business.

Sec. 5. Compensation. The director shall receive a yearly salary of six thousand dollars, and, in addition, the necessary traveling expenses incident to the performance of his duties. Requisition for traveling expenses shall be accompanied by a sworn and itemized statement which shall be filed with the auditor and preserved as a public record.

Sec. 6. Powers and Duties. The director shall be the executive and administrative head of the department, and as such shall have the power and duty; to:

(1) Exercise general supervision of, and make, and revise, rules and regulations for the government of the department.

(2) Prescribe uniform regulations pertaining to investigations, reinvestigations, and case supervision by county councils and directors.
(3) Prescribe uniform methods of recording and accounting to be employed by the county councils and directors.

(4) Sign and execute, in the name of the state, by "The State Department of Public Assistance", and by and with the consent and approval of the state board, any contract or agreement with the federal government or its agencies, other states, subdivisions of this state, corporations, associations, partnerships, or individuals.

(5) Supervise the fiscal affairs and responsibilities of the department.

(6) Organize the department so as to comply with the requirements of this chapter and standards required by the federal legislation.

(7) Order, with the approval of the state board, two or more counties to employ a single county director and a joint staff of assistants and employees.

(8) Make such reports as will comply with the requirements of the federal legislation and the provisions of this chapter.

(9) Cooperate with federal and state governments for the more effective attainment of the purposes of this chapter.

(10) Keep a complete and accurate record of all proceedings; record and file all bonds or contracts; and assume responsibility for the custody and preservation of all papers and documents pertaining to his office.

(11) Make an annual report to the governor of the condition, operation, and functioning of the department.

(12) Exercise any other powers necessary and proper to standardize state and county work, to expedite business, to assure fair consideration of application for aid, and to promote the efficiency of the service.

(13) Invoke any legal, equitable, or special remedies for the enforcement of his orders or the provisions of this chapter.

Sec. 7. Organization of Department. The director shall create such divisions of the department as will promote efficiency and economy in administration.

Sec. 8. Assistants and Employees. The director shall appoint the heads of the divisions of the department. He shall employ such assistants and employees as may be neces-
sary to the efficient operation of the department and shall fix their compensation in accordance with regulations promulgated under section fourteen, article two of this chapter. Assistants and employees shall serve at the will and pleasure of the director.

No such assistant or employee shall be a candidate for, or hold, any other public office or trust, nor shall he be a member of any political committee, nor shall he serve as an election official.

Sec. 9. **Compliance with Federal Methods and Standards of Administration.** For the purpose of assuring full federal approval of the activities of the department and county councils, the state director shall comply with all federal requirements pertaining to methods and standards of administration.

In the making of rules and regulations the state director shall include such methods and standards of administration for the conduct of the work of county councils as may be required for the receipt of grants-in-aid from the federal government.

Sec. 10. **Supervision of County Councils and County Directors.** The state director shall organize in the department a unit for the inspection, supervision and guidance of county councils and county directors. The state director, through this unit, shall maintain close contact with the work of county councils and county directors, to enforce standardized record keeping and accounting, adequate case investigation and case supervision, and to guide and instruct county officials in the performance of their duties.

Sec. 11. **Training Periods.** To insure adequate standards of public service, the state director shall establish regular periods of technical and specialized instruction for employees of the department, county directors and their assistants. The state director shall designate the persons who shall attend each period of instruction. Designated attendance shall be compulsory and shall be compensated for as a part of regular employment.

Sec. 12. **Appeals from County Councils.** The state
2 director shall organize within the department a board of
3 review, consisting of the director as chairman and as many
4 other members, not to exceed five, as may be necessary. The
5 board of review shall decide appeals from determinations of
6 a county council’s granting or refusing to grant public
7 assistance under the provisions of this chapter. Hearings
8 may be held by individual board members in the counties,
9 but all decisions shall be by the board.

Sec. 13. *Delegation of Duties.* All powers and duties
2 vested in the director, except the power to sign contracts,
3 may be delegated by him to his appointees or employees;
4 but the director shall be responsible for their acts.

Sec. 14. *Legal Assistance.* The attorney general of the
2 state and his assistants, and the prosecuting attorneys of the
3 various counties shall render to the director, without addi-
4 tional compensation, such legal services as he shall require
5 of them in the discharge of his duties.

Article IV. County Public Assistance Council.

Section
1. County public assistance council created.
2. Term of office.
3. Qualifications.
4. Disqualification.
5. To serve without pay.
6. Offices and equipment.
7. Meetings and proceedings.
9. County director of public assistance.
10. Assistants and employees.
11. Disqualification of county director.
13. Inter-county agreements.
14. Joint county units.

Section 1. *County Public Assistance Councils.* There
2 is hereby created in each county of the state a “County
3 Public Assistance Council”. The council shall consist of five
4 citizens of the county, of whom four shall be appointed by
5 the governor upon recommendation of the state board. The
6 president of the county court shall be a member ex officio.
7 The president of the county court may appoint another mem-
8 ber of the court to serve in his place. The council shall desig-
9 nate one of the appointed members as chairman.
10 Not more than three members shall belong to the same political party.

Sec. 2. Term of Office. Members of the council shall serve for a term of three years, except that the first members appointed after the adoption of this chapter shall serve as specified by section thirteen, article two, of this chapter.

A member appointed to fill a vacancy occurring prior to the expiration of a term shall serve for the unexpired term.

An appointee shall be subject to removal at the will and pleasure of the governor.

Sec. 3. Qualifications. The appointed members of the county council shall be selected with special reference to their experience, capacity, and fitness to perform the duties required of them by this chapter.

Sec. 4. Disqualification. No appointed member shall be a candidate for, or hold, any other public office, nor shall he be a member of any political committee, nor shall he serve as an election official. If an appointed member becomes a candidate for, or is appointed to, any other public office, or political committee, or serves as an election official, his office as a member of the county council shall, automatically, be vacated.

Sec. 5. Serve without Compensation. Members of the county council shall serve without compensation.

Sec. 6. Offices and Equipment. The office of the county council shall be at the county seat. The county court shall provide adequate office space and equipment. Offices shall be in the county courthouse if possible.

Sec. 7. Meetings and Proceedings. The county council shall hold regular meetings at such times as it shall determine by formal order. Special meetings may be convened at the call of the chairman, the state director, the county director or a majority of the members.

A majority of the members shall constitute a quorum for the conduct of official business.

The county council shall make all of its determinations in the form of formal orders in which not less than a majority of the members concur.
Sec. 8. **Powers and Duties.** The county council shall be the administrative agency for the performance of public assistance activities in the county, and, as such shall have the following powers and duties; to:

1. Receive and comply with the instructions and regulations of the state board and the state director.
2. Perform such duties as are required for the management of specialized types of public assistance provided by this chapter.
3. Supervise the activities of the county director and the members of his staff.
4. Prepare and submit to the state board or the state director reports and information at their request.
5. Cooperate with private charitable organizations or agencies operating within the county.
6. Keep records of all transactions which shall be preserved as public records.

Sec. 9. **County Director of Public Assistance.** The county council shall appoint a "County Director of Public Assistance" from the list of persons certified by the state board as qualified to perform the duties of that office. The county director shall serve during the will and pleasure of the county council. The county council shall fix the compensation of the county director within the limits of the salary scale fixed by the state board.

The county director shall devote his entire time to the duties of his office.

The county director shall be the ex officio secretary of the county council.

Sec. 10. **Assistants and Employees.** The county council, upon the recommendation of the county director and with the approval of the state department, shall appoint or employ such assistants and employees as may be required, and in counties having a negro population of ten per cent or more of the total county population, as determined by the last federal census, the county council shall appoint an assistant director from the negro race. A person appointed or employed by the county council shall be qualified in accordance with the regulations of the state board.

The compensation of appointees and employees of the
county council shall be fixed by the county council within the limits of the salary scale adopted by the state board for the type of service rendered. In addition to their regular compensation, the county director and his subordinates shall be allowed their necessary traveling expenses. Requisitions for traveling expenses shall be accompanied by a sworn and itemized statement which shall be filed with the county clerk and permanently preserved as a public record.

Sec. 11. Disqualification. No county director shall be a candidate for, or hold, any other public office, nor be a member of any political committee, nor shall he serve as an election official, nor shall he engage in any political activity, other than to vote, in behalf of, or in opposition to, any candidate, political party, or public issue involved in any election. The county council shall discharge any director who violates any provision of this section.

No appointee or employee of a county council shall be a candidate for, or hold, any other public office, nor be a member of any political committee, nor shall he serve as an election official, nor shall he engage in any political activity, other than to vote, in behalf of, or in opposition to, any candidate or political party; and any such appointee or employee of a county council who shall, in the judgment of said council, become politically active, contrary to the intent hereof, shall be dismissed by the council.

Sec. 12. County Director. Powers and Duties. The county director shall be the administrative officer in charge of, and responsible for, the county activities provided by this chapter and, as such, shall have the following powers and duties:

1. Perform all duties imposed upon him by the provisions of this chapter.
2. Execute in accordance with the provisions of this chapter, the instructions of the state board, the state director, and the county council.
3. Supervise and direct the work of his subordinates and assistants.
4. Prepare and submit such reports and information as may be required by the state board, the state director, or the county council.
15 (5) Observe standard administrative procedure and
16 methods required by the state director.
17 (6) Cooperate with private charity and welfare agencies
18 within the county.

Sec. 13. Inter-county Agreements. Upon approval by the
2 state director, two or more county councils may enter into an
3 inter-county agreement for the joint employment of a single
4 county director and a joint staff of assistants and employees.
5 The county councils of the counties desiring so to cooperate
6 shall prepare an agreement in the form and to the effect
7 approved by the state director. When adopted by formal
8 order of each county council acting independently, the agree-
9 ment shall be effective for the duration of the fiscal year, but
10 shall automatically expire at the close of the fiscal year. Inter-
11 county agreements may be renewed annually or amended at
12 any time by the formal order of the participating county
13 councils.
14 In case a single county director is designated and a joint
15 staff of assistants employed, each county council shall continue
16 to perform within its county the duties required by this
17 chapter.

Sec. 14. Joint County Units. The state director, with the
2 approval of the state board, may order two or more county
3 councils to employ a single county director and a joint staff of
4 assistants and employees. The order shall state the proportion
5 of the total expenses of the single county director and joint
6 staff of assistants, allocable to counties under the provisions
7 of this chapter, which shall be paid by each county. Each
8 county council shall continue to perform within its county
9 the duties required by this chapter.

Article V. Public Assistance.

Section
1. Purpose of article.
2. Definitions.
3. When aged persons eligible for public assistance.
4. When blind persons eligible for public assistance.
5. When dependent children eligible for public assistance.
6. Applications for public assistance.
7. Investigation of applicants for public assistance.
8. Recommendation by county council.
9. Approval of application.
10. Denial of application.
11. Dependent child; home conditions.
Section

12. Blind persons; examination.
13. Notification of applicant; certification of council's decision.
14. Examination by state department.
15. Disposition of application.
16. Amount of grant.
17. Limitation on amount of grant.
18. Additional aid to recipient.
19. Aged and blind assistance not to be paid to same person.
20. Payment for use of recipient.
21. Reconsideration of grant.
22. Reexamination of eyesight.
23. Appeal to state department.
24. Hearing of appeal.
25. Disposition of appeal.
27. Grants of public assistance exempt from levy of execution, garnishment, etc.
29. Agreement to reimburse.
30. Lien against assets.
31. Insurance policies.
32. Certification of amount of assistance paid.
33. Lien against real estate.
34. Liability of blind persons.
35. Power of county council.
36. Exemptions.
37. Reimbursement of federal government.
38. Notice of change in resources.

Section 1. Purpose. The purpose of this article is to provide public assistance for the indigent aged, the indigent blind and dependent children, that will conform to the requirements for federal grants-in-aid under the "Social Security Act."

Public Assistance shall be granted only:
(1) To the extent that funds are available for the purpose.
(2) To those actually in need.
(3) To the extent necessary to safeguard a decent and healthful subsistence.

Sec. 2. Definitions. Unless the context clearly requires a different meaning, when used in this article:
"Public Assistance" shall mean money payments to, or for the benefit of, aged persons, blind persons, or dependent children.
"Resources" shall mean all property, real and personal, tangible and intangible, and all income, whether in the form of money or otherwise.
"Applicant" shall mean the person for whose use and benefit application is made. "Recipient" shall mean the person for whose use and benefit a grant of public assistance is made.

Sec. 3. Aged Persons. An aged person shall be eligible for public assistance who:

1. Has attained the age of sixty-five years.
2. Is a citizen of the United States.
3. Has resided in the state for at least five years during the nine years immediately preceding application for assistance and for one year immediately preceding the application.
4. Has not made an assignment or transfer of property for the purpose of qualifying for assistance, except as required by section twenty-nine of this article.
5. Is not in need of continuing institutional care because of his physical or mental condition.
6. Is not an inmate of a public or private institution. An inmate may apply for assistance to begin after the discharge from such institution.
7. Is actually in need and has not sufficient income or other resources to provide a subsistence compatible with decency and health.

Sec. 4. Blind Persons. A blind person shall be eligible for public assistance who:

1. Has vision in the better eye, with correcting glasses, of twenty-two hundredths or less or a disqualifying field defect sufficient to incapacitate him for self-support.
2. Has attained the age of twenty-one years.
3. Is a citizen of the United States.
4. Has resided in the state for at least five during the nine years immediately preceding application for assistance and for one year immediately preceding the application.
5. Has not made an assignment or transfer of for the purpose of qualifying for assistance, except as required by section twenty-nine of this article.
6. Is not an inmate of a public or private institution. An inmate may apply for assistance to begin after his discharge from such institution.
7. Is actually in need and has not sufficient income or other resources to provide a subsistence compatible with decency and health.
Sec. 5. Dependent Children. A dependent child shall be eligible for public assistance who:

1. Has not attained the age of sixteen years.
2. Is deprived of parental support or care by reason of the death, continued absence from home, or physical or mental incapacity of a parent.
3. Is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, or aunt in a place of residence maintained by such relative as his own home.
4. Has resided in the state for one year immediately preceding application for assistance, or was born, within one year immediately preceding application, of a mother who resided within the state for one year immediately preceding such birth.
5. Is living in a suitable family home conforming to the standards of care and health fixed by this chapter and the regulations of the state department.
6. Is needy because the person caring for him is unable to support him, and unless public assistance is granted will become a public charge.

Sec. 6. Application. A person desiring public assistance, or, in the case of a dependent child, the person having custody of the child, shall apply to the county director of the county in which he resides. Application shall be in writing, or shall be reduced to writing, in the form prescribed by the regulations of the state department. The application shall set forth complete information pertaining to:

1. The eligibility of the applicant as an aged person, a blind person, or a dependent child.
2. Property owned by the applicant, or in which the applicant has an interest.
3. Income from all sources including amounts contributed by relatives or other persons.
4. Such other information as the regulations of the state department may require.

The person making application shall subscribe to an oath or affirmation attesting to the correctness and completeness of the information.
Sec. 7. *Investigation.* The county director shall, upon the receipt of the application, make an investigation to determine:

1. The correctness and completeness of the statements contained in the application.
2. The amount required to provide a subsistence for the applicant compatible with decency and health.
3. The amount of assistance required, in addition to all other resources, to provide such a subsistence.

Sec. 8. *Recommendation by County Council.* Upon the completion of his investigation, the county director shall submit to the county council the application, the results of his investigation, and his findings as to the eligibility of the applicant and the amount of public assistance required.

The county council shall proceed without delay to consider the application. It shall approve the application if it finds that:

1. The applicant is eligible for public assistance in accordance with the provisions of this article.
2. The resources of the applicant are insufficient to provide him with a subsistence compatible with decency and health.
3. The applicant has no relatives or other persons financially able to support him and legally responsible for his support.
4. Funds for the purpose of public assistance are available and may be expended under the provisions of this chapter.

Sec. 9. *Approval of Application.* If the county council approves an application, it shall determine the amount of aid per month required for a subsistence compatible with decency and health, having due regard for the resources of the applicant and his necessary expenditures.

Sec. 10. *Denial of Application.* If the county council finds that the applicant is not entitled to public assistance under provisions of section eight of this article, it shall deny the application.

Sec. 11. *Dependent Child. Home Conditions.* In considering an application for a dependent child, the county council shall determine whether the person having custody of
the child is capable of properly caring for and educating the child, and whether the place of residence of the person is a suitable and proper place, taking into consideration the health and welfare of the child. The county council shall approve an application for aid for a dependent child only when it finds that the interests and welfare of the child can best be protected by granting public assistance.

A determination by the county council or by the state department that the home of the person having custody of a dependent child is no longer a suitable or proper place for the rearing of children shall constitute good reason for the revocation of a grant of public assistance.

Sec. 12. Blind Persons: Examination. A county council shall not approve an application for public assistance to a blind person until the applicant has been examined by an ophthalmologist or other qualified person designated by the state department to make such examinations. The examining person shall certify to the county council the diagnosis, prognosis, and visual acuity of the applicant. Certification shall be on forms prescribed by the state department.

Sec. 13. Notification and Certification. Immediately upon making its decision, the county council shall in writing,

(1) Notify the applicant of its decision.
(2) Certify its findings and the record of the application to the state department.

Sec. 14. Examination by State Department. Upon receipt of the record of an application approved by a county council, the state department shall examine the recommendation of the county council. The state department shall approve the recommendation if it finds:

(1) That the applicant is legally eligible for aid.
(2) That the resources of the applicant are insufficient to provide a subsistence compatible with decency and health.
(3) That the amount of public assistance determined as necessary by the county council is reasonable. If the amount is unreasonable, the state department may correct the amount.
(4) That an investigation was made by the county council in accordance with the provisions of this article.
(5) That sufficient evidence was considered by the county council to support its conclusion.

(6) That pertinent evidence was not excluded or overlooked.

(7) That the recommendations of the county council in all other respects conform to the requirements of this article and the rules and regulations of the department.

(8) That public funds are available for the payment of public assistance to the applicant.

Sec. 15. Disposition of Application. In addition to the disposition of an application under section fourteen, the state department may initiate an original investigation of any application; may remand an application for further investigation; or may increase or decrease the amount of public assistance determined by a county council as necessary.

The state department shall notify the county council and the applicant of its decision in writing.

Sec. 16. Amount of Grant. When the state department approves an application for public assistance, it shall fix the amount of monthly grant required for the needs of the applicant. Public assistance shall be paid monthly out of funds appropriated for the purposes of this article upon requisition of the director by means of a warrant signed by the auditor and treasurer.

Sec. 17. Limitation of Amount. The amount of public assistance granted from all sources, including funds received from the Federal government, shall not exceed in the case of:

1. An aged person, thirty dollars per month.
2. A blind person, thirty dollars per month.
3. A dependent child, twelve dollars per month. If more than one child is accorded public assistance in the same family, the amount granted for the first child shall not exceed twelve dollars per month and for each additional child after the first, shall not exceed eight dollars per month.

Sec. 18. Additional Aid. A recipient of public assistance under this article shall receive no other public aid, except temporary medical or surgical care, without the approval of the county council of the county where the recipient resides.
Such approval shall be subject to the rules and regulations of the state departments.

Sec. 19. Aged and Blind Assistance Not to Be Paid to Same Person. Public assistance shall not be granted to a blind person with respect to any period in which he is receiving public assistance as an aged person.

Sec. 20. Payment for Use of Recipient. Whenever an aged or blind recipient of public assistance is, or becomes in the judgment of the county council, incapable of managing his own finances, the council may with the approval of the state department designate a parent, the legal guardian, or another responsible person to whom the installments of assistance shall be paid for the benefit of the recipient. The person designated and approved shall be responsible to the county council for the use of all money paid to him under this section.

The county council may, with the approval of the state department, change its designation or make a new one when such action is necessary.

Sec. 21. Reconsideration of Grant. A grant of public assistance shall be reconsidered as follows:

(1) The county director shall reinvestigate each grant of public assistance at least once every six months.

(2) Whenever there is reason to believe that the conditions governing a grant of public assistance have changed so as to affect the eligibility of a recipient or the amount of assistance required, or that a recipient is wasting his allowance, a reinvestigation may be undertaken by the county director, the county council, or the state department either directly or by the county director upon the order of the state department.

If, as the result of the reinvestigation, the county council or the state department finds that the recipient is not entitled to public assistance or that the amount granted is insufficient, excessive, or unnecessary, it shall proceed to revoke the grant or to adjust the amount in the manner provided by this article for the determination and fixing of the amount of an original grant. Before a grant of public assistance is revoked or reduced, the recipient shall be notified in writing and shall be given an opportunity for a hearing in his behalf.
Sec. 22. Reexamination of Eyesight. A recipient of public assistance for the blind shall submit to such reexaminations of his eyesight as the rules of the state department shall prescribe.

Sec. 23. Appeal to State Department. An applicant for or a recipient of public assistance under this article may appeal to the board of review of the state department when: (1) His application is denied, (2) His application is not acted upon for sixty days after filing with the county director, (3) He deems the grant inadequate, (4) The grant is revoked, (5) The grant is reduced. The appeal shall be by petition setting forth the reasons for appeal.

Sec. 24. Hearing of Appeal. Upon receipt of the petition the board of review shall set a time for hearing at a convenient place in the county in which the petitioner resides. Hearing shall be held in not less than ten nor more than thirty days. The petitioner may appear and be heard in person or may designate another person to represent him. Hearing may be before a single member of the board of review, but the appeal shall be decided by the board.

Sec. 25. Disposition of Appeal. The state board of review, on appeal, may reverse, affirm, or modify the determination of the county council. It may remand the matter to the county council for further investigation and consideration or refer the matter to the state department for an original investigation and determination. The state board of review shall notify the county council and the person appealing of its decision in writing. Its decisions shall be binding upon the county council.

Sec. 26. Complaint by Citizens: Appeal. A citizen or group of citizens of the county may file with the county council objections to a grant or the continuance of a grant of public assistance made by the council. The council shall, upon request, afford opportunity for a hearing of such objections.
If, after hearing, the complainants are dissatisfied, they may appeal to the board of review of the state department. The appeal shall be heard and decided in the manner provided by sections twenty-three, twenty-four and twenty-five of this article.

Sec. 27. Exemptions. Public assistance received under the provisions of this article shall be exempt from levy of execution, garnishment, or any other legal process.

Sec. 28. Enforcement of Relatives' Liability. The county council may proceed by motion in the circuit court of the county against one or more of the relatives of an applicant for, or recipient of, public assistance who are of sufficient financial ability and are legally liable for the support of such applicant or recipient under the provisions of article eleven of this chapter.

Sec. 29. Agreement to Reimburse. As a condition of receiving public assistance, an aged person shall submit to the county council a properly acknowledged agreement granting to the state a lien upon all or any part of his real or personal property including that subsequently acquired, as may be required by the rules of the state department. The lien shall be effective from the date of its recordation in the county wherein said property is situate, and shall be for the total amount of public assistance paid to the person.

The clerk of the county court shall enter without fee the agreement in a book known as “Reimbursement Agreements”, and containing a complete alphabetical index. The county council shall enter with the clerk of the county court an acknowledgment of the amount of reimbursement received.

Upon reimbursement made to the state because of public assistance granted, the county council shall file with the clerk of the county court, of the county where the reimbursement agreement was filed, a release to the amount of reimbursement received, in the manner and form and with the acknowledgment prescribed by article twelve, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one.
Sec. 30. **Lien Against Assets.** The lien provided for by section twenty-nine shall extend to assets accruing to the estate of a recipient of old age assistance.

Sec. 31. **Insurance Policies.** As a condition of receiving public assistance, an aged person shall assign to the state department any insurance policy held by him carrying death benefits, as security for the amount of public assistance granted to him.

Sec. 32. **Certificate of Amount of Assistance Paid.** Under the rules and in the form prescribed by the state department, the county council shall execute and file with the clerk of the county court of the county where the recipient resides, or owns property, a certificate showing the amount of public assistance paid to an aged person. The certificate when filed shall be a legal claim of the state against the recipient and his estate, which claim shall have the force and effect of a judgment at law with priority over all unsecured claims except funeral expenses for such recipient, which expenses shall not exceed one hundred dollars. A claim of the state under this section shall not be extinguished by the statute of limitations.

Sec. 33. **Lien Against Real Estate.** A lien given under this article shall not be enforced against real estate occupied by the surviving spouse of a recipient unless:

1. Such person is a widow who remarries.
2. There is a threatened or actual sale or transfer of the property.

Sec. 34. **Liability of Blind Persons.** The total amount of public assistance granted to a blind person shall be allowed as a claim of the state against the recipient and his estate, but the lien shall not be enforced against real estate of the recipient occupied by a surviving spouse unless such spouse is a widow who remarries.

Sec. 35. **Power of County Council.** A county council shall receive all assignments and perform all acts necessary to protect the financial interests of the state in the assets of recipients of public assistance. All liens and claims under this article shall be enforced
by the county council as the agent and in the name of the
state, and all money reclaimed shall be paid by the council
into the state treasury.

Sec. 36. Exemptions. If the enforcement of a lien or
claim held by the state under this article, real property to
the value of fifteen hundred dollars and personal property to
the value of two hundred dollars shall be exempt.
The value of the exemptions shall be determined in the
same manner as exemptions claimed in pursuance of section
forty-eight, article six of the state constitution.

Sec. 37. Reimbursement to Federal Government. One
half of the net amount collected from the estate of a
recipient of aid age assistance under the provisions of this
article shall be reimbursed to the federal government. At
such times as the federal government may require, the
state director shall draw his requisition upon the state
auditor in favor of the treasurer of the United States for
the amount of such funds in the state treasury which are
payable to the federal government. The reimbursement
shall be paid out of the state treasury as other claims against
the state are paid.

Sec. 38. Notice of Change in Resources. A recipient of
public assistance shall notify immediately the county director
of any increase in his resources. If a recipient fails to
notify the county director of any such increase, the amount
of aid paid to him in excess of his actual needs, shall be
recoverable in the name of the state as a debt.

Sec. 39. Grants Conditional. A grant of public assist-
ance shall be subject to:
(1) Reconsideration, revocation, or change.
(2) Appropriation by the legislature of public funds.
(3) Amendment or repeal.
(4) Continuation of federal grants-in-aid.

Article VI. General Relief.

Section
1. Purpose of article.
2. General relief; definition.
3. Legal residence.
4. Care to be given.
Section

5. Application for general relief.
6. Investigation before granting relief.
7. Disposition by county council.
8. Temporary relief.
10. Family not to be separated.
11. Visitation by county employee.
15. Interment.
16. Regulation by state department.

Section 1. Purpose. The purpose of this article is to provide for the administration of general relief. The primary financial responsibility for such relief shall remain in the counties of the state.

Sec. 2. General Relief: Definition. “General relief” shall mean care and assistance to an indigent person who is a resident of the county and who is in fact: (1) A public charge, or in danger of becoming a public charge, or (2) In need of continuing institutional care because of his physical or mental condition, or (3) In need of medical or surgical care whether in an institution or in his home.

A person financially able to maintain himself under ordinary conditions, but unable to provide necessary medical or surgical care or treatment shall be eligible for general relief.

Sec. 3. Legal Residence. For the purpose of this article, a person shall be a resident of a county if he actually resides therein and has resided in the state for the year next preceding application. Whenever funds are specifically made available for that purpose, the state department may extend the authority of a county council to grant general relief to include persons who have not been residents of the state for one year.

Sec. 4. Care to Be Given. A county council shall administer, within its county, general relief provided for in this article. The council shall, insofar as funds are available for the purpose, provide for persons eligible for general relief.
The council shall, whenever possible, administer such care and assistance as may restore such persons to a condition of complete self-support and independence.

Sec. 5. Application. A person, or another in his behalf, may make application for general relief to the county director of the county in which the applicant resides.

Sec. 6. Investigation. Upon receipt of an application, or of information that a person is in need of general relief, the county director shall investigate and prepare a record of the circumstances. He shall ascertain, so far as possible, the resources, ability for labor of all members of the family, willingness and ability of other persons to assist, the cause of the present condition, and such other information as may be pertinent in determining the treatment applicable to the case and the amount of relief required.

The director shall submit the record and his determination to the county council.

Sec. 7. Disposition by County Council. The county council shall consider the record and the determination of the county director. The council shall either grant or refuse relief. If it grants relief it shall specify the type and amount of relief to be given.

Sec. 8. Temporary Relief. Under the direction and supervision of the county council, the director shall grant such temporary relief as the exigency of the case requires.

Sec. 9. Order of County Council. If a county council determines that general relief is necessary, it may:
1. Fix the amount or value of a monthly or weekly grant, in money, food, or other necessities, to the needy person or to another for his use and benefit.
2. Commit the person to the county infirmary for continuing care.
3. Order temporary medical or surgical treatment.
4. Instruct the county director to accord such aid as may be appropriate to the case.
5. Order any other appropriate assistance or care.

Sec. 10. Family Not to Be Separated. So far as possible,
the county council shall extend general relief to persons in
their homes. The members of a family shall not be separated
for reasons of poverty alone.

Sec. 11. 

Health

officers, physicians, and nurses employed by the county shall,
at the request of the county council, make home visits to
indigent persons.

Sec. 12. 

Hospitalization. A county council shall, under
the rules and regulations of the state department, designate
one or more public or private hospitals, approved by the
state department, for the medical and surgical care of
indigent persons in the county.

Except as provided in section thirteen of this article, the
payment of hospital costs shall be authorized by a county
council only when the indigent person is admitted upon
order of the council or of the county director.

Sec. 13. Emergencies. If, in an emergency, an indigent
person is admitted to a hospital without order of the county
director, the hospital shall not receive payment for the
services rendered unless the hospital, within forty-eight hours
after the admission, sends to the county council of the
county in which the person resides a report of the facts of
the case, including a statement of the physician in attend-
ance as to the necessity of immediate admission of the
person to the hospital; and then, only if the county council
assumes the cost of the services rendered.

If the hospital does not know the residence of the indigent
person, the county council of the county where the person
resides, when such residence is finally determined, may assume
the cost of services rendered, although the report required by
this section was not made.

Sec. 14. Supervision. For the purpose of assuring that
general relief is continued no longer than necessary, and of
rendering guidance and assistance leading to self-support,
the county director shall:

(1) Visit, at least once each month, a person receiving
general relief in his own home or in another place other
than an institution.
(2) Visit, as often as the case requires, persons receiving institutional care or treatment.

(3) Reinvestigate, and place before the county council for review, a case of continued general relief at least once each year, or more often as the county council may direct.

Sec. 15. Interment. A county director shall have decently interred the remains of persons who die in the county, and who, at the time of death, do not possess money or property sufficient to pay the expense of such burial. If the deceased is, or has been, in the military service of the United States, or of the Confederacy, interment shall not be made in a cemetery or cemetery plot used exclusively for the burial of indigent persons.

Sec. 16. Regulations by State Department. The power and duties conferred by this article upon the county council and the county director shall be exercised by them in accordance with the regulations prescribed by the state department.

Article VII. County Infirmaries.

Section
1. County courts may maintain county infirmary.
2. Lands and property.
3. Two or more counties may jointly establish.
4. Superintendent and staff.
5. Compensation and tenure.
6. Management; regulations.
7. Duties of superintendent.
8. Admission.
10. Records and reports of admissions.
11. Inspection.
12. Services rendered by county director.
13. Records and accounts.

Section 1. County Infirmary. A county court may, in its discretion, maintain an existing county infirmary or other institution for the care of persons requiring general relief as defined by section two, article six, of this chapter. The control and business management of the county infirmary or other institution shall be the responsibility of the county court. The commitment of persons to and the release from the county infirmary or other institution shall be the responsibility of the county council.
Sec. 2. Lands and Property. A county court may:
1. Hold and convey land used as a site for a county infirmary or other institution, and for farms in connection therewith.
2. Use and dispose of property received as a gift, grant, devise, or bequest for the purpose of a county infirmary.

Sec. 3. Two or More Counties. The county courts of two or more adjoining counties may jointly establish an institution for general relief, and contribute to the expense of establishing and maintaining it in the proportions and under the regulations agreed upon. The management shall be in the county court of the county where the institution is situated, unless otherwise agreed by the county courts concerned.

Sec. 4. Superintendent and Staff. A county court may appoint a superintendent in charge of its infirmary and of similar institutions, and may appoint necessary assistants and employees.

The superintendent shall execute a bond to the county court in the penalty and with the sureties required by the county court, conditioned as required by article two, chapter six of the official code, one thousand nine hundred thirty-nine.

Sec. 5. Compensation and Tenure. The superintendent, assistants, and employees shall receive the salaries and compensation provided by the county court, and shall hold their positions at the pleasure of the county court.

Sec. 6. Management: Regulations. The county court shall manage and control the institutions provided for by this article. It may make necessary rules and regulations for the management of such institutions, including matters of government and discipline.

Sec. 7. Duties of Superintendent. Under the direction of the county court, the superintendent, with regard to an institution of which he has charge, shall:
1. Be directly responsible for the management and care of persons committed.
2. Purchase equipment and supplies.
(3) Keep a complete and accurate record of all receipts and expenditures.

(4) Make a detailed report to the county court, annually, and at such other times as the county court may request.

(5) Recommend to the county court improvements in method or plan of operation.

Sec. 8. Admission. The superintendent shall receive persons committed by order of the county council.

Sec. 9. Labor. Persons committed to a county infirmary or similar institution may be required to perform certain duties and labor, but only to the extent reasonably permitted by their physical and mental condition.

Sec. 10. Records and Reports of Admissions. The superintendent shall:

(1) Keep a register of all persons admitted, showing their name, age, date of, and reason for admission.

(2) Record all discharges, removals, escapes, and deaths.

(3) Report quarterly, or more often if requested, to the county court and the county council, the above and such other information as the court or council may require.

Sec. 11. Inspection. The county court shall make a quarterly inspection of an institution provided for by this article. It may request the county or a municipal health officer, or any qualified physician to assist in or make an independent inspection.

Sec. 12. Services Rendered by County Director. At the request of the county court, the county director shall advise and consult with the county court with respect to the management and control of the infirmary or other institution, and shall make such visitations and inspections as the county court may request.

Sec. 13. Records and Accounts. Records and accounts required by this article shall be preserved for not less than five years as public records.
Article VIII. State Veterans' Service Office.

Section
1. State veterans' service officer.
2. Duties.

Section 1. State Veterans' Service Officer. There shall
be in the state department the office of a state veterans'
service officer.
The officer shall be a citizen of this state, entitled to vote,
and a veteran of the World War.

Sec. 2. Duties. The state veterans' service officer shall:
(1) Assist all veterans honorably discharged from the
armed forces of the United States of America, in properly
presenting their claims before the United States Veterans'
Administration, or before any bureaus or departments
of the United States government; the state of West Virginia,
or any of the several states of the United States, when the
claims arise out of service with such armed forces.
(2) Contact all veterans' organizations which are engaged
in welfare and relief work in the state.
(3) Render all possible assistance to veterans and families
of veterans within the state, and furnish to the veterans and
their families information on compensation, insurance, re-
habilitation, hospitalization, and allowances provided by the
United States government, by this state, and by other states.
(4) Make careful inquiry into all claims presented for
payment to the state treasurer from any appropriation here-
after made for the relief of sick, disabled, or indigent
soldiers, sailors, or marines residing in this state, who served
in the armed forces of the United States.

Article IX. Physical Rehabilitation of Adult Persons.

Section
1. Purpose of article.
2. Definitions.
3. State department.
4. Eligibility.
5. Powers of state department.

Section 1. Purpose. The purpose of this article is to
provide for the development within the state of adult physi-
cal rehabilitation for the physically handicapped.
Sec. 2. *Definitions.* For the purpose of this article:

"A physically handicapped person" means a person who
by reason of a physical defect or infirmity, whether con-
genital or acquired by accident, injury, or disease, is or may
be expected to be totally or partially incapacitated for re-
munerative occupation.

"Adult person" means any individual who:
(1) Has attained the age of eighteen years.
(2) Is a citizen of the United States.
(3) Has resided in the state for at least one year imme-
diately preceding application for rehabilitation aid.

"Adult physical rehabilitation" mean the fitting by sur-
gical or medical treatment and hospitalization of physically
handicapped adult persons for remunerative occupations.

Sec. 3. *State Department.* The state department shall
administer the adult physical rehabilitation program through-
out the state.

Sec. 4. *Eligibility.* A physically handicapped adult person
shall be eligible for aid under the provisions of this article if:
(1) He is not eligible for physical rehabilitation by some
other department or agency of the federal or state government
or any political subdivision thereof.
(2) He is receiving, or is eligible to receive, public assist-
ance or general relief under the provisions of this chapter.

Sec. 5. *Powers of State Department.* In the administra-
tion of adult physical rehabilitation, the state department
shall:
(1) Supervise the treatment of physically handicapped
adult persons during the period of treatment.
(2) Provide surgical and medical treatment and hospitali-
zation as may be necessary for physically handicapped adult
persons in the state.
(3) Procure and furnish to a physically handicapped adult
person artificial limbs and other orthopedic and prosthetic
appliances needed. The department shall collect the cost
price of appliances furnished when the recipient thereof is of
sufficient financial ability.
(4) Cooperate with governmental, public, and private
institutions, and agencies engaged in activities relating to or 
connected with adult physical rehabilitation. 
(5) Exercise such other powers as may be necessary to 
the effective operation of this article. 

Sec. 6. Duty of County Council. A county council shall 
render to the state department such assistance under this 
article as the department may request. 

Article X. Fiscal Provisions. 

Section 1. Responsibility. The support of public assistance is hereby declared to be the responsibility of the state. 
The support of general relief is hereby declared to be the responsibility of the county. To the extent that a county is unable because of constitutional restrictions to meet reasonable costs of general relief as required by this article, the responsibility of the state is hereby recognized. 

Sec. 2. Allocation Among Counties. At the beginning of each fiscal year the state board shall budget, upon the recommendation of the director, an allocation of available funds for paying public assistance among the counties of the state. The state board may also, upon the recommendation of the director, change an allocation whenever such action is found necessary. The allocation made for a county shall be based upon:
(1) The relative number of known eligible cases within the county.
(2) The relative costs per case of assuring a subsistence compatible with decency and health.
(3) Such other factors as may be appropriate to assure a reasonable distribution of public assistance throughout the state.

The state director shall notify each county council of the budget made for its county by the state board and the number of cases and average grant per case estimated to be reasonable for that county.

Sec. 3. General Relief. For the purpose of this article general relief shall mean cash or its equivalent in services or commodities expended upon the order of the county council or county director for general relief other than for care in a county infirmary, child shelter, or similar institution.

Sec. 4. County General Relief Fund. A county court shall include as a separate item within its levy estimate and within the amount levied for current purposes a fund to be known as the "General Relief Fund of . . . County". This fund, hereinafter referred to as the "county fund", shall be used for general relief and for no other purpose.

General relief shall be paid as follows: The county council shall draw its requisition upon the county court. The county court shall honor the requisition and, forthwith, shall issue its order upon the county fund for payment as other county orders are paid. Orders shall be delivered to the county director for distribution to recipients.

Sec. 5. County Funds. The amount of the county fund provided each year by a county court shall not be less than fifteen percentum of the total which the county court is legally authorized to levy for current purposes by section ten, article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, plus, if available, any other levy or portion of levy specifically allocated by law to the purpose of the county fund.

If a county court finds that expenditures mandatory under other provisions of law aggregate in excess of eighty-five per
centum of the total amount which the county court is
authorized by law to levy for current purposes, the court
may petition the tax commissioner for authority to provide
an amount less than that required by this section. If the
tax commissioner finds that other mandatory expenditures
for the county will exceed eighty-five percentum of the
authorized total levy for current purposes, he may authorize
the county court to provide a lesser amount than that re-
quired by this section, but he shall require the maximum
amount possible under the circumstances.

Sec. 6. Transfers. A transfer from the county fund to
any other fund shall not be made without the prior approval
of the state department.

Sec. 7. State General Relief. There is hereby created
a "State General Relief Fund", hereinafter referred to as
the "state fund", to be administered by the state depart-
ment for the purpose of supplementing the county fund for
the support of general relief.

Sec. 8. Application for Grant. If the amount required
by section five of this article is insufficient to pay for general
relief in a county, the county council and the county court
may apply to the state department for a grant from the
state fund. The application shall be in such form and shall
be submitted at such time as the state department shall
prescribe. It shall set forth:
1. The actual cost of general relief in the county for
   the preceding fiscal year, and the estimated cost for the
   ensuing fiscal year.
2. The levies and expenditures of the county showing
   the rate of tax delinquency, amounts provided for various
   county activities, expenditures made mandatory by law, and
   amounts allocated to the county fund.
3. Such other information as the state department or
   state board may require.

Sec. 9. Investigation by Director. Upon receipt of an
application for a grant from the state fund the director shall
examine the application and shall make such other investiga-
tion as may be appropriate to determine whether the county
has allocated every resource available for general relief
during the ensuing year to the general relief fund. The
director shall prepare a report and recommendation for sub-
mission to the state board.

Sec. 10. Determination by State Board. The director
shall submit his recommendations to the state board. The
state board shall determine as to each county whether:
(1) A grant from the state fund is required to pay the
reasonably estimated cost of general relief during the ensuing
fiscal year.
(2) The estimated cost of general relief for the ensuing
fiscal year is reasonable, both as to total cost and estimated
cost per case.
(3) Every fiscal resource available to the county court
for general relief has been allocated to the county fund.
If the state board determines that a grant from the state
fund should be made to a county, it shall fix the proportion
of the total cost of general relief in the county that shall
be paid from the state fund. It shall set a total amount
which the total of state grants to the county during the fiscal
year shall not exceed.
The state board may hold a hearing upon the application
of a county at which the county council, the county court,
citizens of the county, and other interested parties may be
heard.

Sec. 11. Notification. The state director shall notify the
county council and the county court of the action taken by
the state board.

Sec. 12. Redetermination of Grant. If the state board
finds that a grant allocated to a county is either excessive,
or insufficient, the board may, after ten days' notice to the
county council and county court of the county, proceed to
redetermine the proportion of payment as provided by
section ten of this article.

Sec. 13. Monthly Report. The county council for a
county for which a grant from the state fund has been
made shall prepare and submit to the state director a
monthly report showing the number and kind of cases main-
tained under general relief and the amount expended. The
6 report shall be authenticated by the county court as to the
7 amounts disbursed for the purposes stated.

Sec. 14. *Determination by Director.* Upon receipt of the
2 monthly report the state director shall determine whether:
3 (1) The cases for which cost is certified were properly
4 general relief cases.
5 (2) The cost of care was reasonable.
6 If the state director finds that payment should be made,
7 he shall determine in accordance with the proportion of
8 payment fixed by the state board the amount due to the
9 county for that month. He shall draw his requisition for
10 the amount upon the state auditor in favor of the sheriff of
11 the county. The payment shall be disbursed as provided
12 by law for other payments out of the state treasury. The
13 sheriff, upon receipt of said payment, shall place the same to
14 the credit of the general relief fund of the county.

Sec. 15. *Review by State Director.* If the state director
2 finds that cases for which cost is certified by a county were
3 not properly general relief cases, that the cost per case was
4 excessive, or that a disproportionate amount of relief was
5 disbursed during the month as compared with actual or
6 anticipated needs for the month, he may reduce the amount
7 of state payment accordingly.

Sec. 16. *Non-County Residents.* The county council
2 shall certify separately the number of cases and the amount
3 expended per case for general relief of residents of the state
4 who at the time of relief granted had resided in the county
5 for less than one year.
6 Upon approval of the certification by the state director,
7 the amount so expended shall be reimbursed to the county
8 from the state fund.

Sec. 17. *Suspension of Payment.* The state director may
2 suspend the payment of a state grant if he finds that:
3 (1) Relief is being granted to ineligible persons.
4 (2) Funds dedicated for general relief have not actually
5 been made available for expenditure by the county council.
6 or are being diverted for other purposes.
7 (3) The provisions of this chapter and the rules and
Sec. 18. Records and Reports. The state director, with the approval of the state board may prescribe forms and methods of records and accounts, the form and content of reports to the state department, and such methods and procedures of administration as may be necessary for the effective administration of this article.

Sec. 19. Review by State Board. A determination made under this article by the state director shall be subject to review by the state board upon the petition of the county council, or the county court of the county, or any interested party.

Sec. 20. Administrative Expenses. The state board, upon the recommendation of the state director, shall prescribe a specific amount from the county fund of each county to be applied to the administrative expenses of the county council. The state board may likewise take necessary administrative expenses into consideration in determining the proportion payment from the equalization fund to a county, and may designate an additional amount of monthly payment for administrative expenses.

The state board may also, upon the recommendation of the state director, reimburse the several counties, on the basis of the expense to the county of administering public assistance, from any funds available to the department to pay such expense.

A payment or reimbursement for administrative expense shall be contingent upon the maintenance by the county council and the county court of adequate local administration and the fulfillment by the county of any agreement made with the state department with respect to the maintenance and compensation of local administration.

Sec. 21. Audits. Financial records and accounts kept for the purposes of this chapter shall be audited in accordance with article nine, chapter six of the code of West Virginia, one thousand nine hundred thirty-one.
Article XI. General Provisions.

Section
1. Continuation of present aid.
2. Grants conditional.
3. Recipient not a pauper.
4. Bringing indigent persons into state.
5. Liability of relatives for support.
7. Jury trial; modification of judgment.
8. Payment in part for support.
10. No fees to be charged.
11. Obtaining aid fraudulently.
12. Fraudulent acquisition or disposition of property.
13. Penalties.
15. Duty of county superintendent of schools.
17. Rules and regulations.
18. Proceedings by the county council.

Section 1. Continuation of Present Aid. Except as otherwise provided in this chapter, aid or assistance rendered under existing law shall not be deemed to be discontinued.

Sec. 2. Grants Conditional. The grant of public assistance or of general relief under the provisions of this chapter shall be conditional, and a person shall have no claim as of right to such assistance or relief.

Sec. 3. Recipient Not a Pauper. A recipient of public assistance or of general relief shall not be deemed a pauper by reason of the receipt of such assistance or relief.

Sec. 4. Bringing Indigent Persons into State. If an indigent person, not having a legal residence in any county of this state, is brought into and left in the state with intent that he should become a public charge, the person who brought or caused to be brought, or counseled or aided in bringing the indigent person into the state, with such intent, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars, or imprisoned in the county jail not more than sixty days, or both.

Sec. 5. Liability of Relatives for Support. The relatives of an indigent person, who are of sufficient ability, shall be liable to support such person in the manner required by the county council of the county in which the person may be,
and to pay the expenses of burial when he dies, in the follow-

(1) The children.
(2) The father.
(3) The brothers and sisters.
(4) The mother.
If a relative so liable does not reside in this state and has no estate or debts due him within the state by means of which the liability can be enforced against him, the other relatives shall be liable as provided by this section, but a relative shall not be compelled to receive the indigent person in his own home.

Sec. 6. Enforcement of Liability. The county council of the county in which the indigent person may be, may proceed by motion in the circuit court of the county, against one or more of the relatives liable as provided in section five of this article.

The court shall hear, in a summary manner, the allegations and proofs of the parties, and assess upon the relatives notified of the proceeding and appearing to be liable for the support, a sum sufficient to reimburse to the county court for the expense incurred by the county council in the support or burial of the indigent person up to the time of the assessment, with interest and costs.

The court shall further, as the case requires, assess upon the relative such sums, to be payable quarterly thereafter to the county court until the further order of the court, as will be sufficient for the future support of the indigent person.

Payment of the support provided for by this section may be enforced by execution.

Sec. 7. Jury Trial; Modification of Judgment. In a proceeding under this article, the defendant may demand, or the court, of its own motion, may order any question of fact to be tried by jury. The court may, from time to time, upon motion of the county council, or of a relative affected, vary the judgment or order so far as it relates to the future support of the indigent person.

A jury fee shall not be taxed in a proceeding under this section.
Sec. 8. Payment in Part for Support. If it appears that a relative liable for the support of an indigent person is unable wholly to support him, but is able to contribute toward his support, the court may assess upon the relative the proportion which he shall be required to contribute either to the past expense incurred by the county council, or to the future support. The court may assess the residue upon the relatives in the order of their liability.

Payment with interest and costs may be enforced by execution.

Sec. 9. Investigation. In all investigations, authorized by this chapter, the testimony of witnesses and the production of evidence may be required at any designated place of hearing and summons may be issued. In case of disobedience to a summons or other compulsory process, the county council, or the state department, as the case may be, may invoke the aid of the circuit court in requiring the evidence and testimony of witnesses and the production of papers, books, and documents. Upon proper showing, the circuit court shall issue an order requiring a witness to appear and to produce all books and papers and give evidence touching the matter in question. A person who fails or refuses to obey the order of the circuit court may be punished by the court as for contempt.

A claim that any such testimony or evidence may tend to incriminate the person giving the testimony shall not excuse the person from testifying, but such testimony or evidence shall not be used against such person in any criminal prosecution under the laws of this state.

In an investigation conducted under the provisions of this chapter, technical rules of evidence shall not apply.

Sec. 10. No Fees to be Charged. A person shall not charge a fee, or receive a payment, gratuity, or thing of value for representing an applicant for or recipient of public assistance or general relief whether from the applicant or recipient or from another person, in any matter concerning the application for or receipt of such assistance or relief, except in proceedings brought against an applicant or recipient for violation of the provisions of this chapter.

A person who violates the provisions of this section shall
be guilty of a misdemeanor and upon conviction shall be 
fined not less than fifty nor more than five hundred dollars or 
imprisoned not less than ten nor more than ninety days, or 
both, in the discretion of the court.
The violation of this section by an attorney at law shall 
constitute grounds for disbarment.

Sec. 11. Obtaining Aid Fraudulently. It shall be a mis-
demeanor to obtain or attempt to obtain, or aid or abet 
an applicant or recipient in obtaining or attempting to obtain, 
by means of a wilfully false statement or misrepresentation 
or by impersonation or any other fraudulent device:
(1) Public assistance or general relief to which the ap-
plicant or recipient is not entitled.
(2) Public assistance or general relief in excess of that 
to which the applicant or recipient is justly entitled.
(3) Payment of a forfeited installment grant of public 
assistance or general relief.
A person who violates this section shall, upon conviction, 
be fined not more than five hundred dollars, or imprisoned not 
longer than six months, or both, in the discretion of the court.

Sec. 12. Fraudulent Acquisition or Disposition of Prop-
erty. A person who aids or abets in buying or in any way 
disposing of the property of an applicant for or a recipient 
of public assistance or general relief for the purpose of con-
cealing or dissipating the resources of the applicant or 
recipient shall be guilty of a misdemeanor and upon con-
viction shall be fined not more than five hundred dollars, or 
imprisoned for not more than six months, or both, in the 
discretion of the court.

Sec. 13. Penalties. A person who violates an order or 
regulation made under the authority of this chapter, or who 
violates a provision of this chapter for which punishment 
has not been specifically provided, shall be guilty of a mis-
demeanor, and upon conviction shall be fined not less than 
ten nor more than one hundred dollars or confined in jail not 
less than five days nor more than six months, or both such 
fine and imprisonment.
Ch. I
PUBLIC WELFARE LAW

Sec. 14. Duty of Prosecuting Attorney. The prosecuting
to attorney shall without additional compensation render to the
county council such legal services as the council may request.

Sec. 15. Duty of County Superintendent of Schools. The
superintendent of schools of the county shall without ad-
ditional compensation cooperate with and render such assist-
ance to the county council as the council may request.

Sec. 16. Public Records. All reports, and applications
received by the county council and the record of all pro-
ceedings shall be preserved as public records.

Sec. 17. Rules and Regulations. The state director shall
prepare and promulgate rules and regulations to give effect
to the provisions of this chapter.

Sec. 18. Proceedings by the County Council. A county
council shall have authority to institute, in the name of the
state, proceedings incident to the performance of its duties
under the provisions of this chapter.

Chapter 49. CHILD WELFARE

Article
1. Purposes: Definitions.
2. Neglected Children.
3. Private Institutions and Organizations.
5. Juvenile Courts.

Article I. Purposes; Definitions.

Section
1. Purpose of chapter.
2. Definition of child.
3. Neglected child.
4. Delinquent child.
5. Crippled child.
6. Definitions.

Section 1. Purpose. The purpose of this chapter is to
provide a comprehensive system of child welfare throughout
the state.

The child welfare services of the state shall be administered
by the state department of public assistance and the several
county councils in accordance with the provisions of this
chapter.
8 Said department of public assistance is designated as the agency to cooperate with the children's bureau of the United States Department of Labor in extending and improving child welfare services, to comply with regulations of the children's bureau, and to receive and expend federal funds for these services.

Sec. 2. Definition of Child. "Child" means a person under the age of eighteen years.

Sec. 3. Neglected Child. "Neglected Child" means a boy under the age of sixteen years or a girl under the age of eighteen years who comes within any of the following classes:

1. Is destitute, homeless, or abandoned.
2. Has not proper parental care or guardianship.
3. Habitually begs or receives alms.
4. By reason of neglect, cruelty, or disrepute on the part of parents, guardians, or other persons in whose care the child may be, is living in an improper place.
5. Is in an environment warranting the appointment of a guardian under this article.

Sec. 4. Delinquent Child. "Delinquent child" means a person under the age of sixteen years who commits any of the following:

1. Violates a law or municipal ordinance.
2. Commits an act which if committed by an adult would be a crime not punishable by death or life imprisonment.
3. Is incorrigible, ungovernable, or habitually disobedient and beyond the control of his parent, guardian, or other custodian.
4. Is habitually truant.
5. Without just cause and without the consent of his parent, guardian, or other custodian, repeatedly deserts his home or place of abode.
6. Engages in an occupation which is in violation of law.
7. Associates with immoral or vicious persons.
8. Frequent a place the existence of which is in violation of law.
9. Deports himself so as to wilfully injure or endanger the morals or health of himself or others.
Sec. 5. *Crippled Child.* "Crippled child" means a person under the age of eighteen years who, by reason of physical defect or infirmity, is, or may be expected to be, totally or partially incapacitated for education or for remunerative occupation.

Sec. 6. *Definitions.* For the purpose of this chapter:
1. "State Department" means the State Department of Public Assistance.
2. "State board" means the State Advisory Board.
3. "Director" means the Director of the State Department of Public Assistance.
4. "County Council" means a county public assistance council.
5. "County Director" means a director appointed by a county council.
6. "Children's Institution" means an institution other than a state or educational institution, providing for persons under the age of eighteen years:
   a. Continuing care, custody or training as its primary purpose; or
   b. Temporary or continuing medical or surgical hospitalization.
7. "Children's organization" means an organization having for its object the prevention of cruelty and distress among children, finding homes for children, and assuming temporary custody of children for these purposes.

**Article II. Neglected Children.**

Section
1. Neglected children; petition to juvenile court.
2. Hearing.
3. Commitment to state department.
4. Temporary custody.
5. Information supplied to state department.
6. Physical and mental examination.
8. Duration of custody.
9. Disposition other than commitment to state department.
10. Private homes.
12. Religious beliefs of parents to be observed.
13. Case work; mentally defective children.
14. Parole to state department.
15. Admissions to school for deaf and blind children.
16. Services rendered by county council and director.
17. Authority over institution caring for children.
Section 1. Neglected Children: Petition to Juvenile Court.

If the state department, or a reputable person, believes that a child is neglected, the department or person may present a petition setting forth the facts to the court having juvenile jurisdiction in the county in which the child resides or to the judge in vacation. The petition shall be verified by oath of some credible person having knowledge of the facts.

Upon the filing of the petition, the court or the judge shall set a time and place for a hearing upon the facts.

Sec. 2. Hearing. Notice of time and place of hearing shall be served upon the person having custody of the child and shall be given to the state department. The person having custody of the child, a parent or other person standing in loco parentis, a relative, or any other person having knowledge of the circumstances may appear and be heard.

Sec. 3. Commitment to State Department. If the court or judge finds that the interests and welfare of the child require that custody be changed, the court or judge may commit the child to the custody of the state department.

Sec. 4. Temporary Custody. Until a hearing can be held upon the petition, the court or judge may order that the child be delivered into the custody of the state department, or into such other custody as the court or judge may deem proper.

Sec. 5. Information Supplied to State Department. At the time of commitment, the court or judge shall supply to the state department all information before the court or judge regarding the history and situation of the child, its parents and forebears. The information shall be upon the form provided by the state department.

Sec. 6. Physical and Mental Examination. Before being committed to the state department, a neglected child shall be given a physical and mental examination. The result of the examination shall be reported to the state department upon blank forms prepared and furnished by the department.

After considering the results of the examination, the state
department may accept or refuse to accept a child for commitment.

Sec. 7. Mentally Defective Children. The state department may return a mentally defective child committed to it to the county from which the child was committed, to be dealt with by the county mental hygiene commission.

Sec. 8. Duration of Custody. A neglected child committed to the state department shall remain in the custody of the department until he attains the age of twenty-one years or is married, whichever occurs first, unless:
   (1) Upon proper showing the court or judge by whom the child was committed returns the child to his parents or other guardian.
   (2) The child is legally adopted by a person approved by the state department.

Sec. 9. Disposition Other Than Commitment to State Department. The court or judge may:
   (1) Allow a neglected child to remain at its home subject to the supervision of the state department
   (2) Appoint a reputable person of good moral character as guardian of the person of the child.
   (3) Commit the child to a suitable state institution caring for neglected children.
   (4) Commit the child to a school, home, or organization which cares for or obtains homes for neglected children and which has been approved under section seventeen of this article.

Sec. 10. Private Homes. When it appears proper, the state department may place a child in its custody in a suitable private home. The person with whom the child is placed shall observe and be governed by the provisions of law concerning the placing of children in private homes, and the rules and regulations of the state department.
   When necessary, the state department may place a child in a private boarding home.

Sec. 11. Placement in Children’s Homes. The state department may place a neglected child in its custody in an orphan asylum or children’s home incorporated under the laws of the state and approved by the department.
With respect to a child so placed, the orphan asylum or children's home shall have the same rights, powers, privileges, and authority, and be subject to the same duties, requirements, and responsibilities, as in the case of children placed under its care and management in any other manner allowed by law.

Sec. 12. Religious Belief of Parents to be Observed. The court in committing any child, or the state department in placing any child, shall place such child as far as practicable in the care and custody of an individual holding the same religious belief as the parents or relatives of the child, or with some institution or organization that is controlled by persons of the same religious belief as that of the parents or relatives of the child.

Sec. 13. Case Work: Mentally Defective Children. The state department shall, upon request of the state board of control, make family case work investigations of children who are mentally defective.

Sec. 14. Parole to State Department. Children paroled from the state industrial homes for girls and the state industrial school for boys shall be paroled to the state department.

Sec. 15. Admission to Schools for Deaf and Blind Children. The state department shall investigate applications for admission to the state schools for the deaf and blind, and applications for admission to a state hospital for orthopedic treatment.

For the purposes of this section the state department shall have authority to procure proper medical and surgical examinations. The expenses of examinations and of the transportation of an applicant to and from the hospital shall be paid by the county in which the applicant resides, upon submission of an itemized statement of expenses, verified by affidavit of an agent of the state department.

If the state department finds that the child should be admitted to the state school, it shall certify the case to the principal for admission. The principal shall admit a child to such school only upon the certification of the state department.
Sec. 16. *Services Rendered by County Council and Director.* A county council and a county director shall perform for the state department such services in locating and in making visitations and reports concerning cases of neglected children as the state department may require.

Sec. 17. *Authority Over Institutions Caring for Children.* The state department shall supervise children's institutions, and organizations receiving children for the purpose of care, training, or placing in other institutions or in private homes, except state institutions under the management of the board of control. The state department shall annually visit and inspect a children's institution or organization and shall determine the fitness of the institution or organization to provide care or training for children.

If the state department approves the institution or organization, it shall issue a certificate of approval which shall continue in force for one year unless sooner revoked for cause. The certificate of approval shall be a license to operate the institution or organization. A person shall not operate or maintain such institution or organization unless licensed under this section.

Sec. 18. *Reports by Institutions and Organizations.* A children's institution or organization shall make an annual report showing its condition, management, and competence to care for or to train children, together with such other information as the state department may require. The report shall be in such form and shall be submitted at such time as the department may determine.

Sec. 19. *Inspection.* If the state department finds that a children's institution or organization is of such a character, or is so equipped, managed, or financed that the interests and welfare of a child are not served by entrusting his care or training to the institution or organization, it shall notify the institution or organization, stating the reasons for its decision and designating the measures to be taken to correct the conditions causing disapproval.

A failure or refusal to correct conditions causing disapproval shall be sufficient reason for a revocation of or a refusal to issue a certificate of approval.
Sec. 20. Approval of Articles of Incorporation. A children's institution or organization shall not be incorporated in this state unless the proposed articles of incorporation have first been examined and approved by the state department. Proposed amendments to such articles of incorporation shall likewise be subject to the examination and approval of the state department.

Sec. 21. Placement by Foreign Organization. An institution or organization incorporated under the laws of another state shall not place a child in a private home in this state without the approval of the state department.

Article III. Private Institutions and Organizations.

Section
2. Children's organizations.
3. Officers of institutions may petition for custody of child.
4. Provisions applicable.
5. Supervision and control of children.
8. Placing in private homes.
9. Bond by person receiving child.
10. Assignment of services of such children.
11. Removing children from private homes.
12. Returning child to its parents or guardian.

Section 1. What Children Admitted. A children's institution established under the laws of this state, or of the state of Virginia prior to the formation of this state, may take under guardianship a neglected child who:
1. (1) Is voluntarily surrendered by the father and mother;
2. by one parent in case of the death, or long continued absence of the other parent; by the guardian of the child's person;
3. by a children's organization; or, where the child is illegitimate, by its mother. By virtue of the surrender of a child, the orphan asylum or children's home shall exercise over the child the same power possessed by the parties surrendering the child.
4. (2) Is committed to its custody by the court or judge having juvenile jurisdiction in the county in which the child resides. Commitment shall be in accordance with the provisions of article two of this chapter.

Sec. 2. Children's Organizations. An organization formed under the laws of this state for the purpose of pro-
Sec. 3. Officers of Institutions May Petition for Custody of Child. An officer of a children's institution or organization may petition the court, or judge having juvenile jurisdiction, for the purpose of obtaining custody of a neglected child in the manner provided by section one of article two of this chapter.

Sec. 4. Provisions Applicable. The provisions of article two of this chapter shall apply in all respects to the commitment, care, and custody of neglected children by a children's institution or organization.

A children's institution or organization shall be licensed as required by section seventeen, article two of this chapter.

Sec. 5. Supervision and Control of Children. A child placed in the care or committed to the custody of a children's organization shall be under its supervision and control until the child is received into a children's institution or private home, or until otherwise ordered by the court or judge by whom the child was committed.

Sec. 6. Placing Children in Children's Institutions. A children's organization may place a child in an approved children's institution established under the laws of this state, or the state of Virginia prior to the formation of this state, which will receive the child.

Sec. 7. Guardians for Children. At the time of commitment the court or judge shall appoint the person in charge of the children's institution or organization to which the child is committed, as the guardian of the person of the child.

Sec. 8. Placing in Private Homes. If the state department consents and approves, a children's institution or organization may place a child in a suitable private home, having regard for the religious and moral character of those
with whom the child is placed, in order to secure to the child the benefits of good example and wholesome instruction.

Sec. 9. Bond by Person Receiving Child. When a child is placed in a private home, the state department may, in its discretion, order the children's institution or organization to require a bond, payable to the state department, to be entered into by the person receiving the child. The bond shall be in a penalty of not less than one thousand dollars, conditioned upon furnishing to the child good and sufficient clothing, food, and medical attention, and causing it to receive a common school education.

Sec. 10. Assignment of Services of Such Children. A person receiving a child under the provisions of this article shall not assign or transfer its services for any period without the written consent of the children's institution or organization, as the case may be, and of the state department. If the person taking charge of a child, desires to be released from the agreement, the children's institution or organization may in its discretion cancel the agreement and resume custody of the child.

Sec. 11. Removing Children from Private Home. The children's institution or organization shall remove a child from a private home in which the child was placed by it, when, in its judgment, or in the judgment of the state department, the home has become an improper place. In case of removal, the children's institution or organization shall resume custody of the child.

Sec. 12. Returning Child to Its Parents or Guardian. A children's institution or organization may in its discretion and, if the child was committed to it by the order of a court, with the consent of the court or judge, return the child to the parents, surviving parent, or guardian.
Article IV. Crippled Children.

Section
1. Purpose of article.
2. What children are included.
3. Powers of state department.
6. County council and county director to render services.
7. Other agencies to assist.
8. Cooperation with private agencies.

Section 1. Purpose. The purpose of this article is to provide for the continuation and development of services for crippled children. The state department shall formulate and apply administrative policies coordinating the care, treatment, and education of physically handicapped children.

In the development of administrative policies, the state department shall cooperate with the children's bureau of the United States Department of Labor and shall comply with the regulations of the children's bureau prescribed under the authority of the "Social Security Act," and is hereby authorized to receive and expend federal funds for these services.

Sec. 2. What Children Are Included. It is the intention of this article that services for crippled children shall be extended only to those children for whom adequate care, treatment and rehabilitation is not available from other than public sources.

Sec. 3. Powers of State Department. In the care and treatment of crippled children the state department shall, so far as funds are available for the purpose:

(1) Locate crippled children requiring medical, surgical, or other corrective treatment and provide competent diagnosis to determine the treatment required.
(2) Supply to crippled children treatment, including hospitalization, and after-care leading to correction and rehabilitation.
(3) Guide and supervise crippled children to assure adequate care and treatment.

Sec. 4. Advisory Board of Orthopedic Surgeons. The state director shall designate a board of three orthopedic surgeons, of recognized ability, to be selected from a list.
recommended by the state medical association, to serve in an
advisory capacity in giving effect to the provisions of this
article. The surgeons shall serve without pay, except for
actual expenses incurred.

(1) Consult with the state board and state director with
respect to the plans, policies and methods of the state depart-
ment for giving effect to this article.

(2) Examine the credentials and recommend the appoint-
ment of orthopedic surgeons to be employed by the state de-
partment.

(3) Examine the facilities and recommend the institutions
in which crippled children may be hospitalized by the state
department.

Sec. 5. Birth of a Crippled Child. Within thirty days
after the birth of a child with a congenital deformity,
the physician, midwife, or other person attending the birth
shall report the deformity upon a form prescribed to the
state department.

The report shall be solely for the use of the state depart-
ment and shall not be open for public inspection.

Sec. 6. County Council and County Director to Render
Services. A county council and county director shall co-
operate with the state department in rendering the services
provided by this article. They shall perform for the state
department such investigations, case supervision, and other
services as the department may request.

Sec. 7. Other Agencies to Assist. So far as practicable,
the services and facilities of the state department of health,
of the state department of education and the state board of
control shall be available to the state department for the
purposes of this article.

Sec. 8. Cooperation with Private Agencies. The state de-
partment shall cooperate with private agencies and organi-
izations engaged in rendering similar services to crippled
children.
Article V. Juvenile Courts.

Section 1. What courts have juvenile jurisdiction. The circuit court of the county shall have original jurisdiction in proceedings brought by petition under this article. If, however, a court, in addition to the circuit court, has been or is subsequently created in a county, proceedings under this article shall be held in the additional court with right of appeal to the circuit court as follows:

1. The domestic relations court, or if there is none,
2. The court of common pleas or intermediate court having chancery jurisdiction, or if there is none,
3. The criminal court.

Sec. 2. Jurisdiction of Juvenile Court. The juvenile court shall have exclusive jurisdiction to hear and determine all proceedings concerning delinquent children under the provisions of this article.

Sec. 3. Criminal Jurisdiction. Except as to a violation of law which if committed by an adult would be a capital offense, the juvenile court shall have exclusive jurisdiction to hear and determine criminal charges, including a charge of violation of a municipal ordinance, against a person who was under sixteen years of age at the time of the alleged offense. If during the pendency of a criminal proceeding against a person in a court other than a juvenile court, it shall be ascertained that the person was under the age of sixteen years at
the time of the alleged offense, the court, judge, or magistrate shall immediately transfer the case with all the papers, documents, and testimony connected therewith to the juvenile court having jurisdiction. The juvenile court shall proceed to hear and dispose of the case in the same manner as if it had been instituted in that court in the first instance.

Sec. 4. *Children Wards of Court.* A person under the age of sixteen years who appears before the juvenile court in any capacity shall be deemed to be a ward of the court, and protected accordingly.

Sec. 5, *Juvenile Record.* The court shall, for the purposes of this article, be called the "Juvenile Court." The findings and orders of the court shall be entered in a book, kept by the clerk of the court for that purpose, known as the "Juvenile Record."

Sec. 6. *Trial by Jury.* In a proceeding under this article, an interested person may demand, or the judge of his own motion, may order a jury of twelve persons to try any question of fact.

Sec. 7. *Delinquent Child; Petition to Juvenile Court.* If the state department or a reputable person believes that a child is delinquent, the department or person may present a petition setting forth the facts to the court or judge having juvenile jurisdiction in the county where the child may be. The petition may set forth that it is for the interest of the child and of the state that the child be taken from its parent, guardian, or other custodian and placed under another guardianship or custody as determined by the court; and that the parent, guardian or other custodian is unfit properly to care for, protect, train, educate, control or discipline the child, or that the parent, guardian, or other custodian consents that the child may be taken from him.

The petition shall be verified by oath, and shall set forth the name and address of the parent, guardian, or other person having custody and control of the child if such name and address are known to the petitioner.

Upon the filing of the petition, the court or judge shall set a time and place for a hearing and proceedings upon the facts.
Sec. 8. Service of Summons. A person named in the petition shall be made a defendant and shall be notified of the proceedings by personal service of summons, which shall require the person to appear with the child at the time and place set for the proceedings. If the defendant cannot be found, service may be by publication made twice in a newspaper of general circulation published in the county; or if there is none, then in a newspaper published in the state and of general circulation in the county.

Sec. 9. Answer. A defendant, duly summoned, shall appear and answer, in open court or before the judge in vacation, on the return day of the summons, or if the summons is served less than one day prior to the return day, then on the following day.

A defendant notified by publication shall appear and answer in open court or before the judge in vacation within twenty days after the date of the first publication.

The answer shall have as evidence no greater weight than the petition.

Sec. 10. Default of Answer. In default of answer, the petition may be taken as confessed.

Sec. 11. Temporary Disposition. The court or judge may, before the proceedings, make temporary disposition of the child in the manner provided in article two of this chapter, or may order the child to be placed in the custody of a probation officer.

Sec. 12. Warrant. The court or judge may, if he deems such action necessary, order the issuance of a warrant against the person having custody and control of the child, to bring the person into court or before the judge; or a warrant against the child to bring the child into court or before the judge.

Sec. 13. Counsel for Child. In a proceeding under this article, the court or judge may, upon request of the child or of the person named in the petition, appoint counsel to represent the child.

Sec. 14. Disposition by Court. With a view to the welfare and interest of the child and of the state, the court or judge
may, after the proceedings, make any of the following dispositions:

(1) Treat the child as a neglected child, in which case the provisions of article two of this chapter shall apply.

(2) Order the child placed under the supervision of a probation officer.

(3) Permit the child to be proceeded against in accordance with the laws of the state governing the commission of crimes or violations of municipal ordinances.

(4) Commit the child to an industrial or correctional institution for minors.

Sec. 15. Child Not Committed to Jail. A child under sixteen years of age, whether delinquent or otherwise, shall not be committed to a jail or police station.

Sec. 16. Duty of Clerk. The clerk of the juvenile court shall promptly notify the state department of delinquent children brought before the court or judge and of delinquency proceedings pending.

Sec. 17. Probation Officers. The county director shall be ex officio probation officer of the juvenile court and of the county. He may, with the approval of the juvenile court, designate one or more of his assistants or other employees of the county council to assist him in his duties as probation officer or to act in his stead.

Sec. 18. Duty of Probation Officer. The clerk of a court shall notify, if practicable, the chief probation officer of the county when a child is to be brought before the court or judge. When notified, or if the probation officer otherwise obtains knowledge of such fact, he or one of his assistants shall:

(1) Make investigation of the case.

(2) Be present in court, or before the judge, to represent the interests of the child when the case is heard.

(3) Furnish such information and assistance as the court or judge may require.

(4) Take charge of the child before and after the trial, as may be directed by the court or judge.

Sec. 19. Powers of Probation Officer. A probation officer is hereby vested with the power and authority of a peace
officer to make arrests and perform any other duties ordinarily performed by a peace officer, incident to his office, or necessary or convenient to the performance of his duties.

**Article VI. Child Shelter.**

**Section**
1. County court may establish.
2. Purpose.
4. Lands and property.
5. Two or more counties may jointly establish.
6. Care of children.
7. Superintendent and employees.
8. Employees; compensation; tenure.
9. Duties as to children committed.
10. Records and reports.
11. Information furnished.
12. Inspection.
13. Services rendered by county director.

Section 1. **County Court may establish.** A county court, in its discretion, may establish, equip, and maintain a home for the temporary detention of children, separated entirely from a place of confinement of adults, to be known as "The Children's Shelter of .......... County." An existing detention home may be continued as a children's shelter to be conducted as provided in this article.

Sec. 2. **Purpose.** A children's shelter shall be conducted for the purpose of providing temporary care for neglected children and custody of children whose cases are pending before the juvenile court.

Sec. 3. **Management and Commitment.** The control and business management of a children's shelter shall be the responsibility of the county court. The commitment of persons to and the release from the children's shelter shall be by the county council or the juvenile court.

Sec. 4. **Lands and Property.** A county court may:
1. Hold and convey land used as a site for a children's shelter.
2. Use and dispose of property received as a gift, grant, devise, or bequest for the purpose of a children's shelter.

Sec. 5. **Two or More Counties.** The county courts of two or more adjoining counties may jointly establish a children's
shelter, and contribute to the expense of establishing and
maintaining it in the proportions and under the regulations
agreed upon. The management shall be in the county court
of the county where the shelter is situated unless otherwise
agreed by the county courts concerned.

Sec. 6. Care of Children. A children’s shelter shall be
so arranged, furnished, and conducted that the children resi-
dent therein are, so far as consistent with safe custody, cared
for as in a family home. The shelter shall be supplied with
all necessary and convenient facilities for the care of the
children.

Sec. 7. Superintendent and Employees. The county court
shall appoint a superintendent and such other employees as
may be necessary for the proper care and maintenance of the
shelter. Persons appointed shall be selected with special
reference to good moral character and their ability to deal
with and care for children.

The superintendent shall reside in the shelter.

Sec. 8. Employees: Compensation; Tenure. The superin-
tendent and employees shall serve during the pleasure of
the county court. The court shall fix their compensation.

Sec. 9. Duties as to Children committed. The superin-
tendent shall receive and have temporary custody of children
committed to the shelter by the county council or the juvenile
court.

The superintendent shall keep a complete record of all
children committed. The record shall show the name, age,
and residence of the child and the cause and period of de-
tention, and any other useful data or information that the
state department, the county council, or the juvenile court
may direct.

Sec. 10. Records and Reports. The superintendent shall
keep a record of expenditures made by the county for the
care and maintenance of the shelter. He shall make an
annual report to the county court and shall file a copy with
the clerk of the court. The report shall contain an itemized
statement of all expenses necessary to maintain the home,
together with the number of children cared for during each
month.
Sec. 11. Information Furnished. At the request of the president of the county court or the juvenile court, the superintendent shall furnish such information with respect to the shelter as may be desired.

Sec. 12. Inspection. The county court shall make quarterly or more frequent inspection of a children's shelter provided for by this article. It may request the county or municipal health officer, or any qualified physician to assist in or make an independent inspection.

Sec. 13. Services Rendered by County Director. At the request of the county court, the county director shall advise and consult with the county court with respect to the management and control of the children's shelter, and shall make such visitations and inspections as the county court may request.

Sec. 14. Appropriation. In a county in which a children's shelter is established and maintained, the county court shall annually include within its estimate of necessary county expenditures an amount sufficient to provide for the maintenance of the shelter.

Article VII. General Provisions.

Section
1. Consent of guardian to adoption.
2. Guardianship of estate of child not affected.
3. Proceedings not to be evidence against child or be published.
5. Support of child placed in home or institution under guardianship.
6. Enforcement of order for support from wages.
7. Contributing to delinquency of a child.
8. Proof in cases of contributing to delinquency.
9. Suspension of sentence.
10. Maintenance of child by convicted person.
11. Care of the child upon conviction for contributing to its delinquency.
12. Custody of child by convicted person.
13. Suspension of sentence; bond.
15. Suspended sentence may be enforced.
17. Suspension of sentence not to exceed two years.
18. Interference with disposition of child punishable as contempt of court.
19. Penalty for enticing away child.
20. Penalties.
21. Judge may act in vacation.
22. Appeal and writs of error.
Section 1. Consent of Guardian to Adoption. If at the hearing under article two of this chapter, the court or judge finds that it is to the best interest of a neglected child that the guardian of his person be given authority to consent to his legal adoption as required by section one, article four of chapter forty-eight of the official code of one thousand nine hundred thirty-one, the court or judge may by order authorize the guardian to appear in court where proceedings for the adoption of the child are pending and to consent to the adoption.

The court or judge shall authorize the guardian to consent to adoption only if the court or judge finds that:

1. The person legally responsible for the child, or, if there is no such person, the nearest known relative agrees to the order of the court or judge, or
2. The person legally responsible for the child is unfit because of moral delinquency, habitual drunkenness, use of narcotic drugs, extreme and repeated cruelty to the child, or abandonment, or desertion of the child for more than six months next preceding the hearing, or
3. The child is fourteen years of age or over and agrees to the order.

In an adoption proceeding the court or judge with the consent of a guardian so authorized under this section, may enter an order or decree of adoption without further notice to, or consent by the parent or relatives of the child.

Sec. 2. Guardianship of Estate of Child Not Affected. The provisions of this chapter shall not be construed to give the guardian appointed hereunder the guardianship of the estate of the child, or to change the age of minority for any other purpose except the custody of the child.

The guardian of the estate of a child committed to guardianship hereunder shall furnish, at such times and in such form as may be required, full information concerning the property of the child to the state department or to the court or judge before whom the case of any such child is heard.
Sec. 3. *Proceedings Not to be Evidence Against Child, or be Published.* Any evidence given in any cause or proceeding under this chapter, or any order, judgment or finding therein, shall not in any civil, criminal or other cause of proceeding whatever in any court, be lawful or proper evidence against such child for any purpose whatsoever except in subsequent cases under this chapter involving the same child; nor shall the name of any child, in connection with any proceedings under this chapter, be published in any newspaper without a written order of the court.

Sec. 4. *Placing Children in Infirmaries.* A child shall not be placed in a county infirmary or similar institution for other than temporary care. When a child is so placed, written notification shall be given to the state department not later than three days after the child enters the infirmary. When a mentally defective child is so placed, notice shall be given to the state board of control.

A superintendent of an infirmary or other institution who fails to notify the state department or the state board of control, as the case may be, shall be guilty of a misdemeanor.

Sec. 5. *Support of Child Placed in Home or Institution or Under Guardianship.* If it appears upon the hearing of a petition under this chapter that a person legally liable for the support of the child is able to contribute to the support of such child, the court or judge shall order the person to pay the state department, institution, organization, or private person to whom the child was committed, a reasonable sum from time to time for the support, maintenance, and education of the child.

The court or judge may require the person liable for the support to give reasonable security for payment. Upon failure to give security or to pay, the court or judge may enforce obedience by proceeding as for contempt of court. The court or judge may, on application, and on such notice as the court or judge may direct, from time to time, make such alterations in the allowance as shall appear reasonable and proper.

Sec. 6. *Enforcement or Order for Support from Wages.* If the person ordered to pay for the support, maintenance, and education of a child is employed for wages, salary, or
commission, the court or judge may order that the sum to be paid by him shall be paid to the guardian, institution, organization, or person having custody of such child, out of his wages, salary, or commission, and that he shall execute an assignment thereof pro tanto. The court or judge may also order the person to report to the court or judge, from time to time, his place of employment and the amount earned by him. Upon his failure to obey the order of the court or judge, he may be punished as for contempt of court.

Sec. 7. Contributing to Delinquency of a Child. A person who causes, encourages, or contributes to the delinquency of a child, or who is responsible for such delinquency, shall be guilty of a misdemeanor, and, upon trial and conviction thereof, shall be fined not to exceed five hundred dollars, or imprisoned in the county jail for a period not exceeding one year, or both.

Sec. 8. Proof in Cases of Contributing to Delinquency. In finding a person guilty of contributing to the delinquency of a child, it shall not be necessary to prove that the child has actually become delinquent, if it appears from the evidence that the accused is guilty of conduct or of an act of neglect or omission of duty on his part toward the child which would tend to bring about or to encourage the delinquency.

Sec. 9. Suspension of Sentence. A court or judge, upon such convictions as are imposed in accordance with the provisions of this chapter, may:

(1) Suspend the sentence of a person found guilty of contributing to the delinquency of a child.

(2) Stay or postpone the enforcement of execution of sentence.

(3) Release the person from custody.

Sec. 10. Maintenance of Child by Convicted Person. If the sentence of the person found guilty is suspended, the court or judge may make it a condition of suspending sentence that the person pay for whatever treatment and care may be required for the welfare of such child, and for its support and maintenance while in the custody of the department, person, or institution, and any other
Sec. 11. Care of Child Upon Conviction for Contributing to Its Delinquency. Where a person is found guilty of contributing to the delinquency of a child, the court or judge may place the child in the temporary custody of the state department or of some responsible person or approved institution.

Sec. 12. Custody of Child by Convicted Person. If the guilty person had custody of the child prior to conviction, the court or judge may, on suspending sentence, permit the child to remain in the custody of the person, and make it a condition of suspending sentence that the person provides whatever treatment and care may be required for the welfare of the child, and shall do whatever may be calculated to secure obedience to the law or to remove the cause of such delinquency.

Sec. 13. Suspension of Sentence: Bond. The conditions upon which the sentence of a person found guilty of contributing to the delinquency, or to the neglect of any child, may be suspended, may include the furnishing of a good and sufficient bond to the state of West Virginia in such penal sum as the court shall determine, not exceeding one thousand dollars, conditioned upon:

(1) Furnishing whatever treatment and care may be required for the welfare of such child.
(2) Doing whatever may be calculated to secure obedience to the law or to remove the cause of delinquency, or neglect.
(3) Payment of such amount as the court may order, not exceeding twenty dollars per month, for the support, care, and maintenance of the child to whose delinquency the person contributed. The sum shall be expended under the order of the court or judge for the purposes enumerated.

Sec. 14. Recovery on Bond Without Separate Suit. The penalty of a bond given upon suspension of sentence which becomes forfeited shall be recoverable without separate suit. The court or judge may cause citation or summons to issue to the surety, requiring that he appear at a time named by
the court or judge, not less than ten nor more than twenty
days from the issuance of the summons, and show cause why
judgment should not be entered for the penalty of such bond
and execution issued against the property of the surety.
Upon failure to appear, or failure to show sufficient cause,
the court shall enter judgment in behalf of the state of
West Virginia against the principal and surety in not to
exceed the penalty of the bond plus costs.
Any money collected or paid upon an execution, or upon
the bond, shall be deposited with the clerk of the court in
which the bond was given. The money shall be applied first
to the payment of all court costs and then to the treatment,
care, or maintenance of the child for whose delinquency con-
viction was had. If any money so collected is not required
for these purposes, it shall be paid within one year into
the county treasury, and credited to the general relief fund
of the county.

Sec. 15. Suspended Sentence May be Enforced. If it
appear to the satisfaction of the court or judge at any time
while a suspension of sentence or stay of execution remains
in effect, that the sentence ought to be enforced, the court
or judge may enforce the sentence. A jail sentence shall
commence from the date upon which the sentence is so
ordered to be enforced.

Sec. 16. Enforcement of Sentence. If the conditions of
suspension are complied with, the sentence shall remain
suspended, subject to enforcement upon the violation of any
of the conditions imposed. Upon a failure to comply with
any of the conditions imposed, the sentence shall be enforced
and any bond given to insure the performance of the con-
ditions shall be forfeited.

Sec. 17. Suspension of Sentence Not to Exceed Two Years.
A sentence shall not be suspended, or final judgment or
execution stayed, for a period exceeding two years. At the
end of two years from the time of imposition of sentence
or sooner in the discretion of the court or judge, the de-
fendant shall be finally released and discharged.

Sec. 18. Interference with Disposition of Child Punish-
able as Contempt of Court. A person who interferes with
the direction of disposition of a child in accordance with an
order of the court or judge made in pursuance of the pro-
visions of this chapter, or with the state department, or
a probation or other officer of the court in carrying out the
directions of the court or judge under such an order, shall
be subject to punishment as for contempt of court.

Sec. 19. **Penalty for Enticing Away Child.** A person
who personally or by agent entices or forcibly removes a
child from a custody in which the child was placed under
the provisions of this chapter, shall be guilty of a misde-
meanor, and upon conviction shall be fined not more than
one hundred dollars, or be imprisoned not more than six
months, or both such fine and imprisonment.

Sec. 20. **Penalties.** A person who violates an order, rule,
or regulation made under the authority of this chapter, or
who violates a provision of this chapter for which punish-
ment has not been specifically provided, shall be guilty of
a misdemeanor, and upon conviction shall be fined not less
than ten nor more than one hundred dollars, or confined in
jail not less than five days nor more than six months, or
both such fine and imprisonment.

Sec. 21. **Judge May Act in Vacation.** The powers and
jurisdiction of the court, under the provisions of this chapter.
may be exercised by the judge thereof in vacation.

Sec. 22. **Appeal and Writs of Error.** Cases under this
chapter, if tried in any inferior court, may be reviewed by
writ of error or appeal to the circuit court, and if tried or
reviewed in a circuit court, by writ of error or appeal to
the supreme court of appeals.

Sec. 23. **Preservation of Records.** The proceedings,
records, reports, case histories, and all other papers or
documents of or received by the state department or a county
council in the administration of this chapter shall be filed
of record and preserved.

Sec. 24. **Rules and Regulations.** The state director shall
prepare and promulgate rules and regulations necessary to
give effect to the provisions of this chapter.
Sec. 25. *State Department to Gather Statistics.* The state department shall gather statistics and study legislation and problems connected with neglected and delinquent children, and publish the results from time to time. It shall also make available, so far as possible, to officials, institutions, and organizations dealing with these problems, such literature as shall tend to promote the efficiency of child welfare services.

Sec. 26. *Duty of Prosecuting Attorney.* The prosecuting attorney shall render to the county council, without additional compensation, such legal services as the council may require.

Sec. 27. *Duty of County Superintendent of Schools.* The superintendent of schools of the county shall, without additional compensation, cooperate with and render such assistance to the county council as the council may require.

Sec. 28. *Proceeding by the County Council.* A county council shall have the authority to institute, in the name of the state, proceedings incident to the performance of its duties under the provisions of this chapter.

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**CHAPTER 2**

*House Bill No. 10 — By Mr. Thomas*

AN ACT to appropriate moneys from the treasury for the purpose of carrying into effect the Public Welfare Law of one thousand nine hundred thirty-six.

[Passed June 20, 1936; In effect from passage. Approved by the Governor.]

Section 1. Appropriation of two million five hundred thousand dollars to carry into effect the Public Welfare Law of one thousand nine hundred thirty-six.

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

Section 1. Appropriation to Carry Into Effect Public Welfare Law. It appearing from a statement of the revenues
and appropriations for the fiscal years one thousand nine hundred thirty-five—one thousand nine hundred thirty-six and one thousand nine hundred thirty-six—one thousand nine hundred thirty-seven, that there will remain in the treasury, state fund general revenue, revenue in excess of the amount hereby appropriated, there is hereby appropriated from the state fund general revenue for the fiscal year one thousand nine hundred thirty-six—one thousand nine hundred thirty-seven, the sum of two million five hundred thousand dollars to the Department of Public Assistance for the purpose of being expended in carrying into effect the Public Welfare Law of one thousand nine hundred thirty-six, to be expended upon requisitions drawn upon the Auditor by the proper officials of the Department of Public Assistance.

CHAPTER 3
(House Bill No. 12 — By Mr. LaFon)

AN ACT to appropriate moneys from the treasury to the auditor’s office for carrying into effect the delinquent tax redemption laws.

[Passed June 19, 1936; in effect from passage. Approved by the Governor.]

Section
1. Appropriations to auditor’s office for expenses incident to redemption of lands delinquent for non-payment of taxes.

Be it enacted by the Legislature of West Virginia:

Section 1. Appropriation to Auditor’s Office. It appearing from a statement of the revenues and appropriations for the fiscal years one thousand nine hundred thirty-five—one thousand nine hundred thirty-six and one thousand nine hundred thirty-six—one thousand nine hundred thirty-seven, that there remains in the treasury state fund general revenue, revenue in excess of the amounts hereby appropriated, there is hereby appropriated from the state fund general revenue to the
auditor's office for the fiscal year one thousand nine hundred thirty-five—one thousand nine hundred thirty-six, the sum of thirteen thousand seven hundred seven dollars and twenty-five cents, and for the fiscal year one thousand nine hundred thirty-six—one thousand nine hundred thirty-seven, the sum of thirty-one thousand three hundred sixty dollars, to be expended to meet the deficiency in the appropriation for the current fiscal year one thousand nine hundred thirty-five—one thousand nine hundred thirty-six, occasioned by the unexpectedly large number of requests for redemption and to be expended in carrying out the provisions of an act of the Legislature, first extraordinary session, one thousand nine hundred thirty-six, known and designated as house bill number two.

CHAPTER 4
(House Bill No. 7 — By Mr. Thomas)

AN ACT to appropriate moneys from the treasury to the Department of Labor for cooperation with the federal government in maintaining the West Virginia State Employment Service.

[Passed June 10, 1936; in effect from passage. Approved by the Governor.]

Section 1. Appropriation to Department of Labor for maintenance of West Virginia Employment Service in cooperation with the Department of Labor of the United States.

Be it enacted by the Legislature of West Virginia:

Section 1. Appropriation for West Virginia Employment Service. It appearing from a statement of the revenues and appropriations for the fiscal years one thousand nine hundred thirty-five—one thousand nine hundred thirty-six, and one thousand nine hundred thirty-six—one thousand nine hundred thirty-seven, that there remains in the treasury, state fund general revenue, revenue in excess of the amount hereby appropriated, there is hereby appropriated from the state fund general revenue to the Department of Labor for the fiscal year one thousand nine hundred thirty-six—one thousand nine
CHAPTER 5

(House Bill No. 14 — By Mr. Davis)

AN ACT making appropriations of public moneys out of the treasury to pay the expenses of this extraordinary session of the Legislature.

[Passed June 20, 1936; in effect from passage. Approved by the Governor.]

Section
1. Appropriation for legislative printing.
2. Appropriation for mileage of members and expenses of Senate.
3. Appropriation for mileage of members and expenses of House of Delegates, and miscellaneous items.
4. Payment of bills for supplies and services not included in appropriation bill or incurred after adjournment.

Be it enacted by the Legislature of West Virginia:

That there be and is hereby appropriated out of the treasury for the fiscal year ending June thirtieth, one thousand nine hundred thirty-seven, the following sums of money for the following named purposes:

LEGISLATIVE PRINTING

Section 1. Legislative printing .................. $ 35,000.00

SENATE

Sec. 2. Mileage of Members .................. $ 929.10

President of the Senate, $2.00 per day, as presiding officer for six days .................. 12.00

Compensation and per diem of other Elective Officers

Compensation of the Clerk of the Senate .......... 120.00
### Appropriation for Expense of Session

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compensation of the Sergeant-at-Arms</td>
<td>$60.00</td>
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<tr>
<td>Compensation of the Doorkeeper</td>
<td>$60.00</td>
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<tr>
<td><strong>Compensation of Presidential Appointees</strong></td>
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<td>Seven Floor Stenographers</td>
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<td>One Mail Clerk</td>
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<tr>
<td>One Assistant Sergeant-at-Arms</td>
<td>$42.00</td>
</tr>
<tr>
<td>One Clerk to Sergeant-at-Arms</td>
<td>$42.00</td>
</tr>
<tr>
<td>One Secretary to the Minority</td>
<td>$72.00</td>
</tr>
<tr>
<td>One Minority Stenographer</td>
<td>$54.00</td>
</tr>
<tr>
<td>One Secretary to the President</td>
<td>$72.00</td>
</tr>
<tr>
<td>One Messenger to the President</td>
<td>$24.00</td>
</tr>
<tr>
<td>One Chief Page</td>
<td>$30.00</td>
</tr>
<tr>
<td>Three Assistant Doorkeepers</td>
<td>$126.00</td>
</tr>
<tr>
<td>One Enrolled Bill Clerk</td>
<td>$48.00</td>
</tr>
<tr>
<td>Two Pages</td>
<td>$48.00</td>
</tr>
<tr>
<td>One Men’s Cloakroom Attendant</td>
<td>$24.00</td>
</tr>
<tr>
<td>One Women’s Cloakroom Attendant</td>
<td>$24.00</td>
</tr>
<tr>
<td><strong>Clerk’s Appointees</strong></td>
<td></td>
</tr>
<tr>
<td>Four Proofreaders</td>
<td>$192.00</td>
</tr>
<tr>
<td>Two Copyholders</td>
<td>$84.00</td>
</tr>
<tr>
<td>One Assistant and Secretary to the Clerk</td>
<td>$72.00</td>
</tr>
<tr>
<td>One Journal Stenographer</td>
<td>$54.00</td>
</tr>
<tr>
<td>Five Journal Room Clerks</td>
<td>$210.00</td>
</tr>
<tr>
<td>Four Document Room Clerks</td>
<td>$168.00</td>
</tr>
<tr>
<td>Superintendent of Capitol Buildings and</td>
<td></td>
</tr>
<tr>
<td>Grounds and Six Assistants</td>
<td>$156.00</td>
</tr>
<tr>
<td>Contingent Fund of the Senate</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>Deposit with Central Mailing Office for Postage</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>Services in connection with preparation for opening of session, and for pages who served first two days of session</td>
<td>$105.00</td>
</tr>
</tbody>
</table>

#### HOUSE OF DELEGATES

**Sec. 3. Contingent Fund of the House of Delegates**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delegates</td>
<td>$20,000.00</td>
</tr>
<tr>
<td>Mileage of Members and Officers of the House of Delegates</td>
<td>$2,700.80</td>
</tr>
<tr>
<td>Salaries of Members of the House of Delegates</td>
<td>$2,500.00</td>
</tr>
</tbody>
</table>
Ch. 5]  

APPROPRIATION FOR EXPENSE OF SESSION  

6 Compensation and per diem of Officers and Attaches .................................................. 4,386.00
7 To pay for services rendered preliminary to opening of session (authorized by H. R. No. 6) .. 660.00
8 To John S. Hall, Clerk, for supervision of installation of voting machine from August 9th to November 30th, 1935 ................................................. 555.00
9 To M. P. Geene, Electrician for voting machine .......................................................... 40.00
10 To Lawrence Cunningham, Custodian of Buildings and Grounds .................................. 12.00
11 To Kenna Simmons, Janitor Service ........................................................................ 20.00
12 To R. E. Morgan, services .......................................................................................... 36.00
13 To Emory McClure, services ....................................................................................... 36.00

Miscellaneous Appropriations

19 Laird Office Equipment Company, services and supplies .................................................. 130.75
20 Woodrum Home Outfitting Company, supplies ............................................................ 50.00
21 Charleston Cut Flower Company, flowers ................................................................ 32.12
22 H. R. Judy, keys ......................................................................................................... 25.00
23 Electrolux, Inc., supplies ........................................................................................... 74.75
24 Thomas Office Supply Company, supplies ................................................................ 298.25
25 Diamond Ice Company, ice ....................................................................................... 129.50
26 C. W. Wendell, supplies ............................................................................................ 39.90
27 Rose City Press, supplies ............................................................................................ 16.35
28 Tyler Mountain Water Products Company, water ....................................................... 3.00

PAYMENT OF BILLS AFTER ADJOURNMENT OF SESSION

Sec. 4. The Clerk of the House of Delegates, with approval of the Speaker, and the Clerk of the Senate, with the approval of the President, are authorized to draw their warrants upon the Auditor, payable out the contingent fund of the respective houses, for any bills for supplies and services that may have been incurred by the House of Delegates and the Senate and not included in this appropriation bill, and for bills and services incurred after adjournment, the requisition for same to be accompanied by a bill for same to be filed with the Auditor.
CHAPTER 6

(House Bill No. 9 — By Mr. Thomas)

AN ACT to appropriate moneys from the treasury to continue unemployment relief for the remainder of the current fiscal year one thousand nine hundred thirty-five—one thousand nine hundred thirty-six.

[Passed June 19, 1936: in effect from passage. Approved by the Governor.]

Section 1. Appropriation for Relief of Needy. It appearing from a statement of revenues and appropriations for the fiscal year one thousand nine hundred thirty-five—one thousand nine hundred thirty-six, that there remains in the treasury, state fund general revenue, revenue in excess of the amount hereby appropriated, there is hereby appropriated from the state fund general revenue for the remainder of the current fiscal year one thousand nine hundred thirty-five—one thousand nine hundred thirty-six, the sum of one hundred five thousand dollars for the purpose of affording relief to needy persons for the remainder of the current fiscal year, to be expended upon the requisition of the Governor.
CHAPTER 7

(House Bill No. 8 — By Mr. Thomas)

AN ACT to appropriate moneys from the treasury for the construction, reconstruction and maintenance of public roads.

[Passed June 19, 1936; in effect from passage. Approved by the Governor.]

Section 1. Appropriation of two million dollars for the construction, reconstruction and maintenance of public roads.

Section 1. Appropriation for Public Roads. It appearing from a statement of the revenues and appropriations for the fiscal years one thousand nine hundred thirty-five—one thousand nine hundred thirty-six, and one thousand nine hundred thirty-six—one thousand nine hundred thirty-seven, that there remains in the treasury, state fund general revenue, revenue in excess of the amount hereby appropriated, there is hereby appropriated from the state fund general revenue to the state road fund for the fiscal year one thousand nine hundred thirty-six—one thousand nine hundred thirty-seven, to be used for the construction, reconstruction and maintenance of public roads, the sum of two million dollars, to be transferred from the state fund general revenue to the state road fund upon the requisition of the Governor, at such times and in such amounts as in his opinion the condition of the treasury warrants.
CHAPTER 8

(House Bill No. 6 — By Mr. Thomas)

AN ACT to appropriate state funds necessary to secure federal grants-in-aid of certain state institutions.

[Passed June 10, 1936; in effect from passage. Approved by the Governor.]

Section 1. Appropriation to Secure Federal Grants-in-Aid for Certain State Institutions. It appearing from a statement of the revenues and appropriations for the fiscal years one thousand nine hundred thirty-five—one thousand nine hundred thirty-six, and one thousand nine hundred thirty-six—one thousand nine hundred thirty-seven, that there remains in the treasury, state fund general revenue, revenue in excess of the amount hereby appropriated, there is hereby appropriated from the state fund general revenue the following sums of money for the purpose of furnishing and equipping the following buildings now under construction by the West Virginia Board of Control in cooperation with the Federal Emergency Administration of Public Works, such moneys to be expended under the direction of the West Virginia Board of Control as provided by law:

<table>
<thead>
<tr>
<th>Institution</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pinecrest Sanitarium</td>
<td>$7,300.00</td>
</tr>
<tr>
<td>Hopemont Sanitarium</td>
<td>$13,100.00</td>
</tr>
<tr>
<td>Weston State Hospital</td>
<td>$4,100.00</td>
</tr>
<tr>
<td>Marshall College</td>
<td>$30,000.00</td>
</tr>
<tr>
<td>Concord State Teachers College</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>Glenville State Teachers College</td>
<td>$8,500.00</td>
</tr>
<tr>
<td>West Liberty State Teachers College</td>
<td>$2,700.00</td>
</tr>
<tr>
<td>West Virginia State College</td>
<td>$33,500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$102,200.00</strong></td>
</tr>
</tbody>
</table>
CHAPTER 9
(Senate Bill No. 17 — By Mr. Hodges, by request)

AN ACT to appropriate public money out of the state treasury for the purpose of matching additional federal funds for vocational rehabilitation work, for the fiscal year ending June thirtieth, one thousand nine hundred thirty-seven.

[Passed June 19, 1936: in effect from passage. Approved by the Governor.]

Section
1. Appropriation to match additional federal funds for vocational rehabilitation.

Be it enacted by the Legislature of West Virginia:

Section 1. Appropriation for Vocational Rehabilitation.
2 For the purpose of matching additional federal funds for vocational rehabilitation work, for the fiscal year ending June thirtieth, one thousand nine hundred thirty-seven, there is hereby appropriated from the state treasury out of funds not otherwise appropriated, the necessary sum of twelve thousand seven hundred thirty-four dollars sixty-seven cents.

CHAPTER 10
(House Bill No. 2 — By Mr. Thomas)

AN ACT to extend the time for redemption of real estate sold for the non-payment of taxes assessed and levied thereon and purchased for the state, and providing that in making redemption of such real estate no interest, costs, fees or penalties shall be required to be paid for any year previous to the year one thousand nine hundred thirty-three.

[Passed June 16, 1936: in effect from passage. Approved by the Governor.]

Section
1. Time extended for redemption of real estate sold for the non-payment of taxes and purchased for the state, including lands
REDEMPTION OF DELINQUENT REAL ESTATE [Ch. 10

Section

certified to the commissioner of school lands but not sold and
sale confirmed; by whom and when redemption may be made;
when interest, costs, fees or penalties not to be required; re-
ceipts for payment of taxes.

2. Auditor to accept and disburse tax payments and report redemp-
tions monthly to county assessors.

Be it enacted by the Legislature of West Virginia:

Section 1. Redemption of Real Estate Sold for the Non-
Payment of Taxes. Notwithstanding the provisions of section
thirty, article ten, chapter eleven of the code of West Vir-
ginia, or the provisions of any other statute, the previous
owner of any real estate sold for the non-payment of taxes
assessed and levied thereon and purchased for the state. and
including real estate certified to the commissioner of school
lands of the respective counties, and including real estate
against which suits have been instituted but no sale and con-
firmation of sale made, the heirs or assigns of such previous
owner, or any person having a right to a lien on such real
estate or having a right to charge it for a debt, may, on or
before the thirtieth day of June, one thousand nine hundred
thirty-seven, redeem the same by paying to the Auditor of
the state of West Virginia the amount of all state, state
school, county, school district, and other district taxes, and
all municipal corporation taxes, including such taxes as were
or should have been assessed thereon for the year in which
the same was sold, together with such additional sums as
would have accrued thereon for all of such taxes if the same
had not been purchased for the state.

In making such redemption, no interest, costs, fees or pen-
alties shall be required to be paid for any year or years prior
to the year one thousand nine hundred thirty-three, but for
the year one thousand nine hundred thirty-three and for the
years subsequent thereto, such interest, costs, fees and pen-
alties shall be required to be paid as are provided for by law.

When real estate is redeemed from the Auditor under the
provisions of this act he shall execute triplicate receipts, one
copy to be retained in the files of his office and two copies to
be delivered to the person paying such taxes, and when one
copy of such redemption receipt shall be presented to the
clerk of the county court of the county in which the real
34 estate so redeemed is situated, such clerk shall record and file
35 such receipt, and shall note such redemption on the records
36 of his office wherein the sale of such real estate is shown. For
37 such services the clerk shall receive no fee.

Sec. 2. Auditor to Accept and Disburse Tax Payments;  
Reports to Assessors. It shall be the duty of the Auditor of 
this state to accept payment of the taxes mentioned in section 
one of this act and to disburse same as other tax moneys are 
disbursed. He shall report monthly to the assessors of the 
several counties all redemptions permitted under the pro-
visions of this act.

CHAPTER 11
(House Bill No. 3 — By Mr. Thomas)

AN ACT to provide a moratorium for the institution and prosecu-
tion of suits for the sale of forfeited or escheated lands.

[Passed June 17, 1936; in effect from passage. Approved by the Governor.]

Section
1. Time extended for institution or prosecution of suits for the sale 
of forfeited or escheated lands; exceptions.

Be it enacted by the Legislature of West Virginia:

Section 1.—Suits for Sale of Forfeited or Escheated 
Land—Notwithstanding the provisions of section ten, article 
three, chapter thirty-seven of the code of West Virginia, as 
amended by chapter eighteen, acts of the Legislature, first 
extraordinary session, one thousand nine hundred thirty-
three, no suit shall be instituted or prosecuted for the sale of 
forfeited or escheated lands until after the thirtieth day 
of June, one thousand nine hundred thirty-seven: Provided,

That such suit may be instituted and prosecuted at any time 
at the instance and request of the former owner or owners 
of any particular tract or tracts of land, or of a redeemable
12 interest or interests therein, or such suit may be instituted
13 and prosecuted at any time at the express direction and
14 order of the court.

CHAPTER 12
(House Bill No. 4 — By Mr. Speaker, Mr. Pelter)

AN ACT to authorize county courts, district boards of education,
and municipalities to receive and expend federal grants-in-aid
for the construction or improvement of public buildings and
public improvements, and in conjunction therewith to raise
and expend local revenues.

[Passed June 19, 1936: in effect from passage. Approved by the Governor.]

Section
1. County courts, district boards of education and municipalities
authorized to receive and expend federal grants of money for
public improvements in conjunction with local revenues, when
authorized levies not needed for debt purposes may be used
for public improvements.

Be it enacted by the Legislature of West Virginia:

Section 1. Federal Grants of Money for Public Improve-
ments. That county courts, district boards of education and
municipalities are hereby authorized to receive grants of
money from the federal government or any department or in-
strumentality thereof, for the construction or improvement
or in aid of the construction or improvement of public build-
ings and other public improvements, and may expend such
moneys for such purposes.

They may expend in conjunction with such federal grants,
any moneys held or to be raised by them and not required for
other public purposes, for the construction or improvement
of such public buildings and public improvements, and may
levy taxes therefor within the prescribed constitutional and
statutory limitations of levies.
When any such county court, district board of education or municipality is not required to utilize its full allocation of levies for debt purposes, so much of the allocations of levies to the respective fiscal bodies for debt purposes made by chapter sixty-seven, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, or any amendments thereto, as are not required for debt purposes, may be utilized for the purpose of raising moneys for the construction or improvement of such public buildings, and the making of other public improvements.

CHAPTER 13

(House Bill No. 13 — By Mr. Martin, of Jefferson)

AN ACT to amend and reenact section five, article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as said section was enacted by chapter forty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, relating to roads and highways.

[Passed June 20, 1933; in effect from passage. Approved by the Governor.]

Section 5. Exercise of right of eminent domain by state road commission or state road commissioner for certain purposes, including interstate bridges and bridge sites; character of title acquired; exercise of right in adjoining state; proceedings may be at law or in equity.

Be it enacted by the Legislature of West Virginia:

That section five, article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as said section was enacted by chapter forty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 5. Right of Eminent Domain. The state road commissioner, or the state road commission may acquire by right of eminent domain any land or water, or any interest therein or any rights, ways, or easements thereon or thereover, for the
purpose of constructing, widening, straightening, grading, or altering any state road, or for the purposes enumerated in section twenty-five of this article, or to provide a detour or temporary road or bridge while a road is in the process of construction, reconstruction, improvement, or repair, or for any other purposes authorized by any provision of this chapter, whenever a just compensation cannot be agreed upon by the owner or claimant of such property, for such taking, use, or damage.

The state road commissioner, or the state road commission, for any of the purposes aforesaid may likewise acquire by eminent domain any bridge or bridge site across any stream separating this state from an adjoining state, any portion thereof, or the approaches thereto, or any interest, franchise, right, or privilege in the same, whether the same be owned and operated by a bridge company, a railroad or electric company, or other railway, or other utility, or any other person, firm, or corporation, such right to be exercised to provide either for a permanent title, ownership, use, or easement thereon or thereover, or for a temporary use and easement thereon or thereover as a detour, or temporary road or bridge; and such rights may be acquired subject to the use by any railroad or electric company, or other railway or utility, or under such reasonable regulation as to such use as the court may prescribe. The state road commission may also exercise in any adjoining state such powers of eminent domain for any of the purposes aforesaid, whether such powers are now conferred or may be hereafter conferred upon the commission by any act of congress of the United States, if such act of congress be necessary for the exercise of such powers. Title to property condemned in any adjoining state may be taken either in the name of the state or of the state road commission.

The proceedings for the purposes aforesaid may be instituted in the name of the commissioner, or the state road commission, either at law or in equity, and prosecuted and determined as provided in chapter fifty-four.
CHAPTER 14
(Senate Bill No. 14 — By Mr. Hodges, by request)

AN ACT to amend and reenact section nineteen, article three, chapter four, acts of the Legislature, regular session, one thousand nine hundred thirty-five, relating to the state control of alcoholic liquors.

[Passed June 10, 1935; in effect from passage. Approved by the Governor.]

Section 1. Maximum amounts of collections by West Virginia Liquor Control Commission to be credited to operating and reserve funds; excess receipts to be transferred monthly to state fund general revenue.

Be it enacted by the Legislature of West Virginia:

Section 19. Operating and Reserve Funds; Excess. All moneys collected by the commission shall be credited to the operating fund until that fund reaches an amount sufficient for the current and routine requirements of the department, this amount to be fixed by the commission with the approval of the governor, and not to exceed at any time the sum of two hundred fifty thousand dollars. The receipts in excess of the requirements of the operating fund shall be paid into the reserve fund until the amount of the reserve fund equals three hundred fifty thousand dollars. Receipts in excess of the requirements of the operating and reserve funds shall be transferred monthly into the state fund general revenue of the state treasury upon requisition of the governor.
CHAPTER 15
(Senate Bill No. 18 — By Mr. Randolph and Mr. Barnhart)

AN ACT establishing a West Virginia Commission on Interstate Cooperation.

[Passed June 20, 1936; in effect from passage. Approved by the Governor.]

Section
1. West Virginia Commission on Interstate Cooperation created; duties.
2. Senate standing Committee on Interstate Cooperation: number and appointment of members; president of Senate may serve as member.
3. House of Delegates standing Committee on Interstate Cooperation; number and appointment of members.
4. Number and appointment of members of commission: chairman: governor to be honorary member.
5. Committees of commission; membership and duties; advisory boards.
6. Reports by commission to governor and legislature; members of commission and committees to serve without compensation.
7. Senate and House councils of the American Legislators' Association; terms; terms of administrative members.

Be it enacted by the Legislature of West Virginia:

Section 1. Commission on Interstate Cooperation. There is hereby established the West Virginia Commission on Interstate Cooperation, which shall encourage and arrange conferences with officials of other states and of other units of government; carry forward the participation of this state as a member of the Council of State Governments, both regionally and nationally; and formulate proposals for cooperation between this state and other states.

Sec. 2. Senate Committee. There is hereby established a standing Committee on Interstate Cooperation of the Senate, to consist of three Senators. The members and chairman of this committee shall be designated in the same manner as is customary in the case of the members and chairman of other standing committees of the Senate. The President of the Senate may serve as one of the three members of this committee.
Sec. 3. *House Committee.* There is hereby established a similar standing Committee on Interstate Cooperation of the House of Delegates, also to consist of three members; and the members and chairman of this committee shall be designated in the same manner as is customary in the case of the members and chairman of other standing committees of the House of Delegates.

Sec. 4. *Membership of the Commission.* The said Commission on Interstate Cooperation shall be composed of twelve members, namely:

1. The three members of the Committee on Interstate Cooperation of the Senate;
2. The three members of the Committee on Interstate Cooperation of the House of Delegates;
3. Three private citizens of the state named by the governor;
4. Three officials of the state government named by the governor, one of whom shall be designated by him as the chairman of the commission.
5. The governor shall be an honorary member of the commission.

Sec. 5. *Committees; Duties; Advisory Boards.* The commission shall establish such committees as it deems advisable, to conduct conferences and to formulate proposals concerning subjects of intergovernmental cooperation. Subject to the approval of the commission, the members of every such committee shall be appointed by the chairman of the commission. State officials who are not members of the Commission on Interstate Cooperation may be appointed as members of any such committee, but at least one member of the commission shall be a member of every such committee. The commission may provide such rules as it considers appropriate concerning the membership and the functioning of any committee which it establishes. The commission may provide for advisory boards for itself and for its various committees, and for the services of private citizens on such boards.

Sec. 6. *Reports of Commission.* The commission shall report to the governor and to the legislature within fifteen days after the convening of each regular legislative session, and at
such other times as it deems appropriate. Its members and
the members of all committees which it establishes shall serve
without compensation.

Sec. 7. Councils of American Legislators' Association. The
said standing committee of the Senate, and the said standing
committee of the House of Delegates, shall function during
the regular sessions of the legislature and also during the
interim periods between such sessions; their members shall
serve until their successors are designated; and they shall
respectively constitute the Senate and House Councils of the
American Legislators' Association for this state. The term of
each administrative member of the commission shall extend
until the next gubernatorial inauguration and thereafter until
his successor is appointed.
RESOLUTIONS

HOUSE CONCURRENT RESOLUTION NO. 1

(By Mr. LaFon)

[Adopted June 15, 1930.]

Raising a joint committee to notify the Governor that the Legislature has assembled in extraordinary session.

Resolved by the House of Delegates, the Senate concurring therein:

That a joint committee be appointed, three by the President of the Senate and three by the Speaker of the House of Delegates, to wait upon His Excellency, the Governor, and inform him that the Legislature has assembled in extraordinary session, pursuant to his proclamation, issued on the sixth day of June, one thousand nine hundred thirty-six, with a quorum of each house present and is ready to receive any communication or message he may desire to present.

HOUSE CONCURRENT RESOLUTION NO. 2

(By Mr. Thomas)

[Adopted June 15, 1930.]

Providing for a joint assembly.

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature meet in joint assembly in the chamber of the House of Delegates at 3:00 o’clock, P. M., this day, to hear an address by His Excellency, the Governor.
HOUSE CONCURRENT RESOLUTION NO. 3

(BY MR. AMOS)

[Adopted June 18, 1936.]

Raising a joint committee to make an investigation and study of the laws of the State of West Virginia relating to the sale of non-intoxicating beer with regard to the administration thereof, the licensing of dispensers thereunder and any abuses of said law, and providing that such committee shall report its findings, together with suggested changes in said law, to the Governor and to the Legislature.

WHEREAS, It is the sense of the Legislature that a joint committee be appointed for the purpose of investigating and studying the functioning of the present beer law with particular regard to abuses thereunder by dispensers, and with a view to recommending legislation to correct such abuses and circumstances existing thereunder as tend to undermine public morals and decency; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That a joint committee of six be raised, to be known as 'The Committee on Beer Legislation,' three members thereof to be appointed by the President of the Senate and three members thereof to be appointed by the Speaker of the House of Delegates; that such committee investigate and study the functioning of the present beer law, with particular regard to abuses thereunder and any and all circumstances existing thereunder which tend to undermine public morals and decency; and that said committee report its findings, together with suggested changes in the non-intoxicating beer law, to the Governor and both houses of the Legislature, on or before November 30, 1936.

Said committee is hereby authorized to hold its meetings in any part of the State of West Virginia it may determine, and the expenses of the members of said committee shall be paid equally from the contingent funds of the Senate and House of Delegates upon certificate of the Chairman of said committee after approval of the President of the Senate and the Speaker of the House of Delegates.
HOUSE CONCURRENT RESOLUTION NO. 4

(By Mr. Russer)

[Adopted June 18, 1936.]

Concerning the one hundredth anniversary of the City of Wheeling.

Whereas, The City of Wheeling proposes on the seventeenth to the twenty-first days of September, both inclusive, of this year, to celebrate the one hundredth anniversary of its incorporation as a municipality; and

Whereas, The City of Wheeling and the communities surrounding it have played an important part in the history of this State and the commonwealth of Virginia before the organization of this State, it having been the location of one of the first settlements in the Ohio Valley; long a trading center of river navigation before the advent of the railroad; a pioneer in the iron and steel business; the place of the convention which originated the organization of the State of West Virginia; the first capital of the State; and, during all this period, a leader in the industrial, social and professional life of the State, which position it still maintains; and

Whereas, The celebration of the organization of the City of Wheeling is an event of interest not only to the people of West Virginia but to the bordering states and one to which attention should be given by this body; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature of West Virginia hereby approves the aims and purposes of the proposed centennial celebration and urges that the people of this state attend the celebration and give to it their active support; and, be it

Further Resolved, That the Governors of the States of Ohio, Pennsylvania and Virginia be notified of the said anniversary celebration and be invited to participate therein, and that such invitation be extended by delivering to the Governors of the said states a copy of this resolution; and, be it

Further Resolved, That we hereby felicitate the citizens of the City of Wheeling upon its splendid progress in the century just
closing, and congratulate them on the prospects for the future along all lines which have made it a great community, and a splendid part of our commonwealth; and, be it

Further Resolved, That a copy of this resolution be transmitted to Thomas M. Block, Chairman of the Centennial Celebration Committee.

HOUSE CONCURRENT RESOLUTION NO. 8
(By Mr. Vickers)
[ Adopted June 20, 1930.]

Authorizing the payment of expenses for services and supplies after the close of this extraordinary session of the Legislature.

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature of West Virginia hereby authorizes the payment of expenses for services and supplies incurred after the close of this extraordinary session of the Legislature, in completing the work of the session, and that the Auditor is hereby authorized and directed to honor and pay the warrants of the Clerk of the Senate and the Clerk of the House of Delegates, drawn in favor of persons for services performed or supplies furnished, as authorized by either separate or concurrent action of the two houses; and, be it

Further Resolved, That all extensions of per diem authorized by House Resolution No. 17, per diem and expenses authorized by House Resolution No. 19, and by Senate Resolutions for similar purposes, are hereby declared to be authorized by the Legislature and shall have the same force and effect as if they were incorporated herein.

HOUSE CONCURRENT RESOLUTION NO. 9
(By Mr. LaFon)
[ Adopted June 20, 1930.]

Raising a joint committee to notify His Excellency, the Governor, that the Legislature is ready to adjourn sine die.
Resolved by the House of Delegates, the Senate concurring therein:

That a joint committee of six, consisting of three on the part of the Senate, to be appointed by the President thereof, and three on the part of the House of Delegates, to be appointed by the Speaker thereof, be appointed to notify His Excellency, the Governor, that the Legislature has completed its labors for which it was convened in extraordinary session, is ready to adjourn siné die, and inquire of him if he has any further communication to make to the Legislature.

HOUSE RESOLUTION NO. 1

(By Mr. James)

(Originating in the Committee on Rules)

[ Adopted June 15, 1935.]

Adoption of House Rules and authorizing the use of a voting machine.

Resolved by the House of Delegates:

That the rules of the House of Delegates for the 1935 regular session of the Legislature insofar as applicable, and as the same may be modified and amended by the adoption of rules providing for the use of a voting machine, are hereby adopted as the rules to govern the proceedings of this extraordinary session; and, be it

Further Resolved. That a new rule to be numbered 49-a, be adopted, as follows:

49-a. Voting by Machine. A voting machine may be used in taking the yeas and nays on any question, for quorum calls and for determining the result when a division is demanded.

When a vote is to be taken on the voting machine the Speaker shall announce the question to be voted upon and direct the Clerk to prepare the machine. The Clerk shall then sound the gong which shall be notice to all members to vote. After reasonable time has been given all members to vote the Speaker shall ask the question "Have all members voted?", vote himself, if the vote being taken is upon a question on which he is required to vote,
and then direct the Clerk to close the machine and ascertain the result. As soon as this is done, the Clerk shall hand the record of the vote to the Speaker and he shall promptly announce the result. No vote may be changed after it has been recorded.

No member shall vote for another member, nor shall any person not a member cast a vote for a member. In addition to such penalties as may be prescribed by law, any member who shall vote or attempt to vote for another member may be expelled as a member of the House or punished in such other manner as the House may determine. If a person not a member shall vote or attempt to vote for any member he shall be barred from the floor of the House for the remainder of the session and may be further punished in such manner as the House may deem proper, in addition to such punishment as may be prescribed by law.

All other rules governing voting and the taking of the yeas and nays, insofar as applicable, shall apply to taking votes by means of the voting machine.

HOUSE RESOLUTION NO. 2

(By Mr. Gentry)

[Adopted June 15, 1936]

Raising a committee to inform the Senate that the House of Delegates has assembled in extraordinary session.

Resolved by the House of Delegates:

That the Speaker appoint a committee of three to inform the Senate that a quorum of the House of Delegates has assembled in its chamber in extraordinary session, pursuant to the proclamation of His Excellency, the Governor, issued on the sixth day of June, one thousand nine hundred thirty-six, and is ready to proceed with the business for which this extraordinary session of the Legislature has been convened.
HOUSE RESOLUTION NO. 3

(By Mr. WiseMAN)

[Adopted June 15, 1936.]

Concerning the death of the Honorable C. N. Proctor.

WHEREAS, The Honorable C. N. Proctor, a member of this body from the County of Fayette, has departed this life; and

WHEREAS, He was one of Fayette County’s leading citizens, a prominent business man, a hard-working member of the Legislature and a devoted servant of the people; and

WHEREAS, In the passing of Delegate Proctor this body and the county which he represented well and faithfully loses a capable, distinguished legislator; therefore, be it

Resolved by the House of Delegates:

That this body deplores the loss of this member and extends to his family the heartfelt sympathy of the members of the House of Delegates; and, be it

Further Resolved, That the Clerk transmit a copy of this resolution to the widow of the deceased.

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HOUSE RESOLUTION NO. 4

(By Mr. Strouss)

[Adopted June 15, 1936.]

Authorizing the Clerk to compile and have a Legislative Manual printed.

WHEREAS, The rules of the Legislature have not been printed in convenient form for use of the members; therefore, be it

Resolved by the House of Delegates:

That the Clerk is hereby authorized to compile and have printed without delay a Legislative Manual containing the rules of the Legislature and such other matter as he may deem proper.
HOUSE RESOLUTION NO. 5

(By Mr. Hiner)

(Originating in the Committee on Rules)

[Adopted June 15, 1936.]

Authorizing the appointment of attaches for this extraordinary session of the Legislature.

Resolved by the House of Delegates:

That the Speaker of the House of Delegates be, and he is hereby authorized to appoint for the House of Delegates, the following attaches and other employees to receive the per diems as herein provided during this extraordinary session of the Legislature:

(1) For the Clerk’s office the following:

Two record clerks at seven dollars per day;
Two roll-call clerks at six dollars per day;
One supervisor of printing at ten dollars per day;
Four proofreaders at seven dollars per day;
Four copyholders at seven dollars per day;
One clerk to the Committee on Enrolled Bills at seven dollars per day;
One messenger at five dollars per day;
Two stenographers at seven dollars per day;
One assistant clerk at ten dollars per day;
One Journal clerk at ten dollars per day;
One Journal stenographer at eight dollars per day;

(2) For other offices and positions the following:

One Chaplain at six dollars per day;
One Clerk and one stenographer to the Committee on Taxation and Finance at ten and seven dollars per day, respectively;
One Clerk and one stenographer to the Committee on the Judiciary at ten and seven dollars per day, respectively;
One Clerk and one stenographer to the Committee on Roads at eight and seven dollars per day, respectively;
One supervisor of stenographers at ten dollars per day;
Twenty-five stenographers at seven dollars per day;
One Chief Journal Room Clerk at eight dollars per day;
Ten Assistant Journal Room Clerks at seven dollars per day;
One mailing clerk at eight dollars per day;
Five assistant mailing clerks at seven dollars per day;
Five pages at four dollars per day;
Three assistant Sergeants-at-Arms at six dollars per day;
Six assistant Doorkeepers at six dollars per day;
Two men's cloak room attendants at five dollars per day;
One ladies' cloak room attendant at five dollars per day;
Four janitors at five dollars per day;
One nightwatchman at six dollars per day; and, be it

Further Resolved, That the secretary and stenographer to the Speaker, as provided for by the rules of the House, shall receive ten and eight dollars per day, respectively; and that the secretary and stenographer to the Clerk, as provided for by the rules, shall receive seven and ten dollars per day, respectively; and, be it

Further Resolved, That the Clerk of the House shall receive twenty dollars per day; that the Sergeant-at-Arms and Doorkeeper shall each receive ten dollars per day; and that the three assistant clerks provided for by section nine, article one, chapter four of the code, shall each receive ten dollars per day; and, be it

Further Resolved, That all of the appointments made under authority of this resolution shall be certified to the Auditor and Treasurer by the Clerk, and the Clerk is hereby authorized to draw his warrants or requisitions upon the Auditor in favor of the persons so appointed and the Auditor shall honor and pay such warrants when presented and charge same to the "per diem of officers and attaches fund of the House of Delegates." The Clerk shall draw his warrants in favor of officers, attaches and other employees, for consecutive days from the date of the opening of this session, at the per diem herein set out, until such time as their services shall cease. The Speaker shall require each of said employees to perform such duties as shall be assigned him and is hereby given authority to dispense with the services of any attaché or attaches for any such time or number of days as their services shall not be needed during the session, and they shall not be paid for such time, nor shall other persons be appointed in their places for any such time as they may be suspended when not needed; and, be it
Further Resolved, That the Speaker is hereby authorized to assign attaches and employees to such positions and duties as he may deem proper to secure the most efficient and expeditious work during the session of the Legislature.

HOUSE RESOLUTION NO. 6
(BY MR. THOMAS)
[Adopted June 15, 1936.]

Authorizing payment for services rendered preliminary to the opening of this session.

Resolved by the House of Delegates:

That the Clerk is hereby directed to draw his warrants upon the Auditor in favor of the following persons in the amounts herein set out, for services rendered the House of Delegates, preliminary to the convening of the Legislature:

John S. Hall, Clerk........................................... $140.00
O. C. Parsons............................................... 70.00
Wm. O. Dower............................................... 70.00
Elmer Ferrell............................................... 70.00
Hal. F. Depue............................................... 70.00
C. R. Bishop............................................... 70.00
Jack Diamond............................................... 35.00
Sam White, Janitor....................................... 30.00
W. E. Kirkle, Janitor.................................... 25.00
Dell Mullens, Janitor..................................... 20.00
Jack Thomas, Janitor.................................... 30.00
J. A. Morgan, Janitor.................................... 10.00
Mrs. Jimmy Jackson...................................... 20.00

All of said amounts to be paid out of the "per diem of officers and attaches fund of the House of Delegates."
HOUSE RESOLUTION NO. 9

(BY MR. VAN SICKLER)

[Adopted June 18, 1936.]

Relating to quarters for the West Virginia Liquor Control Commission.

WHEREAS, The West Virginia Liquor Control Commission has in its clerical employ more than one hundred persons, seventy of whom, together with auditing machines, stationary desks, record cabinets and other necessary equipment are now located in one room in the basement of the capitol, which room is without natural light, is inadequately ventilated, and is otherwise unsuited for the purpose for which it is being used; and

WHEREAS, Because of the said existing conditions the health and comfort of said employees are threatened and jeopardized, and the proper and orderly business of said commission is impaired and impeded; therefore, be it

Resolved by the House of Delegates:

That the Board of Public Works be and the same is hereby requested to promptly provide suitable and convenient quarters for the use of the said commission, to the end that the public business conducted by it may be transacted with convenience, decorum and dispatch, and the health and comfort of its employees vouched and safeguarded.

HOUSE RESOLUTION NO. 10

(BY MR. GENTRY)

[Adopted June 19, 1936.]

Directing the Auditor to request members of the House of Delegates who have resigned to return their salary to the State Treasury.

WHEREAS, Since drawing their salary for the year, 1936, a number of members of this body have resigned to accept appointments to positions with the Federal Government; therefore, be it
Resolved by the House of Delegates:

That the State Auditor is hereby directed to request the members of the House of Delegates who have resigned since the 1935 regular session, and who have been paid their salaries for 1936, to return same, or any unearned portion of same, to the State Treasury.

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HOUSE RESOLUTION NO. 12

(By Mr. Neal)

[Adopted June 10, 1936.]

Requesting the Clerk of the Senate to furnish the members of the House of Delegates with additional Blue Books.

Whereas, Many members of the House of Delegates have exhausted their allotment of the 1935 Blue Book, and have had many calls for additional copies of said book; therefore, be it

Resolved by the House of Delegates:

That the Clerk of the Senate is hereby requested to give each member of this House twelve additional copies of the 1935 Blue Book.

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HOUSE RESOLUTION NO. 13

(By Mr. Reed, by request)

[Adopted June 20, 1936.]

Granting permission for David Lasser to address the House of Delegates.

Whereas, The National Workers' Alliance of America with a membership of eight hundred thousand, through its Chairman, David Lasser, has requested ten or fifteen minutes' time for Mr. Lasser to speak to this body in behalf of certain subjects in which the said organization is interested; therefore, be it

Resolved by the House of Delegates:

That David Lasser be granted permission to address this body before adjournment.
Expressing appreciation and thanks to the people of the Commonwealth of Pennsylvania, the people of the State of Ohio, the people of the State of West Virginia, the American Red Cross, the American Legion and the Salvation Army for the splendid assistance rendered to the people of the devastated flood area.

Whereas, In March of 1936, there came to the Upper Ohio Valley the most devastating flood ever known in the history of our State, and took a heavy toll of property and life, and left many families homeless, hungry, cold and destitute. Our people in the flood area being in dire need of the necessities of life and not being able to obtain the same, were given immediate aid in the way of food, clothing, furniture, medical care and money by the people of the Commonwealth of Pennsylvania, the people of the State of Ohio, the people of the State of West Virginia, the American Red Cross, the American Legion and the Salvation Army; therefore, be it

Resolved by the House of Delegates:

That this body go on record as appreciating and thanking the people of the Commonwealth of Pennsylvania, the people of the State of Ohio, the people of the State of West Virginia, the American Red Cross, the American Legion, the Salvation Army and all other organizations and individuals for the splendid assistance rendered to the people of the devastated flood area; and, be it

Further Resolved, That the Clerk of the House of Delegates send a copy of this resolution to the Governor of the Commonwealth of Pennsylvania, the Governor of the State of Ohio, the National Chairman of the American Red Cross, the General of the Salvation Army, and the National Commander of the American Legion.
HOUSE RESOLUTION NO. 15

(BY MR. GALBRAITH)

[Adopted June 20, 1936.]

Authorizing the Auditor and Treasurer to pay salaries of certain members of the House of Delegates.

WHEREAS, The Governor has appointed the following named persons to fill vacancies in the House of Delegates; and

WHEREAS, Each of said persons has qualified as a member of the House of Delegates, by taking and subscribing to the several oaths prescribed by section sixteen, article six of the Constitution of this State; therefore, be it

Resolved by the House of Delegates:

That upon the warrants of the Clerk, the Auditor and Treasurer are hereby authorized and directed to pay to the following members, the sum of five hundred dollars each, as salary for the year one thousand nine hundred thirty-six, in advance of the appropriation for the purpose:

George S. Wallace, Huntington, West Virginia, to fill the vacancy caused by the resignation of the Honorable Ed V. Perry, of Cabell County.

Mrs. Allie Dickerson Proctor, Clifftop, West Virginia, to fill the vacancy caused by the death of the Honorable C. N. Proctor, of Fayette County.

Paul H. Kidd, Glenville, West Virginia, to fill the vacancy caused by the resignation of the Honorable E. E. Cottrill, of Gilmer County.

Clifford R. Snider, Clarksburg, West Virginia, to fill the vacancy caused by the resignation of the Honorable John H. Clifford, of Harrison County.

E. E. White, Madison, West Virginia, to fill the vacancy caused by the resignation of the Honorable Arnold G. Breedlove, of Boone County.
HOUSE RESOLUTION NO. 16
(By Mr. Thomas)

[Adopted June 20, 1936.]

Authorizing the Auditor to pay mileage to the Doorkeeper of the House of Delegates.

Resolved by the House of Delegates:

That the Clerk is hereby authorized to draw his warrant upon the Auditor in the amount of $61.80 for mileage for the Honorable J. N. Finley, Doorkeeper of the House of Delegates, to be paid from the appropriation for mileage hereafter to be made.

HOUSE RESOLUTION NO. 17
(By Mr. Hiner)

(Originating in the Committee on Rules)

[Adopted June 20, 1936.]

Authorizing the printing of the Acts and the House Journal of this session of the Legislature and providing for extension of time for persons to complete the work of the session.

Resolved by the House of Delegates:

That under authority of section thirteen, article one, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, the clerk of the House of Delegates is hereby directed to have printed by the public printer six thousand copies of the Acts of this extraordinary session of the Legislature, in pamphlet form, properly headnoted, indexed and with a full table of contents, for distribution among the members of the Legislature, judges of the supreme court of appeals, circuit, common pleas, criminal and intermediate courts, and the county officials.

The public printer shall print and deliver said copies of the Acts as soon as possible after the adjournment of this session. The Clerk of the Senate shall be furnished sufficient copies to forward by mail or express twenty of said copies to each member of the State Senate, and the Clerk of the House of Delegates shall forward by mail or express twenty copies of said Acts to each member of the House of
Delegates, as soon as the same are printed and available for distribution. The Clerk of the House of Delegates shall also furnish one copy to each of the state officials, judges of the supreme court of appeals, circuit, common pleas, criminal and intermediate courts of this state, and shall forward to the county clerk of each county, sufficient copies to furnish one copy to each county office; the remainder, if any, shall be delivered to the superintendent of public printing for distribution by him. The Clerk of the House of Delegates is also authorized to have printed, in signature form or advance sheets, any general law which he may deem to be of sufficient importance to be issued and distributed in this form.

The type from which said Acts are printed shall be held by the public printer and the Acts of this session shall be included in the bound volume of the next regular session of the Legislature.

For the work required in printing and distributing the Acts of this session, and for proofreading, indexing and headnoting the same; for the purpose of arranging and filing of all bills, resolutions and other official papers in the office of the Speaker and Clerk; for indexing, proofreading and printing of the Journals of the House of Delegates; for the purpose of arranging the offices and committee rooms and performing the other duties of the office of the Sergeant-at-Arms, the time of the following officers and employees is extended for the time hereinafter set out, at the same per diem as paid during this extraordinary session of the Legislature, to-wit:

The Clerk, two assistant clerks, the secretary to the Clerk, the journal clerk, the journal stenographer, the secretary to the Speaker, two stenographers and one janitor is extended for thirty days; two proofreaders and two assistant clerks for twenty days; two mailing clerks, the chief journal room clerk, the Sergeant-at-Arms, the Doorkeeper and two janitors is extended for ten days.

All persons given extensions of time in this resolution shall be paid the same per diem as paid for the same positions during this extraordinary session. The Clerk shall draw his warrants upon the Auditor in favor of the persons entitled to per diems under this resolution for consecutive days until such time as their services cease, and the Auditor shall honor and pay such warrants when presented and charge same to the contingent fund of the House of Delegates.
To pay postage or expressage on the Acts and Journals, the sum of two hundred dollars is hereby directed to be paid by the Auditor from the contingent fund of the House of Delegates upon the warrants of the Clerk.

HOUSE RESOLUTION NO. 18
(By Mr. Paul)
[Adopted June 20, 1936.]

Directing the Clerk to mail the members a copy of the corrected House Journal.

Resolved by the House of Delegates:

That the Clerk of the House of Delegates is hereby authorized and directed to mail each member of this body a copy of the corrected House Journal of this session of the Legislature when the same is printed and bound.

HOUSE RESOLUTION NO. 19
(By Mr. James)
(Originating in the Committee on Rules)
[Adopted June 20, 1936.]

Providing for the selection and equipping of permanent offices for the Clerk of the House of Delegates.

WHEREAS, The Clerk of the House of Delegates is keeper of the rolls of the Legislature and has in his custody all engrossed bills passed by the Legislature, joint and concurrent resolutions adopted, as well as many other official records and documents; and

WHEREAS, The Clerk of the House of Delegates does not now have suitable and adequate office space for filing and safekeeping of the official legislative records; and

WHEREAS, It is highly important that all legislative records be preserved; therefore, be it

Resolved by the House of Delegates:
That the Rules Committee of this House is hereby directed to
immediately select adequate and suitable offices for the Clerk of the House of Delegates; and, be it

**Further Resolved,** That the Clerk and one assistant, to be designated by the Clerk, be paid for ten days at the same per diem as paid during this extraordinary session, for filing, indexing, and arranging the official papers of the Clerk’s office before the next regular session of the Legislature; and, be it

**Further Resolved,** That if additional filing cabinets and other furniture or equipment is needed to properly outfit and furnish a permanent office for the Clerk, he is hereby authorized to purchase same at a cost not to exceed five hundred dollars ($500.00). All bills for expenses incurred under authority of this resolution shall be paid by the Auditor from the contingent fund of the House of Delegates upon warrants of the Clerk.

**HOUSE RESOLUTION NO. 20**

*(By Mr. Brotherton)*

[Adopted June 20, 1936.]

Notifying the Senate that the House of Delegates is ready to adjourn *sine die.*

**Resolved by the House of Delegates:**

That a committee of three be appointed by the Speaker to notify the Senate that the House of Delegates has completed its labors and is ready to adjourn *sine die.*

**SENATE CONCURRENT RESOLUTION NO. 1**

*(By Mr. Spillers)*

[Adopted June 15, 1936.]

Relating to joint rules of the Senate and House of Delegates.

**Resolved by the Senate, the House of Delegates concurring therein:**

That the joint rules of the Senate and House of Delegates for the regular session of the Legislature, one thousand nine hundred thirty-five, are hereby adopted and shall govern the proceedings of this extraordinary session.
SENATE CONCURRENT RESOLUTION NO. 2

(BY MR. SMITH)

[Adopted June 15, 1936.]

Relating to the payment by the Auditor of mileage and contingent and other expenses of this extraordinary session of the Legislature.

Resolved by the Senate, the House of Delegates concurring therein:

That the Auditor, in advance of the appropriation for the purpose, is hereby authorized, upon proper warrants of the Clerk of the Senate and the Clerk of the House of Delegates, to pay the mileage of the members of the Senate and the House of Delegates; bills incurred and services furnished to the Legislature for this session, including contingent expenses; the per diem of the officers and attaches of the Senate and House of Delegates and for legislative printing of this session, as the accounts for same may come due.

SENATE CONCURRENT RESOLUTION NO. 3

(BY MR. BARNHART)

[Adopted June 15, 1936.]

Continuing the Joint Committee to study and report to the Governor and to the Legislature, concerning legislation on problems of Social Security and other subjects appurtenant thereto.

WHEREAS, The Joint Legislative Committee on Social Security legislation, created by Senate Concurrent Resolution No. 10, adopted March 1, regular session, 1935, has submitted to the Governor and to the Legislature its report and recommendations on those phases of the Federal Social Security program, dealing with grants-in-aid and with general relief; and

WHEREAS, The committee on page four of its report calls attention to studies in which it is now engaged on the subject of Unemployment Compensation, and upon which it is not yet ready to report to the Legislature; and

WHEREAS, The report further indicates the belief of the com-
mittee that this question must be met and answered before the first federal payroll levy therefor is due and payable on January 31, 1937; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the said Joint Committee, created under Senate Concurrent Resolution No. 10, adopted March 1, 1935, be continued until December 1, 1936, and that the Committee be directed to make its report to the Governor and to the Legislature on the subject of Unemployment Compensation, on or before that date.

Said committee is hereby authorized to meet in the City of Charleston or elsewhere, as it may determine, the expenses of the members of said committee to be paid equally from the contingent funds of the Senate and House of Delegates upon certificate of the chairman of said committee. Said committee is further authorized, should it deem it advisable, to employ such legal counsel and assistants as it may deem necessary.

SENATE CONCURRENT RESOLUTION NO. 6

(By Mr. Fleming)
[Adopted June 20, 1935.]

Concerning the Annual Ohio River Festival.

WHEREAS, The citizens of the town of Ravenswood and the surrounding territory, in the month of September, in the year one thousand nine hundred thirty-five, inaugurated and held a celebration, known as the First Annual Ohio River Festival, in commemoration of those pioneers whose noble and heroic sacrifices carried the fruits of European civilization from the Atlantic seaboard into the Ohio Valley, and who relied upon the new stream and the new land for the development of an independent and self-reliant character; and

WHEREAS, The celebration of the Second Annual Ohio River Festival will be held at Ravenswood on the fifth, sixth and seventh days of September of this year; and

WHEREAS, The celebration is an event of interest not only to
the people of West Virginia, but to the bordering states, and one
to which attention should be given by this body; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Legislature of West Virginia hereby approves the aims
and purposes of the Annual Ohio River Festival and urges that
the people of this state attend the celebration and give to it their
active support; and, be it

Further Resolved. That the Governors of the States of Ohio,
Pennsylvania and Kentucky be notified of the said celebration and
be invited to participate therein, and that such invitation be ex­
tended by delivering to the Governors of the states a copy of this
resolution; and, be it

Further Resolved. That we hereby felicitate the citizens of the
town of Ravenswood and the surrounding territory upon the in­
auguration of this annual celebration and congratulate them upon
its prospects for the future; and, be it

Further Resolved. That a copy of this resolution be transmitted
to the Ohio River Festival Association, Inc.

SENATE RESOLUTION NO. 1

(By Mr. Fleming)

[Adopted June 15, 1936.]

Raising a committee to inform the House of Delegates that the
Senate has assembled in extraordinary session.

Resolved by the Senate:

That a committee of three be appointed by the President to in­
form the House of Delegates that the Senate has assembled in
extraordinary session pursuant to the proclamation of his Excel­
lency, Governor H. G. Kump, with a quorum present, and is ready
to proceed with the business of the extraordinary session.
SENATE RESOLUTION NO. 2

(By Mr. Mitchell)

[Adopted June 15, 1936.]

Adopting rules of the Senate.

Resolved by the Senate:

That the rules of the Senate, regular session, one thousand nine hundred thirty-five, be adopted as the rules of the Senate for this session.

SENATE RESOLUTION NO. 3

(By Mr. Helmick)

[Adopted June 15, 1936.]

Relating to the appointment of assistant janitors.

Whereas, Lawrence M. Cunningham, Superintendent of Capitol buildings and grounds, under authority of section twenty-two, article one, chapter five of the code, has designated six assistants for the janitor work of the Senate for this session; therefore, be it

Resolved by the Senate:

That the per diem of said assistant janitors is fixed at four dollars, and that of the said Lawrence M. Cunningham is fixed at two dollars, as the Senate’s one-half of his per diem.

SENATE RESOLUTION NO. 4

(By Mr. Garrett)

[Adopted June 15, 1936.]

Relating to the mailing of Journals and bills.

Resolved by the Senate:

That the Clerk of the Senate is authorized to have mailed from the Senate document room, copies of the bills and daily Journals of the Senate to addresses to be furnished to the Clerk by the members of the Senate, twenty of which such addresses may be submitted by each member of the Senate, and that the expense of such mailing, including postage, be paid out of the contingent fund of the Senate by the Auditor, in advance of the appropriation therefore, upon proper requisition drawn by the Clerk of the Senate.
SENATE RESOLUTION NO. 5
(By Mr. Hodges, Mr. President)

[Adopted June 15, 1936.]

Expressing the sympathy of the members of the Senate for Honorable George O. Young, confined to his home by illness.

WHEREAS, Honorable George O. Young, of Buckhannon, West Virginia, member of the State Senate, representing the Thirteenth District, is prevented by illness from occupying his seat in this body at the convening of this extraordinary session; therefore, be it

Resolved by the Senate:

That the sympathy of the members is extended to Senator Young, with the wish for his speedy and complete recovery, and that the Senate Clerk be directed to send to Senator Young a floral token expressing the esteem and affection in which he is held by his fellow-members of the State Senate.

SENATE RESOLUTION NO. 6
(By Mr. Hodges, Mr. President)

(Originating in the Committee on Rules)

[Adopted June 18, 1936.]

Relating to the payment for services of attaches.

Resolved by the Senate:

That the Clerk of the Senate is authorized to draw his warrants upon the Auditor in favor of the following named persons for the amounts set opposite their names for services rendered preparatory to the convening of this extraordinary session of the Legislature, and for extra services performed during the first two days of the session.

Fred D. Wolfe .................................................. $30.00
Mont Rinehart .................................................. 25.00
Raymond Bush .................................................. 8.00
Arch McQueen .................................................. 8.00
Philip Haddad .................................................. 8.00
Authorizing the appointment of attaches.

Resolved by the Senate:

That the President of the Senate is authorized to make the following appointments, viz:

Seven floor stenographers, at $7.00 per day each;
One mail clerk, at $7.00 per day;
One assistant Sergeant-at-Arms, at $7.00 per day;
One clerk to the Sergeant-at-Arms, at $7.00 per day;
One secretary to the minority, at $12.00 per day;
One minority stenographer, at $9.00 per day;
One secretary to the President, at $12.00 per day;
One messenger to the President, at $4.00 per day;
Three assistant doorkeepers, at $7.00 per day each;
One enrolled bill clerk, at $8.00 per day;
One chief page, at $5.00 per day;
Two pages, at $4.00 per day each;
One men’s cloakroom attendant, at $4.00 per day;
One woman’s cloakroom attendant, at $4.00 per day; and, be it

Resolved further, That the Clerk of the Senate is authorized to make the following appointments, viz:

Four proofreaders, at $8.00 per day each;
Two copyholders, at $7.00 per day each;
One assistant and secretary to the Clerk, at $12.00 per day;
One Journal stenographer, at $9.00 per day;
Five Journal room clerks, at $7.00 per day each;
Four document room clerks, at $7.00 per day each; and, be it
Resolved further, That the Sergeant-at-Arms shall receive $10.00 per day; the Doorkeeper $10.00 per day; and the Clerk $20.00 per day.

The Clerk shall draw his warrants upon the Auditor in favor of the officers and attaches herein appointed for consecutive days from the date of the opening of this session at the per diems herein set out, and the Auditor shall honor and pay such warrants in advance of the appropriation for the purpose, when presented, and charge same to the "per diem of officers and attaches" fund of the Senate.

The President and the Clerk shall require said employees to perform the duties assigned to them, and they are authorized and directed to remove any of such employees whose work is not satisfactory and to appoint another in his place.

S E N A T E R E S O L U T I O N N O . 8

(BY MR. HODGES, MR. PRESIDENT)

(Originating in the Committee on Rules)

[Adopted June 20, 1936.]

Relating to the printing of the Journal and Acts of this extraordinary session of the Legislature.

Resolved by the Senate:

The Clerk, together with the Clerk of the House of Delegates, is hereby directed to have printed by the public printer, six thousand copies of the Acts of this session, in pamphlet form, properly headnoted, indexed and with a full table of contents, for distribution among the members of the Legislature, Judges of the Supreme Court of Appeals and of the Circuit, Criminal and Intermediate Courts, Circuit and County Clerks, Sheriffs and Prosecuting Attorneys.

Said public printer shall print and deliver said copies to the clerks of the two houses as soon as possible after adjournment of this session. Upon receipt of the same, the clerks shall, without delay, forward by mail or express to each member of the Senate and House of Delegates at least twenty of said copies, and one copy to each of the state officials, and the remainder, if any, they shall deliver to the superintendent of printing and stationery for distribution.
The said clerks are also authorized and directed to have printed in signature form for advance sheets any general law which they may deem of sufficient importance to be issued and distributed in that form. The sum of one hundred and fifty dollars out of the contingent fund of the Senate is hereby directed to be paid by the Auditor, upon proper warrant to pay the postage or expressage on said advance copies.

In order to complete the work of the session in arranging and filing of all bills, resolutions, petitions and other official papers in the Clerk's office and document room, and to allow time for proofreading, printing and indexing the corrected Journal and arranging and printing its several appendices, and in printing and indexing the volume of Senate Bills, and in completing the work in the mailing and document rooms and in performing other services incident to the closing of this session of the Legislature, the per diem of the Clerk, at $20.00 per day, two assistant clerks at $12.00 each, one assistant clerk at $9.00 and two assistant clerks at $8.00 each is extended for thirty days; two assistant clerks at $8.00 for fifteen days each; one enrolled bill clerk at $8.00 for five days; three assistant clerks at $7.00 for seven days each; one assistant clerk at $9.00 for three days; one messenger in clerk's office at $5.00 for thirty days; secretary to the President at $12.00 for thirty days; the Sergeant-at-Arms at $10.00 for fifteen days; the Doorkeeper at $10.00 for ten days; one janitor at $4.00 for ten days; and, one janitor at $4.00 for thirty days.

All extensions provided for herein shall begin at the end of this session of the Legislature.

The compensation of those designated hereunder shall be paid out of the contingent fund of the Senate for consecutive days upon proper requisition drawn by the Clerk of the Senate upon the Auditor.
SENATE RESOLUTION NO. 9

(By Mr. Helmick)

(Originating in the Committee on Rules)

[Adopted June 20, 1936.]

Payment for stenographic services.

Resolved by the Senate:

That the Clerk of the Senate is authorized to draw his warrant upon the Auditor in favor of Grayce Cunningham, for stenographic services rendered the President of the Senate, in his official capacity, from May 1, 1935, to July 1, 1936, for four hundred and twenty dollars.

SENATE RESOLUTION NO. 10

(By Mr. Mitchell)

[Adopted June 20, 1936.]

Committee to notify House of Delegates.

Resolved by the Senate:

That a committee of three be appointed by the President of the Senate to notify the House of Delegates that the Senate is ready to adjourn sine die.
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1936
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SECOND EXTRAORDINARY SESSION
December 14 to December 16, 1936

SENATE
OFFICERS
President—CHARLES E. HODGES, Morgantown
Clerk—CHARLES LIVELY, Weston
Sergeant-at-Arms—FRED D. WOLFE, Ripley
Doorkeeper—G. W. TRIPLETT, Huntington

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(R) Republicans .................................................. 6

Total .......................................................... 30
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Clerk—JOHN S. HALL, Williamson
Sergeant-at-Arms—HARRY HOLSWADE, Spencer
Doorkeeper—CLARK NEAL, Fenwick

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(D) Democrats ........................................................................ 82
(R) Republicans .................................................................... 12

Total...................................................................................... 94
STATE OF WEST VIRGINIA
EXECUTIVE DEPARTMENT
CHARLESTON

A PROCLAMATION
BY THE GOVERNOR

I, H. G. Kump, Governor of the State of West Virginia, by virtue of the authority conferred on me by section seven, article seven of the Constitution of this State, do hereby call the Legislature of West Virginia to convene in extraordinary session at 2:00 o’clock on the afternoon of the fourteenth day of December, one thousand nine hundred thirty-six, for the following purposes:

First: To enact legislation providing for a system of unemployment compensation in the state which shall conform to the requirements of the "Federal Social Security Act."

Second: To make the necessary appropriations of public funds to pay the expenses of this extraordinary session and appropriate funds, where necessary, for the administration of the laws enacted.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State to be affixed.

Done at the Capitol in the City of Charleston, this fourth day of December, in the year of our Lord, One Thousand Nine Hundred Thirty-six, and of the State the Seventy-fourth.

By the Governor:

H. G. KUMP.

WM. S. O’BRIEN,
Secretary of State.
STATE OF WEST VIRGINIA
EXECUTIVE DEPARTMENT
CHARLESTON

December 4, 1936.

To the Members of the Senate and House of Delegates:

An extraordinary session of the Legislature will convene in the Capitol at Charleston on the afternoon of December 14, 1936, for the purpose of considering legislation providing for a system of unemployment compensation in the state, conforming to the requirements of the "Federal Social Security Act."

It is with much reluctance that I call you from your homes and personal affairs at this time, but developments of the last few days seem to plainly indicate that it is my duty to do so.

I trust and believe your work may be completed within one week.

H. G. Kump,
Governor.
AN ACT to amend the code of West Virginia, one thousand nine hundred thirty-one, by adding chapter twenty-one-A, creating a Department of Unemployment Compensation.

Chapter 21-A. UNEMPLOYMENT COMPENSATION.

Article
1. Department of Unemployment Compensation.
2. The Director of Unemployment Compensation.
4. Board of Review.
5. Employer Coverage and Responsibility
6. Employee Eligibility; Benefits.
7. Claims Procedure.
8. Unemployment Compensation Fund.

Be it enacted by the Legislature of West Virginia:

That the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding chapter twenty-one-A, creating a Department of Unemployment Compensation, as follows:

Article 1. Department of Unemployment Compensation.

Section
1. Purpose.
2. Short title.
3. Definitions.
4. Department of unemployment compensation.
5. Federal-state cooperation.
6. Unemployment stabilization.
7. Employment agencies transfer.
8. Cooperation within the state.

Section 1. Purpose. The purpose of this chapter is to provide reasonable and effective means for the promotion
of social and economic security by reducing as far as practicable the hazards of unemployment. In the furtherance of this objective, the Legislature establishes a compulsory system of unemployment reserves in order to
(1) Provide a measure of security to the families of unemployed persons.
(2) Guard against the menace to health, morals, and welfare arising from unemployment.
(3) Maintain as great purchasing power as possible, with a view to sustaining the economic system during periods of economic depression.
(4) Stimulate stability of employment as a requisite of social and economic security.
(5) Allay and prevent the debilitating consequences of poor relief assistance.
To give effect to these purposes the Legislature establishes the following system in the belief that the purposes are reasonably within the sphere of governmental control and that the agencies created for their accomplishment are the fairest and most effective devices now available.

Sec. 2. Short Title. This chapter may be cited as the "Unemployment Compensation Law."

Sec. 3. Definitions. As used in this chapter, unless the context clearly requires otherwise,
"Administrative fund" means the Unemployment Compensation Administration Fund, from which the administrative expenses under this chapter shall be paid.
"Annual payroll" means the total amount of wages payable by an employer (regardless of the time of payment) for employment during one year.
"Average annual payroll" means the average of the annual payrolls of an employer for the last three or five preceding years, whichever is the higher.
"Benefits" means the money payable to an individual with respect to his unemployment.
"Board" means Board of Review.
"Director" means the Unemployment Compensation Director.
"Employing unit" means an individual, or type of organization, including any partnership, association, trust.
estate, joint stock company, insurance company, corporation, domestic or foreign, or the receivership, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person which has on January one, one thousand nine hundred thirty-five, or subsequent thereto, had in its employ one or more individuals performing service within the state.

"Employer" means an employing unit which for some portion of a day, not necessarily simultaneously, in each of twenty different weeks, which weeks need not be consecutive within either the current year or the preceding year, has had in employment eight or more individuals (irrespective of whether the same individuals were or were not employed on each of such days).

"Employment" means service, (including service in interstate commerce) performed for wages, if:

1. Performed in this state by an individual unless such service is incidental to the individual's service performed elsewhere.
2. Performed elsewhere but incidental to an individual's service in this state, unless payments are made upon such services under an unemployment compensation law of another state.

The term "employment" shall not include

1. Service performed in employ of this state or any political subdivision thereof:
   a. On an unemployment work relief project designated as such by the director.
   b. In a regular position on an annual salary basis.
   c. As a teacher or administrative officer in a public school, college, or university.
2. Service performed in the employ of another state, its political subdivisions or instrumentality of that state or its subdivisions.
3. Service performed in the employ of the United States or an instrumentality of the United States.
4. Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress. The director may enter into agreements with the proper agency established under such act of Congress to provide reciprocal treatment to individuals who, after acquiring potential rights to benefits
under this chapter, have acquired rights to unemployment compensation under an act of Congress, or who have, after acquiring potential rights to unemployment compensation under an act of Congress, acquired rights to benefits under this chapter. Such agreements shall become effective ten days after such publication as complies with the general rules of the department.

(5) Agricultural labor.

(6) Domestic service in a private home.

(7) Service performed as an officer or member of a crew of a vessel on the navigable waters of the United States.

(8) Service performed by an individual in the employ of his son, daughter, or spouse.

(9) Service performed by a child under the age of twenty-one years in the employ of his father or mother.

(10) Service performed in the employ of an employing unit organized and operated exclusively for religious, scientific, literary, or educational purpose or for prevention of cruelty to children or animals no part of the net earnings of which inure to the benefit of any private shareholder or individual.

"Employment office" means a free public employment office or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices.

"Fund" means the Unemployment Compensation Fund established by this chapter.

"Partial unemployment" means work for less than full-time during a week for which an individual's wages fails to equal two dollars more than the weekly benefit amount he would be entitled to receive if totally unemployed and eligible.

"Payments" means the money required to be paid into the State unemployment Compensation Fund as provided by article five of this chapter.

"State" includes in addition to the states of the United States, Alaska, Hawaii, and the District of Columbia.

"Total unemployment" means total lack of work during a week in which an individual performs no service for which wages are payable to him.

"Wages" means all remuneration payable for personal services, including commissions and bonuses and the cash
value of all remuneration payable in any medium other than
cash. Gratuities customarily received by an individual in
the course of his employment from persons other than his
employing unit shall be treated as wages paid by his em-
ploying unit.

The reasonable cash value of remuneration payable in any
medium other than cash, and the reasonable amount of
gratuities shall be estimated and determined in accordance
with rules prescribed by the director.

"Week" means a calendar week, ending at midnight Sat-
urday, or the equivalent thereof, as determined in accordance
with the regulations prescribed by the director.

"Week of employment" means each week occurring after
March thirty-one, one thousand nine hundred thirty-six,
within which an individual performs employment for an
employing unit which has satisfied the conditions set forth
in the definition of "employer" prescribed by this section;
but does not include a week in which the plurality of an
individual's total working hours are performed without the
state in service for which payments in respect to such
plurality are required under an unemployment compensation
law of another state or an unemployment compensation law
of the United States.

"Weekly benefit amount" means the amount of benefit an
individual would be entitled to receive for one week of total
unemployment.

"Year" means a calendar year, or the equivalent thereof
as determined by the director.

Sec. 4. Department of Unemployment Compensation.
There is created a Department of Unemployment Compensa-
tion, composed of a division of unemployment compensation
and a division of employment service, and such other division
or units as the director determines to be necessary.

Sec. 5. Federal-State Cooperation. The department shall
cooperate with the Social Security Board of the federal gov-
ernment, similar agencies of the several states, and such other
agencies as are concerned with the problem of employment
security and public assistance and relief.

Sec. 6. Employment Stabilization. The department, through
the director and the advisory council, shall take all steps, to:
(1) Reduce and prevent unemployment.
(2) Encourage and assist in the adoption of practical methods of vocational training and guidance.

(3) Encourage the establishment by the state and local subdivisions of public works reserves to finance construction programs in times of unemployment.

(4) Promote reemployment and employment readjustment between industries.

(5) Conduct researches and investigations toward these ends, and publish the results.

Sec. 7. Employment Agencies Transfer. The "State Public Employment Agency" now maintained in the department of labor shall be transferred on January one, one thousand nine hundred thirty-seven, and shall be made the State Employment Service Division of the Department of Unemployment Compensation.

Sec. 8. Cooperation within the State. Officers of the state and of its political subdivisions shall furnish to the director upon his request such information relative to the purposes of this chapter as they may have in their possession.

Article 2. The Director of Unemployment Compensation.

Section

1. Appointment.
2. Qualifications.
3. Oath.
4. Offices.
5. Compensation.
7. Organization of the department.
8. Exemption of employees of the employment service division.
9. Assistants and employees.
10. Classification of services and compensation.
11. Examinations and annual merit ratings.
12. Dismissal, termination, lay off, suspension.
15. State employment service.
17. Federal-state cooperation.
19. Legal assistants.
21. Oaths and witnesses.
22. Subpoenas.
23. Publication.

Section 1. Appointment. The department shall be in charge of a director of unemployment compensation. The
3 director shall be appointed by the Governor, by and with the
4 advice and consent of the Senate, for a term of six years and
5 shall hold his office subject to the will and pleasure of the
6 Governor.

Sec. 2. Qualifications. The director shall be selected with
2 special reference to his training, experience, and capacity.
3 He shall not be a candidate for or hold any other public
4 office or trust, nor shall he be a member of a political com-
5 mittee. If he becomes a candidate for a public office or be-
6 comes a member of a political committee, his office as
7 director shall be immediately vacated. He shall devote his
8 entire time to the duties of his office.

Sec. 3. Oath. The director, before entering upon the duties
2 of his office, shall take and subscribe to the oath prescribed
3 by article four, section five of the State Constitution. The
4 oath shall be filed with the Secretary of State.

Sec. 4. Offices. The office of the director shall be located
2 at the capitol. The director shall keep his offices open at all
3 reasonable times for the transaction of public business.

Sec. 5. Compensation. The director shall receive a yearly
2 salary of six thousand dollars, and the necessary traveling
3 expenses incident to the performance of his duties. Requisi-
4 tion for traveling expenses shall be accompanied by a sworn
5 itemized statement which shall be filed with the auditor and
6 preserved as a public record.

Sec. 6. Powers and Duties. The director shall be the
2 executive and administrative head of the department and
3 shall have the power and duty, to:
4 (1) Exercise general supervision of and make regulations
5 for the government of the department.
6 (2) Prescribe uniform rules pertaining to investigations,
7 departmental hearings, and promulgate rules and regula-
8 tions.
9 (3) Supervise fiscal affairs and responsibilities of the
10 department.
11 (4) Prescribe the qualifications of, appoint, remove, and
12 fix the compensation of the officers and employees of the
13 department.
14 (5) Organize and administer the department so as to comply with the requirements of this chapter and the standards required by federal legislation.
15 (6) Make reports in such form and containing such information as the federal Social Security Board may from time to time require, and comply with such provisions as the federal Social Security Board may from time to time find necessary to assure the correctness and verification of such reports.
16 (7) Make available to any agency of the United States charged with the administration of public works or assistance through public employment, upon their request, the name, address, ordinary occupation and employment status of each recipient of unemployment compensation, and a statement of the recipient's rights to further compensation under this chapter.
17 (8) Keep an accurate and complete record of all departmental proceedings; record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the department.
18 (9) Sign and execute in the name of the state, by "The State Department of Unemployment Compensation," any contract or agreement with the federal government, its agencies, other states, their subdivisions, or private persons.
19 (10) Prescribe a salary scale to govern compensation of appointees and employees of the department.
20 (11) Make the original determination of right in claims for benefits.
21 (12) Make recommendations, and an annual report to the Governor concerning the condition, operation, and functioning of the department.
22 (13) Invoke any legal, equitable or special remedy for the enforcement of orders or the provisions of this chapter.
23 (14) Exercise any other power necessary to standardize administration, expedite departmental business, assure the establishment of fair rules and regulations and promote the efficiency of the service.

Sec. 7. Organization of the Department. The director shall establish within the department the division of unemployment compensation, and the division of unemployment
service and such other units as will promote efficiency and
economy in administration.

Sec. 8. Exemption of Employees of the Employment Ser-
vice Division. The provisions of sections nine to twelve of
this article shall not apply to assistants and employees in the
Employment Service division so as to reduce in any way the
standards and requirements of the act of Congress entitled
"An act to provide for the establishment of a national em-
ployment system and for cooperation with states in the pro-
motion of such system, and for other purposes" approved
June six, one thousand nine hundred thirty-three, as
amended; but wherever the provisions of this article impose
a higher standard, compliance of employment service em-
ployees shall be required.

Sec. 9. Assistants and Employees. Upon a non-partisan
merit basis the director shall appoint the division and unit
heads, and such assistants and employees as may be necessary
to the efficient operation of the department. He shall fix
their compensation in accordance with the provisions of sec-
tion ten of this article.

Sec. 10. Classification of Services and Compensation. The
director shall by uniform regulation:
(1) Classify the different types of services to be performed
for the department.
(2) Prescribe the qualifications of education, training, and
experience for the appointees and employees of each class.
(3) Fix a maximum and minimum salary for each class.
The difference between the maximum and minimum for any
class shall not exceed one thousand dollars.

Sec. 11. Examinations and Annual Merit Ratings. The
director shall hold examinations to determine the technical
and professional qualifications of applicants for positions.
The examinations shall be a guide to the director in making
his appointments.
The director shall annually rate the employees according
to their merit and shall determine whether they are maintain-
ing standards of eligibility.
Sec. 12. Dismissal, Termination, Lay-off, Suspension. The director shall establish regulations governing dismissals, terminations, lay-offs, and suspensions. Severance of employees' relationship with the department shall be in accordance with these regulations. All severances shall be for good cause. Failure to maintain technical or professional qualifications shall be a good cause for severance.

Sec. 13. Delegation of Duties. All powers and duties vested in the director may be delegated by him to his appointees and employees; but the director shall be responsible for their acts.

Sec. 14. Deputies. For the original determination of claims, the director shall appoint a necessary number of deputies as his representatives.

Sec. 15. State Employment Service. The director shall appoint upon a non-partisan merit basis the head of the division of the employment service and shall fix his salary and prescribe his duties, in accordance with the requirements of section eight of this article.

Sec. 16. Employment Offices. The director shall establish and maintain free public employment offices in such places as necessary for the proper administration of this chapter and for the purpose of performing the duties within the purview of the act of Congress entitled "An Act to provide for the establishment of a national employment system and for cooperation with states in the promotion of such system and for other purposes," approved June six, one thousand nine hundred thirty-three, as amended.

Sec. 17. Federal-State Cooperation. The head of the employment service division shall have all powers and duties necessary to secure to the state the benefits of Congressional action for the promotion and maintenance of a system of public employment offices. To this end the provisions of the act referred to in the preceding section and such additional Congressional action consistent with the above act may be accepted by the state and the state pledges its observance and compliance therewith.

The State Employment Service Division is designated the agent of this state for the purposes of compliance with the
act of Congress entitled "An Act to provide for the establishment of a national employment system and for cooperation with states in the promotion of such system, and for other purposes," approved June six, one thousand nine hundred thirty-three, as amended. The director shall appoint the head of the service and all appointees and employees in accordance with the regulations prescribed by the director of the United States Employment Service.

Sec. 18. Acceptance of Aid. For the purpose of establishing and maintaining free public employment offices, the director may enter into agreements with any political subdivision of the state or with any private non-profit organization, and as part of such an agreement the director may accept money, services, or quarters as a contribution to the employment service account.

Sec. 19. Legal Assistants. The attorney general and his assistants and the prosecuting attorneys of the several counties shall render to the director without additional compensation such legal services as in the discharge of his duties he shall require.

The director may employ temporarily or as regular members of the department additional legal counsel. The remuneration of such counsel shall be paid from the administration fund.

Sec. 20. Rules and Regulations. The director may issue rules and regulations in accordance with such regular procedure as the director shall prescribe.

Sec. 21. Oaths and Witnesses. The director and his specially authorized representatives shall have the power to administer oaths, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of papers necessary as evidence in connection with a dispute or the administration of this chapter.

Sec. 22. Subpoenas. The director or his authorized representative shall have the power to issue subpoena for the production of persons and papers in all proceedings within the purview of this chapter. In case a person refuses to obey such subpoena the director or his representative may invoke
the aid of any circuit court in order that the testimony or
evidence be produced. Upon proper showing, such court
shall issue a subpoena or order requiring such persons to
appear before the director or his representative and produce
all evidence and give all testimony touching the matter in
question.
A person failing to obey such order may be punished by
such court as for contempt.

Sec. 23. Publication. The director shall print for public
distribution:
(1) The text of this chapter.
(2) The regulations and general rules of the division.
(3) Such other material as the director deems relevant
and suitable for the more effective administration of the
chapter.

Article 3. Advisory Council.

Section
1. Creation.
2. Appointment.
3. Term of office.
4. Qualifications.
5. Disqualifications.
6. Oath of office.
7. Honorarium and traveling expenses.
8. Offices.
9. Meetings.
10. Quorum.
11. Advisory powers and duties.
12. Local advisory councils.

Section 1. Creation. There is hereby created in the De-
partment of Unemployment Compensation a "State Advisory
Council" composed of six members.

Sec. 2. Appointment. The members shall be appointed by
the Governor, by and with the advice and consent of the
Senate.

Sec. 3. Term of Office. The term of office of the members
of the council shall be six years, except that the Governor,
upon the adoption of this chapter, shall appoint the members
upon the following basis: Two members for a term of six
years; two members for a term of four years; two members for
a term of two years. As these appointments expire, all ap-
pointments shall be for six-year terms.
In case of a vacancy, the Governor shall make an appointment for the remainder of the unexpired term. Members shall be subject to removal at the will and pleasure of the Governor.

Sec. 4. Qualifications. The members of the council shall be selected with special reference to their ability and fitness to effectuate the purposes of this chapter. Two members of the council shall be selected as representatives of employer interests; two members shall be selected as representatives of employee interests; and two members shall represent the interests of the general public.

Sec. 5. Disqualifications. A member shall not be a candidate for, or hold, any other public office or trust, nor shall he be a member of any political committee. If a member becomes a candidate for, or is appointed to, any other public office or political committee, his office as a member of the council shall automatically be vacated.

Sec. 6. Oath of Office. Members of the council shall take and subscribe to the constitutional oath before entering upon their duties. Their oaths shall be filed with the Secretary of State.

Sec. 7. Honorarium and Traveling Expenses. Each member of the council shall receive an honorarium of fifteen dollars for each day actually served in attendance at meetings of the Council and such traveling expenses as are incurred in the performance of his duties under the provisions of this chapter. Requisition for 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. Members shall not be compensated for more than thirty days' service in any year.

Sec. 8. Offices. The offices and meeting place of the council shall be at the capital.

Sec. 9. Meetings. The council shall hold four regular meetings each year as follows: On the first Monday in
January, April, July, and October. Special meetings may be convened on the call of the director, the Governor, or a majority of the members.

Sec. 10. Quorum. A majority of the members of the council shall constitute a quorum for the conduct of council business.

Sec. 11. Advisory Powers and Duties. The council shall be an advisory body to the director and as such shall have the following advisory powers and duties:

1. Study and consider the entire field of legislation and administration concerning Unemployment Compensation.
2. Advise the director concerning the organization and administration of the department.
3. Recommend to the director policies and practices relative to his duties.
4. Advise and make recommendations to the Governor or to the Legislature relative to the unemployment policy of the state.
5. Advise the director with respect to the special problems of different industries, regions, or economic groups of the state.
6. Advise the director with respect to the preparation and amendment of the rules and regulations relative to this chapter.
7. Exercise any other advisory powers necessary or reasonably implied within the provisions and purposes of this chapter.

Sec. 12. Local Advisory Councils. The advisory council may appoint local advisory councils for the study, consideration, and reporting of any particular local situation. The local council shall be appointed for a limited and temporary period only. Members of the local council shall serve without compensation. The local council shall make such reports as the advisory council stipulates in its order of appointment.
Article 4. Board of Review.

Section
1. Board of review.
2. Appointment.
3. Qualifications.
4. Oath of office.
5. Compensation.
6. Meetings.
7. Quorum.
8. Removal.
10. Appointment of examiners.
11. Oaths and witnesses.

Section 1. Board of Review. There is hereby created on October first, one thousand nine hundred thirty-seven, a Board of Review, consisting of three members. They shall devote their entire time to the duties of their offices.

Sec. 2. Appointment. On October first, one thousand nine hundred thirty-seven, the Governor, by and with the advice and consent of the Senate, shall appoint the members of the Board of Review for terms of six years, except that the terms of the members first taking office shall be two, four, and six years, respectively, as designated by the Governor at the time of their appointment. Vacancies shall be filled by the Governor for the unexpired term. The Governor shall designate one member as chairman of the board.

Sec. 3. Qualifications. The members of the board shall be selected with special reference to their ability and fitness to adjudicate claims. Selections shall be upon a non-partisan merit basis. The Governor shall not appoint a person who is identified with the interests of either employers or employees.

Sec. 4. Oath of Office. Members of the board shall take and subscribe to the constitutional oath before entering upon their duties. Their oaths shall be filed with the secretary of state.

Sec. 5. Compensation. Each member of the board shall receive an annual salary of four thousand dollars and the necessary traveling expenses incurred in the performance of his duties.
Requisition for 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 salaries and the expenses of the members shall be paid from the administration fund.

Sec. 6. Meetings. The offices and meeting place of the board shall be at the capitol; but the board may sit at such other places as the prompt and efficient hearing of claims may require.

Sec. 7. Quorum. A majority of the members of the board shall constitute a quorum for the hearing of appealed claims.

Sec. 8. Removal. After hearing, and upon cause shown, the Governor may remove a member of the board.

Sec. 9. Powers and Duties. The board shall have the following powers and duties, to

1. Hear and determine all disputed claims presented to it in accordance with the provisions of article seven.
2. Appoint examiners and fix their salaries.
3. Organize from salaried examiners such appeal tribunals as are necessary for the expedition of disputed claim procedure.
4. Establish procedure for the hearing of disputed claims.
5. Take oaths, examine witnesses, and issue subpoenas.
6. Establish the amount of witness fees.
7. Keep such records and make such reports as are necessary for disputed claims.
8. Exercise such additional powers as may be necessary for the proper conduct of a system of administrative review of disputed claim.

Sec. 10. Appointment of Examiners. The board may appoint such examiners as are necessary to hear appeals from determinations of deputies. The board shall fix the examiners’ salaries which shall be paid from the administration fund.

Appointment shall be made upon a non-partisan merit
basis. The board shall not appoint a person who is identified with the interests of either employers or employees.

Sec. 11. *Oaths and Witnesses.* The board, appeal tribunal, or examiner will have the power to administer oaths, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and the production of papers necessary as evidence in connection with a dispute or disputed claim.

Sec. 12. *Subpoenas.* The board, appeal tribunal, or examiner shall have the power to issue subpoenas for the production of persons and papers in all proceedings within their jurisdiction. In case a person refuses to obey such subpoena, the board, appeal tribunal, or examiner may invoke the aid of a circuit court in order that the testimony or evidence be produced. Upon proper showing such court shall issue an order requiring such persons to appear before the board, appeal tribunal, or examiner and produce all evidence and give all testimony touching the matter in question. A person failing to obey such order may be punished by the court as for contempt.

**Article 5. Employer Coverage and Responsibility.**

Section 1. *Employer Coverage.* An employing unit which is or becomes an employer subject to this chapter during any year shall be subject to the provisions of the chapter for the whole of the year.
Sec. 2. Duration. Except as provided in section three of this article, an employing unit shall cease to be an employer subject to this chapter only as of the first day of January of any year, and only if it files with the director, prior to the fifth day of January of such year, a written application for termination of coverage, and the director finds that there were no twenty different days, each day being in a different week within the preceding calendar year, within which such employing unit employed eight or more individuals in employment subject to this chapter.

Sec. 3. Voluntary Coverage. Upon written election filed with the director, an employing unit not subject to this chapter, or an employer of services which do not constitute employment under this chapter, may, upon the written approval of the director qualify under this chapter for a period of not less than two years. An employing unit which voluntarily elects to become an employer subject to this chapter shall be treated as an employer for all purpose for the full period of its election.

In the case of voluntary coverage, an employing unit or employer may withdraw as of January first of any calendar year, if thirty days prior to that date it files written notice of its intention with the director.

Sec. 4. Payments. On and after January first, one thousand nine hundred thirty-six, an employer shall be liable for payments in respect to wages payable for employment occurring during each year.

Sec. 5. Rate of Contribution. An employer shall make payments to the unemployment compensation fund equal to the following percentages of wages payable by him with respect to employment as follows:

Nine-tenths of one per cent with respect to employment during the year, one thousand nine hundred thirty-six.

One and eight-tenths per cent with respect to employment during the year, one thousand nine hundred thirty-seven.

Two and seven-tenths per cent with respect to employment during the years, one thousand nine hundred thirty-eight, one thousand nine hundred thirty-nine, one thousand nine hundred forty, and thereafter.
Sec. 6. **Pooled Fund.** All payments shall be made to the unemployment compensation fund. All payments to the fund shall be pooled and available to pay benefits to any individual entitled thereto under this chapter, irrespective of the source of the payment. Nothing in this chapter shall be construed to grant to an employer or individual in his service prior claim or right to the amount paid by him to the unemployment compensation fund.

Sec. 7. **Separate Account.** The director shall maintain a separate account for each employer, crediting his account with all the payments which he has made and charging his account with all benefits which under article six were chargeable against weeks of employment in his service.

Sec. 8. **Merit Rating: Classification.** For the year one thousand nine hundred forty-one and each year thereafter the director shall classify employers according to the ratio of payments credited and benefits charged to their account, with a view to fixing such payment-rates as will reflect their employment experience.

Sec. 9. **Merit Ratings: Fund Stabilization.** An employer’s payment-rate shall be reduced only as of January one of a calendar year and shall not be reduced below two and seven-tenths per cent:

1. Prior to January one, one thousand nine hundred forty-one.
2. Thereafter, unless the total assets of the fund, excluding payments payable at the beginning of the year, exceed the total benefits paid from the fund within the last preceding year.

No employer’s rate shall be less than one and eight-tenths per cent, unless the assets of the entire fund are at such time at least twice the total benefits paid from the fund within the last preceding year.

Sec. 10. **Merit Rating: Decreased Rates.** After the requirements of section nine have been complied with, an em-
pther’s payment shall remain two and seven-tenths per cent, until:
(1) There has elapsed three years throughout which an individual in his employ could have received benefits if unemployed and eligible.
(2) His payments exceed the benefits charged to his account by an amount equal to at least seven and one-half per cent of his average annual payroll, in which case his rate shall be one and eight-tenths per cent.
(3) His payments exceed the benefits charged to his account by an amount equal to at least ten per cent of his average annual payroll, in which case his rate shall be nine-tenths of one per cent.

The director shall determine an employer’s compliance with these requirements.

Sec. 11. Merit Ratings: Increased Rates. If the total payments of an employer for all past periods or the last sixty consecutive calendar months (whichever period is the more advantageous to the employer) are less than the total benefits charged against his account during the same period, his rate shall be three and six-tenths per cent, unless he shows to the satisfaction of the director that such experience is due to an act of God, fire, or other catastrophe, or act of civil or military authority, directly affecting the place in which individuals were employed by him, in which case the rate shall be two and seven-tenths per cent.

Sec. 12. Auxiliary Rates. If the director determines that the above rates work inequities and hardships upon particular individuals or industries he may hold an investigation after proper notice and hearing and establish other rates more in consonance with the risk of each employer and more nearly calculated to increase stabilization of employment. Rates fixed by the director shall be subject to the following limitations:
(1) The combined rates of all employers shall yield approximately two and seven-tenths per cent of the total annual payrolls.
(2) The rate for a particular employer shall not be less than two and seven-tenths per cent until there has been
three years throughout which an individual in his employ could have received benefits if unemployed and eligible.

Sec. 13. Method of Payment. All payments shall be made in accordance with rules and regulations of the director.

Sec. 14. Deduction of Wages Prohibited. An employer shall not deduct payments in whole or in part from the wages of an individual in his employ.

Sec. 15. Fractions. In any payment, a fractional part of a cent shall be disregarded unless it amount to one-half cent or more, in which case, it shall be increased to one cent.

Sec. 16. Collection of Payments. The director in the name of the state shall commence a civil action against an employer, who, after due notice, defaults in any payment or interest thereon. If judgment is against the employer he shall pay the costs of the action.

Civil actions under this section shall be given preference on the calendar of the court over all other civil actions except petitions for judicial review under this chapter and cases arising under the Workmen's Compensation Law.

Sec. 17. Interest on Past-due Payments. Payments unpaid on the date on which due and payable, as prescribed by the director, shall bear interest at the rate of one per cent per month until payment plus accrued interest is received by the director.

Interest collected pursuant to this section shall be paid into the Unemployment Compensation Fund.

Sec. 18. Priorities. In the event of any distribution of an employer's assets pursuant to an order of the court under a law of this state, payments then or thereafter due shall be paid in full prior to all other claims except taxes and claims for wages. Wage claims in excess of two hundred fifty dollars per claimant or earned more than six months before the commencement of the proceeding, shall not be entitled to priority.

In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal or composition, under the Federal Bankruptcy Act of one thousand eight hundred ninety-eight, as amended, payments then or thereafter due
shall be entitled to such priority as is provided in section sixty-four (b) of that act, as amended.

Sec. 19. Refunds. Within one year after date on which payment or interest thereon is due, an employer, who has paid such payment or interest, may make application for:

(1) An adjustment thereof in connection with subsequent payments.

(2) A refund thereof if adjustment cannot be made

If the director determines that payments and interest were erroneously collected, he shall make the adjustment, without interest, in connection with subsequent payments of the employer, or if such adjustment cannot be made, refund the amount without interest from the Unemployment Compensation Fund.

For like cause and within the same period the director, on his own initiative, may make an adjustment or refund.

Article 6. Employee Eligibility; Benefits.

Section
1. Eligibility qualifications.
2. Waiting period construed.
3. Extension of employment period.
4. Disqualification for benefits.
5. Suitable work.
6. Suitable work; further requirements.
7. Disqualification in case of labor dispute; exception.
8. Payment of benefits.
9. Place of payment.
10. Amount of benefits; total unemployment.
11. Amount of benefits; partial unemployment.
12. Ratio of benefits.
14. Two or more employers.
15. Partial benefits.
16. Full-time weekly hours.
17. Hourly rate of earnings.
18. Full-time weekly wage.
19. Uniform hour and rate determination.
20. Seasonal and part-time employment.

Section 1. Eligibility Qualifications. An unemployed individual shall be eligible to receive benefits, only if the director finds that:

(1) He has registered for work at and thereafter continues to report at an employment office in accordance with the regulations of the director.

(2) He has made a claim for benefits in accordance with
the provisions of article seven of this chapter.
(3) He is able to work, and is available for work.
(4) He has been totally unemployed for a waiting period of two weeks prior to the week for which he claims benefits for total unemployment.
(5) He has had at least thirteen weeks of employment within the fifty-two consecutive weeks preceding the first week in any continuous period of unemployment.

Sec. 2. Waiting Period Construed. The waiting period of two weeks need not be consecutive but may be accumulated during the thirteen consecutive weeks preceding the week for which benefits are claimed. This requirement shall not interrupt the payment of benefits for consecutive weeks of unemployment; but the waiting period must occur after benefits could first become payable to an individual under this chapter.

During the waiting period the individual must be eligible in all respects except for the requirements of subsections two and five, section one of this article.

Sec. 3. Extension of Employment Period. If the director finds that during the period of fifty-two weeks required by subsection five, section one of this article, or the period of one hundred and four weeks required by section twelve of this article, an individual has been:
(1) Incapable of work because of some physical or mental disability,
(2) Engaged in self-employment,
(3) Engaged in the performance of services not subject to this chapter,
either or both periods shall be extended by the duration of the incapacity, self-employment, or services. No such extensions shall exceed fifty-two additional weeks.

Sec. 4. Disqualification for Benefits. Upon the determination of the facts by the director or his deputy, an individual shall be disqualified for benefits:
(1) For the week in which he left work voluntarily without good cause and for not less than one nor more than five weeks which immediately follow.
(2) For the week in which he has been discharged for
misconduct connected with his work and for not less than one nor more than nine weeks which immediately follows.

(3) For the week in which he failed, without good cause, to apply for available suitable work, accept suitable work when offered, or return to his customary self-employment when directed to do so by the director and for not less than one nor more than five weeks which immediately follow.

(4) For a week in which his total or partial unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he was last employed, unless the director is satisfied that he was not (one) participating, financing, or interested in such dispute, and (two) did not belong to a grade or class of workers who were participating, financing, or directly interested in the labor dispute which resulted in the stoppage of work.

(5) For a week with respect to which he is receiving or has received:
(a) Wages in lieu of notice;
(b) Compensation for temporary partial disability under the Workmen's Compensation Law of any state or under a similar law of the United States;
(c) Old age benefits under Title II of the Social Security Act or similar payments under any act of Congress.

Sec. 5. Suitable Work. In determining whether work is suitable for an individual, the director shall consider:
(1) The degree of risk involved to the individual's health, safety, and morals.
(2) The individual's physical fitness and prior training.
(3) His experience and prior earnings.
(4) His length of unemployment.
(5) His prospects of securing local work in his customary occupation.
(6) The distance of the available work from his residence.

Sec. 6. Suitable Work: Further Requirements. Notwithstanding any other provisions of this chapter, no work shall be deemed suitable and benefits shall not be denied to an individual, otherwise eligible, for refusing to accept new work under any of the following conditions:
(1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute.

(2) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

(3) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona-fide labor organization.

Sec. 7. Disqualification in Case of Labor Dispute: Exception. In case separate branches of work commonly conducted as separate businesses are conducted in separate departments on the same premises, each department shall, for the purposes of subsection four, section four, be treated as a separate establishment.

Sec. 8. Payment of Benefits. Benefits shall become payable from the fund twenty-four months after the first day when payments first accrue.

Sec. 9. Place of Payment. Benefits shall be paid through employment offices in accordance with such regulations as the director shall prescribe.

Sec. 10. Amount of Benefits: Total Unemployment. Each eligible individual who is totally unemployed in any week shall be paid benefits with respect to that week at the rate of fifty per cent of his full-time weekly wage, but no more than fifteen dollars per week nor less than five dollars, or three-fourths of his full-time weekly wage, whichever is the lesser.

Benefits shall be computed to the next highest multiple of twenty cents.

Sec. 11. Amount of Benefits: Partial Unemployment. An eligible individual who is partially unemployed in any week shall be paid with respect to such week a partial benefit. Such partial benefit shall be an amount which if added to his wages for such week would exceed his weekly benefit amount by two dollars.

If such partial benefit for any week equal less than two dollars it shall not be payable unless and until the accumulated total of such partial benefits with respect to weeks occurring within the thirteen preceding weeks equals two dollars or more.
Sec. 12. **Ratio of Benefits.** An eligible individual shall be paid benefits with respect to his total or partial unemploy­ment in the ratio of one-fourth of his weekly benefit amount to each uncharged week of employment occurring within the one hundred four consecutive weeks preceding the first week in any continuous period of unemployment, except that his aggregate benefits thus payable within any period of fifty-two consecutive weeks shall not exceed twelve times his weekly benefit amount.

Sec. 13. **Method of Charging Benefits.** An individual's total benefits shall be limited in accordance with the provisions of section twelve of this article and shall be charged against his weeks of employment in the inverse chronological order in which such weeks occurred.

Sec. 14. **Two or More Employers.** In no event shall any one calendar week be charged as more than one week of employment. If during any week an individual has rendered services for more than one employer his benefit shall be chargeable only against the week of employment for the employer by whom the plurality of his wages for such week was payable.

Sec. 15. **Partial Benefits.** If the amount chargeable against a particular week of employment is less than one-fourth of the weekly benefit amount, the manner in which and the extent to which such charge shall be made shall be fixed by the director according to a general rule.

Sec. 16. **Full-time Weekly Hours.** An individual's full-time weekly hours shall be determined as follows:

1. The hours worked by an individual in all those weeks of employment in which he worked thirty hours or more occurring within the fifty-two weeks preceding the first week in any continuous period of unemployment shall be added together.

2. The total hours shall be divided by the number of weeks in which more than thirty hours were worked.

3. The resulting weekly average shall constitute the individual's full-time weekly hours.

4. If the application of the above method produces unreasonable or arbitrary results in a particular case, the
Sec. 17. Hourly Rate of Earnings. An individual's hourly rate of earnings shall be determined by dividing the total wages for his full-time weekly hours occurring within the thirteen weeks preceding the first week in any continuous period of unemployment by the total number of hours of employment within such weeks. The quotient so obtained shall be his hourly rate of earnings until a subsequent determination is made. If such method of determination is unreasonable or arbitrary in a particular case, the hourly rate of earnings shall be determined by the director in accordance with fair and reasonable methods.

Sec. 18. Full-time Weekly Wage. The full-time weekly wage shall be the product of the full-time weekly hours as determined in section sixteen and the hourly rate of earnings as determined in section eighteen of this article.

Sec. 19. Uniform Hour and Rate Determination. After fair notice and opportunity to be heard, the director may determine the full-time weekly hours customarily worked and the hourly rate of earnings customarily received by individuals employed in any trade or industry or any type of employment within the state. After such hearing he may determine and publish uniform rates within industries for different types of employment and for different portions of the state. Until such determinations are amended or rescinded, the rates so fixed shall be the basis for determining the full-time weekly wage.

Upon application in writing the director may exempt any individual from the application of such uniform rates if the applicant demonstrates their unfairness or inapplicability to him.

Sec. 20. Seasonal and Part-time Employment. The director shall study and investigate the prevalence of part-time and seasonal employment in the state. He shall prepare a plan covering the protections of this chapter with respect to individuals in part-time and seasonal employment and shall submit such plan to the Legislature, which convenes in January, one thousand nine hundred thirty-nine.
**Article 7. Claim Procedure.**

**Section**
1. Claims.
2. Display of regulations.
3. Deputies.
4. Initial determination.
5. Reference.
6. Board procedure; referred cases.
7. Appeal tribunals.
8. Appeal from deputy's decision.
9. Finality of examiner's decision.
10. Board review.
12. Quorum.
13. Procedure.
16. Exclusion of interested party.
17. Finality of board's decision.
18. Claim procedure cost.
19. Administrative relief first.
20. Board a necessary party.
23. Trial.
25. Service.
26. Transcript of record.
27. Appeal.
28. Effect of judicial decision.
29. Supersedeas.

Section 1. Claims. Claims for benefit shall be made in accordance with the rules and regulations prescribed by the director.

Sec. 2. Display of Regulations. An employer shall post and maintain in places readily accessible to individuals in his service the claim procedure regulations presented by the director. At the time of discharge an employer shall furnish an individual with a copy of the regulations. The director shall provide an employer copies of the regulations without cost.

Sec. 3. Deputies. The director shall appoint deputies to investigate and originally determine all claims for benefits.

Sec. 4. Initial Determination. A deputy shall promptly investigate a claim and shall, after the establishment of the facts, determine

(1) The validity of the claim.

(2) The week with respect to which benefits will commence.
(3) The amount of benefit.
(4) The maximum duration of benefit.

The deputy, then, shall promptly notify the claimant and interested parties of his findings and decisions.

Sec. 5. Reference. If, after the establishment of the facts, the deputy is in doubt concerning the claim he shall refer the claim and any question involved to the board.

If in any case the payment or denial of benefit will be determined by the provisions of subsection four, section four, article six, the deputy shall transmit his full findings of fact with respect to that subsection to the board for their decision.

Sec. 6. Board Procedure: Referred Cases. The board shall follow the same procedure in referred cases as in disputed cases. The board shall upon such findings and such additional evidence as it may procure make a decision and transmit it to the deputy.

The deputy shall promptly notify the claimant and interested parties of the findings and decisions.

Sec. 7. Appeal Tribunals. The board shall determine the manner of hearing appeals from the decision of a deputy and may direct in particular cases or in particular areas that the appeal be heard by:

(1) A single examiner.
(2) A tribunal of three examiners assigned by the board.
(3) A member of the board.

Sec. 8. Appeal from Deputy’s Decision. Upon appeal from the determination of a deputy, an individual shall be entitled to a fair hearing and reasonable opportunity to be heard before an appeal tribunal as provided in section seven of this article.

Upon a consideration of all the evidence the appeal tribunal shall make a decision, and shall notify the parties of its findings and decision.

Sec. 9. Finality of Examiner’s Decision. The decision of an appeal tribunal shall be final and benefits shall be paid or denied in accordance therewith, unless a claimant or interested party files an appeal to the board within:
(1) Five calendar days after the delivery of notification of the examiner's decision, or
(2) Seven calendar days after mailing of notification to his last known address.

Sec. 10. Board Review. The board may, after proper notice and opportunity for hearing,
(1) On its own motion affirm, modify, or set aside a decision of an examiner.
(2) Direct the taking of additional evidence in a disputed claim.
(3) Permit parties to an examiner's decision to initiate further appeals before it.

Sec. 11. Benefits Pending Appeal. If an appeal is filed, benefits for the period prior to final determination of the board shall be paid only after such determination. If the board affirms the decision of the examiner allowing benefits, the benefits shall be paid regardless of any further appeal; but if the decision of the board is reversed on appeal, an employer's account shall not be charged with the benefits so paid.

Sec. 12. Quorum. All hearings before the board shall be before at least a quorum of its members.

Sec. 13. Procedure. The board shall establish, and may from time to time modify and amend, rules and regulations relative to disputed claims for:
(1) The conduct and determination of benefit cases appealed to it, or to an examiner, or an appeal tribunal.
(2) The form of all papers and records thereof.
(3) The time, place, and manner of hearings.
(4) Determining the rights of the parties; and the rules need not conform to the common law or statutory rules of evidence and procedure and may provide for the determination of questions of fact according to the predominance of the evidence.

Sec. 14. Records. The board shall keep full and complete records of all proceedings concerning a disputed claim. All testimony upon a disputed claim shall be recorded but need not be transcribed unless the claim is appealed.
Sec. 15. *Report of Decision.* The board shall notify, promptly, the parties to an appeal of its findings and decision.

Sec. 16. *Exclusion of Interested Party.* A person interested in the determination of any disputed claim arising under this chapter shall not participate on behalf of the director or the board in the determination thereof.

Sec. 17. *Finality of Board’s Decision.* The decision of the board shall be final and benefits shall be paid or denied in accordance therewith, unless a claimant or interested party appeals to a court within ten days after mailing or notification of the board’s decision.

Sec. 18. *Claim Procedure Cost.* Witness fees of subpoenaed witnesses shall be charged to the administration fund.

Sec. 19. *Administrative Relief First.* A person claiming an interest under the provisions of this article shall exhaust his remedies before the board before seeking judicial review.

Sec. 20. *Board a Necessary Party.* The board shall be made a party to every judicial action which involves its decisions. The board may be represented in such actions by an attorney of the department or at the board’s request, by the attorney general.

Sec. 21. *Findings of Fact.* In a judicial proceeding to review a decision of the board, the findings of fact, if supported by the evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of the court confined to questions of law.

Sec. 22. *Judicial Review.* Within ten days after a decision of the board has become final, any party aggrieved may secure judicial review of the decision by commencing an action against the board in the circuit court of Kanawha county. Parties to the proceedings before the board shall be made defendants.

Sec. 23. *Trial.* Except as limited by section twenty of this article, a decision of the board taken to the circuit court of Kanawha county for judicial review shall be tried as any other civil action.

Sec. 24. *Exceptions and Bond.* In any judicial proceeding arising under this chapter it shall not be necessary to enter
exception to the rulings of the board and no bond shall be
required for entering an appeal.

Sec. 25. Service. Service in such an action shall be upon
the director or such person as he may designate, and service
upon him shall be treated as completed service upon all
parties to the original dispute. The director shall immediately
upon receipt of service forward a copy of such service by
registered mail to each defendant.

Sec. 26. Transcript of Record. The director shall certify
and file with the court all documents and papers and a
transcript of all testimony taken in a disputed claim together
with its findings of fact and decision thereon.

Upon its own motion the board may also certify to the
court questions of law involved in any of the board’s de-
cisions.

Sec. 27. Appeal. The appeal from the decision of the cir-
cuit court of Kanawha county may be taken to the supreme
court of appeals. The cases shall go from the circuit court of
Kanawha county only on writ of certiorari and need be heard
only at the session of the supreme court.

Sec. 28. Effect of Judicial Decision. Upon the final deter-
mination of such judicial proceeding the board shall enter
an order in accordance with the court’s determination.

Sec. 29. Supersedeas. A petition for judicial review shall
not act as supersedeas or stay unless the board shall so
order.

Article 8. Unemployment Compensation Fund.

Section
1. Establishment.
2. Administration.
3. Director’s bond.
4. Accounts in deposit.
5. Clearing account.
6. Unemployment trust fund account.
7. Deposit with federal government.
8. Benefit account.
9. Deposit of funds.
10. Withdrawals.
11. Issuance of warrants.
12. Unclaimed amounts.
13. Termination of state act.

Section 1. Establishment. There is hereby established as a
special fund, separate and apart from all public moneys or
funds of the state, an unemployment compensation fund. The
fund shall consist of:
(1) All payments collected under this chapter and all
interest thereon.
(2) All fines and penalties collected under the provisions
of this chapter.
(3) Interest earned upon money in the fund.
(4) Property or securities acquired through the use of
the fund.
(5) Earnings of such property or securities.
All money in the fund shall be mingled and undivided.

Sec. 2. Administration. The director shall be the custodian
of the fund and shall administer it exclusively for the pur-
poses of this chapter.

Sec. 3. Director’s Bond. The director shall give a separate
surety bond in the sum of fifty thousand dollars for the faith-
ful management of the fund. The bond shall be in a form pre-
scribed by the attorney general and approved by the Gov-
ernor. The premiums upon the bond shall be paid out of the
administration fund.
The bond shall be filed with the secretary of state.

Sec. 4. Accounts in Deposit. The director shall maintain
in the fund three separate accounts:
(1) A clearing account.
(2) An unemployment trust fund account.
(3) A benefit account.

Sec. 5. Clearing Account. Upon the receipt of payments
and other moneys payable into the fund under this chapter,
the director shall immediately deposit them in the clearing
account. Refunds payable under section twenty of article
five shall be made from the clearing account. Such refunds
shall be made upon warrants issued by the director.

Sec. 6. Unemployment Trust Fund Account. The unem-
ployment trust fund account shall consist of money deposited
with the secretary of the treasury of the United States to the
credit of this state in the unemployment trust fund.

Sec. 7. Deposit with Federal Government. After clear-
ance, moneys in the clearing account shall be deposited im-
mediately with the secretary of the treasury of the United States to the credit of the account of this state in the unemployment trust fund, established under section nine hundred four of the Social Security Act. The deposit of these funds shall not be conditioned by the requirements imposed upon public funds of this state.

Sec. 8. Benefit Account. The benefit account shall consist of moneys requisitioned from this state’s account in the unemployment trust fund.

Sec. 9. Deposit of Funds. Money in the clearing and benefit accounts shall be deposited by the director with the consent of the Governor in any bank or public depository in which public funds of the state may be deposited. No public deposit insurance charge or premium shall be paid out of the unemployment compensation fund.

Sec. 10. Withdrawals. Except as provided in section thirteen of this article, money shall be requisitioned from this state’s account in the unemployment trust fund solely for the payment of benefits. The director may requisition from the unemployment trust fund such amounts, not exceeding the amount of the account, as he determines to be necessary for the payment of benefits for a reasonable future period.

Upon receipt of the money he shall deposit it in the benefit account.

Sec. 11. Issuance of Warrants. The director shall issue his warrants for the payment of benefits solely from the benefit account. Expenditures of money in the benefit account and refunds from the clearing account shall not be subject to limitations imposed upon the release of public funds in the custody of state officers.

All warrants issued by the director shall bear his signature.

Sec. 12. Unclaimed Amounts. Amounts unclaimed or unpaid at the expiration of the period for which sums have been requisitioned, shall be deducted from the estimates for succeeding periods, or in the discretion of the director may be redeposited with the secretary of the treasury of the United States in the unemployment trust fund.

Sec. 13. Termination of State Act. In case title nine of
2 the Federal Social Security Act is declared unconstitutional
3 by the Supreme Court of the United States or is repealed by
4 Congress or amended with the result that no portion of the
5 contributions required by this chapter may be credited
6 against the federal excise tax levied by title nine of such act,
7 the provisions of this chapter by virtue of that fact shall
8 become inoperative.
9 All assets standing to the credit of the state in the Unem-
10 ployment Trust Fund in the United States Treasury shall
11 be requisitioned promptly by the director. The assets of the
12 state's account in the trust fund shall be placed in the Un-
13 employment Compensation Fund and together with the assets
14 in that fund shall be refunded pro rata to the contributors.
15 Money in the administration fund received from the fed-
16 eral government shall be dealt with by the state treasurer
17 pursuant to the conditions of the grant thereof to the State
18 of West Virginia, and any assets therein which have been
19 appropriated thereto out of the general treasury of the state
20 by the Legislature shall revert to such general fund in the
21 state treasury.
22 Corresponding action shall be taken with respect to assets
23 in the unemployment compensation fund, the unemploy-
24 ment trust fund, and the administration fund, in the event
25 that this act shall be repealed by the Legislature, or declared
26 invalid under the state constitution by the Supreme Court
27 of Appeals of West Virginia or invalid under the United
28 States constitution by the Supreme Court of the United
29 States.
30 The director is hereby granted continuing authority for
31 the purposes of action provided for by this section in case any
32 of the above contingencies occur.

Article 9. Unemployment Compensation Administration Fund.

Section
1. Administration fund.
2. Appropriation.
3. Contents of fund.
4. Disbursements.
5. Lapse.
6. Treasurer's bond.
7. Employment service account.

Section 1. Administration Fund. There is hereby created
2 in the state treasury a special fund to be known as the
unemployment compensation administration fund. All moneys in this fund shall be expended solely for the purpose of de-
fraying the cost of the administration of this chapter.

Sec. 2. Appropriation. The moneys deposited with this
fund are hereby appropriated and made available to the
order of the director.

Sec. 3. Contents of Fund. The fund shall consist of:
(1) Moneys appropriated by the state.
(2) Moneys received from the United States, or any agency thereof, including the Social Security Board and the United States Employment Service.
(3) Moneys received from any other source.

Sec. 4. Disbursements. This fund shall be administered and disbursed in the same manner and under the same con-
ditions as other special funds of the state treasury.

Sec. 5. Lapse. Balances to the credit of the administration fund shall not lapse at any time, but shall be continuously available to the director for expenditure consistent with this chapter.

Sec. 6. Treasurer's Bond. The treasurer shall give a separate and additional bond conditioned upon the faithful per-
formance of his duties with regard to the administration fund. The bond shall be in the amount of fifteen thousand dollars and in the form prescribed by the attorney general and ap-
proved by the Governor. Premiums on the bond shall be a charge on the administration fund.

Sec. 7. Employment Service Account. For the purpose of maintaining the employment offices established by this chapter and for the purpose of cooperating with the United States Employment Service, a special employment service account shall be maintained as a part of the administration fund.

Section 1. Waiver of Rights. An agreement to waive, release or commute rights to benefits, or other rights, accruing under this chapter shall be invalid. An agreement by an individual to pay all or any portion of an employer’s payment shall be invalid.

Sec. 2. Assignment of Benefits: Exceptions. An assignment, pledge or encumbrance of any benefit due or payable under this chapter shall be invalid. Right to benefits shall be exempt from levy, execution, attachment, or other processes for the collection of debt. Benefits received by an individual so long as they are not mingled with other funds of the recipient, shall be exempt from process for the collection of a debt. The waiver of any exemption provided in this section shall be void. Collection of debts incurred for necessaries furnished to an individual, his spouse, or dependents, during a period of unemployment shall be exempt from the operation of the above provision.

Sec. 3. Limitation of Fees. No fee shall be charged an individual in any proceeding under this act by the department or its representatives.

Sec. 4. Records and Reports. An employing unit shall keep true and accurate employment records containing such information as the director may prescribe. The record shall be open to inspection by the director at any reasonable time.
Sec. 5. Attorney Fees. An individual may be represented by counsel or authorized agent before the board of review, an appeal tribunal, or examiner, or a court; but the amount of the fee for such service shall be subject to the regulation of the board.

A person who charges or accepts a fee for such service in an amount unapproved by the board shall be guilty of a misdemeanor. Charging an unapproved amount shall constitute grounds for disbarment.

Sec. 6. Self-incrimination. A person shall not be excused from attending and testifying or producing books, papers, correspondence, memoranda, or other records before the director or the board or in obedience to the subpoena of the board or the director, or a duly authorized representative of the board or the director, in any proceeding brought under this chapter on the ground that the testimony or evidence may tend to incriminate him, or subject him to a penalty or forfeiture. An individual shall not be prosecuted or subjected to penalty or forfeiture on account of testimony given, or evidence produced subject to such subpoena, if prior to giving such testimony or producing such evidence he has claimed his privilege against self-incrimination.

This section shall not exempt an individual from prosecution and punishment for perjury.

Sec. 7. False Representation. A person who makes a false statement or representation, knowing it to be false, or who knowingly fails to disclose a material fact in order to obtain or increase a benefit under this chapter, either for himself or another, shall be guilty of a misdemeanor and upon conviction punished by a fine of not less than twenty dollars nor more than fifty dollars, or by imprisonment for not longer than thirty days, or both.

Each false statement or representation, or failure to disclose a material fact shall constitute a separate offense.

Sec. 8. Misrepresentation. A person, who by reason of non-disclosure or misrepresentation, either by himself or another (irrespective of whether such non-disclosure or misrepresentation was known or fraudulent) has received a sum as a benefit under this chapter shall either have such sum
deducted from a future benefit payable to him or shall repay to the director the amount which he has received. Collection shall be made in the same manner as collection of past due payments.

Sec. 9. Penalty for Deduction or Waiver. An employer who directly or indirectly:
(1) Makes or accepts a deduction from an individual's wage for the purpose of financing an employer's payment, or
(2) Requires or accepts a waiver of a right given an individual by this act, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars nor more than one thousand dollars.

Sec. 10. General Penalty. A person who wilfully violates a provision of this chapter or a rule or regulation thereunder for which a specific penalty has not been imposed shall be guilty of a misdemeanor and upon conviction shall be fined not less than twenty dollars nor more than two hundred dollars. Each day such violation continues shall be a separate offense.

Sec. 11. Information. The director may require an employing unit to provide sworn or unsworn reports concerning:
(1) The number of individuals in its employ.
(2) Individually their hours of labor.
(3) Individually the rate and amount of wages.
(4) Such other information as is reasonably connected with the administration of this chapter. Information thus obtained shall not be published or be open to public inspection so as to reveal the identity of the employing unit. A claimant of benefit, however, shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. A person who violates the provisions of this section shall be guilty of a misdemeanor, and upon conviction shall be fined not less than twenty dollars nor more than two hundred dollars, or imprisoned not longer than ninety days, or both.
Sec. 12. **Representation in Court.** The director, through his attorney, may represent the interest of the state in any civil action to enforce the provisions of this chapter.

Sec. 13. **Criminal Actions.** Criminal actions to enforce the provisions of this chapter, or rules or regulations issued thereunder, shall be prosecuted by the attorney general, or at his request by the prosecuting attorney of any county in which the defendant resides.

Sec. 14. **Non-liability of State.** Benefits under this act shall be due and payable only to the extent that moneys are available to the credit of the unemployment compensation fund. Neither the state nor the director shall be liable for any claim in excess of the credit of the fund.

Sec. 15. **Constitutionality.** The provisions of this act shall be construed as severable, and should any provision be held unconstitutional, or for any other reason invalid, the remaining provisions shall not be affected thereby.

Sec. 16. **Acts Repealed.** Acts or parts of acts in conflict with or superseded by the provisions of this act are hereby repealed.

Sec. 17. **Savings Clause.** The Legislature reserves the right to amend or repeal all or any part of this chapter and no private rights shall vest against any legislative amendment or change or repeal. All rights, privileges, or immunities conferred by this chapter or by acts done pursuant thereto shall exist subject to the power of the Legislature to amend or repeal this chapter at any time.
CHAPTER 2

(House Bill No. 2—By Mr. Speaker, Mr. Thomas)

AN ACT to appropriate money out of the treasury for the purpose of carrying into effect the Unemployment Compensation Law of one thousand nine hundred thirty-six.

[Passed December 16, 1936; in effect from passage. Approved by the Governor.]

Section

1. Appropriation to carry into effect Unemployment Compensation Law.

Be it enacted by the Legislature of West Virginia:

Section 1. Appropriation to Carry Into Effect Unemployment Compensation Law. It appearing from the statement of the revenues of the current fiscal year and of the appropriations therefor that there remains in the general revenue for the current fiscal year, unappropriated, an amount in excess of the amount appropriated by this act, there is hereby appropriated to the Department of Unemployment Compensation for the remainder of the current fiscal year ending June thirtieth, one thousand nine hundred thirty-seven, the sum of twenty thousand dollars, to be expended upon requisitions drawn upon the Auditor by the proper officials of the Department of Unemployment Compensation.
CHAPTER 3
(House Bill No. 4—By Mr. Van Sickler)

AN ACT making appropriations of public moneys out of the treasury to pay the expenses of this extraordinary session of the Legislature.

[Passed December 16, 1936; in effect from passage. Approved by the Governor.]

Section 1. Appropriation for legislative printing.
2. Appropriation for expenses of Senate.
4. Payment of bills for supplies and services after adjournment of session.

Be it enacted by the Legislature of West Virginia:

That there be and is hereby appropriated out of the treasury for the fiscal year ending June thirtieth, one thousand nine hundred thirty-seven, the following sums of money for the following named purposes:

LEGISLATIVE PRINTING

Section 1. Legislative printing ........................................ $12,000.00

SENATE

Sec. 2. Mileage of members .............................................. $ 927.10
2 President of the Senate, $2.00 per day, as presiding officer for three days .................. 6.00
4 Compensation and per diem of officers and attaches ............................................. 821.00
6 Miscellaneous Appropriations
7 Laird Office Equipment Company, supplies ........................................ 86.42
8 The Rose City Press, supplies ........................................... 370.82
9 Thomas Office Supply Company, supplies ........................................... 3.25
10 Contingent Fund for the Senate ........................................ 10,000.00

HOUSE OF DELEGATES

Sec. 3. Contingent Fund of the House of Delegates ........................................ $10,000.00
| 3 | Mileage of members of the House of Delegates | 2,830.20 |
| 4 | Speaker of the House of Delegates, $2.00 per day, as presiding officer for three days | 6.00 |

**Compensation and Per Diem of Other Elective Officers**

| 7 | Compensation of the Clerk, three days | 60.00 |
| 8 | Compensation of the Sergeant-at-Arms, three days | 30.00 |
| 9 | Compensation of the Doorkeeper, three days | 30.00 |

**Compensation of Attaches and Other Employees**

| 11 | M. D. Ruffner, stenographer, three days | 30.00 |
| 12 | Hal W. DePue, assistant Sergeant-at-Arms, three days | 18.00 |
| 14 | Walter Foster, assistant Sergeant-at-Arms, three days | 18.00 |
| 16 | E. W. Webster, assistant Sergeant-at-Arms, three days | 18.00 |
| 18 | William Demuth, Jr., assistant Sergeant-at-Arms, three days | 18.00 |
| 20 | L. T. Harvey, assistant Doorkeeper, three days | 18.00 |
| 21 | Arthur M. Martin, assistant Doorkeeper, three days | 18.00 |
| 23 | O. J. Carroll, assistant Doorkeeper, three days | 18.00 |
| 24 | Ed. Snodgrass, assistant Doorkeeper, three days | 18.00 |
| 25 | O. P. Oldham, assistant Doorkeeper, three days | 18.00 |
| 26 | Howard Kuhn, assistant Doorkeeper, three days | 18.00 |
| 27 | Elmer Ferrell, assistant Clerk, three days | 30.00 |
| 28 | Frances Evans, assistant Clerk, three days | 30.00 |
| 29 | Alex Garred, assistant Clerk, three days | 30.00 |
| 30 | Homer Burley, assistant Clerk, three days | 30.00 |
| 31 | Frances Owens, House stenographer, three days | 30.00 |
| 32 | Leo Palmer, stenographer to Clerk, three days | 24.00 |
| 33 | O. C. Parsons, Journal Clerk, three days | 30.00 |
| 34 | Lois Hoey, Journal stenographer, three days | 24.00 |
| 35 | M. P. Geene, electrician, three days | 30.00 |
| 36 | Marion Gooch, proofreader, three days | 21.00 |
| 37 | William N. Postlewaite, proofreader, three days | 21.00 |
| 38 | Mrs. D. H. McClaugherty, stenographer, three days | 21.00 |
| 40 | W. H. Carkrean, record clerk, three days | 18.00 |
### Appropriation for Expenses of Session

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For Services Preliminary to Opening of Session

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Ch. 3] Appropriation for Expenses of Session

80 Dennis Gilmer ........................................................................... 35.00
81 Boisey Green ........................................................................... 45.00
82 Miscellaneous Appropriations
83 Bert Silman & Company, signs .................................................. 24.10
84 Charleston Cut Flower Company, flowers .................................. 2.55
85 Laird Office Equipment Company, supplies ............................... 25.60
86 Rose City Press, supplies .......................................................... 241.45
87 Diamond Ice Company, ice ....................................................... 2.00
88 C. W. Wendall, supplies ........................................................... 9.90

Payment of Bills After Adjournment of Session

Sec. 4. The Clerk of the House of Delegates, with approval
of the Speaker, and the Clerk of the Senate, with the ap-
proval of the President, are authorized to draw their war-
rants upon the Auditor, payable out of the contingent fund
of the respective houses, for any bills for supplies and services
that may have been incurred by the House of Delegates and
the Senate and not included in this appropriation bill, and
for bills and services incurred after adjournment, the requisition
for same to be accompanied by a bill for same to be filed
with the Auditor.

Upon the warrants of the Clerk of the Senate and the Clerk
of the House of Delegates, the Auditor shall pay the amounts
herein appropriated for services and other purposes.
CHAPTER 4

(House Bill No. 3—By Mr. Speaker, Mr. Thomas)

AN ACT transferring to the Department of Unemployment Compensation for the use of the division of employment service so much as remains of the appropriation made to the Department of Labor for the West Virginia Employment Service by chapter nine, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, and so much as remains of the appropriation authorized by chapter four, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-six.

[Passed December 16, 1930; in effect from passage. Approved by the Governor.]

Section 1. Transfer of funds from Department of Labor to Department of Unemployment Compensation.

Be it enacted by the Legislature of West Virginia:

Section 1. Transfer of Funds From Department of Labor to Department of Unemployment Compensation. There is hereby transferred to the Department of Unemployment Compensation for the use of the division of employment service so much of the appropriation made to the Department of Labor for the West Virginia Employment Service by chapter nine, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, and so much of the appropriation made by chapter four, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-six, as remains unexpended on the date of the transfer of the employment service to the Department of Unemployment Compensation.
RESOLUTIONS

HOUSE CONCURRENT RESOLUTION NO. 1
(By Mr. Russee)
[Adopted December 14, 1936.]

Raising a joint committee to notify His Excellency, the Governor, that the Legislature has assembled in extraordinary session, and has organized by the election of officers.

Resolved by the House of Delegates, the Senate concurring therein:

That a joint committee be appointed, three by the President of the Senate, and three by the Speaker of the House of Delegates, to wait upon His Excellency, the Governor, and inform him that the Legislature has assembled in extraordinary session, pursuant to his proclamation, issued on the 4th day of December, one thousand nine hundred thirty-six, has organized by the election of officers as required by the Constitution, and is ready, with a quorum of each house present, to proceed with the business for which this extraordinary session has convened, and is furthermore ready to receive any communication or message he may desire to present.

HOUSE CONCURRENT RESOLUTION NO. 2
(By Mr. Righter)
[Adopted December 14, 1936.]

Raising a joint assembly to open and publish election returns.

Resolved by the House of Delegates, the Senate concurring therein:

That the two houses of the Legislature convene in joint assembly in the hall of the House of Delegates at 3:30 o'clock in the afternoon of this day, that the Speaker of the House of Delegates may,
in the presence of the Senate, open and publish the returns of the
election of Governor and other state officers elected at the general
election held throughout the state on the 3rd day of November,
one thousand nine hundred thirty-six, as provided by section three,
article seven of the Constitution of this state.

HOUSE CONCURRENT RESOLUTION NO. 3
(BY MESSRS. RUSSEK AND BRICE)
[Adopted December 14, 1936.]
Concerning the death of the Honorable George A. Laughlin.

WHEREAS, Since the last session of the West Virginia Legislature, the Honorable George A. Laughlin, of Ohio County, a former member of this body, has departed this life; and

WHEREAS, Mr. Laughlin rendered conspicuous service to his community and his state as a member of the Legislature and as a private citizen, supporting with his influence and his means every movement for the benefit of his fellow citizens; and

WHEREAS, It is now disclosed that during his lifetime, Mr. Laughlin quietly and without publicity gave large sums to religious, charitable and civic enterprises both in his home city and elsewhere in the state; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the West Virginia Legislature does hereby express its sense of profound grief and shock at the death of Mr. Laughlin, and its conviction that the state has lost one of its foremost citizens; and, be it

Further Resolved, That the Clerk of the House of Delegates be directed to send a copy of this resolution to Mr. Laughlin’s widow.
HOUSE CONCURRENT RESOLUTION NO. 4
(By Mr. Cresap)
[Adopted December 14, 1930.]

Providing for a joint assembly.

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature meet in joint assembly in the chamber of the House of Delegates at 3:45 o'clock P.M., this day, to hear an address by His Excellency, the Governor.

HOUSE CONCURRENT RESOLUTION NO. 5
(By Mr. Matthews)
[Adopted December 16, 1930.]

Authorizing the payment of expenses for services and supplies after the close of this extraordinary session of the Legislature.

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature of West Virginia hereby authorizes the payment of expenses for services and supplies incurred after the close of this extraordinary session of the Legislature, in completing the work of the session, and that the Auditor is hereby authorized and directed to honor and pay the warrants of the Clerk of the Senate and the Clerk of the House of Delegates, drawn in favor of persons for services performed or supplies furnished, as authorized by either separate or concurrent action of the two houses; and, be it

Further Resolved, That all extensions of per diem authorized by House Resolution No. 5, and by Senate resolutions for similar purposes, are hereby declared to be authorized by the Legislature and shall have the same force and effect as if they were incorporated herein.
HOUSE CONCURRENT RESOLUTION NO. 6

(BY MR. JAMES)

[Adopted December 16, 1936.]

Raising a joint committee to notify His Excellency, the Governor, that the Legislature is ready to adjourn sine die.

Resolved by the House of Delegates, the Senate concurring therein:

That a joint committee of six, consisting of three on the part of the Senate, to be appointed by the President thereof, and three on the part of the House of Delegates, to be appointed by the Speaker thereof, be appointed to notify His Excellency, the Governor, that the Legislature has completed its labors for which it was convened in extraordinary session, is ready to adjourn sine die, and inquire of him if he has any further communication to make to the Legislature.

HOUSE RESOLUTION NO. 1

(BY MR. STROUSS)

[Adopted December 14, 1936.]

Adopting rules for the House of Delegates:

Resolved by the House of Delegates:

That the rules of the House of Delegates for the 1935 regular session of the Legislature, as amended by the 1936 extraordinary session, are hereby adopted as the rules to govern the proceedings of this extraordinary session, insofar as the same are applicable.
HOUSE RESOLUTION NO. 2

(BY MR. LINGER)

[Adopted December 14, 1936.]

Raising a committee to inform the Senate that the House of Delegates has assembled and organized.

Resolved by the House of Delegates:

That the Speaker appoint a committee of three to inform the Senate that the House of Delegates has assembled in its chamber in extraordinary session, pursuant to the proclamation of His Excellency, the Governor, issued on the fourth day of December, one thousand nine hundred thirty-six, with a quorum present, has organized by the election of the Honorable James Kay Thomas as Speaker, and the Honorable John S. Hall as Clerk, and is ready to proceed with the business for which this extraordinary session of the Legislature has been convened.

HOUSE RESOLUTION NO. 3

(BY MR. NEAL)

[Adopted December 15, 1936.]

Authorizing the Clerk to draw his warrants upon the Auditor for mileage for members of the House of Delegates.

Resolved by the House of Delegates:

That the Clerk is hereby authorized and directed to draw his warrants upon the Auditor for mileage of members for this extraordinary session in the amounts herein set out:

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HOUSE RESOLUTION NO. 4

(By Mr. Neal)

[Adopted December 15, 1930.]

Authorizing the Sergeant-at-Arms to purchase suitable National and State flags for the House Chamber.

Resolved by the House of Delegates:

That the Sergeant-at-Arms is hereby authorized and directed to purchase suitable National and State flags, and staffs, for use in the House Chamber. The cost of same to be paid from the Contingent Fund of the House of Delegates upon the warrants of the Clerk.

HOUSE RESOLUTION NO. 5

(By Mr. Strouss)

(Originating in the Committee on Rules)

[Adopted December 10, 1930.]

Authorizing the printing of the Acts and Journal of this session of the Legislature and providing extension of time for persons to complete the work of the session and for work preliminary to the opening of the regular session of the Legislature in January.

Resolved by the House of Delegates:

That under authority of section thirteen, article one, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, the Clerk of the House of Delegates is hereby authorized to have printed by the public printer five thousand copies of the Acts of this extraordinary session of the Legislature, in pamphlet form, properly headnoted, and with a full table of contents, for distribution among the members of the Legislature, judges of the Supreme Court of Appeals, circuit, common pleas, criminal and intermediate courts, and the county officials.

The public printer shall print and deliver said copies of the Acts as soon as possible after the adjournment of this session. The Clerk of the Senate shall be furnished sufficient copies to forward by mail or express twenty copies to each member of the State
Senate, and the Clerk of the House of Delegates shall forward by
mail or express twenty copies of said Acts to each member of the
House of Delegates as soon as the same are printed and available
for distribution. The Clerk of the House of Delegates shall also
furnish one copy to each of the state officials, judges of the Supreme
Court of Appeals, circuit, common pleas, criminal and interme­
diate courts of this state, and shall forward to the county clerk of
each county sufficient copies to furnish one copy to each county
office. The Clerk of the House of Delegates is also authorized to
have printed, in signature form or advance sheets, any general
law which he may deem to be of sufficient importance to be issued
and distributed in this form.

The Clerk shall index and have the Journal of this session
printed, and have the public printer hold the same to be bound
with the Journal of the 1937 regular session.

The type from which said Acts are printed shall be held by the
public printer and the Acts of this session shall be included in the
bound volume of the next regular session of the Legislature.

For the work required in printing and distributing the Acts of
this session, and for proofreading and headnoting the same; for
the purpose of arranging and filing the bills, resolutions and other
official papers in the office of the Speaker and Clerk; for indexing,
proofreading and printing of the Journal of the House of Dele­
gates; and for work preliminary to the opening of the regular
session of the Legislature on January 13, 1937, the time of the
following officers and employees is extended until the date of the
commencement of the regular term, beginning January 13, 1937,
to-wit:

The Clerk, Sergeant-at-Arms, stenographer to the Clerk, two
assistant clerks, stenographer to the Speaker, Journal clerk, Jour­
nal stenographer, one proofreader and one janitor; also the time of
two Journal room clerks, and three janitors is extended for five
days each.

All persons given extensions of time in this resolution shall be
paid the same per diem as paid for the same positions during this
extraordinary session. The Clerk shall draw his warrants upon
the Auditor in favor of the persons entitled to per diem under
this resolution for consecutive days until such time as their serv-
ices cease, and the Auditor shall honor and pay such warrants when presented and charge same to the contingent fund of the House of Delegates.

To pay postage or expressage on the Acts and other official papers to be distributed by the Clerk, the sum of one hundred fifty dollars is hereby directed to be paid by the Auditor from the contingent fund of the House of Delegates upon the warrants of the Clerk.

HOUSE RESOLUTION NO. 6
(By Mr. Taylor, of Fayette)
[Adopted December 16, 1936.]

Notifying the Senate that the House was ready to adjourn sine die.

Resolved by the House of Delegates:

That a committee of three be appointed by the Speaker to notify the Senate that the House of Delegates has completed its labors and is ready to adjourn sine die.

SENATE CONCURRENT RESOLUTION NO. 1
(By Mr. Spillers)
[Adopted December 14, 1936.]

Relating to joint rules of the Senate and the House of Delegates.

Resolved by the Senate, the House of Delegates concurring therein:

That the joint rules of the Senate and House of Delegates for the regular session of the Legislature, one thousand nine hundred thirty-five, are hereby adopted and shall govern the proceedings of this extraordinary session.
SENATE CONCURRENT RESOLUTION NO. 2

(BY MR. BEACOM)

[Adopted December 15, 1936.]

Relating to the payment by the Auditor of mileage and contingent and other expenses of this extraordinary session of the Legislature.

Resolved by the Senate, the House of Delegates concurring therein:

That the Auditor, in advance of the appropriation for the purpose, is hereby authorized, upon proper warrants of the Clerk of the Senate and the Clerk of the House of Delegates, to pay the mileage of the members of the Senate and the House of Delegates; bills incurred and services furnished to the Legislature for this session, including contingent expenses; the per diem of the officers and attaches of the Senate and House of Delegates and for legislative printing of this session, as the accounts for same may come due.

SENATE CONCURRENT RESOLUTION NO. 4

(BY MR. BEACOM)

[Adopted December 16, 1936.]

Establishing a date for public legislative hearings on the subject of Unemployment Compensation.

WHEREAS, The Legislature has been assembled in extraordinary session for the purpose of enacting before December thirty-first, one thousand nine hundred thirty-six, a state unemployment compensation act in order to conserve to the state and the beneficiaries of such an act, revenues which would otherwise be collected by the federal government as a general excise tax; and

WHEREAS, Under the provisions of the federal social security act, no unemployment compensation benefits can be paid prior to January one, one thousand nine hundred thirty-eight, thereby affording one full year and an entire regular session of the Legislature for further consideration and study of all the details of such a bill, including those relating to the payment of benefits thereunder; and
WHEREAS, The immediate objective of the present enactment is to levy an unemployment compensation tax as a state tax and to set up administrative machinery for the collection thereof prior to December thirty-one, one thousand nine hundred thirty-six; and

WHEREAS, There is not sufficient time prior to December thirty-one, one thousand nine hundred thirty-six, to permit legislative hearing on the many views upon this legislation of those desiring to be heard, without menacing the passage and the required approval of the act by the Social Security Board on or before December thirty-one, one thousand nine hundred thirty-six; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Legislature give this public notice of its intention to consider unemployment legislation at the regular biennial session thereof, commencing January thirteen, one thousand nine hundred thirty-seven, and that public hearings on the subject shall begin, not later than January twenty, one thousand nine hundred thirty-seven, before such joint or separate bodies of the Senate and the House of Delegates as the houses may, by concurrent resolution therefor, provide.

SENATE RESOLUTION NO. 1

(By Mr. Paull)

[Adopted December 14, 1936.]

Raising a committee to inform the House of Delegates that the Senate has assembled in extraordinary session.

Resolved by the Senate:

That a committee of three be appointed by the President to inform the House of Delegates that the Senate, assembled in extraordinary session pursuant to the proclamation of His Excellency, Governor H. G. Kump, with a quorum present, is organized and ready to proceed with the business of the session, Charles E. Hodges being elected President for the term beginning today and continuing until the beginning of the next regular session, the clerk, Charles Lively, continuing in that capacity as provided by law.
SENATE RESOLUTION NO. 2

(By Mr. Fleming)

[Adopted December 14, 1936.]

Adopting rules of the Senate.

Resolved by the Senate:

That the rules of the Senate, regular session, one thousand nine hundred thirty-five, be adopted as the rules of the Senate for this session.

SENATE RESOLUTION NO. 3

(By Mr. Hodges)

(Originating in the Committee on Rules)

[Adopted December 16, 1936.]

Relating to the appointment of assistant janitors.

WHEREAS, Lawrence M. Cunningham, Superintendent of Capitol Building and Grounds, under authority of section twenty-two, article one, chapter five of the Code, has designated four assistants for the janitor work of the Senate for this session; therefore, be it

Resolved by the Senate:

That the per diem of said assistant janitors is fixed at $4.00, and that of the said Lawrence M. Cunningham is fixed at $2.00, as the Senate's one-half of his per diem.

SENATE RESOLUTION NO. 4

(By Mr. Hodges)

(Originating in the Committee on Rules)

[Adopted December 16, 1936.]

Payment for stenographic services.

Resolved by the Senate:

That the Clerk of the Senate is authorized to draw his warrant upon the Auditor in favor of Grayce Cunningham for stenographic services rendered the President of the Senate, in his official capacity, from July 1, 1936, to January 1, 1937, for one hundred eighty dollars.
SENATE RESOLUTION NO. 5
(By Mr. Hodges)
(Originating in the Committee on Rules)
[Adopted December 16, 1936.]

Relating to the payment for services of attaches preparatory to convening of session.

Resolved by the Senate:

That the Clerk of the Senate is authorized to draw his warrants upon the Auditor in favor of the following named persons for the amounts set opposite their names for services rendered preparatory to the convening of this extraordinary session of the Legislature:

Fred D. Wolfe, Sergeant-at-Arms ...................................... $70.00
Robert H. Kidd, Printing Clerk ........................................ 25.00
Bernard White, Janitor .......................................................... 28.00

SENATE RESOLUTION NO. 6
(By Mr. Hodges)
(Originating in the Committee on Rules)
[Adopted December 16, 1936.]

Authorizing the appointment of attaches.

Resolved by the Senate:

That the President of the Senate is authorized to make the following appointments, viz:

Five floor stenographers, at $7.00 per day each;
One mail clerk, at $7.00 per day;
One assistant Sergeant-at-Arms, at $7.00 per day;
One clerk to the Sergeant-at-Arms, at $7.00 per day;
One secretary to the minority, at $12.00 per day;
One minority stenographer, at $9.00 per day;
Two assistant doorkeepers, at $7.00 per day each;
One secretary to the President, at $12.00 per day;
Two pages, at $4.00 per day each;
Three cloakroom attendants, at $4.00 per day each; and, be it
Resolved further, That the Clerk of the Senate is authorized to make the following appointments, viz:

Three proofreaders, at $8.00 per day each;
Four journal room clerks, at $7.00 per day each;
One assistant and secretary to the Clerk, at $12.00 per day;
Four document room clerks, at $7.00 per day each; and, be it

Resolved further, That the Sergeant-at-Arms shall receive $10.00 per day; the Doorkeeper, $10.00 per day; and the Clerk, $20.00 per day.

The Clerk shall draw his warrants upon the Auditor in favor of the officers and attaches herein appointed for consecutive days from the date of the opening of this session at the per diem herein set out, and the Auditor shall honor and pay such warrants in advance of the appropriation for the purpose, when presented, and charge same to the "per diem of officers and attaches" fund of the Senate.

The President and the Clerk shall require said employees to perform duties assigned to them, and they are authorized and directed to remove any of such employees whose work is not satisfactory and to appoint another in his place.

SENATE RESOLUTION NO. 7
(By Mr. Hodges)
(Originating in the Committee on Rules)
[Adopted December 18, 1936.]

Authorizing the purchase of furniture and equipment.

Resolved by the Senate:

That the Clerk of the Senate is hereby authorized and directed to purchase, at a sum not to exceed $750.00, furniture and equipment necessary to furnish adequately the Clerk’s office and stenographers and typing rooms in the Senate, such furniture and equipment to be purchased and installed prior to the beginning of the regular session in January, 1937.

All bills for expenses incurred under authority of this resolution shall be paid by the Auditor from the contingent fund of the Senate upon warrants drawn by the Clerk.
SENATE RESOLUTION NO. 8
(By Mr. Hodges)
(Originating in the Committee on Rules)
[Adopted December 16, 1936.]

Relating to the printing of the Journal and Acts of this extraordinary session of the Legislature.

Resolved by the Senate:

The Clerk, together with the Clerk of the House of Delegates, is hereby directed to have printed by the public printer, six thousand copies of the Acts of this session, in pamphlet form, properly headnoted, indexed and with a full table of contents, for distribution among the members of the Legislature, judges of the Supreme Court of Appeals and the circuit, criminal and intermediate courts, circuit and county clerks, sheriffs and prosecuting attorneys.

Said public printer shall print and deliver said copies to the clerks of the two houses as soon as possible after adjournment of this session. Upon receipt of the same, the clerks shall, without delay, forward by mail or express to each member of the Senate and House of Delegates at least twenty of said copies, and one copy to each of the state officials, and the remainder, if any, they shall deliver to the superintendent of printing and stationery for distribution.

The said clerks are also authorized and directed to have printed in signature form for advance sheets any general law which they may deem of sufficient importance to be issued and distributed in that form. The sum of one hundred and fifty dollars out of the contingent fund of the Senate is hereby directed to be paid by the Auditor, upon proper warrant to pay the postage or expressage on said advance copies.

In order to complete the work of the session in arranging and filing of all bills, resolutions, petitions and other official papers in the Clerk's office and document room, and to allow time for proofreading, printing and indexing the corrected Journal and arranging and printing its several appendices, and in printing and indexing the volume of Senate Bills, and in completing the work in the mailing and document rooms and in performing other services
incident to the closing of this session of the Legislature, the per diem of the Clerk at $20.00 per day, and two assistant clerks at $12.00 per day each is extended for twenty-seven days; three assistant clerks at $8.00 per day for twelve days each; the secretary to the President at $12.00 for twenty-seven days; two assistant clerks at $7.00 for twelve days each; two assistant clerks at $7.00 for five days each; the stenographer to the minority at $9.00 for two days; the Sergeant-at-Arms at $10.00 for two days; and two janitors at $4.00 for five days each.

All extensions provided for herein shall begin at the end of this session of the Legislature.

The compensation of those designated hereunder shall be paid out of the contingent fund of the Senate for consecutive days upon proper requisition drawn by the Clerk of the Senate upon the Auditor.

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SENATE RESOLUTION NO. 9
(BY MR. CANTERBURY)
[Adopted December 16, 1936.]

Notifying the House of Delegates that the Senate is ready to adjourn sine die.

Resolved by the Senate:

That a committee of three be appointed by the President of the Senate to notify the House of Delegates that the Senate is ready to adjourn sine die.
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